

RESOLUTION

A RESOLUTION TO TAKE ACTION IN RESPONSE TO CHAPTER 322 OF THE

2016 VIRGINIA ACTS OF ASSEMBLY RELATING TO CONDITIONAL ZONING

FOR RESIDENTIAL REZONINGS AND PROFFER AMENDMENTS

- WHEREAS, James City County, Virginia (the "County") currently allows applicants to voluntarily proffer reasonable conditions for all rezonings and zoning map amendments pursuant to Section 15.2-2303 of the Code of Virginia and Section 24-16 of the County Code; and
- WHEREAS, SB 549, which was passed by the General Assembly, approved by the Governor, and incorporated as Chapter 322 of the 2016 Virginia Acts of Assembly ("Chapter 322"), added Section 15.2-2303.4 to the Code of Virginia which fundamentally changes the conditional zoning law in the Commonwealth; and
- WHEREAS, the Board of Supervisors (the "Board") strongly opposed SB 549 (and its companion bill HB 770) due to its significant negative impacts on the County and other localities; and
- WHEREAS, Chapter 322 becomes effective on July 1, 2016, is prospective only and will only apply to any residential rezoning and proffer amendment applications filed on or after July 1, 2016; and
- WHEREAS, Chapter 322 imposes significant liabilities upon localities that continue to accept voluntarily-proffered conditions associated with residential rezonings, including a new cause of action against localities for requiring, requesting, accepting or even *suggesting* an "unreasonable proffer" as defined by Chapter 322; and
- WHEREAS, the Board has adopted various policies and guidelines to assist developers with the creation of voluntary proffers, including: the Route 5 Road Improvement Proffer Policy, adopted on May 28, 1996, to provide guidance for rezonings in the Route 5 corridor; the Natural Resources Policy adopted on July 27, 1999, to provide a guideline for protecting habitats for rare species and natural communities in special use permit and rezoning cases; the Cash Proffer Policy for Schools adopted on July 24, 2007, to provide guidelines for proportionate contributions to reduce impacts to schools; the Residential Redevelopment Policy adopted on November 27, 2012, to provide guidelines for the proffer of conditions for residential redevelopment projects and the Housing Opportunities Policy adopted on November 27, 2012, to provide guidelines for the creation of affordable and workforce housing in rezoning cases; and
- WHEREAS, all of the above-mentioned policies and guidelines, in whole or in part, could now be determined to be inconsistent with Section 15.2-2303.4 of the Virginia Code; and

WHEREAS, in order to reduce potential liability to the County, the Board desires to cease its acceptance of all proffered conditions associated with a new residential rezoning or zoning map amendment, or any new residential component of a multi-use district rezoning or zoning map amendment filed after July 1, 2016; and

WHEREAS, in accordance with Chapter 322, the County will process all applications for amendments to previously-approved residential rezoning or zoning map amendment, or any residential component of a multi-use district rezoning or zoning map amendment in accordance with the laws in existence prior to July 1, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, hereby will no longer accept any voluntarily proffered conditions pursuant to Virginia Code Section 15.2-2303 as part of any new application for residential rezoning or zoning map amendment, or any residential component of a multi-use district rezoning or zoning map amendment; provided, however, that the County will process all applications for amendments to previously-approved residential rezoning or zoning map amendments, or any previously-approved residential component of a multi-use district rezoning or zoning map amendment, in accordance with the laws in existence prior to July 1, 2016.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby repeals the following policies as they apply to new applications for residential rezonings filed on or after July 1, 2016: the Route 5 Road Improvement Proffer Policy adopted on May 28, 1996; the Natural Resources Policy; adopted on July 27, 1999; the Cash Proffer Policy for Schools adopted on July 24, 2007; the Residential Redevelopment Policy adopted on November 27, 2012; the Housing Opportunities Policy adopted on November 27, 2012 and the Outstanding Specimen Tree Option Guidelines adopted on November 22, 2011.

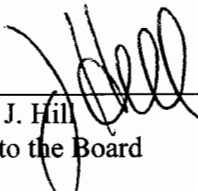
BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby initiates amendments to Section 24-16 of the County Code to explicitly state that the County will only accept voluntarily proffered conditions associated with non-residential rezonings and zoning map amendments, and further directs staff to have such amendments brought before the Planning Commission at its first meeting in August, to be forwarded to the Board of Supervisors for adoption at its first meeting in September.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby directs staff to study the ability to incorporate the following policies into the James City County Code and bring back recommendations for the Board's consideration at a work session in September: the Archaeological Policy adopted on September 22, 1998; the Community Character Corridor Buffer Treatment Guidelines adopted on November 22, 2011; the Design Guidelines for the Toano Community Character Area adopted on February 14, 2006; the Economic Opportunity District Construction Phasing Guidelines adopted on September 13, 2011; the Environmental Constraints Analysis for Legislative Cases adopted on June 12, 2012; the Multiple Use Districts and Mixed Use Construction Phasing Policy adopted on September 11, 2012; the Outstanding Specimen Tree Option Guidelines adopted on November 22, 2011.



Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:


Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ONIZUK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SADLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of June,
2016.

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