

A G E N D A
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
September 14, 2021
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Arrow of Light Den from Cub Scout Pack 103

E. PUBLIC COMMENT

F. CONSENT CALENDAR

G. PUBLIC HEARING(S)

1. Z-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Rezoning (Frothy Moon Brewhouse)
2. SUP-21-0014. Busch Gardens Entertainment Event Facility
3. SUP-21-0015. Crosswalk Community Church Daycare and School
4. SUP-21-0013. 2631 Lake Powell Road, Tourist Home
5. Disposition of James City County Property for the Widening of Croaker Road

H. BOARD CONSIDERATION(S)

1. Approval of \$85,000,000 Williamsburg Landing bond issuance
2. Appeal of Notice of Violation, 5032 River Drive

I. CLOSED SESSION

J. ADJOURNMENT

1. Adjourn until 1 pm on September 28, 2021 for the Business Meeting

ITEM SUMMARY

DATE: 9/14/2021
TO: The Board of Supervisors
FROM: Teresa J. Fellows, Deputy Clerk
SUBJECT: Arrow of Light Den from Cub Scout Pack 103

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	9/7/2021 - 9:27 AM

ITEM SUMMARY

DATE: 9/14/2021

TO: The Board of Supervisors

FROM: Tori Haynes, Planner II

SUBJECT: Z-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Rezoning (Frothy Moon
Brewhouse)

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	1. Resolution	Resolution
☐	2. Location Map	Exhibit
☐	3. Proposed Master Plan	Exhibit
☐	4. Proposed Building Elevations	Exhibit
☐	5. Proposed Proffers	Exhibit
☐	6. Community Impact Statement	Exhibit
☐	7. Turn Lane Analysis	Exhibit
☐	8. Public Comment Received	Exhibit
☐	9. Unapproved Minutes of the August 4, 2021 PC Meeting	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	9/1/2021 - 9:08 AM

REZONING-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse)

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III, on behalf of Mr. Conor Halfpenny

Land Owner: ALLMAR, LLC

Proposal: Rezoning of approximately 3.4 acres from B-1, General Business and LB, Limited Business to B-1, General Business, with Proffers for a small-scale brewery and taproom.

Locations: 1826 Jamestown Road
259 Sandy Bay Road

Tax Map/Parcel Nos.: 4730100003
4730100002

Zoning: B-1, General Business
LB, Limited Business

Project Acreage: The two parcels together total ±3.4 acres

Comprehensive Plan: Neighborhood Commercial

Primary Service Area: Inside
(PSA)

Staff Contact: Tori Haynes, Senior Planner

PUBLIC HEARING DATES

Planning Commission: August 4, 2021, 6:00 p.m.

Board of Supervisors: September 14, 2021, 5:00 p.m.

FACTORS FAVORABLE

1. Existing entrances will be consolidated to improve access management and will also be improved to current Virginia Department of Transportation standards.
2. The 50-foot Community Character Corridor (CCC) landscape buffer will be established along Jamestown Road.
3. The applicant has proffered to provide updated turn lane warrants should there be a future building or parking expansion.
4. The applicant has proffered to restrict access from Sandy Bay Road.
5. The applicant has proffered to complete water conservation standards to be approved by the James City Service Authority (JCSA).
6. To mitigate potential impacts to adjacent properties and Jamestown Road, the applicant has proffered to limit otherwise by-right B-1 uses to be more consistent with the LB Zoning District.
7. The applicant has proffered to orient all sources of amplified music away from Sandy Bay Road.
8. Improvements are proposed to the existing building, to be consistent with the attached elevations.
9. The applicant proposes to reduce impervious cover on the site as part of the redevelopment proposal.
10. As recommended by the Comprehensive Plan, this proposal represents infill development, the redevelopment of existing parcels, and the adaptive reuse of existing buildings.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

REZONING-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse)

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

- 11. Staff finds the proposal to be consistent with both the adopted 2035 Comprehensive Plan and draft 2045 Comprehensive Plan.
- 12. With the voluntary proffers, staff finds that the proposal will not negatively impact surrounding development.
- 13. Impacts: See Impact Analysis on Pages 4-5.

FACTORS UNFAVORABLE

- 1. Impacts: See Impact Analysis on Pages 4-5.

SUMMARY STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors approve the application and accept the voluntary proffers.

PLANNING COMMISSION RECOMMENDATION

At its August 4, 2021 regular meeting, the Planning Commission recommended approval of the application and acceptance of the voluntary proffers, subject to redirecting amplified noise away from Sandy Bay Road, by a vote of 4-1-1.

CHANGES SINCE PLANNING COMMISSION MEETING

The applicant has included an additional proffer to orient all sources of amplified music away from Sandy Bay Road.

PROJECT DESCRIPTION

Mr. Vernon Geddy has applied on behalf of Mr. Conor Halfpenny to rezone approximately 3.4 acres of land located at 1826 Jamestown Road and 259 Sandy Bay Road. The proposed use is a small-scale brewery with a taproom and coffee shop, which will be known as Frothy Moon Brewhouse.

About half of the existing ±5,000-square-foot (SF) building located at 1826 Jamestown Road will contain the brewing and production facilities. The other half will house a taproom/coffee shop/retail area, along with offices and storage. Meal options will be provided by a third-party food truck on-site. Two building additions are planned for a commercial cooler room (±500 to 750 SF) and boiler room (±140 SF). The outdoor area located at 259 Sandy Bay Road includes an existing patio and open-air roofed structure, which will be used as a patron space with seating and outdoor game areas. The boundary line between these parcels will be extinguished to create one cohesive site.

The proposal includes improvements to the 50-foot CCC buffer along Jamestown Road and consolidation of the existing entrances to better manage traffic flow. As depicted on the Master Plan, the western entrance will be closed, the central entrance will provide general public access, and the eastern entrance will be used for deliveries and emergency vehicles. A shared parking agreement with the adjacent property, 1820 Jamestown Road, is proposed as an overflow parking option.

PLANNING AND ZONING HISTORY

Prior to the current proposal, the property was the site of Cooke’s Greenhouse and Garden Center. In 2005, a variance was granted by the Board of Zoning Appeals to reduce the front setback from 50 feet to 0 feet from the right-of-way for the construction of a building addition and trellis. Since then, the building addition and trellis have been demolished.

SURROUNDING ZONING AND DEVELOPMENT

- North: LB, Limited Business
PL, Public Lands
- Northwest: R-2, General Residential

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REZONING-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse)

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

West: Powhatan Creek
R-2, General Residential

South: R-8, Rural Residential

East: B-1, General Business

The subject property is located across the street from Powhatan Creek Park to the north and adjacent to Powhatan Creek to the west. On the other side of Powhatan Creek are parcels zoned R-2, General Residential; staff notes that the parcels closest to the proposed site are undevelopable and will not contain residential units. Parcels to the south are zoned R-8, Rural Residential. Four R-8 parcels currently have single-family homes (one adjacent, three nearby). Parcels to the east are zoned B-1, General Business.

IMPACT ANALYSIS

See next page.

REZONING-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse)

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

IMPACT ANALYSIS

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - The proposal is not anticipated to generate traffic exceeding 100 peak hour trips. - The submitted traffic analysis indicates that the proposal does not warrant turn lanes at this time. - The applicant has proffered assurances to provide additional turn lane warrants should there be an expansion of the building or parking that could generate additional traffic. - Of the three existing entrances, the western entrance will be closed, the central entrance will provide general public access, and the eastern entrance will be used for deliveries and emergency vehicles only. - The applicant has proffered to restrict access from Sandy Bay Road.
<u>Public Transportation: Pedestrian/Bicycle</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The proposal does not trigger additional requirements for pedestrian or bicycle facilities at this location.
<u>Public Safety</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Located within a six-minute radius of Fire Station 3. - The proposal does not generate impacts that require mitigation to the County’s emergency services or facilities.
<u>Public Schools</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The proposal does not generate impacts that require mitigation to the County’s public schools.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The proposal does not generate impacts that require mitigation to the County’s parks and recreation services or facilities.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The proposal does not generate impacts that require mitigation to public libraries or cultural centers.
<u>Groundwater and Drinking Water Resources</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - The applicant has proffered assurances to develop water conservation standards to be approved by JCSA.

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REZONING-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse)

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Watersheds, Streams, and Reservoirs</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The western portion of the site is located in the Flood Hazard Area and Resource Protection Area (RPA). The portion in the Flood Hazard Area is currently vegetated and undisturbed. The RPA covers both disturbed and undisturbed areas. - The project does not propose additional disturbance in the undisturbed portions of the Flood Hazard Area or RPA. Should this change, staff can require additional natural resource inventories and/or stormwater mitigation during development review. - The amount of existing impervious cover on the site is proposed to be reduced as part of the redevelopment proposal. - Stormwater and Resource Protection has reviewed the proposal and noted that refinements to the stormwater design may be necessary during development review.
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The subject property has been previously disturbed and has no known cultural resources on-site. - The project does not propose additional disturbance in areas that are currently vegetated/undisturbed. Should this change, staff can require a cultural resource survey during site plan review.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - The proposed rear transitional buffer exceeds to the required minimum of 35 feet (up to 60 feet provided). - The Noise Ordinance limits noise after 9:00 p.m. - The applicant has proffered to orient amplified music away from Sandy Bay Road.
<u>Community Character</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - This segment of Jamestown Road is designated as a Wooded Community Character Corridor. - The proposed access improvements will include a landscape buffer of 50 feet with a planting plan in accordance with the Landscape Ordinance and consistent with the CCC Buffer Treatment Guidelines. - Elevations for the existing building’s façade have been provided, with final approval to be granted by the Planning Director during site plan review.

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REZONING-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse)

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

2035 AND 2045 COMPREHENSIVE PLANS

The property is designated Neighborhood Commercial on both the adopted 2035 Comprehensive Plan Land Use Map and the proposed 2045 Comprehensive Plan Land Use Map. In both versions, recommended uses for Neighborhood Commercial include small restaurants, small service establishments, offices, branch banks, day care centers, places of public assembly, and convenience stores with limited hours of operation. Recommended Floor Area Ratio (FAR) is 0.2 maximum.

Staff finds that a small-scale brewery and taproom would be consistent with the recommended uses of small restaurants and similar establishments. The existing building is within the recommended FAR at 0.03. Staff also finds that the following Goals, Strategies, and Actions (GSAs) are relevant to this proposal:

Land Use

2035 LU 4.5, 2045 LU 3.5 - Promote infill, redevelopment, revitalization, and rehabilitation within the PSA.

Economic Development

2035 ED 5 - Encourage infill development, the redevelopment of existing parcels, and the adaptive reuse of existing buildings to efficiently use infrastructure and natural resources.

2045 ED 4 - Encourage infill development, the redevelopment of existing parcels, and the adaptive reuse of existing buildings that efficiently uses infrastructure and natural resources, as well as establishes or enhances the area’s sense of place and community character.

2035 ED 5.3, 2045 ED 4.2 - Encourage new development and redevelopment of non-residential uses to occur mainly in areas where

public utilities are either available or accessible within the PSA and infrastructure is supportive.

2035 ED 6.5, 2045 ED 6.5 - Support tourism initiatives that promote the Historic Triangle as an arts destination, including cultural and culinary activities.

STAFF RECOMMENDATION

Staff finds that the proposed rezoning will not negatively impact surrounding development. Proffers submitted by the applicant mitigate impacts generated by the proposal, and allow staff to reevaluate traffic and turn lane warrants should there be an expansion in the future. The redevelopment of the parcel for a brewery and taproom is consistent with the 2035 and 2045 Comprehensive Plans’ recommended uses and GSAs.

Staff recommends that the Board of Supervisors approve the application and accept the voluntary proffers.

TH/ap
RZ21-13-jtownrd-SBayRd

Attachments:

1. Ordinance
2. Location Map
3. Proposed Master Plan
4. Proposed Building Elevations
5. Proposed Proffers
6. Community Impact Statement
7. Turn Lane Analysis
8. Public Comment Received
9. Unapproved Minutes of the August 4, 2021 Planning Commission Meeting

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING DISTRICT MAPS OF JAMES CITY COUNTY, VIRGINIA, TO REZONE APPROXIMATELY 3.4 ACRES LOCATED AT 1826 JAMESTOWN ROAD (TAX MAP PARCEL NO. 4730100003) AND 259 SANDY BAY ROAD (TAX MAP PARCEL NO. 4730100002) FROM B-1, GENERAL BUSINESS AND LB, LIMITED BUSINESS TO B-1, GENERAL BUSINESS, WITH PROFFERS AS DESCRIBED IN CASE NO. Z-21-0013

WHEREAS, on behalf of Mr. Conor Halfpenny, Mr. Vernon Geddy, III, of Geddy, Harris, Franck & Hickman, LLP has applied to rezone (1) a ± 0.51-acre parcel located at 1826 Jamestown Road and further identified as James City County Real Estate Tax Map No. 4730100003 from B-1, General Business to B-1, General Business, with Proffers; and (2) a ± 2.89-acre parcel located at 259 Sandy Bay Road and further identified as James City County Real Estate Tax Map No. 4730100002 from LB, Limited Business to B-1, General Business, with Proffers; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. Z-21-0013; and

WHEREAS, the Planning Commission of James City County, following its consideration on August 4, 2021, recommended approval of Case No. Z-21-0013, by a vote of 4-1-1; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds Case No. Z-21-0013 to be required by public necessity, convenience, general welfare, and good zoning practice.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia, that Case No. Z-21-0013 is hereby approved as described therein and the voluntary proffers are accepted.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

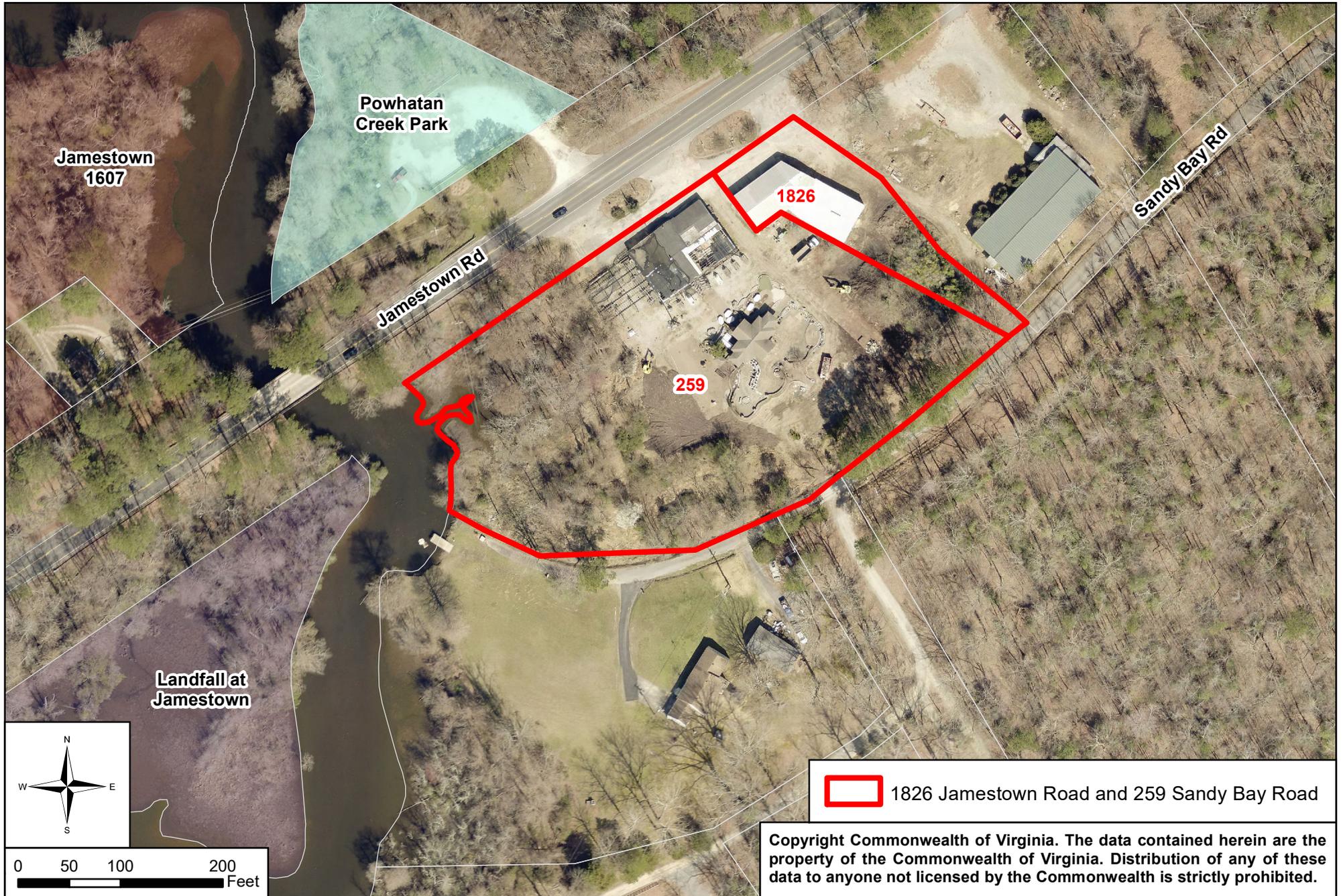
Teresa J. Fellows
Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.

JCC Z-21-0013

1826 Jamestown Rd. and 259 Sandy Bay Rd. Rezoning



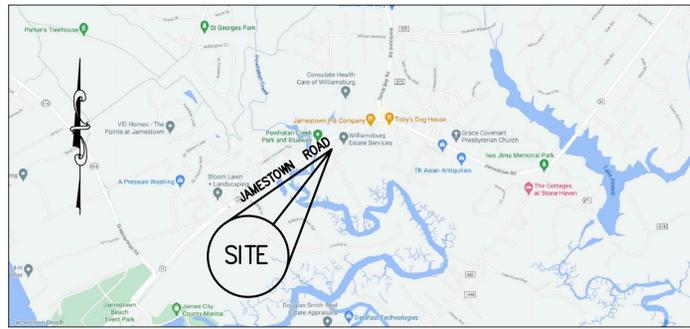
 1826 Jamestown Road and 259 Sandy Bay Road

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FROTHY MOON BREWERY 1826 JAMESTOWN ROAD

JAMES CITY COUNTY

VIRGINIA



VICINITY MAP

SCALE: 1"=2000'

COPYRIGHT GOOGLE 2021

PROJECT INFORMATION:

PROPERTY ADDRESSES	1826 JAMESTOWN ROAD / 259 SANDY BAY ROAD
PARCEL NUMBERS	4730100003 / 4730100002
TOTAL SITE AREA	3.4± AC
ZONING (#4730100003)	B1 (GENERAL BUSINESS)
ZONING (#4730100002)	LB (LIMITED BUSINESS)
FRONT YARD SETBACK	50'
REAR YARD SETBACK	50'
SIDE (EAST) YARD SETBACK	20'
SIDE (WEST) YARD SETBACK	50'
CURRENT USE	VACANT PROPERTY
PROPOSED USE	LIGHT INDUSTRIAL / WAREHOUSE - MICROBREWERY
WATER	PUBLIC (JAMES CITY SERVICE AUTHORITY)
SEWER	PUBLIC (JAMES CITY SERVICE AUTHORITY)
VAHUC5	JUL-G (JAMES RIVER - POWHATAN CREEK)
HUC8	02080206 (LOWER JAMES)
FLOOD	ZONES AE, 0.2% ANNUAL CHANCE & X (F.I.R.M. #51095C0182D DATED 12/16/2015) (PROJECT AREA LIES ONLY IN ZONE X)

STATISTICAL DATA:

PROPOSED DISTURBED AREA	1.4 AC.
ON-SITE DISTURBANCE	1.15 AC.
OFF-SITE DISTURBANCE (ROUTE 31 R/W)	0.25 AC.

EX. SITE COVER WITHIN DISTURBED AREA	
IMPERVIOUS SURFACES	1.3 AC. (92.8%)
MANAGED TURF	0.10 AC. (7.2%)

PROP. SITE COVER WITHIN DISTURBED AREA	
IMPERVIOUS SURFACES	0.9 AC. (64.3%)
MANAGED TURF	0.5 AC. (35.7%)

EXISTING BUILDING STATISTICS	
FOOTPRINT	4,440 S.F.
NO. OF FLOORS	1

PARKING CALCULATIONS:

PER SEC. 24-59 OF THE JAMES CITY COUNTY ZONING ORDINANCE:

REQUIRED PARKING	1 SPACE PER 2 EMPLOYEES ON LARGEST SHIFT 6 EMPLOYEES / 2 = 3 SPACES
	1 SPACE PER 4 SEATS 44 INSIDE SEATING = 11 SPACES
	4 SPACES PER 1,000 SF PATIO ENTERTAINMENT AREA APPROX. 11,500 SF = 46 SPACES
	TOTAL REQUIRED PARKING = 60 SPACES (see note 3)

PROVIDED PARKING (ON-SITE)	23
PROVIDED PARKING (OFF-SITE)	21

REQUIRED HANDICAP SPACES 3 (1 VAN ACCESSIBLE)

PROVIDED HANDICAP SPACES 4 (ALL VAN ACCESSIBLE)

REQUIRED LOADING SPACES 1 (10' x 30')

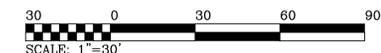
PROVIDED LOADING SPACES 1 (10' x 30')

NOTES:

- AREAS NOTED AS "EXISTING IMPROVEMENTS TO BE REMOVED" ARE TO BE CONVERTED TO LANDSCAPING AND/OR STORMWATER RELATED DESIGN.
- POTENTIAL STORMWATER MANAGEMENT FACILITIES MAY BE INCLUDED IN THE FINAL DESIGN.
- A REQUEST TO UTILIZE 44 SPACES (23 ONSITE, 21 OFFSITE) TO BE SUBMITTED WITH DEVELOPMENT PLANS.



DEVELOPER
CONNOR HALFPENNY



NO.	DATE	REVISION / COMMENT / NOTE
1	7/13/21	REVISED PER COMMENTS
2	7/16/21	REVISED PER COMMENTS
3	7/20/21	REVISED PER COMMENTS

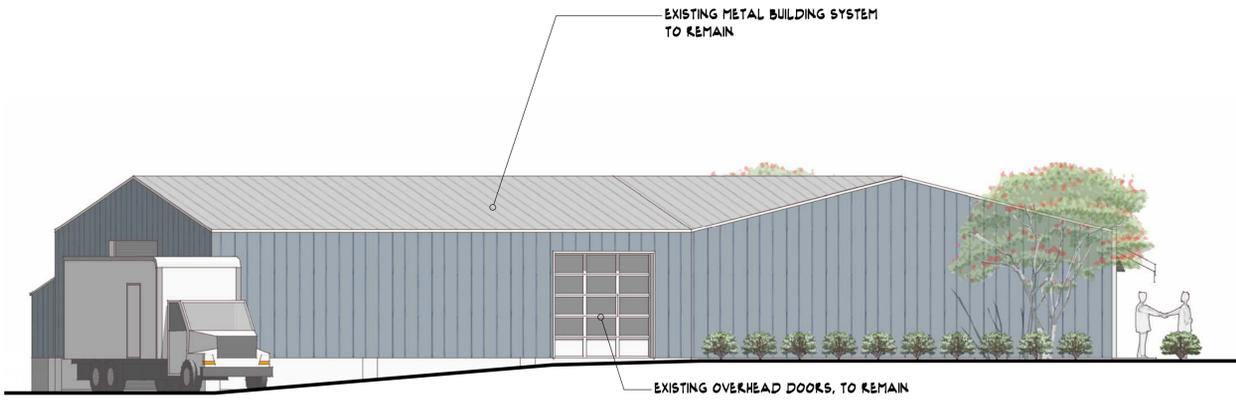


MASTER PLAN
FROTHY MOON BREWERY
1826 JAMESTOWN ROAD
 JAMES CITY COUNTY VIRGINIA

Scale: 1"=20'
 Date: 7/13/2021
 Job Number: 21-203
 Drawn By: WSF
 Sheet Title:

MASTER PLAN

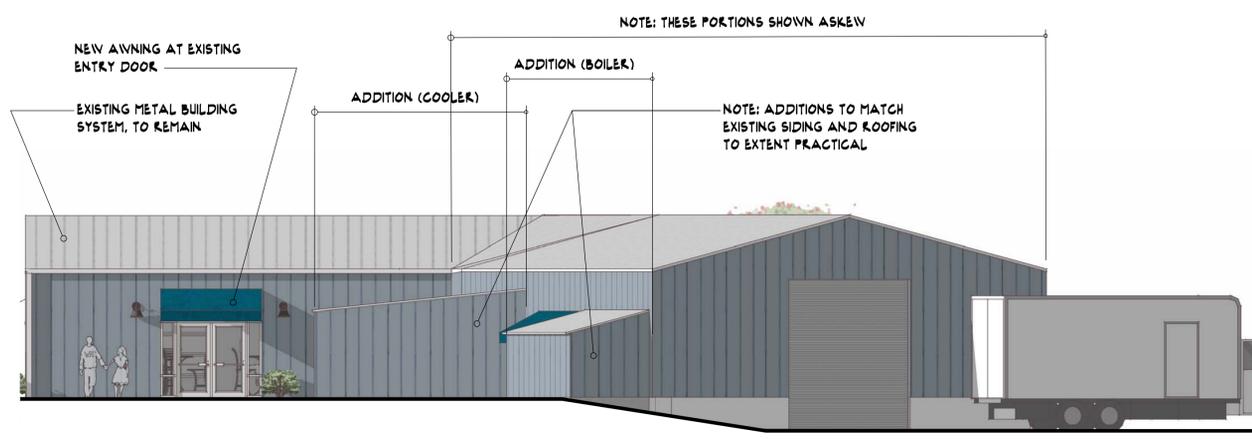
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MP-01



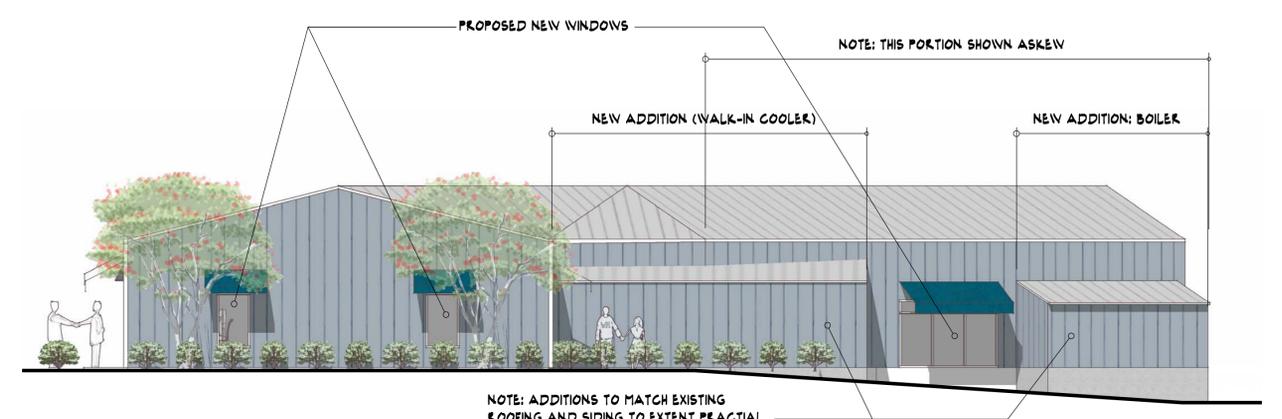
LEFT SIDE ELEVATION (SHOWN ASKEW)



FRONT ELEVATION



REAR ELEVATION



RIGHT SIDE ELEVATION

Prepared by:
Vernon M. Geddy, III, Esquire (VSB #21902)
Geddy Harris Franck & Hickman, L.L.P.
1177 Jamestown Road
Williamsburg, Virginia 23185

Tax Parcels: 4730100002 and 4730100003

This PROFFER AGREEMENT is made this ~~24~~ day of August, 2021 by ALLMAR LLC, a Virginia limited liability company (together with its successors in title and assigns the "Owner") to be indexed as "Grantor." James City County, Virginia shall be indexed as "Grantee."

RECITALS

A. Owner is the owner of the real property and improvements thereon located at 1826 Jamestown Road and 259 Sandy Bay Road, James City County, Virginia, James City Tax Parcels 4730100003 and 4730100002, which is more particularly described on Exhibit A attached hereto (the "Property").

B. Tax Parcel 4730100003 is zoned B-1, General Business and Tax Parcel 4730100002 is zoned LB, Limited Business. Owner has applied for a rezoning of the Property to B-1, General Business, with proffers, and in connection therewith has submitted a Master Plan prepared by LandTech Resources, Inc. entitled "Master Plan Frothy Moon Brewery" and dated July 13, 2021 (the "Master Plan") and architectural elevations entitled "Conceptual Design for Frothy Moon Brewhouse" prepared by Hopke & Associates dated July 2, 2021 (the "Elevations").

C. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned B-1 for the protection and enhancement of the community and to provide for the high-quality and orderly development of the Property.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of James City County of the rezoning of the property as described in the application submitted under County file number Z-21-0013, and pursuant to Section 15.2-2303.4(D) of the Virginia Code, Section 24-16 of the County's Zoning Ordinance and County Ordinance No. 31A-346, Owner agrees to the following conditions and proffers as indicated in developing the Property.

CONDITIONS

1. Master Plan. The Property shall be developed generally in accordance with the Master Plan determined as provided in Section 24-23(a)(2) of the Zoning Ordinance.

2. Boundary Line Extinguishment. Prior to final site plan approval, Owner shall record a boundary line extinguishment plat vacating the property line between Tax Parcels 4730100003 and 4730100002.

3. Community Character Corridor Buffer. There shall be a 50-foot average width community character corridor buffer along the Jamestown Road frontage of the Property in the locations shown on the Master Plan, subject to approval of the Virginia Department of Transportation ("VDOT"). All existing impervious surfaces within the buffer except those directly related to the entrances shown on the Master Plan shall be removed and be replaced with a combination of turf and landscaping in accordance with Chapter 24, Division 4 of the Zoning Ordinance. Owner shall be responsible for maintaining the landscaping within the buffer located in the buffer, including in the Jamestown Road right-of-way.

4. Food Truck Location. Food trucks shall be located on the site generally as shown on the Master Plan and in no event shall food trucks be located between any building/structure on the Property and Jamestown Road without the prior approval of the Planning Director.

5. Architecture. Final exterior plans for the brewery/taproom building, including color specifications for the building and color/material specifications and screening plan for the dumpster, shall be submitted to the Planning Director for his review for consistency with the Elevations. The Planning Director shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. Approval of the final plans by the Planning Director is required prior to final site plan approval. The exterior of the brewery/taproom building shall be constructed in accordance with the approved plans.

6. Project Sign. The sign for the project shall be a monument-style sign with a maximum height of eight feet and with a style consistent with the building elevations. The sign shall be subject to review and approval by the Planning Director.

7. Outdoor Lighting. No light fixture located on the Property shall exceed fifteen feet in height. Any existing non-conforming fixtures shall be brought into compliance with this Condition and Article II, Division 7 of the Zoning Ordinance.

8. Water Conservation. The Owner shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority ("JCSA") and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of drought resistant native and other adopted low water use landscaping materials and warm season turf on common areas in areas with appropriate growing conditions for such turf and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the JCSA prior to final

subdivision or site plan approval.

9. Updated Turn Lane Warrant Analysis. If Owner desires to increase the size of the tasting room in the brewery building or the number of parking spaces provided over the size and number of spaces shown on the Master Plan, Owner shall submit an updated turn lane warrant analysis based on the increased size and/or number of parking spaces to the Planning Director and VDOT for their review and approval. If the approved analysis shows the need for turn lanes or other entrance improvements, Owner shall either (i) not undertake the expansion or (ii) install the required turn lane(s) or other entrance improvements. If improvements are required and Owner elects to proceed with the expansion, the required improvements shall be shown on the site plan for the new parking spaces and bonded prior to site plan approval in a manner deemed acceptable by the County Attorney's office and Planning Director.

10. Sandy Bay Road. There shall be no vehicular access to or from the Property and Sandy Bay Road.

11. Amplified Music. All outdoor sources of amplified music shall be oriented away from Sandy Bay Road.

12. Prohibited Uses. The following uses, otherwise permitted by right in the B-1 zoning district, shall not be permitted on the Property:

- Banks and other financial institutions
- Drug stores
- Firearms sales and service
- Grocery stores
- Heliports and helistops, as an accessory use
- Hotels and motels
- Indoor centers of amusement including billiard halls, arcades, pool rooms, bowling alleys, dance clubs and bingo halls
- Indoor sports facilities (excluding fire and shooting ranges)
- Indoor theaters
- Kennels and animal boarding facilities
- Limousine services (with maintenance limited to a fully enclosed building)
- Lumber and building supply (with storage limited to a fully enclosed building or screened from view with landscaping and fencing with a maximum height of 12 feet)
- Machinery sales and service (with storage and repair limited to a fully enclosed building)
- Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38
- Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce or seafood receiving, packaging or distribution

New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building)
Office supply stores
Plumbing and electrical supply and sales (with storage limited to a fully enclosed building)
Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments
Radio and television stations and accessory antenna or towers which are 60 feet or less in height
Research, development and design facilities or laboratories
Taxi service
Telephone exchanges and telephone switching stations
Vehicle repair and service, including tire, transmission, glass, body and fender, and other automotive product sales, new and/or rebuilt (with major repair limited to a fully enclosed building and storage of parts and vehicles screened from adjacent property by landscaping and fencing)
Vehicle and trailer sales and services (with major repair limited to a fully enclosed building)
Vehicle rentals
Wholesale and warehousing (with storage limited to a fully enclosed building)

WITNESS the following signatures and seals:

ALLMAR LLC

By: 

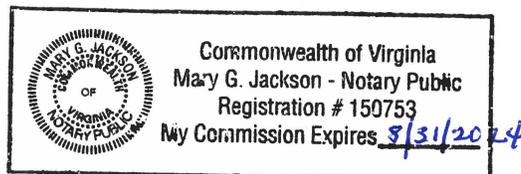
Title: _____

STATE OF VIRGINIA
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged before me this 26th day of August, 2021 by Laura Kinsman, Manager of ALLMAR LLC, a Virginia limited liability company, on behalf of the company.


NOTARY PUBLIC

My commission expires: 8/31/2024
Registration No.: 150753



**EXHIBIT A
PROPERTY DESCRIPTION**

Parcel 1: 1826 Jamestown Road – Tax Parcel 4730100003

All that certain parcel of land situate, lying and being in James City County, Virginia, and shown as "Parcel 1" and "Parcel 2" on that certain plat entitled, "A Survey of Parcels 1 and 2 for Conveyance to Colonial Properties, Inc., Jamestown and Berkeley Districts, James City County, Virginia", dated January 21, 1977, made by B. D. Littlepage, C.L.S., a copy of which is recorded in Plat Book 34, page 31, and upon which the outer perimeter of the two combined parcels is shown as follows:

Beginning at an iron pipe where the South-easterly right-of-way line of State Route 31, Parcel 1, herein and property now or formerly of Frank and Rosa L. Armistead converge; thence South 35° 36' 40" East 267.65 feet to an iron pipe; thence South 44° 22' 05" West 174.40 feet to an iron pipe; thence North 46° 20' 55" West 124.23 feet to an iron pipe; thence North 37° 12' 45" West 79.78 feet to an iron pipe; thence North 56° 06' 51" West 101.50 feet to an iron pipe on the Southeasterly right-of-way line of State Route 31; thence North 54° 08' 25" East 134.58 feet to an iron pipe; thence continuing the same course 97.45 feet to an iron pipe which marks the point of beginning.

Parcel 2: 259 Sandy Bay Road – Tax Parcel 4730100002

All that certain parcel of land situate in James City County, Virginia, containing 2.892 acres ± shown and designated on a certain plat entitled, "Lot Line Extinguishment Between 2 Parcels of Land Owned by C. Lewis Waltrip, II, Jamestown District, James City County, Virginia," dated February 12, 1990 and made by AES, a professional corporation, of Williamsburg, Virginia and recorded in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City, Virginia, in Plat Book 52, page 11, to which plat reference is here made for a more particular description of the property herein.

FROTHY MOON BREWHOUSE

COMMUNITY IMPACT STATEMENT

June 23, 2021

Introduction

Frothy Moon Brewhouse, LLC (“Frothy Moon”) is the contract purchaser of two adjacent parcels located at 1826 Jamestown Road and 259 Sandy Bay Road. These parcels were the former location of Cooke’s Greenhouse and Garden Center. Cooke’s went out of business in 2018 and the property has remained vacant and deteriorating since. Frothy Moon proposes to redevelop the property into a micro-brewery with taproom/coffee shop and outdoor seating area.

The parcel at 1826 Richmond Road is currently zoned B-1 and the parcel at 259 Sandy Bay Road is zoned LB. Both parcels are designated Neighborhood Commercial on the 2035 Comprehensive Plan. Small scale alcohol production is permitted by right in the B-1 district but not in the LB district. Additions to the building on 1826 Richmond Road will intrude into the LB zoning and the proper functioning of the outdoor seating area will require B-1 zoning. Frothy Moon is seeking to rezone both parcels to B-1, with proffered conditions.

Project Team

Operator/Purchaser	Frothy Moon Brewhouse, LLC
Civil Engineering/Traffic	LandTech Resources, Inc.
Architect	Hopke and Associates
Zoning Counsel	Geddy, Harris, Franck & Hickman

Frothy Moon

The Frothy Moon Brewhouse brings together owners and brewers with a proven wealth of knowledge, experience and success in the Craft Beer industry to this part of James City County. Hailing from a family with deep roots in the Anheuser Busch industry, Conor Halfpenny has been in the Virginia craft beer scene since 1998, getting his start in Hampton, Virginia. Over the last 23 years, he has helped to successfully open 10+ craft breweries in the Commonwealth and has accumulated a wealth of knowledge and experience having worked in every aspect of a brewery from build out to most recently, Chief Operating Officer.

With family ties to the craft beer industry in Colorado, Melissa Trainum has years of experience with a local craft brewery in social media, event planning and customer service.

James McGraw is a graduate of the Doemens Academy in Germany. He is the former head brewer of Shiplock Brewing in Richmond and the Colorado-based BierWerks Brewery.

The Frothy Moon Brewhouse will be a place where you can start your day, spend your day, or finish it. Be it with a warm cup of coffee roasted by Aroma's in the morning, food served up from local trucks throughout the day, or a fresh, frothy beer to close out your evening. Frothy Moon will have something for everyone.

Existing Conditions

The existing property is approximately 3.4 acres in gross size with the majority of the eastern portion being developed into what was a landscaping material sales business. Approximately 1.4 acres of the western portion of the property is located within a 100' resource protection area buffer, with approximately 1.25 acres of that buffer being vegetated and the rest made up of areas of old patio pavers and building foundations. The remainder of the property is mostly made of all impervious areas consisting of the existing building, old building foundations, gravel, and patio pavers. There are currently three entrances from Jamestown Road into the property.



Project Description

The existing 5000 square foot building located at 1826 Jamestown Rd, will serve two purposes. The first will be approximately 2,200 square feet of manufacturing space. The manufacturing space will be used to produce craft beer using a state-of-the art brewing system. This will allow Frothy Moon to be considered a “Microbrewery Operation”, producing beers for onsite sales and consumption. Frothy Moon expects to produce approximately 750 barrels of beer during its first year of operation. The second purpose will also be approximately 2,200 square feet, but will be used as a taproom/coffee house/retail space. The remaining space within the current building will be used as bathrooms and storage. Frothy Moon plans to add roughly 500 to 750 square feet of commercial cooler space on the right side of the building (as detailed on the Master Plan), necessary for proper product storage. An additional 140 square foot boiler room will be added to the back portion of the building (as detailed on the Master Plan). This will house the boiler, air compressor, and glycol compressor. Both additions will match the current exterior of the building. There will be an asphalt driveway for tractor trailer and forklift traffic to connect the lower level and upper level garage doors on the back and left side of the building. Lastly, a total of four awnings will be placed above customer entry/exit points.

The existing patio and roof structure located on the property at 259 Sandy Bay Road will serve as the outdoor seating area. Frothy Moon will add a children’s playset to the property, closer to the Sandy Bay Road side. The existing concrete/asphalt pad on the Jamestown Road side of the 259 Sandy Bay Road. property will be repurposed as a parking lot for the business. The other existing concrete pad on that parcel will be used for food truck parking. Frothy Moon does not plan initially to have a bar with taps and point of sale service in the outdoor seating area but would like the option of installing one in the future.

Water & Sewer:

The proposed brewery location will be served by existing JCSA water and sewer systems located within the existing Jamestown Road right-of-way. The existing facility is currently served by a 5/8” domestic water meter, which will need to be upgraded to a 1” meter in order to serve the required water usage for the brewery equipment. An existing fire hydrant is located approximately 300’ east of the project site along the southern right-of-way line of Jamestown Road. Depending on the build out of the proposed structure an additional fire hydrant may be required to be installed directly in front of the building to provide adequate fire protection.

Stormwater Management:

The existing property is approximately 3.4 acres in gross size with the majority of the eastern portion being developed into what was a landscaping material sales business. Approximately 1.4 acres of the western portion of the property is located within a 100’ resource protection area buffer, with approximately 1.25 acres of that buffer being vegetated and the rest made up of areas of old patio pavers and building foundations. The remainder of the property is mostly made of all impervious areas consisting of the existing building, old building foundations, gravel, and patio pavers.

The re-development of the property will call for approximately 1.4 acres of total land disturbance both on the subject property as well as within the adjacent VDOT right-of-way. The

area to be disturbed is almost totally made up of existing impervious areas totaling 1.3 acres. Within the project area a total of 0.4 acres of existing impervious cover will be removed from the site and replaced with landscaped areas and turf grasses. Existing impervious areas of the site will remain where needed for parking and vehicular circulation only, all other areas will be converted to turf and/or landscaped areas. The large existing patio paver area will remain. Preliminary stormwater calculations are attached hereto as Appendix A to show that the removal of existing impervious surfaces will suffice in meeting the stormwater quality and quantity requirements for the proposed project area. Additional improvements may be warranted after a complete survey of the site is prepared during the design phase of the project.

Traffic Analysis

LandTech Resources has performed a traffic analysis for the project attached hereto as Exhibit B which concludes that no traffic improvements are necessary to serve the project. The existing site currently has three (3) large commercial entrances installed along Jamestown Road. The proposed re-development of the parcel will call for the complete removal of the entrance located the furthest to the west. The middle entrance will remain to serve the proposed parking lot that will be constructed adjacent to the proposed tasting room. The entrance located to the east will remain as an entrance to be utilized only by delivery vehicles to access the existing warehouse overhead door located along the eastern side of the building as well as by emergency vehicles. This entrance will be signed as required by VDOT so as not to be used by general daily traffic into and out of the project site.

Parking

Under Section 24-59 of the Zoning Ordinance, this project will require 60 parking spaces. Twenty-three of those spaces are provided on site as shown on the Master Plan. Frothy Moon will enter into a shared parking arrangement with the owner of the adjacent parcel located at 1820 Jamestown Road, Tax Parcel 4730100005 to utilize twenty-one spaces on the adjacent parcel in accordance with the requirements of Section 24-59(e) of the Zoning Ordinance. The Applicant will be submitting a parking waiver request to permit the use of forty-four spaces for this project with the development plan submittal.

Community Character Corridor Buffer

There will be a community character corridor buffer along Jamestown Road with an average width of 50 feet. With the approval of VDOT, a portion of the buffer shall be located in the existing VDOT right-of-way for Jamestown Road as shown on the Master Plan. All impervious surfaces with the buffer shall be removed and the area converted to a landscaped area.



LANDTECH RESOURCES, INC.

Traffic Analysis

For

Frothy Moon Brewery

James City County, Virginia

Preparation Date:

June 22, 2021

July 16, 2021

Revision Date(s):

LRI Project No. 21-203

Traffic Turn Lane Warrants:

The proposed development on the property located at 259 Sandy Bay Road & 1826 Jamestown Road calls for the re-development of an existing warehouse building into a new micro-brewery with an approximately 2,200 square foot tasting room. Calculations for the traffic impacts generated by this site were determined based on the size of the proposed tasting room associated with the brewery based on the ITE trip generation for a similar use. As a micro-brewery is not listed within the current ITE trip generation tables the ITE values for a winery were used. The daily operations of a winery are extremely like that of a micro-brewery that also contains a tasting room and from time to time would be expected to host small events. Below is a summary of the anticipated traffic volumes for the proposed development based on ITE Code 970:

Traffic Analysis: Turn Lane Warrants									
Project: Frothy Moon Brewery									
ITE Code: 970 Winery (2,200 SF Tasting Room)									
Traffic Scenario	# of Trips	% Enter	Enter	% Exit	Exit	% Right	Right Turns	% Left	Left Turns
Average Day	92	50%	46.00	50%	46.00	40%	18	60%	28
AM Peak Hour	8	57%	4.56	43%	3.44	40%	2	60%	3
PM Peak Hour	13	56%	7.28	44%	5.72	40%	3	60%	4
Friday Average	161	50%	80.50	50%	80.50	40%	32	60%	48
Friday AM Peak Hour	16	71%	11.36	29%	4.64	40%	5	60%	7
Friday PM Peak Hour	27	54%	14.58	46%	12.42	40%	6	60%	9
Saturday Average	407	50%	203.50	50%	203.50	40%	81	60%	122
Saturday Peak Hour	73	47%	34.31	53%	38.69	40%	14	60%	21
Sunday Average	410	50%	205.00	50%	205.00	40%	82	60%	123
Sunday Peak Hour	75	48%	36.00	52%	39.00	40%	14	60%	22

State Route 31 - Jamestown Road	7200
Directional Factor, D	0.582
Peak Hour Factor, K	0.102
Peak Hour Volume, PHV	427
Advancing Volume	427
Opposing Volume	307
Total Peak Hour Trips Making Right Turn Into Site	14
Total Peak Hour Trips Making Left Turn Into Site	22

Of the ITE values reported for percentage of trips entering and exiting the site a value of 60% was assumed to be making a left-hand turn into the site and the remaining 40% assumed to be making a right-hand turn into the site. On the following pages you will find copies of the Turn Lane Warrant charts from the Virginia Department of Transportation Road Design Manual Appendix F. Based on the anticipated traffic for the proposed parcel as well as the traffic counts within the adjacent Jamestown Road right-of-way this project does **NOT** warrant the installation of a left-hand turn lane, nor a right-hand turn lane or tapers.

The existing site currently has three (3) large commercial entrances installed along Jamestown Road. The proposed re-development of the parcel will call for the complete removal of the entrance located the furthest to the west. The middle entrance will remain to serve the proposed parking lot that will be constructed adjacent to the proposed tasting room. The entrance located to the east will remain as an entrance to be utilized only by delivery vehicles to access the existing warehouse overhead door located along the eastern side of the building as well as by emergency vehicles. This entrance will be signed and gated as required by VDOT so as not to be used by general daily traffic into and out of the project site.

To account for all available usable space within the proposed project area an analysis was also considered that assumes a trip generation value for the amount of parking spaces proposed. The project proposes 44 total parking spaces between the subject property as well as the adjacent property that will be utilized through a shared parking agreement. A typical patron will visit the establishment for over an hour on average. Assuming that each hour all 44 parking spaces turn-over, with patrons leaving and new patrons arriving, the total peak hour trip generation for vehicles entering the property would be 44. Assuming the same 60% distribution for vehicles entering making left hand turn, 26 left hand turns per hour would also not require the construction turn lanes or tapers.

Virginia Department of Transportation
Traffic Engineering Division
2019
Annual Average Daily Traffic Volume Estimates By Section of Route
James City Maintenance Area

Route	Jurisdiction	Length	AADT	QA	4Tire	Bus	-----Truck-----				QC	K Factor	QK	Dir Factor	AAWDT	QW
							2Axle	3+Axle	1Trail	2Trail						
		From: New Kent County Line														
30 Old Stage Hwy	James City County	2.13	12000	F	90%	1%	2%	3%	5%	0%	F	0.097	F	0.703	12000	F
		To: I-64														
30 Barhamsville Rd	James City County	1.71	10000	F	95%	1%	1%	1%	2%	0%	C	0.103	F	0.606	11000	F
		From: US 60 Richmond Rd														
30 Rochambeau Dr	James City County	2.95	9400	F	97%	1%	1%	0%	0%	0%	C	0.099	F	0.63	10000	F
		To: 47-607 Croaker Rd; 47-755 Rochambeau Dr														
		From: 47-755 Rochambeau Dr; 47-607														
30 Croaker Rd	James City County	0.46	15000	F	97%	1%	1%	0%	0%	0%	F	0.099	F	0.63	14000	F
		To: I-64														
		From: SR 30 Old Stage Hwy														
30 Ramp	James City County	0.19	1500	A								0.129	A		1600	A
		To: I-64 West														
		From: SR 30 TO I-64 EAST														
East 30 Ramp	James City County	0.26	4100	G								0.137	F		4100	G
		To: I-64-E FROM RT 30 EAST														
		From: SR 30 I-64-E231A FROM & TO IS 64														
East 30 Ramp	James City County	0.28	4500	G								0.127	F		4500	G
		To: I-64-E FROM RT 30 EAST & 607 SOUTH														
		From: SR 30 TO I-64 WEST														
East 30 Ramp	James City County	0.23	820	G								0.086	F		820	G
		To: I-64-W FROM RT 30 EAST & 607 SOUTH														
		From: SR 30 TO I-64 EAST														
West 30 Ramp	James City County	0.26	1500	G								0.109	F		1500	G
		To: I-64-E FROM RT 30 WEST														
		From: SR 30 TO I-64 EAST														
West 30 Ramp	James City County	0.22	1200	G								0.122	F		1200	G
		To: I-64-E FROM RT 30 WEST & 607 SOUTH														
		From: SR 30; 47-607 I-64-W231B FRO														
West 30 Ramp	James City County	0.31	540	G								0.123	F		540	G
		To: I-64-W FROM RT 30 WEST & RT 607 SOUTH														
		From: Jamestown Ferry														
31 Jamestown Rd	James City County	2.10	7200	F	98%	1%	1%	0%	0%	0%	F	0.102	F	0.582	7600	F
		To: 47-681 Sandy Bay Rd														
		From: WCL Williamsburg														
31 Jamestown Rd	James City County	2.30	9000	F	98%	1%	1%	0%	0%	0%	C	0.095	F	0.602	9500	F
		To: State Maintenance Boundary														
		From: State Maintenance Boundary														
31 Jamestown Rd	City of Williamsburg (Maint: 47)	0.02	15000	F	98%	1%	1%	0%	0%	0%	F	0.087	F	0.579	16000	F
		To: SR 5; SR 199														

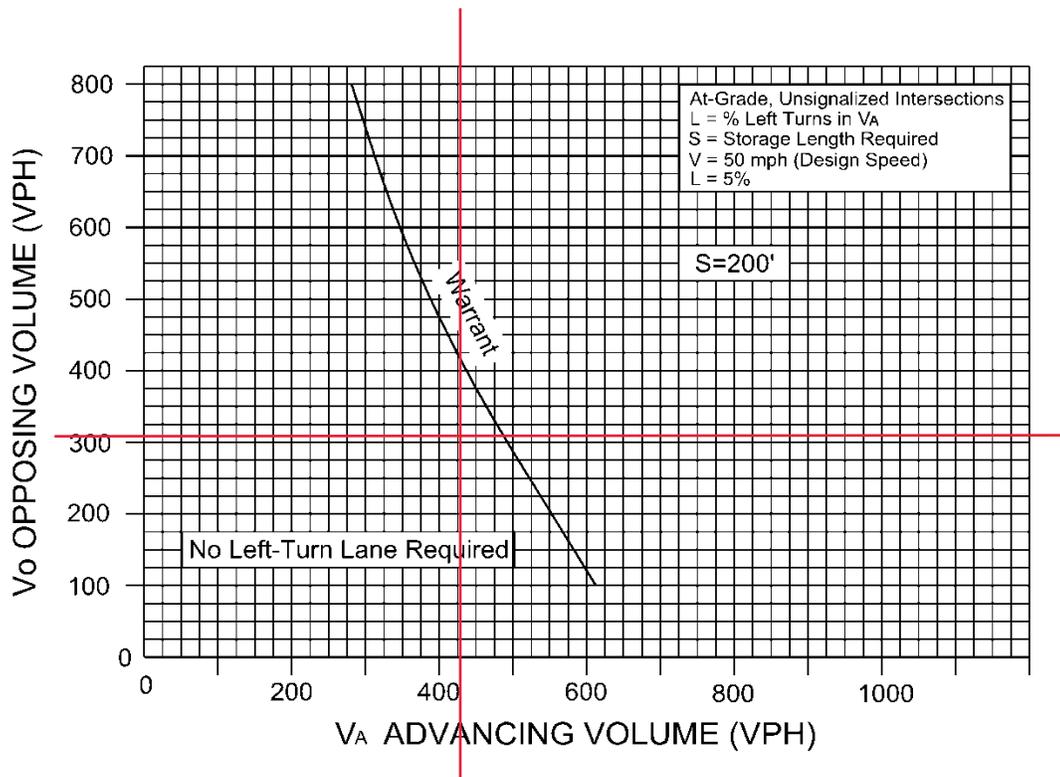


FIGURE 3-10 WARRANT FOR LEFT TURN STORAGE LANES ON TWO LANE HIGHWAY

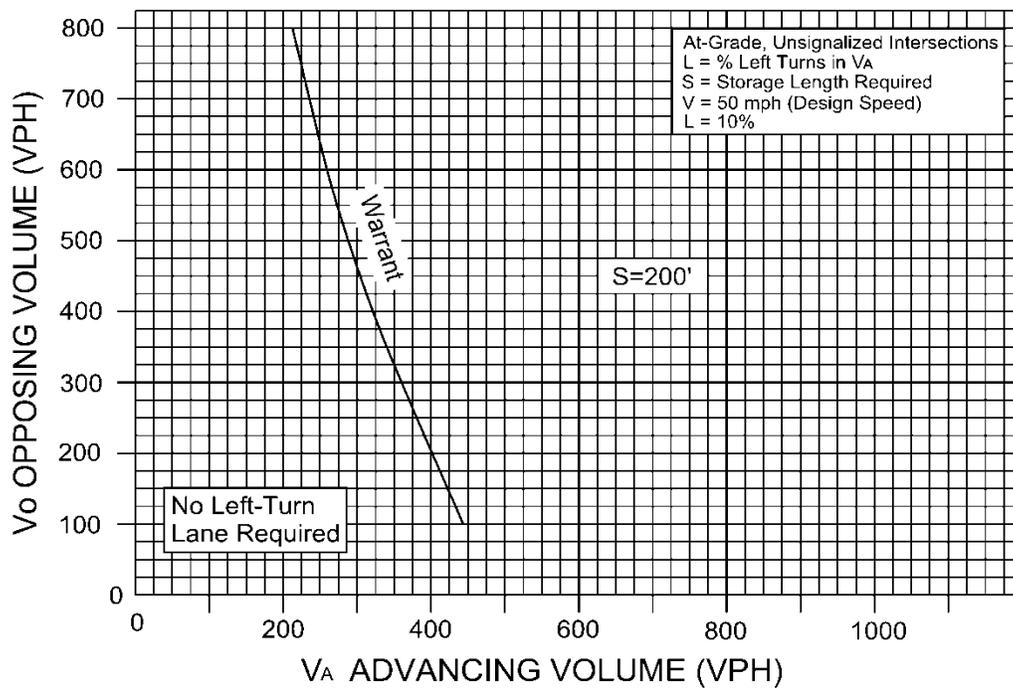
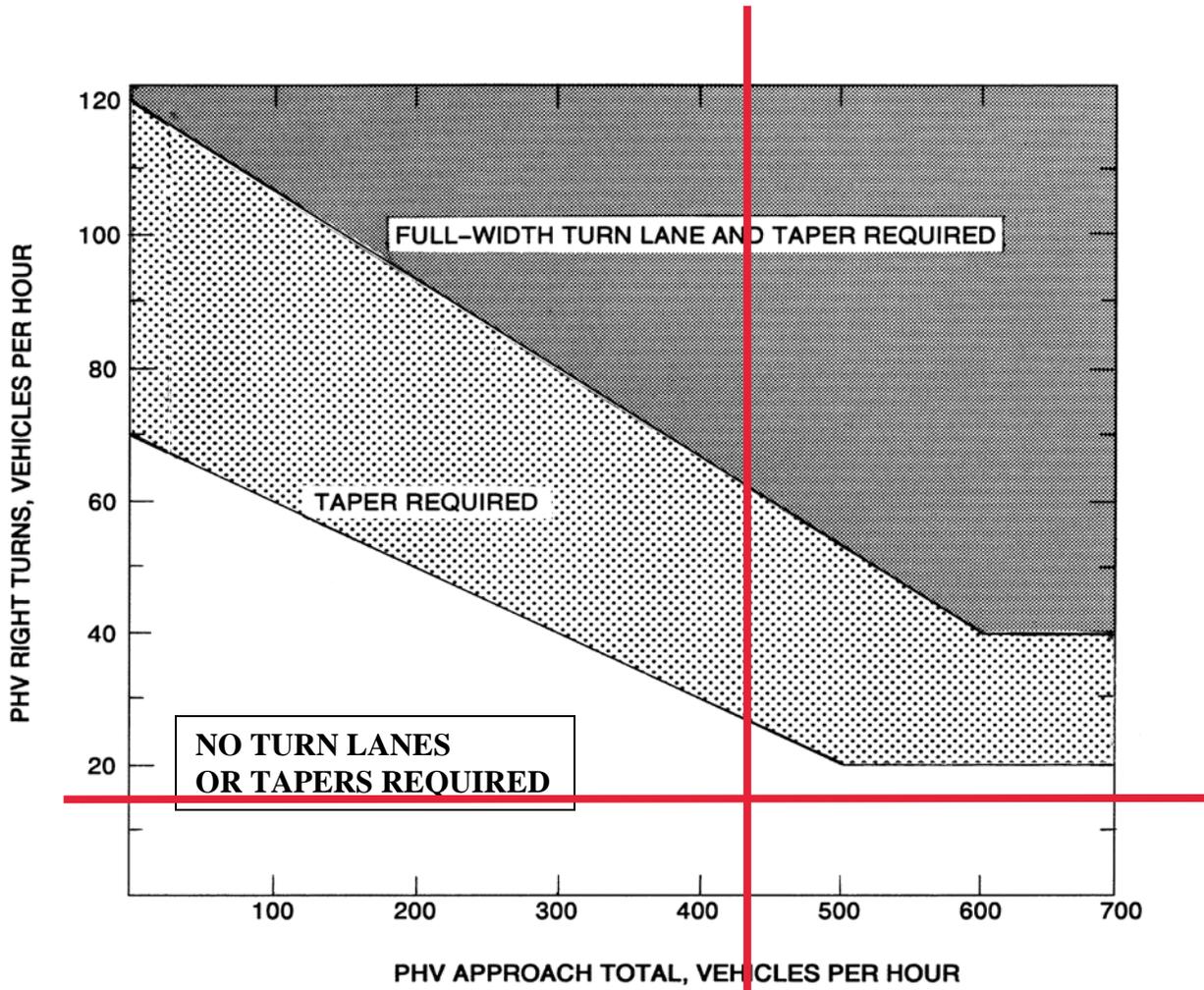


FIGURE 3-11 WARRANT FOR LEFT TURN STORAGE LANES ON TWO LANE HIGHWAY



Appropriate Radius required at all Intersections and Entrances (Commercial or Private).

LEGEND

PHV - Peak Hour Volume (also Design Hourly Volume equivalent)

Adjustment for Right Turns

For posted speeds at or under 45 mph, PHV right turns > 40, and PHV total < 300.

Adjusted right turns = PHV Right Turns - 20

If PHV is not known use formula: $PHV = ADT \times K \times D$

K = the percent of AADT occurring in the peak hour

D = the percent of traffic in the peak direction of flow

Note: An average of 11% for K x D will suffice.

When right turn facilities are warranted, see Figure 3-1 for design criteria.*

FIGURE 3-26 WARRANTS FOR RIGHT TURN TREATMENT (2-LANE HIGHWAY)

* Rev. 1/15

KEN GOLDSMITH
ASHLEY OVERMAN-GOLDSMITH

258 Sandy Bay Rd, Williamsburg, VA 23185

August 3, 2021

James City County Planning Commission
James City County Community Development Department

Greetings,

We are writing to express our strong concern about the proposed rezoning application Z-21-0013, 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse). Our home at 258 Sandy Bay Road directly abuts the properties in this application and will be very negatively impacted by the project as proposed.

Our home is one of four single family residences located in a very quiet neighborhood at the end of Sandy Bay Road. We are not opposed in principle to the operation of a brewery at this location, and believe that with additional proffers our concerns could be adequately addressed. The applicants have been very willing to meet with us and hear our concerns. We have no doubt that they will be respectful and cooperative neighbors. However, without a proffer in place there is nothing to prevent a future owner from operating this establishment very differently. As you may know from visiting other local breweries with outdoor seating, their business model generally includes loud outdoor music played all day long. This is not such a problem when the brewery is in a commercial or public use district far from any homes. Unfortunately, this is not the case here.

Due to local topography, the parcels proposed for rezoning will have an outsized impact on our property and that of our neighbors. The proposed brewery sits on the uplands well above Powhatan Creek and our adjacent land. Consequently, noise from this parcel carries a surprising distance into our neighborhood. We can hear people *talking* in the proposed outdoor seating area as far as 200 yards away. Again, we have no objection to the proposed outdoor patio seating area, which will be approximately 100 feet from our lot, or even music played at reasonable volume. However, amplified music played as *permitted* under the county noise ordinance will have a disastrous impact on the quiet enjoyment of our property.

It is our understanding that county planning staff has taken the position and repeatedly advised the applicant that no proffer related to noise is necessary because the county noise ordinance is “sufficient”. We vehemently disagree. The county noise ordinance has only a single provision that would apply to the properties in this application:

Uses adjacent to residential zoned districts and areas, and/or structures designated as residential on master plans and in mixed use zoned districts. No person shall cause or permit to be caused any noise which is plainly audible at a distance of 100 feet from its source between the hours of 9:00 p.m. and 7:00 a.m. JCC County Code Sec. 15-20(f)(2)

That is all there is. Without a proffer, any business at this location can play unlimited music at almost any volume between 7:00 a.m. and 9:00 p.m. every day, seven days a week. This is potentially devastating to our quality of life and would certainly destroy our right to the quiet enjoyment of our property. It is inexplicable why county staff does not consider this a significant impact to our properties and our neighborhood (which, by the way, are designated Low Density Residential in the comprehensive plan). Without a well-drafted proffer concerning potential noise the proposed rezoning will inevitably lead to unacceptable impacts on our homes, our neighborhood, and the community as a whole.

The applicants have already received a permit for a food truck operation at 259 Sandy Bay Rd. According to their master plan the food truck will be located approximately 120 feet from our property. As you know the county food truck ordinance has specific restrictions on music:

the volume of any background music played from the food truck shall be limited so as not to be plainly audible beyond the property boundaries of the site where the food truck is located, or at a distance of 100 feet from the vehicle, whichever is less. JCC County Code Sec. 24-29(b)(7)

This language is far more protective of neighboring property owners than the Noise Ordinance. Similarly, the county code includes language for special event permits that is far more restrictive than the noise ordinance. It does not make sense to allow a business directly adjacent to single family homes to operate seven days a week with less regard for its neighbors.

We request that this rezoning application be denied unless it includes a proffer similar to the following:

The volume of any music played on the property shall be limited so as not to be plainly audible in any residentially-zoned district beyond the property boundaries. In addition, all sources of amplified music shall be oriented away from Sandy Bay Rd.

Without an adequate proffer binding future owners of these properties you risk creating a situation where our homes and lives are gravely impacted and endless conflict results.

Thank you for your consideration of this important matter.

Sincerely,

Ken Goldsmith
Ashley Overman-Goldsmith

**Unapproved Minutes of the August 4, 2021
Planning Commission Regular Meeting**

Z-21-0013. 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse)

Ms. Tori Haynes, Senior Planner, stated that Mr. Vernon Geddy has applied on behalf of Mr. Conor Halfpenny to rezone approximately 3.4 acres of land located at 1826 Jamestown Road and 259 Sandy Bay Road from B-1, General Business, and LB, Limited Business, to B-1 with Proffers. Ms. Haynes stated that the site is located inside the PSA and is designated Neighborhood Commercial in both the current 2035 and draft 2045 Comprehensive Plans. Ms. Haynes stated that the proposed use is a small-scale brewery with a taproom and coffee shop, which will be known as Frothy Moon Brewhouse.

Ms. Haynes stated that the boundary line between the two parcels will be extinguished to create one cohesive site. Ms. Haynes stated that about half of the existing 5,000 SF building will contain the brewing and production facilities. Ms. Haynes further stated that the other half will house a taproom, coffee shop, & retail space, along with offices and storage. Ms. Haynes noted that meal options will be provided by a third-party food truck on-site. Ms. Haynes stated that the outdoor area includes an existing patio and open-air roofed structure, which will be used as a patron space with seating and outdoor game areas.

Ms. Haynes stated that the proposal includes improvements to the 50-foot Community Character Corridor buffer along Jamestown Road and consolidation of the existing entrances to better manage traffic flow. Ms. Haynes stated that a shared parking agreement with the adjacent property is proposed as an overflow parking option. Ms. Haynes further stated that the applicant has proffered to restrict access from Sandy Bay Road, to provide additional turn lane warrants should there ever be a future expansion, to complete water conservation standards with JCSEA, and to limit by-right B-1 uses to be more in keeping with LB.

Ms. Haynes stated that staff finds that the proposed rezoning will not negatively impact surrounding development, and the proposed proffers mitigate impacts generated by the proposal. Ms. Haynes stated that the redevelopment of the parcel for a brewery and taproom is consistent with both the adopted 2035 and draft 2045 Comprehensive Plans' recommended uses and Goals, Strategies, and Actions (GSAs).

Ms. Haynes stated that staff recommends that the Planning Commission recommend approval of the application and acceptance of the voluntary proffers to the Board of Supervisors.

Mr. Krapf requested that Ms. Haynes elaborate on how the existing tree buffer and distance from any residence might mitigate noise from outdoor entertainment.

Ms. Haynes stated that staff considered several items for sound mitigation during the review. Ms. Haynes stated that the transitional buffer at the rear of the property must be at least 35 feet under the Zoning Ordinance and would be at least 60 feet as indicated in the application. Ms. Haynes

further stated that staff considered the four homes in proximity to the subject parcel. Ms. Haynes stated that the closest residence is approximately 25 feet from the outdoor entertainment area, and the farthest is approximately 1,400 feet away. Ms. Hanes stated that the James City County Noise Ordinance requires that any sound audible at 100 feet be discontinued at 9 p.m. Ms. Haynes stated that staff found that those factors should mitigate any noise generated.

Ms. Leverenz inquired about the proposed hours of operation.

Ms. Haynes stated that she would defer to the applicant for that question.

Mr. Haldeman called for disclosures from the Commission.

Mr. Krapf stated that he spoke with the applicant's attorney.

Ms. Leverenz stated that she spoke with Mr. Geddy as well.

Mr. Polster stated that he spoke with Mr. Geddy prior to the meeting.

Mr. Haldeman stated that he also spoke with Mr. Geddy.

There were no further disclosures.

Mr. Haldeman opened the Public Hearing.

Mr. Vernon Geddy, III, Geddy Harris Franck & Hickman, 1177 Jamestown Road, made a presentation to the Commission in support of the application. Mr. Geddy stated that he is aware of the noise concerns and has spoken with the adjacent property owners. Mr. Geddy stated that the applicant is willing to mitigate noise impacts and be a good partner in the community.

Ms. Leverenz stated she was concerned about the noise impacts mentioned by adjacent property owners, not just from music but also from food trucks. Ms. Leverenz noted that some of the adjacent property owners had suggested having restrictions on food trucks on the property. Ms. Leverenz inquired if the applicant would consider putting something in writing about directing amplified and live music towards Jamestown Road.

Mr. Geddy stated that the applicant would be willing to stipulate to directing the music toward Jamestown Road. Mr. Geddy further stated that restriction on food trucks would prove problematic to the applicant. Mr. Geddy stated that the County's Food Truck Ordinance was designed for food trucks to go into residential areas. Mr. Geddy further stated that the ability to use food trucks to provide meal service is integral to the business.

Mr. Haldeman inquired if it is part of the business plan to have live music during the day.

Mr. Geddy stated that there might be outdoor music on weekends in the afternoon. Mr. Geddy further stated that there would be background music for ambiance in the taproom and the gazebo, however the volume would be minimal.

Mr. Rose inquired about preventing overflow parking at the small park across Jamestown Road.

Mr. Holt stated that the applicant has worked out an agreement with the adjacent business for a shared parking plan.

Mr. Haldeman stated that he would like to find a way to reduce noise impacts for this proposed use and future uses on the property. Mr. Haldeman inquired if the applicant would be willing to provide written assurance that there would not be live music on the property prior to 6 p.m. on weekdays.

Mr. Geddy stated that he could not make that commitment on the spot and would need to discuss the matter with the applicant.

Mr. Polster inquired if there was a difference between what Ms. Leverenz proposed and what Mr. Haldeman proposed.

Ms. Leverenz stated that she was referring to the direction of the sound.

Mr. Haldeman stated that his suggestion included the direction of the sound, the volume and the time of day.

Mr. Polster inquired if the applicant was agreeing to proffer the volume and direction of the sound.

Mr. Geddy stated that the applicant was willing to proffer the direction of the sound. Mr. Geddy further stated that he was not sure how the volume could be addressed.

Mr. Polster inquired about the business plan for the area with the gazebo and food trucks.

Mr. Geddy stated that the majority of the time, it will be soft background music similar to a coffee shop. Mr. Geddy further stated that there may be times during the week and certainly times over the weekend when there would be live music. Mr. Geddy stated that this is not a concert venue for large bands, but certainly for smaller musical groups.

Mr. Polster inquired if the plan was to have live music indoors and outdoors.

Mr. Geddy stated that the outdoor music would be weather dependent.

Mr. Ken Goldsmith, 258 Sandy Bay Road, addressed the Commission in opposition to the application.

Mr. Steve Sieling, 4108 Longview Landing, addressed the Commission in support of the application.

Celia Cackowski, 206 London Company Way, addressed the Commission in support of the application.

As no one else wished to speak, Mr. Haldeman closed the Public Hearing.

Mr. Krapf inquired if the Noise Ordinance addressed decibel levels.

Ms. Haynes stated that the Ordinance does not specify decibel levels, but does use the language “plainly audible” which is defined as any sound that can be detected by a person using his or her unaided hearing faculties. Specific words or phrases need not be discernable. The detection of bass reverberations is sufficient to constitute a plainly audible sound.”

Mr. Krapf noted that this applied to noise after 9 p.m. Mr. Krapf inquired about regulations on noise between 7 a.m. and 9 p.m.

Ms. Haynes stated that there are several categories for addressing noise before 9 p.m. Ms. Haynes further stated that there is nothing in the Ordinance that addresses noise prior to 9 p.m. for this use in this location.

Ms. Null inquired if there would be any restrictions related to events held on the property.

Ms. Haynes stated that events that met the parameters to require a Special Event Permit would be governed by those restrictions. Ms. Haynes further stated that there generally are no proffers regarding events.

Mr. Haldeman stated that he believes this is an excellent proposal for the location and has many benefits for the community. Mr. Haldeman further stated that he would like to see the applicant include proffer language regarding noise that encompasses daytime hours.

Ms. Leverenz stated that she also has concerns over daytime noise and the impacts on those using the Powhatan Creek Park. Ms. Leverenz stated that future use of the property is also a concern. Ms. Leverenz further stated that even voices can carry across a distance.

Mr. Krapf stated that the proposed project is supportive of the Comprehensive Plan and is an excellent re-use of the property. Mr. Krapf further stated that he appreciates the applicant being willing to make assurances about the direction of the noise. Mr. Krapf stated that he is concerned that the Commission is overreaching in trying to restrict daytime noise. Mr. Krapf noted that it would be difficult to develop restrictions that were fair and equitable. Mr. Krapf stated that he finds established safeguards to be satisfactory.

Mr. Polster stated that he also supports the application. Mr. Polster stated that the proposal supports the Comprehensive Plan in a number of ways, not the least of which is supporting eco-tourism by providing additional food and drink resources for people using the blueway and the Capital Trail.

Ms. Null stated that she supports the application and is looking forward to the revitalization of the area.

Mr. Rose stated that he wanted to disclose that a conflict of interest has been identified and that he would abstain from voting.

Mr. Haldeman inquired if Mr. Rose wished to elaborate on the conflict.

Mr. Rose stated that his conflict comes from negative interaction with the owner of Aromas, which is partnering with Frothy Moon to provide coffee. Mr. Rose stated that he was concerned that the owner of Aromas would not honor the intent to be good neighbors in the community.

Mr. Polster made a motion to recommend approval of the application with the understanding that the applicant will work with staff to include a proffer related to the direction of noise away from Sandy Bay Road.

On a roll call vote, the Commission voted to recommend approval of Z-21-0013, 1826 Jamestown Road and 259 Sandy Bay Road Brewery and Taproom (Frothy Moon Brewhouse). (4-1-1)

ITEM SUMMARY

DATE: 9/14/2021

TO: The Board of Supervisors

FROM: Terry Costello, Deputy Zoning Administrator/Senior Planner

SUBJECT: SUP-21-0014. Busch Gardens Entertainment Event Facility

ATTACHMENTS:

	Description	Type
☐	Staff Report	Cover Memo
☐	Resolution	Resolution
☐	Location Map	Exhibit
☐	Master Plan - Site Level Plan	Exhibit
☐	Building Elevations	Exhibit
☐	Applicant Narrative	Backup Material
☐	Approved minutes from the July 7, 2021 Planning Commission Meeting	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	8/24/2021 - 8:47 AM
Development Management	Holt, Paul	Approved	8/24/2021 - 8:47 AM
Publication Management	Daniel, Martha	Approved	8/25/2021 - 11:41 AM
Legal Review	Kinsman, Adam	Approved	8/25/2021 - 11:58 AM
Board Secretary	Fellows, Teresa	Approved	9/1/2021 - 9:07 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:43 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:44 AM

SPECIAL USE PERMIT-21-0014. Busch Gardens Entertainment Event Building

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

SUMMARY FACTS

Applicant: Mr. Anthony Loubier, Vanasse Hangen Brustlin, Inc.

Land Owner: SeaWorld Parks & Entertainment LLC

Proposal: To allow for the construction of an approximately 32,500-square-foot building to be used partly as an entertainment event building and partly as a warehouse/storage facility.

Location: 7851 Pocahontas Trail

Tax Map/Parcel No.: 5140100009

Project Acreage: ± 1.5 acres of a 383-acre parcel

Zoning: M-1, Limited Business/Industrial

Comprehensive Plan: Limited Industry

Primary Service Area (PSA): Inside

Staff Contact: Terry Costello, Deputy Zoning Administrator/Senior Planner

PUBLIC HEARING DATES

Planning Commission: July 7, 2021, 6:00 p.m.

Board of Supervisors: September 14, 2021, 5:00 p.m.

FACTORS FAVORABLE

1. With the proposed conditions, staff finds that the proposal would not impact surrounding development and zoning.
2. Service industry uses are recommended uses for areas designated Limited Industry by the adopted Comprehensive Plan. Amusement parks are service industry uses, albeit not traditional ones. Additionally, staff finds the proposed development would not create dust or odor impacts, and additional noise impacts on adjacent residential properties will be minimal given that any activity will be inside the structure.
3. With the proposed conditions, staff finds the proposal consistent with the recommendations of the adopted 2015 Comprehensive Plan, *Toward 2035: Leading the Way*.
4. Impacts: See Impact Analysis on Pages 3-4.

FACTORS UNFAVORABLE

1. Impacts: See Impact Analysis on Pages 3-4.

SUMMARY STAFF RECOMMENDATION

1. Approval, subject to the proposed conditions.

PLANNING COMMISSION RECOMMENDATION

At its July 7, 2021 meeting, the Planning Commission voted to recommend approval of this application by a vote of 6-0. (Leverenz absent)

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

SPECIAL USE PERMIT-21-0014. Busch Gardens Entertainment Event Building

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

None.

PROJECT DESCRIPTION

- The proposal is for the construction of a one-story, 32,500 ± -square-foot building. Approximately 43% of the building (14,000 square feet) will be used for entertainment events, and approximately 57% of the building (18,500 square feet will be used for warehousing and storage).
- This Special Use Permit (SUP) will apply to the 1.5 acres of the park where the existing nursery is located. The purpose of the building is to provide supplementary event space for special programming and provide needed warehouse space. Site work will include sidewalks, fire suppression utilities, drainage improvements, and landscaping.
- With the proposed conditions, staff finds the proposed use is not expected to have any impacts on adjacent property or the surrounding area with regards to outdoor dust, odor, or noise. The event programming will be conducted entirely indoors.
- There is no proposed outdoor storage. All materials and equipment will be contained in the warehouse portion of the building. Should this change in the future, staff has included a condition that will mitigate the impacts through landscaping or fencing (Attachment No. 1, Condition No. 4).

PLANNING AND ZONING HISTORY

- The Busch Gardens theme park was approved with Site Plan (SP-27-73 in the 1970s.
- There have been several height waivers and SUPs approved for various attractions on the property.
- This project is proposing a building in excess of 10,000 square feet, therefore according to Section 24-11(a)(2) of the James City County Zoning Ordinance, an SUP is required.

SURROUNDING ZONING AND DEVELOPMENT

- Property directly to the north of the site, the Anheuser-Busch Brewery, is zoned M-2, General Industrial. This area is designated General Industry on the 2035 Comprehensive Plan.
- Properties to the west and southwest are zoned R-4, Residential Planned Community. These properties are known as the Kingsmill Residential Community and Carter's Grove Country Road. These areas are designated Limited Industry and Low Density Residential on the 2035 Comprehensive Plan.
- The park is generally bounded by Route 60 to the east, and to the south is the Woods Golf Course (Kingsmill). This property is zoned M-1, Limited Business/Industrial and is designated Limited Industry on the 2035 Comprehensive Plan.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

SPECIAL USE PERMIT-21-0014. Busch Gardens Entertainment Event Building

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigated Required</u>	<ul style="list-style-type: none"> - Project receives public water and sewer.
<u>Watersheds, Streams, and Reservoirs</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - The project is located within the James River watershed. - The Stormwater and Resource Protection. Division has reviewed the proposal and has no objections. The Master Plan is general in nature and a stormwater management approach is currently depicted. Due to concerns of the impervious cover as well as the proximity to the existing resource protected area, pretreatment measures will be required (Attachment No. 1, Condition No. 5). - There is no Resource Protection Area, natural heritage resources, or special flood hazard area within the project boundaries.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - This parcel is surrounded by limited business, industrial, and residential parcels. - Staff finds this proposal compatible with the character of the existing surrounding development, which is generally light business/industrial, industrial, and residential. - Due to the property being located adjacent to residential properties, transitional buffering will be required at the site plan stage. - There is no outdoor storage proposed, but should this change, there is a condition proposed that would mitigate the impacts (Attachment No. 1, Condition No. 4). - Visual and noise impacts will be minimal due to events taking place completely within the building.
<u>Community Character</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - This parcel is located directly on a Community Character Corridor. - This project is internal to the park and will have no visual impact on Route 60. The park's existing buffers will provide screening from Route 60. - There will be transitional buffering between this project and the neighboring residentially zoned property to provide added screening. There is also a fence along the service road so there will be no visual impacts to the neighboring properties to the west and southwest.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

SPECIAL USE PERMIT-21-0014. Busch Gardens Entertainment Event Building

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none">- The project is located within an existing theme park and where the nursery is currently located.- An archaeological study may be required at the site plan stage for areas not currently disturbed.
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none">- The project is not anticipated to generate more trips than Busch Gardens typically experiences.- The guests already visiting other sections of the park will use this area.- The previously completed traffic analysis was performed based on the maximum capacity of the Busch Gardens parking lots, and this project is not proposing any new parking spaces.- No changes to the right-of-way are proposed.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none">- N/A since development is internal to an existing theme park.
<u>Public Safety</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none">- Staff finds this project does not generate impacts that require mitigation to the County's Fire Department facilities or services.
<u>Public Schools</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none">- N/A since no residential dwelling units are proposed.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none">- N/A since no residential dwelling units are proposed.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none">- Staff finds this project does not generate impacts that require mitigation.
<u>Covenants and Restrictions</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none">- The applicant has verified that he is not aware of any covenants or restrictions on the property that prohibit the proposed use.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

SPECIAL USE PERMIT-21-0014. Busch Gardens Entertainment Event Building

Staff Report for the September 14, 2021, Board of Supervisors Public Hearing

2035 COMPREHENSIVE PLAN

- The site is designated Limited Industry on the 2035 Comprehensive Plan Land Use Map.
- Land designated Limited Industry is generally located with the PSA and used for warehousing, office, and service industries. Amusement parks are considered service industries, although not considered typical ones.
- Limited Industry uses usually require access to arterial roads or major collector streets, public water and sewer, nearby police and fire protection, and other site characteristics suitable for intense development with adequate buffers to residential developments. The Comprehensive Plan also specifies that the following characteristics should be considered during evaluation of a proposed land use: open space, protection of environmental, historical, and archaeological resources, preservation of rural and scenic vistas and generation of noise, dust, or odor.
- Staff finds that the proposed limited business/industrial use to be compatible with the surrounding limited business/industrial, industrial and residential uses.
- Staff finds the proposal meets the following Comprehensive Plan goals:
 1. Land Use

LU 5 - Promote the use of land consistent with the capacity of existing and planned public facilities and services and the County’s ability to provide such facilities and services.

2. Economic Development

ED 6 - Support the tourism industry for the Historic Triangle and promote James City County as a destination of choice in the region.

PROPOSED SUP CONDITIONS

The full text of the proposed conditions are provided in Attachment No. 1.

STAFF RECOMMENDATION

Staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan.

Staff recommends approval of this application subject to the attached conditions.

TC/ap
SUP21-14BGEntBdg

- Attachments:
1. Resolution
 2. Location Map
 3. Master Plan - Site Level Plan
 4. Building Elevations
 5. Applicant Narrative
 6. Approved minutes from the July 7, 2021, Planning Commission Meeting

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

RESOLUTION

CASE NO. SUP-21-0014. BUSCH GARDENS ENTERTAINMENT EVENT FACILITY

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Anthony Loubier of Vanasse Hangen Brustlin Inc.(VHB), on behalf of SeaWorld Parks & Entertainment LLC, has applied for an SUP to allow for the construction of an approximately 32,500-square-foot building on property located at 7851 Pocahontas Trail, further identified as James City County Real Estate Tax Map No. 5140100009; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-21-0014; and

WHEREAS, the Planning Commission, following its public hearing on July 7, 2021 recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve Case No. SUP-21-0014 for the construction of a building up to 33,000 square feet as described above and on the attached site location map, subject to the following conditions:

1. Master Plan: This SUP shall be valid for the construction of an approximately 32,500-square-foot building (the "Facility"), on property located at 7851 Pocahontas Trail and further identified as James City County Real Estate Tax Map No. 5140100009 (the "Property"). The Facility shall be developed and constructed substantially in accordance with the master plan titled "Site Level Plan, Busch Gardens Event Building Special Use Permit" prepared by VHB and dated May 24, 2021 (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the James City County Zoning Ordinance, as amended.
2. Tree Clearing: Tree clearing on the Property shall be limited to the minimum necessary to accommodate the Facility. A landscape plan depicting the tree removal shall be approved by the Director of Planning or their designee prior to site plan approval.
3. Lighting: All new light poles shall not exceed twenty (20) feet in height from finished grade unless otherwise approved in writing by the Director of Planning prior to site plan approval. There shall be no light trespass, defined as light intensity measured 0.1 foot candle or higher extending beyond the boundaries of the Property, as a component of or result of this Facility. A lighting plan consistent with the requirements of this condition shall be submitted to, and approved by, the Director of Planning or their designee prior to final site plan approval for the Facility.
4. Outdoor Storage: All outdoor storage as a result of this Facility, including heavy machinery, trucks, equipment, and materials, shall be screened from the right-of-way and adjacent properties with landscaping or fencing as approved by the Director of Planning prior to site plan approval.

- 5. Stormwater Management: Pretreatment of the stormwater runoff generated by the Facility for the typical one-year, 24-hour storm event is required. The form(s) or type(s) of pretreatment measures to be employed shall be reviewed and approved by the Director of Stormwater and Resource Protection prior to site plan approval.
- 6. Commencement of Construction: Construction of the Facility as described in this SUP shall commence within thirty-six (36) months from the date of approval of this SUP, or this SUP shall automatically be void. Construction shall be defined as obtaining building permits for building construction and installation of footings and/or foundations.
- 7. Severability: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

 Michael J. Hipple
 Chairman, Board of Supervisors

ATTEST:

 Teresa J. Fellows
 Deputy Clerk to the Board

SADLER
 ICENHOUR
 LARSON
 MCGLENNON
 HIPPLE

VOTES			
<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2020.

SUP21-14BGEntBdg-res

JCC SUP-21-0014, Busch Gardens Entertainment Event Building



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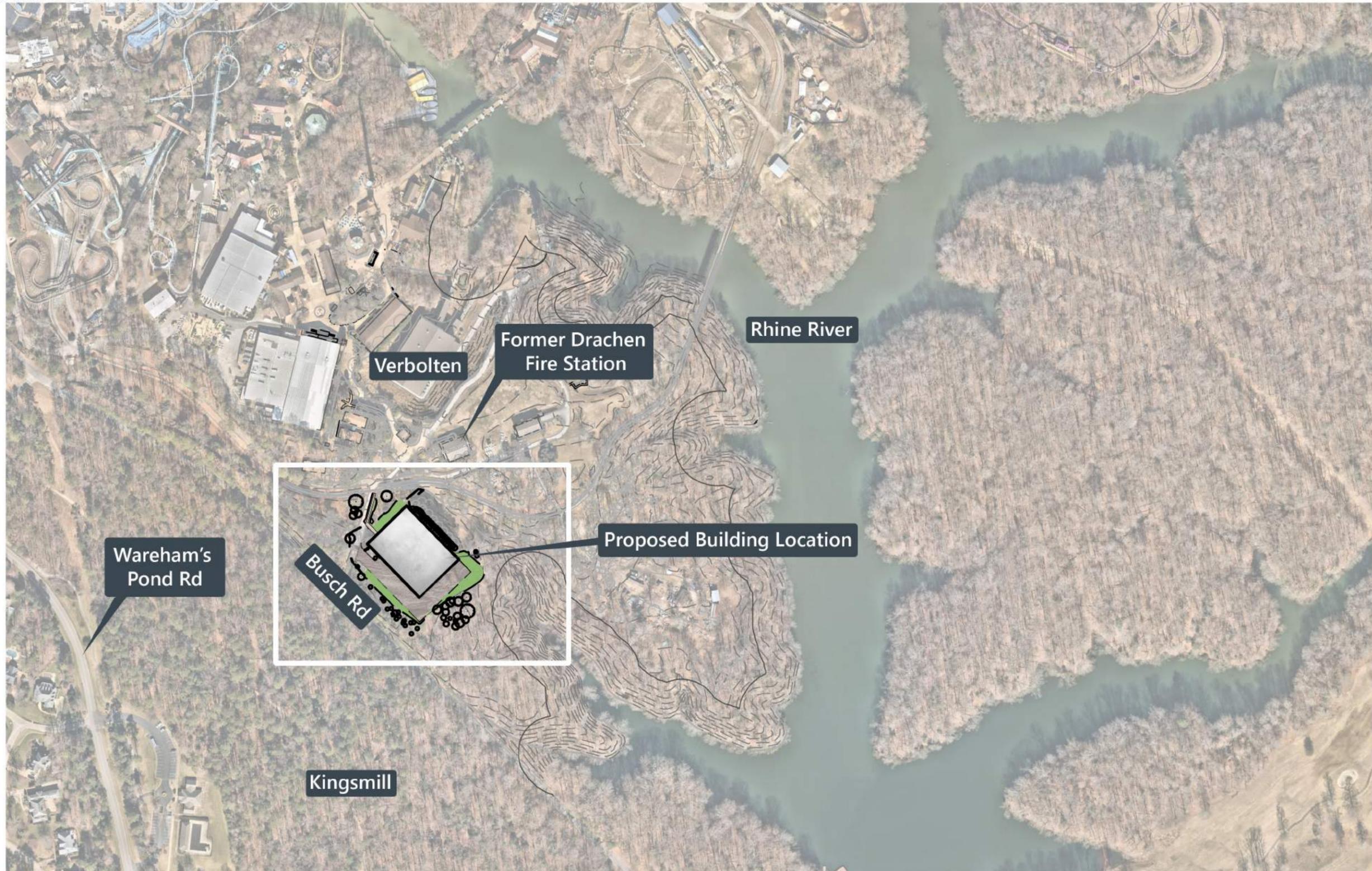
Note: Bold trees are existing to remain

SITE LEVEL PLAN

Busch Gardens Event Building Special Use Permit
Williamsburg, VA

Source: VHB
Prepared for: BUSCH GARDENS
Date: MAY 24, 2021



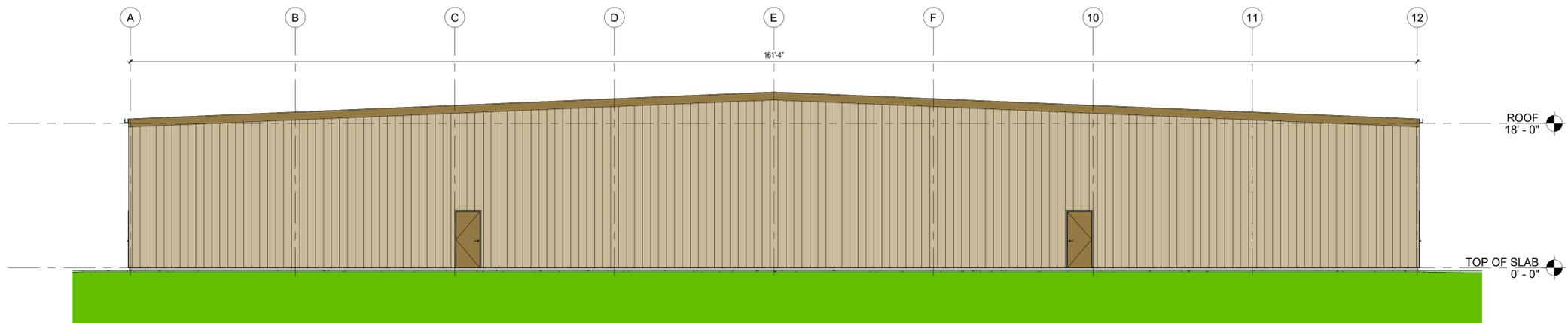


SITE LOCATION MAP

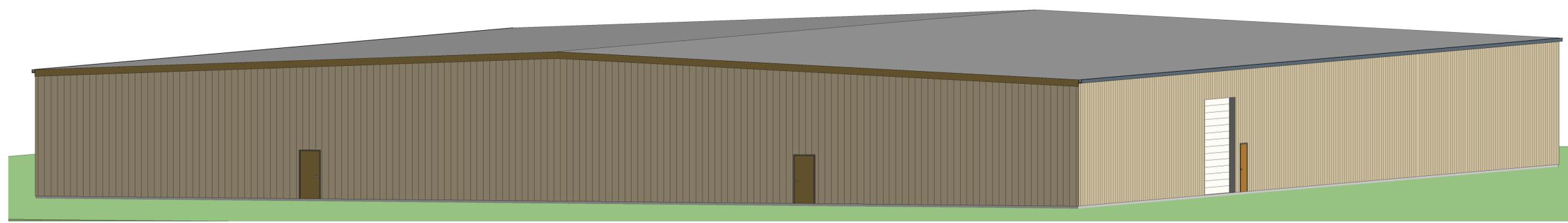
Busch Gardens Event Building Special Use Permit
Williamsburg, VA

Source: VHB
Prepared for: BUSCH GARDENS
Date: MAY 24, 2021





WEST ELEVATION - NEW



3D - NEW

REVISION SCHEDULE			
#	DESCRIPTION	DATE	INITIALS

These drawings and the design remain the property of GuernseyTingle and may not be altered, reproduced, or built without written permission of the Architect.

EXTERIOR ELEVATIONS
 PROGRAMMING

 NOT FOR
 CONSTRUCTION

Date: 6/25/21
 Drawn: --- Checked: ---
 Project: 221014

A-201





May 26, 2021

Terry Costello
Senior Planner
James City County Planning
101-A Mounts Bay Road
Williamsburg, VA 23185

Re: Busch Gardens Entertainment Event Building

Mrs. Costello,

Busch Gardens Williamsburg has been attracting visitors to James City County and the surrounding area since its grand opening in the spring of 1975. Since then, the park has continued to grow and evolve, remaining one of the most well-known theme parks in the country. The park's evolution has included changes in programming, including seasonal events centered around Halloween and Christmas.

The park's current proposal is for the construction of a generic 32,500 square foot entertainment event building at the location of the existing nursery, south of the former Drachen Fire station building. The purpose of this area would be to provide supplementary event space for seasonal programming.

Please find attached a special use permit for the 1.5 acres portion of the park upon which this event building is proposed. Site work will include sidewalks, fire suppression utilities, drainage improvements, and landscaping.

In accordance with the Section 24-11 and 24-23 of the James City County Zoning Ordinance special use permit application issued by the Board of Supervisors shall be required for any commercial building or group of buildings which exceeds 10,000 square feet of floor area.

Special use permit requirements:

- Traffic Impacts
 - › The project is not anticipated to generate more trips than Busch Gardens typically experiences. This supplementary space will be used by the guests already visiting other sections of the park. The previously completed traffic analysis was performed based on the maximum capacity of the Busch Gardens parking lots, and this project is not proposing any new parking spaces.
- Water and Sewer Impact Study
 - › The proposed facility will be located within the existing Busch Gardens park, which has sufficient water and sewer demand for future attractions. The proposed project will not result in increased water and sewer demand because there are no plans to include restrooms or utility rooms that would generate additional water or sewer demand. The existing 8" water main south of the

351 McLaws Circle

Suite 3

Williamsburg, Virginia 23185

P 757.220.0500

F 757.903.2794

Engineers | Scientists | Planners | Designers



Drachen Fire station will need to have an extension installed under the railroad tracks in order to provide fire suppression flow to the building.

- Conceptual Stormwater Management Plan
 - › A previously approved Busch Gardens Stormwater Masterplan is provided in this package. The plan depicts the location and footprint of the Rhine River BMP that provides sufficient Water Quality and Water Quantity Control for the future attraction at Busch Gardens.
- Adequate Public Facilities
 - › This project is not anticipated to have any additional effect on the public facilities in James City County.
- Historic and Archaeological Study
 - › This property is highly developed and is not identified as being a highly sensitive area on the James City County archaeological assessment.
- Environmental Inventory
 - › An environmental inventory is provided in this package. The inventory was prepared in accordance with the James City County Natural Areas policy.
- Fiscal Impacts
 - › This proposal does not include residential dwelling units; therefore, a fiscal impact analysis is not provided with this application. Busch Gardens Williamsburg has been attracting visitors to James City County and the surrounding area since its grand opening in the spring of 1975. Since then, the park has continued to grow and evolve, remaining one of the most well-known theme parks in the country. As with all previous additions, a positive fiscal impact is expected for the entire community with the addition of this new entertainment building.
- Master Plan
 - › The park's master plan has been prepared in accordance with Section 24-23(a)2 of the Zoning Ordinance. This master plan depicts the general location of the proposed event building, building square footage and height, access roads, and other features located on the site for which approval is sought.
- Supplemental Information
 - › At this time, no supplemental information was deemed necessary.

Ref: VHB Project No. 35273.03
May 26, 2021
Page 3



We hope this project narrative and overview provides you with the background information needed to grant approval to this special use permit. If you have any questions regarding this request, please do not hesitate to call.

Sincerely,

Vanasse Hangen Brustlin, Inc.

Anthony Loubier, PE
Project Manager

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
July 7, 2021
6:00 PM

A. CALL TO ORDER

Mr. Jack Haldeman called the meeting to order at 6 p.m.

B. ROLL CALL

Planning Commissioners Present:

Jack Haldeman
Rich Krapf
Tim O'Connor
Frank Polster
Barbara Null
Rob Rose

Planning Commissioners Absent:

Julia Leverenz

Staff Present:

Paul Holt, Director of Community Development and Planning
Max Hlavin, Deputy County Attorney
Terry Costello, Deputy Zoning Administrator

C. PUBLIC COMMENT

Mr. Haldeman opened Public Comment.

As no one wished to speak, Mr. Haldeman closed Public Comment.

D. REPORTS OF THE COMMISSION

Ms. Barbara Null stated that there was no report from the Development Review Committee.

Mr. Frank Polster stated that there was no report from the Policy Committee.

E. CONSENT AGENDA

1. Minutes of the June 2, 2021 Regular Meeting
2. Minutes of the May 25, 2021 Board of Supervisors Joint Meeting with the Planning Commission

Mr. Rich Krapf made a motion to approve the Consent Calendar.

On a voice vote, the Commission voted to approve the Consent Calendar. (6-0)

F. PUBLIC HEARINGS

1. SUP-21-0014. Busch Gardens Entertainment Event Building

A motion to Approve was made by Barbara Null, the motion result was Passed.

AYES: 6 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Haldeman, Krapf, Null, O'Connor, Polster, Rose

Absent: Leverenz

Ms. Terry Costello, Deputy Zoning Administrator, stated that Mr. Anthony Loubier of Vanasse Hangen Brustlin, Inc. (VHB). has applied on behalf of SeaWorld Parks and Entertainment for a Special Use Permit (SUP) to allow the construction of an approximately 32,500 square foot building to be used partly as an entertainment event building and partly as a warehouse/storage facility. Ms. Costello further stated that the Busch Gardens Williamsburg site, located at 7851 Pocahontas Trail, is zoned M-1, Limited Business/Industrial and is designated Limited Industry on the 2035 Comprehensive Plan Land Use Map. Ms. Costello stated that a SUP is required because the proposed structure exceeds 10,000 square feet.

Ms. Costello stated that the event building will be located towards the rear of the property, where the nursery is currently located. Ms. Costello stated that the area is screened by mature trees and a large tall wooden fence. Ms. Costello further stated that this facility will not be visible from the Busch Service Road.

Ms. Costello stated that approximately 43% of the building space will be used for special entertainment events, and the remaining space will be used for storage. Ms. Costello noted that all materials and storage will be contained in the building, as there is no outdoor storage proposed.

Ms. Costello stated that staff has reviewed this application and finds it to be consistent with the Zoning Ordinance, Comprehensive Plan, and adjacent development. Ms. Costello further stated that other agencies have reviewed the application and minor comments will be addressed during the site plan process. Ms. Costello stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors subject to the proposed conditions.

Mr. Haldeman called for disclosures from the Commission.

There were no disclosures.

Mr. Haldeman opened the Public Hearing.

As no one wished to speak, Mr. Haldeman closed the Public Hearing.

Ms. Null made a motion to recommend approval of the application with the proposed conditions.

On a roll call vote, the Commission voted to recommend approval of SUP-21-0014. Busch Gardens Entertainment Event Building. (6-0)

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - July 2021

Mr. Holt stated that the Commission would meet at Legacy Hall for the August and September meetings due to construction in the Board Room for lighting and technology upgrades.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Haldeman noted that Mr. Rose would represent the Commission at the Board of Supervisors meeting on July 13, 2021.

Mr. Tim O'Connor requested that staff and the Commission do a postmortem on the Comprehensive Plan Update Process, particularly in light of the effect of the pandemic on public outreach and attendance at public forum.

The Commission concurred with the request.

Mr. Holt stated that staff would arrange for a Planning Commission Working Group meeting in the next few weeks.

J. ADJOURNMENT

Mr. Krapf made a motion to adjourn.

The meeting was adjourned at approximately 6:12 p.m.

Paul D. Holt, III, Secretary

Jack Haldeman, Chair

ITEM SUMMARY

DATE: 9/14/2021

TO: The Board of Supervisors

FROM: John Risinger, Planner

SUBJECT: SUP-21-0015. Crosswalk Community Church Daycare and School

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	1. Resolution	Resolution
☐	2. Location Map	Backup Material
☐	3. Master Plan	Backup Material
☐	4. Community Impact Statement	Backup Material
☐	5. Public Facilities Report	Backup Material
☐	6. Temporary Classroom Trailer Elevations	Backup Material
☐	7. Permanent Modular Building Elevations	Backup Material
☐	8. Unapproved Minutes of the August 4, 2021 Planning Commission Meeting	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	8/27/2021 - 4:10 PM
Development Management	Holt, Paul	Approved	8/27/2021 - 4:10 PM
Publication Management	Pobiak, Amanda	Approved	8/30/2021 - 9:07 AM
Legal Review	Kinsman, Adam	Approved	8/31/2021 - 9:18 AM
Board Secretary	Fellows, Teresa	Approved	9/1/2021 - 9:07 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:44 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:44 AM

**SPECIAL USE PERMIT-21-0015. Crosswalk Community Church Daycare and School
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. Caleb Hurst

Land Owner: Crosswalk Church Holdings LLC

Proposal: To allow: (1) the operation of a daycare and school pre-kindergarten-eighth grade; (2) the installation of two temporary classroom trailers for the 2021/2022 school year; (3) construction of a permanent modular building; and (4) continued operation of a place of public assembly.

Location: 5100 John Tyler Highway

Tax Map/Parcel No.: 4720100057

Property Acreage: ± 3.86 acres

Zoning: R-1, Limited Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

Staff Contact: John Risinger, Planner

PUBLIC HEARING DATES

Planning Commission: August 4, 2021, 6:00 p.m.

Board of Supervisors: September 14, 2021, 5:00 p.m.

FACTORS FAVORABLE

1. With the proposed conditions, staff finds the proposal to be compatible with the surrounding zoning and development.
2. With the proposed conditions, staff finds the proposal consistent with the 2015 Comprehensive Plan, *Toward 2035: Leading the Way*.
3. Impacts: See Impact Analysis on Pages 3-4.

FACTORS UNFAVORABLE

1. Impacts: See Impact Analysis on Pages 3-4.

SUMMARY STAFF RECOMMENDATION

Staff recommends the Board of Supervisors (BOS) approve this application subject to the attached conditions.

PLANNING COMMISSION RECOMMENDATION

At its August 4, 2021, regular meeting, the Planning Commission voted 6-0 to recommend approval of the Special Use Permit (SUP) request to the BOS subject to the proposed conditions.

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

None.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0015. Crosswalk Community Church Daycare and School
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

PROJECT DESCRIPTION

Mr. Caleb Hurst has applied for a SUP for the operation of a daycare and school, placement of two temporary classroom trailers for school use, the construction of a permanent modular building, and for the continued use as a place of public assembly at Crosswalk Community Church located at 5100 John Tyler Highway. SUPs are required for child daycare centers and schools in the R-1 Zoning District and are also required for temporary classroom trailers. Additionally, following the construction of the church, the R-1 Zoning District was amended in 1999 to require SUPs for churches making the church a legally nonconforming use. The proposal includes the place of public assembly use, which would bring the church into conformance with the R-1 Zoning District.

The proposed temporary classroom trailers will have a maximum capacity of 48 students. The temporary classroom trailers are expected to be installed for the 2021/2022 school year and will be removed following the end of the school year. The proposed permanent modular building is expected to be installed for the 2022/2023 school year.

PLANNING AND ZONING HISTORY

- The site plan application for the existing church building received final approval in 1996. At the time, churches were a by-right use in the R-1 Zoning District.
- In 1999, an amendment to the R-1 Zoning District was adopted by the BOS, which included requiring SUPs for churches.

- In 2002, the BOS approved Case No. SUP-0030-2001 to allow the operation of a preschool within the existing church building limited to an enrollment capacity of 200 students.
- In 2008, the BOS approved Case No. SUP-0009-2008 to amend Case No. SUP-0030-2001 to allow the operation of an elementary school within the existing church building in addition to the preschool limited to a total enrollment capacity of 200 students.

SURROUNDING ZONING AND DEVELOPMENT

- Crosswalk Community Church is located on the western side of John Tyler Highway adjacent to the Jamestown Farms and Indigo Park subdivisions, which are zoned R-1, Limited Residential. Nearby properties on the eastern side of John Tyler Highway include the Williamsburg Crossing Shopping Center, zoned B-1, General Business, and the La Fontaine Condominiums, zoned MU, Mixed Use.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0015. Crosswalk Community Church Daycare and School
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

IMPACT ANALYSIS

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	- The proposed uses on the property are not anticipated to generate additional weekday peak hour trips from the previous SUP.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	- No bicycle or pedestrian facilities are required per the Adopted Regional Bikeways Map and Pedestrian Accommodations Master Plan. - An existing sidewalk is provided along the west side of John Tyler Highway.
<u>Public Safety</u>	<u>No Mitigation Required</u>	- Fire Station 3 on John Tyler Highway serves this area of the County and is approximately 1,000 feet from the proposed structures. - Staff finds this project does not generate impacts that require mitigation to the County’s Fire Department facilities or services.
<u>Public Schools</u>	<u>No Mitigation Required</u>	- The proposal does not generate impacts that require mitigation to the County’s public schools.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	- The proposal does not generate impacts that require mitigation to the County’s parks and recreation services or facilities.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	- The proposal does not generate impacts that require mitigation to public libraries or cultural centers.
<u>Groundwater and Drinking Water Resources</u>	<u>Mitigated</u>	- The property receives public water and sewer. - Proposed Condition No. 8 requires water conservation standards to be approved by the James City Service Authority prior to final site plan approval for the permanent modular building.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0015. Crosswalk Community Church Daycare and School
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Watersheds, Streams, and Reservoirs</u> Project is located in the Mill Creek Watershed	<u>No Mitigation Required</u>	- The Stormwater and Resource Protection Division has reviewed this application and had no objections. Detailed stormwater management and design will be reviewed at the site plan stage.
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	- The subject property has been previously disturbed and has no known cultural resources on-site.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - The attached proposed conditions are expected to mitigate impacts to adjacent properties. - Proposed Condition No. 5 requires transitional screening to be provided along the side and rear property lines. - Proposed Condition No. 6 requires new light fixtures to be full cutoff, limits the height of light poles to 15 feet, and prohibits any light trespass onto adjacent properties. - Proposed Condition No. 7 states that no exterior bell or sound system shall be audible from adjacent properties.
<u>Community Character</u>	<u>Mitigated</u>	<ul style="list-style-type: none"> - The project is located along the Jamestown Road Community Character Corridor (CCC). Buffering along a CCC is required to be an average width of 50 feet. - Proposed Condition No. 8 requires any new signage for the child daycare center and school to be combined with the existing signage for the church.
<u>Covenants and Restrictions</u>	<u>No Mitigation Required</u>	- The applicant has verified that he is not aware of any covenants or restrictions on the property that prohibit the proposed use.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0015. Crosswalk Community Church Daycare and School
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

2035 COMPREHENSIVE PLAN

The property is designated Low Density Residential on the 2035 Comprehensive Plan Land Use Map. All properties west of John Tyler Highway in this area are designated Low Density Residential. Properties east of John Tyler Highway are designated Mixed Use. Appropriate primary uses recommended by the Comprehensive Plan for Low Density Residential include single-family homes, multifamily units, accessory units, and cluster housing. Other uses including schools, places of public assembly, very limited commercial, and community-oriented facilities may also be considered appropriate should the proposal meet the following standards:

- Complements the residential character of the area.

Staff finds that the proposal complements the residential character of the area.

- Have traffic, noise, lighting, and other impacts similar to surrounding residential uses.

Traffic is anticipated to be typical of a community facility, and the peak levels of traffic would be generated at drop-off and pick-up times. The proposed conditions mitigate potential noise, light, and similar impacts.

- Generally be located on collector or arterial roads at intersections.

This property is located on and takes access from John Tyler Highway. John Tyler Highway is classified by the Virginia Department of Transportation as a minor arterial road and is located near intersections with Kings Way and Route 199.

- Act as a transitional use between residential and commercial areas or, if located within a residential community, serve to complement the residential character of the area rather than altering its nature.

This property is located between the Williamsburg Crossing Shopping Center and adjacent residential areas. The intensity of the child daycare center and school uses are expected to be between the level of intensities of nearby commercial uses and the adjacent residential area.

- Provide adequate screening and buffering to protect the character of nearby residential areas.

Condition No. 5 requires transitional screening to be provided along the side and rear property lines to provide screening of the proposed structures and the adjacent residential areas.

- Generally intended to support the residential area in which they are located.

The proposed child daycare center and school provide educational and child care resources to the Williamsburg area including the surrounding residential area.

John Tyler Highway is identified as a CCC. The proposed structures are located outside of the CCC and there are no proposed impacts to the existing CCC with this application.

Staff finds that the proposal meets the following Comprehensive Plan goals:

Population Needs

PN 2.1 - Ensure that children and youth have adequate and safe facilities where they may participate in programs and services,

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0015. Crosswalk Community Church Daycare and School
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

including child care, and where appropriate, home-based child care businesses.

PN 2.4 - Encourage and promote additional safe and licensed child care businesses, including home-based child care, near adequate and accessible transportation routes.

PROPOSED SUP CONDITIONS

The proposed SUP conditions will replace Case No. SUP-0009-2008 to allow the child daycare and school use to be located as shown on the submitted master plan and to avoid potential conflicts. The full text of the proposed conditions are provided in Attachment No. 1.

STAFF RECOMMENDATION

With the attached conditions, staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan.

Staff recommends that the BOS approve the proposed SUP subject to the proposed conditions.

JR/ap
SUP21-15CrssWkCCDS

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Community Impact Statement
5. Public Facilities Report

6. Temporary Classroom Trailer Elevations
7. Permanent Modular Building Elevation
8. Unapproved Minutes of the August 4, 2021, Planning Commission Regular Meeting

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

RESOLUTION

CASE NO. SUP-21-0015. CROSSWALK COMMUNITY CHURCH DAYCARE AND SCHOOL

WHEREAS, the Board of Supervisors of James City County, Virginia, (the “Board”) has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Crosswalk Church Holdings LLC (the “Owner”) own property located at 5100 John Tyler Highway further identified as James City County Real Estate Tax Map Parcel No. 4720100057 (the “Property”); and

WHEREAS, on October 28, 2008, the Board approved Case No. SUP-0009-2008, which allowed the operation of a child daycare center and school within the existing church on the Property; and

WHEREAS, Mr. Caleb Hurst (the “Applicant”) has applied for an SUP on behalf of the Owner to replace Case No. SUP-0009-2008 to allow for the operation of a child daycare center, school, place of public assembly, and two temporary classroom trailers on the Property, as shown on the master plan titled “Crosswalk Church - Modular Structures” prepared by Draper Aden Associates and dated July 27, 2021; and

WHEREAS, the Planning Commission, following its public hearing on August 4, 2021, recommended approval of Case No. SUP-21-0015 by a vote of 6-0; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-21-0015; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with good zoning practices and the 2035 Comprehensive Plan Land Use Map designation for the Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-21-0015 as described herein with the following conditions:

1. Master Plan: This SUP shall apply to property located at 5100 John Tyler Highway, which is further identified as James City County Real Estate Tax Map Parcel No. 4720100057 (the “Property”). The SUP shall be valid for a place of public assembly, school, child daycare center, and two temporary classroom trailers (the “Project”). All final development plans for the Project shall be consistent with the master plan entitled, “Crosswalk Church - Modular Structures” prepared by Draper Aden Associates and dated July 27, 2021, (the “Master Plan”), as determined by the Director of Planning with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.

2. Validity of Temporary Classroom Trailers: The SUP for temporary classroom trailers on the Property shall be valid until September 1, 2022.
3. Hours of Operation: The child daycare center and school shall be limited to hours of operation from 7:00 a.m. to 6:00 p.m., Monday through Friday.
4. Enrollment: Enrollment of the child daycare center and school shall be limited to a total of 200 students in grades pre-kindergarten through eighth. On or before July 1 of each year, the Zoning Administrator shall be provided with actual student enrollment data for the previous school year and projected student enrollment data for the upcoming school year. The student enrollment data shall include the total number of students enrolled, the number of students per grade, and the number of staff employed.
5. Landscape Plan: A landscaping plan shall be reviewed and approved by the Director of Planning prior to final site plan approval for the permanent modular building and/or the playground as shown on the Master Plan, whichever shall occur first if submitted separately. Transitional screening shall be provided along the side and rear property lines in accordance with Section 24-100, Screening, of the Zoning Ordinance.
6. Exterior Lighting: Any new exterior lighting shall be shown on a lighting plan to be reviewed and approved by the Director of Planning. New exterior light fixtures shall be recessed fixtures with no bulb, lens, or globe extending below the casing. Any new pole-mounted light fixtures shall not exceed 15 feet in height as measured from finished grade. No light trespass, defined as 0.1 foot-candles or higher, shall extend across the side or rear property lines.
7. Outdoor Noise: No exterior bell or sound system associated with the school, daycare, or temporary classroom trailer(s) shall be audible from adjacent properties. The intent of the condition is not to limit bells typically associated with the place of public assembly.
8. Signage: Any new exterior signage advertising the child daycare center or school shall be combined with existing signage for the place of public assembly.
9. Water Conservation: Water conservation standards shall be enforced on the Property through an agreement with the James City Service Authority (JCSA). The standards shall be approved by the JCSA General Manager prior to site plan approval for the permanent modular building shown on the Master Plan and may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Any changes shall be submitted to and approved by the JCSA.
10. Commencement of Construction: A Final Certificate of Occupancy for the permanent modular building shown on the Master Plan shall be obtained within 36

months from the date of approval of this SUP, or this SUP shall automatically be void.

- 11. *Severability*: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

BE IT FURTHER RESOLVED that Case No. SUP-21-0015 shall replace and supersede Case No. SUP-0009-2008, and Case No. SUP-0009-2008 shall no longer have any force or effect.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

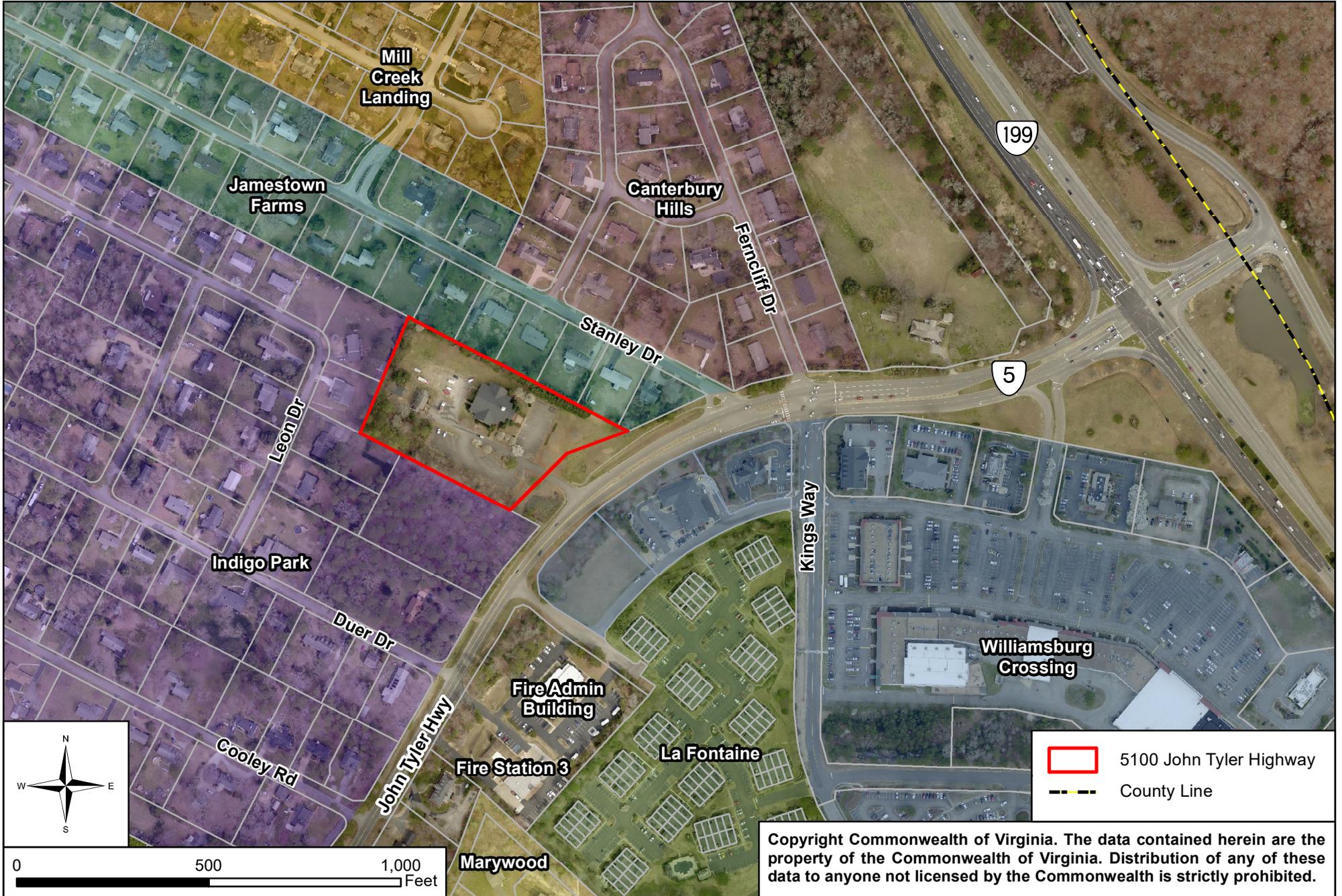
Teresa J. Fellows
Deputy Clerk to the Board

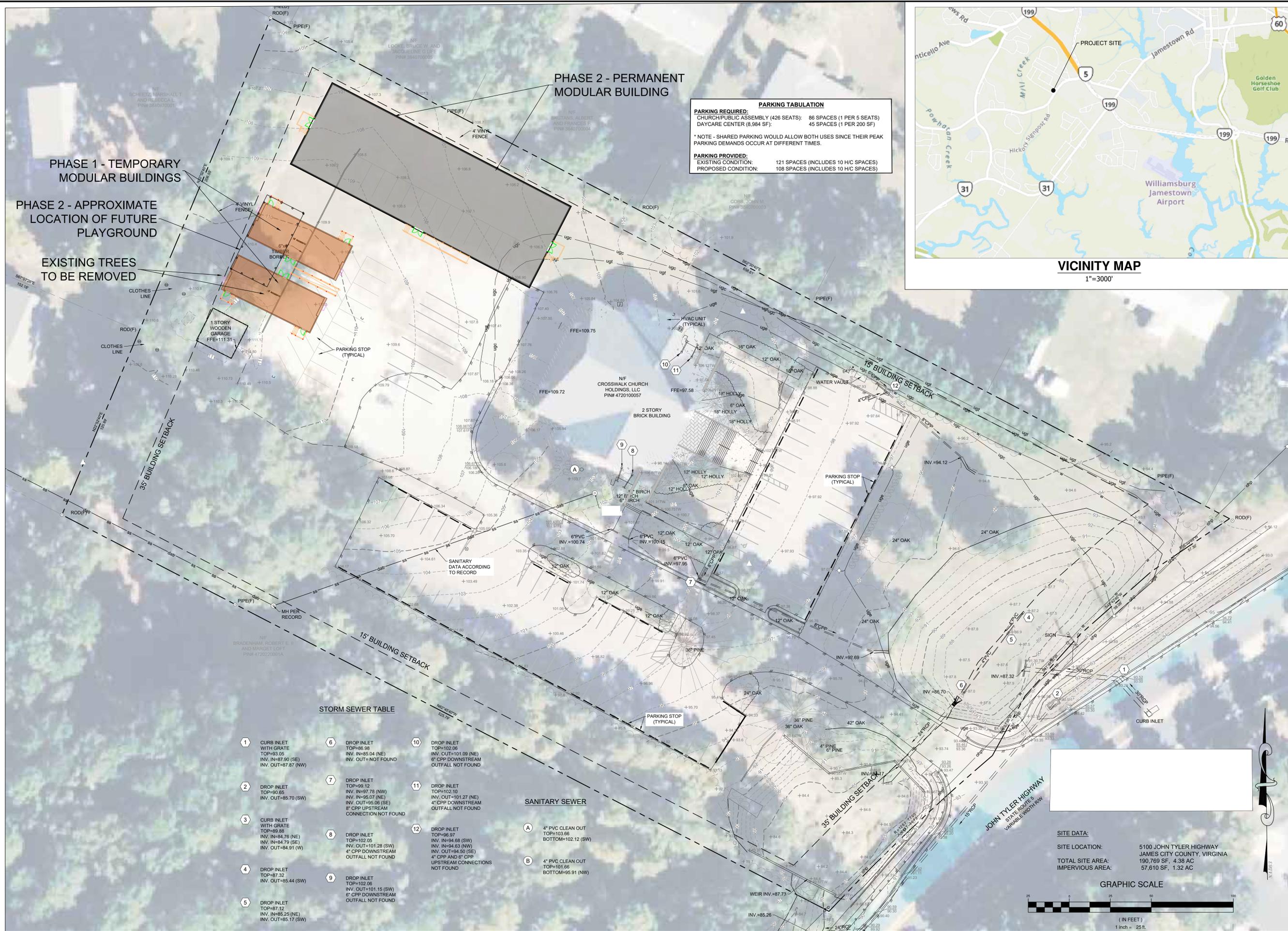
	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.

SUP21-15CrssWkCCDS-res

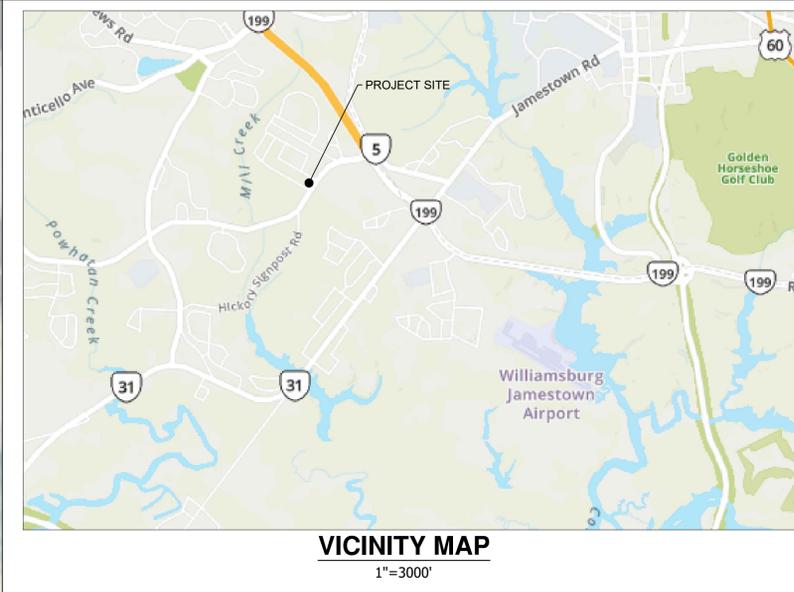
JCC SUP-21-0015, Crosswalk Community Church Daycare and School





PARKING TABULATION

PARKING REQUIRED:	CHURCH/PUBLIC ASSEMBLY (426 SEATS): 86 SPACES (1 PER 5 SEATS)
	DAYCARE CENTER (8,984 SF): 45 SPACES (1 PER 200 SF)
* NOTE - SHARED PARKING WOULD ALLOW BOTH USES SINCE THEIR PEAK PARKING DEMANDS OCCUR AT DIFFERENT TIMES.	
PARKING PROVIDED:	EXISTING CONDITION: 121 SPACES (INCLUDES 10 H/C SPACES)
	PROPOSED CONDITION: 108 SPACES (INCLUDES 10 H/C SPACES)



STORM SEWER TABLE

1 CURB INLET WITH GRATE TOP=93.05 INV. IN=87.90 (SE) INV. OUT=87.87 (NW)	6 DROP INLET TOP=86.98 INV. IN=85.04 (NE) INV. OUT= NOT FOUND	10 DROP INLET TOP=102.06 INV. OUT=101.09 (NE) 6" CPP DOWNSTREAM OUTFALL NOT FOUND
2 DROP INLET TOP=90.65 INV. OUT=85.70 (SW)	7 DROP INLET TOP=99.12 INV. IN=97.78 (NW) INV. IN=95.07 (NE) INV. OUT=95.06 (SE) 8" CPP UPSTREAM CONNECTION NOT FOUND	11 DROP INLET TOP=102.10 INV. OUT=101.27 (NE) 4" CPP DOWNSTREAM OUTFALL NOT FOUND
3 CURB INLET WITH GRATE TOP=89.88 INV. IN=84.76 (NE) INV. IN=84.79 (SE) INV. OUT=84.91 (W)	8 DROP INLET TOP=102.05 INV. OUT=101.28 (SW) 4" CPP DOWNSTREAM OUTFALL NOT FOUND	12 DROP INLET TOP=96.97 INV. IN=94.68 (SW) INV. IN=94.63 (NW) INV. OUT=94.50 (SE) 4" CPP AND 6" CPP UPSTREAM CONNECTIONS NOT FOUND
4 DROP INLET TOP=87.32 INV. OUT=85.44 (SW)	9 DROP INLET TOP=102.06 INV. OUT=101.15 (SW) 6" CPP DOWNSTREAM OUTFALL NOT FOUND	A 4" PVC CLEAN OUT TOP=103.66 BOTTOM=102.12 (SW)
5 DROP INLET TOP=87.12 INV. IN=85.25 (NE) INV. OUT=85.17 (SW)		B 4" PVC CLEAN OUT TOP=101.66 BOTTOM=95.91 (NW)

SANITARY SEWER

SITE DATA:

SITE LOCATION: 5100 JOHN TYLER HIGHWAY
JAMES CITY COUNTY, VIRGINIA

TOTAL SITE AREA: 190,769 SF, 4.38 AC

IMPERVIOUS AREA: 57,610 SF, 1.32 AC

GRAPHIC SCALE

(IN FEET)
1 inch = 25 ft.

NOT FOR CONSTRUCTION

Draper Aden Associates
Engineering • Surveying • Environmental Services

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Fayetteville, VA 24125
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- Raleigh, NC
- Fayetteville, NC
- Northern Virginia
- Virginia Beach, VA
- Richmond, VA
- Blacksburg, VA
- Charlottesville, VA

CONCEPTUAL SITE LAYOUT PLAN

CROSSWALK CHURCH - MODULAR STRUCTURES

5100 JOHN TYLER HIGHWAY
JAMES CITY COUNTY, VIRGINIA

REVISIONS

DESIGNED BY:	TSE
DRAWN BY:	TSE
CHECKED BY:	MCH
SCALE:	1" = 25'
DATE:	JULY 27, 2021
PROJECT NUMBER:	2100438
CI100	

**Community Impact Statement
for
CROSSWALK COMMUNITY
CHURCH**

**5100 John Tyler Highway
Williamsburg, Virginia**

Submittal: June 14, 2021
Revised: July 27, 2021

Prepared for
Crosswalk Community Church

Prepared by
Draper Aden Associates
2 Bayport Way, Suite 120
Newport News, VA 23606

DAA Project Number: 2100438



Draper Aden Associates
Engineering • Surveying • Environmental Services

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1.1 INTRODUCTION / PROJECT DESCRIPTION

Crosswalk Community Church is applying for a Special Use Permit (SUP) for their property located at 5100 John Tyler Highway, also identified as parcel ID number 4720100057. The parcel area is approximately 3.86 acres and is currently developed with an existing church building, parking areas, and an accessory structure. The parcel is zoned R-1 Limited Residential; is designated as Low Density Residential in the Comprehensive Plan, and is located within the Primary Service Area (PSA). There were two former Special Use Permits (SUPs) associated with the parcel (SUP 0030-2001 and SUP-0009-2008) for a pre-school and a school, but neither of these SUPs are valid anymore. The existing use of the church is a place of public assembly.

The purpose of this SUP application is to request authorization of both a child day care center and school uses within proposed modular buildings on the property; along with allowing the church to operate as a place of public assembly. The proposed temporary (Phase 1) and permanent (Phase 2) modular buildings will be used as day care and pre-school for Greenwood Christian Academy. The temporary modular buildings will have a capacity of 48 students; and the permanent modular building will have a maximum capacity of 132 students. The temporary modular buildings are anticipated for the 2021/2022 school year and will be used for elementary school classroom use. These buildings will be removed when the permanent modular building is in place and functional, expected for the beginning of the 2022/2023 school year. The permanent modular building will be used for child day care center use, anticipated for ages 2-years old through kindergarten.

The existing church building will continue to operate as a place of public assembly. No improvements to the existing building are proposed as part of this SUP application.

This Community Impact Statement (CIS) describes the probable effects of the proposed development upon the community regarding infrastructure and quality of life.

1.2 TRAFFIC IMPACT ANALYSIS

A traffic impact analysis is not required since this project is expected to generate slightly more than 100 weekday peak hour trips to and from the site during the hours of operation. The

Institute of Transportation Engineers (ITE) Vehicle Trip Generation for Day Care Center (Section 565), School (Section 534), and Church (Section 560) were used to determine the increase in weekday peak hour vehicle trips per day. The temporary modular building space will be utilized for elementary school use and the permanent modular building will be utilized for day care use, so each scenario was evaluated based on the occupancy of 48 students in the school and the maximum occupancy of 132 students in the child daycare center. The child daycare center will increase vehicle trips by 104 weekday peak hour trips (103 AM peak hour and 104 PM peak hour); and the school will increase vehicle trips by a maximum of 44 weekday peak hour trips (44 AM peak hour and 13 PM peak hour). Therefore, the child daycare center value of 104 weekday peak hour vehicle trips will be used to anticipate increased traffic. Although the existing church does not have any weekday trips since staff work at a different location on weekdays, the ITE vehicle trip generation for the existing church shows weekday peak hour trips of approximately 13 vehicles (4 AM peak hour and 13 PM peak hour). This results in total weekday peak hour trips of 104 trips. The roadway Level of Service appears to be Level of Service "B" or "C", but unable to determine definitively. Site does not appear to be Level D based on 11,000 ADT or roughly 1,100 vehicles per hour.

1.3 Analysis of Parking for Shared Parking Use

Shared parking would allow multiple uses to use the same parking lot since the peak parking times occur at different times for the various uses. The existing parking lot has 121 parking spaces. The developed condition will result in a loss of 13 spaces, for a total of 108 parking spaces. The Zoning Ordinance requires 1 parking space for every 5 seats for public assembly or church uses. However, the Zoning Ordinance does not list parking requirements for a child daycare center or for a school, so the following assumptions were made based on other local parking requirements: child daycare center – 1 space per 200 SF; School – 2.5 spaces per classroom.

The following tables show the required parking for the various uses during a typical peak week:

Temporary Phase 1 – Church and School Uses

Phase 1	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Church	86	0	0	0	0	0	0
School	0	10	10	10	10	10	0

Permanent Phase 2 – Church and Daycare Center Uses

Phase 2	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Church	86	0	0	0	0	0	0
Daycare	0	45	45	45	45	45	0

Therefore, the total anticipated peak parking for any day is 86 spaces, which is below the 108 parking spaces provided.

1.4 WATER AND SEWER IMPACT STUDY

The additional development will increase anticipated average daily flow by approximately 1,320 gallons per day, based on the 132 students that will be utilizing the new modular buildings. This is based on the AWWA and JCSA requirement of 10 gallons per day per student, resulting in additional 1,320 gallons per day. Therefore, since the anticipated average daily flow is less than 15,500 gallons, a water and sewer impact study is not required.

1.5 ENVIRONMENTAL CONSTRAINTS ANALYSIS

The project site is currently developed with minimal environmental constraints. See attached Environmental Constraints Analysis with more details regarding hydrologic, soils, and physical features.

1.6 ADEQUATE PUBLIC FACILITIES REPORT

See attached adequate public facilities report describing how existing sewer, water, schools, fire stations, and libraries will have little to no impact as a result of this project.

1.7 ADDITIONAL ON-SITE AND OFF-SITE PUBLIC FACILITIES OR SERVICES

No additional on-site or off-site public facilities or services will be required as a result of the development.

1.8 PHASE IA ARCHAEOLOGICAL STUDY

A phase IA archaeological study is not required since the property is not identified as being an ultra- or highly-sensitive area on the James City County archaeological assessment.

1.9 PRELIMINARY NATURAL RESOURCE INVENTORY

A preliminary natural resource inventory is not required since the property is not identified as being in a B1, B2, or B3 area, as defined by the Virginia Department of Conservation and Recreation's Natural Heritage Resources Program.

1.10 FISCAL IMPACT ANALYSIS

A fiscal impact analysis is not required since the project does not include residential dwelling units.

1.11 PARKS AND RECREATION INFORMATION

Parks and recreation improvements are not proposed since there are no new dwelling units as part of the project.

**Public Facilities Report
for
CROSSWALK COMMUNITY
CHURCH**

**5100 John Tyler Highway
Williamsburg, Virginia**

Submittal: June 14, 2021

Revised: July 27, 2021

Prepared for
Crosswalk Community Church

Prepared by
Draper Aden Associates
2 Bayport Way, Suite 120
Newport News, VA 23606

DAA Project Number: 2100438



Draper Aden Associates
Engineering • Surveying • Environmental Services

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1.1 INTRODUCTION / PROJECT DESCRIPTION

Crosswalk Community Church is applying for a Special Use Permit (SUP) for their property located at 5100 John Tyler Highway, also identified as parcel ID number 4720100057. The parcel area is approximately 3.86 acres and is currently developed with an existing church building, parking areas, and an accessory structure. The parcel is zoned R-1 Limited Residential; is designated as Low Density Residential in the Comprehensive Plan, and is located within the Primary Service Area (PSA). There were two former Special Use Permits (SUPs) associated with the parcel (SUP 0030-2001 and SUP-0009-2008) for a pre-school and a school, but neither of these SUPs are valid anymore. This narrative describes the existing public facilities that serve the site.

1.2 ROADS

The site is accessible from John Tyler Highway (US Route 5). John Tyler Highway is classified as "Minor Arterial" by VDOT's Functional Classification on LRS 20.1 Web Map. The posted speed limit at the site is 35 MPH. The existing roadway transitions from a 2-lane divided roadway to a 2-lane undivided roadway along the site frontage. John Tyler Highway is a 4-lane divided roadway further to the east at intersections with Stanley Drive and Kings Way, and extending to the intersection with Humelsine Parkway (US Route 199). The existing site access is along the undivided portion of the roadway. No additional access points will be added as part of the new development. No improvements to the existing entrance are anticipated.

1.3 WATER AND SEWER

The site is located within the James City County Primary Service Area. Public water and sewer are available to the site and are provided to the site. Water connects to an existing line in John Tyler Highway. Additional anticipated flows for the additional modular buildings will increase by approximately 1,320 GPD based on AWWA M22 sizing calculations for 132 student capacity.

1.4 SCHOOLS

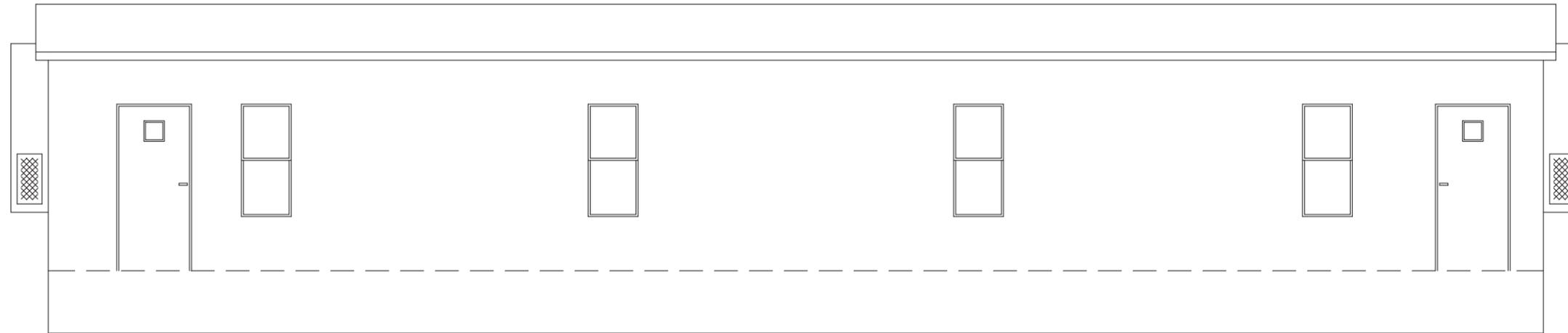
The site is in the school district for Matthew Whaley Elementary School, Berkeley Middle School, and Lafayette High School. The proposed SUP will not generate any additional school-age children within these school districts and will not have any adverse impact on the existing school system capacity.

1.5 FIRE STATIONS

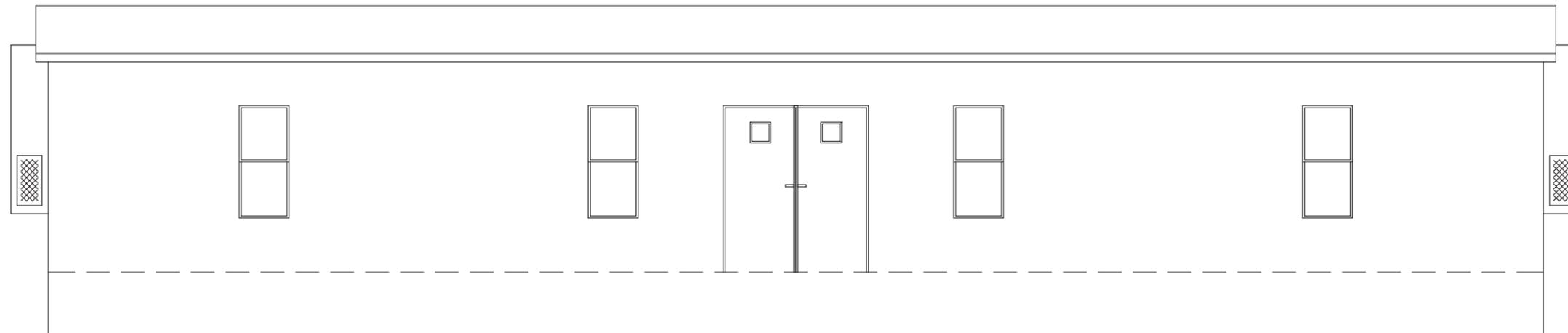
Fire and Emergency Services are provided to the site by the James City County Fire Station #3, located within ¼ mile of the site at 5077 John Tyler Highway.

1.6 LIBRARIES

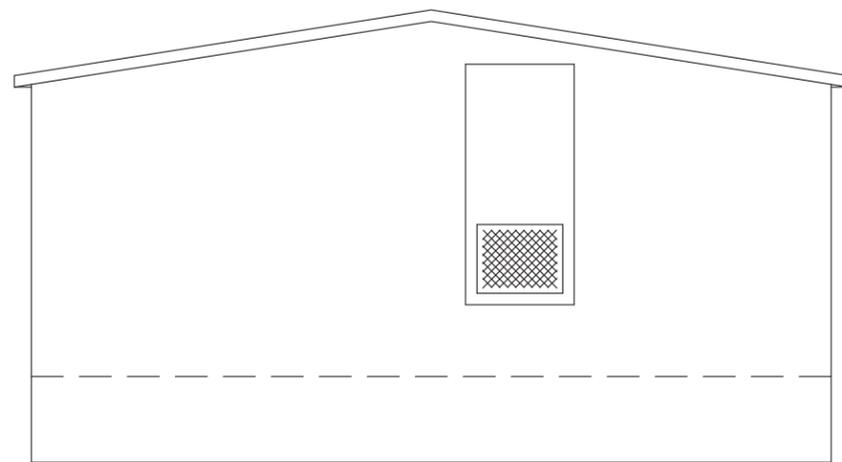
The John D. Rockefeller Jr. Library is located approximately 5 miles away from the site, at 313 1st Street in Williamsburg. No additional dwelling units are proposed as a part of this project, which results in no additional demand for library services.



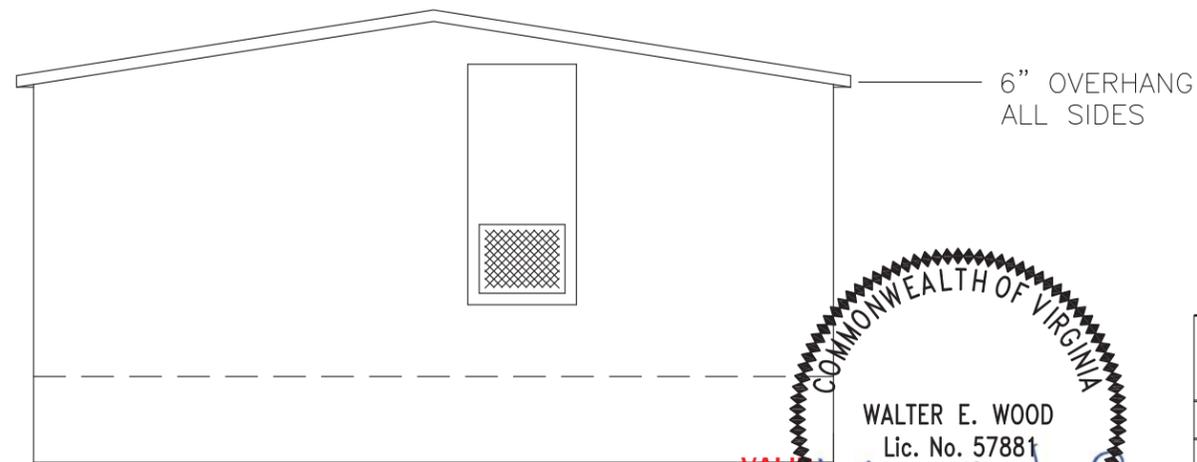
FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION

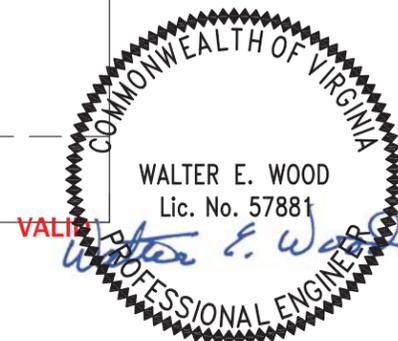


RIGHT ELEVATION

TYPICAL ELEVATION NOTES:

1. ALL SITE INSTALLED ITEMS ARE SUBJECT TO THE APPROVAL OF THE JURISDICTION HAVING AUTHORITY.
2. ACCESSIBLE RAMP(S), STAIR(S), AND HANDRAILS ARE DESIGNED BY OTHERS AND SITE INSTALLED.
3. FOUNDATION ENCLOSURE (IF PROVIDED) IS DESIGNED BY OTHERS AND SITE INSTALLED. ENCLOSURE MUST HAVE A MINIMUM NET AREA OF VENTILATION OPENINGS OF NOT LESS THAN ONE SQUARE FOOT FOR EACH 150 SQUARE FEET OF CRAWL SPACE AREA. LOCATE OPENINGS TO PROVIDE CROSS VENTILATION OF ENTIRE CRAWL SPACE. INSTALL AN 18" X 24" MINIMUM OPENING FOR CRAWL SPACE ACCESS.
4. SEE MECHANICAL NOTES AND/OR CROSS SECTION FOR METHOD OF ATTIC VENTILATION.

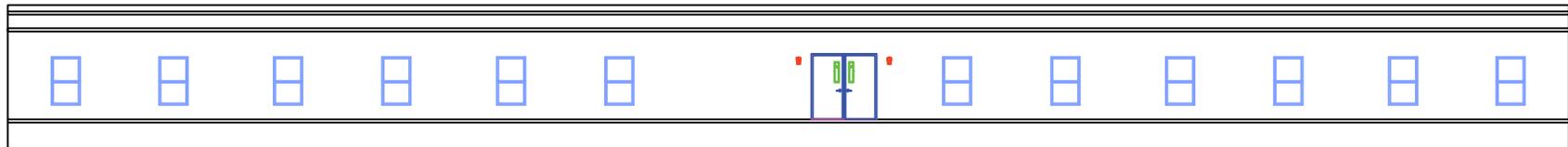
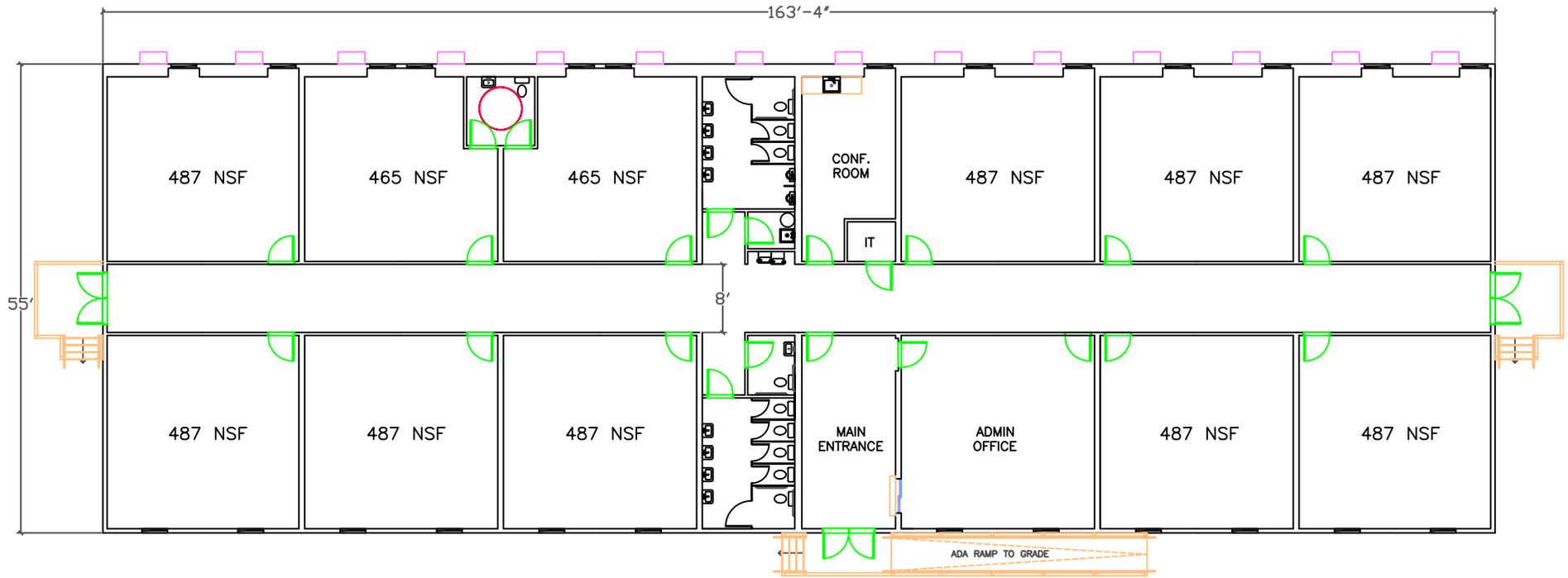
6" OVERHANG
ALL SIDES



June 3, 2021

DESIGN SPACE, INC.		
91 HARVEY VICKERS RD., DOUGLAS, GA. 31533	CLINCH COUNTY IND. PARK HOMERVILLE, GA. 31634	1110 IND. PARK RD. McRAE, GA. 31055
DATE: 11/16/2009		W.E.W. WALTER E. WOOD, P.E. CONSULTING ENGINEER 168 WEST LONGLEAF DR SYLVESTER, GA 31791 VA PE LIC #2402057881
SCALE: 1/8" = 1'-0"		
CODES: SEE SUMMARY	REVISIONS:	
LABELS: VA		
DSI 18582-83 A/B 24' X 60' EDUCATIONAL		SHEET
ELEVATIONS		3 OF 5

DAYCARE USE BLDG. CONCEPT w/FRONT ELEVATION
ATTACHMENT L1 REV. 7/7/2021



FRONT ELEVATION

**Unapproved Minutes of the August 4, 2021
Planning Commission Regular Meeting**

SUP-21-0015. Crosswalk Community Church Daycare and School

Mr. John Risinger, Planner, stated that Mr. Caleb Hurst of Draper Aden Associates has applied on behalf of Crosswalk Community Church and Greenwood Christian Academy for an SUP to allow the operation of a child day care center and school, the installation of two temporary classroom trailers for the 2021/2022 school year, the installation of one permanent modular building, and the continued operation of a place of public assembly at 5100 John Tyler Highway. Mr. Risinger stated that the property is zoned R-1, Limited Residential, is designated Low Density Residential in the adopted 3035 Comprehensive Plan, and is located inside the Primary Service Area. Mr. Risinger further stated that surrounding development includes the Williamsburg Crossing Shopping Center, and the Jamestown Farms and Indigo Park subdivisions.

Mr. Risinger stated the property has had two approved SUP's for child day care center and school use. Mr. Risinger stated that in 2002, SUP-0030-2001 was approved to allow a preschool with a maximum capacity of 200 students within the existing church building. Mr. Risinger further stated that in 2008, SUP-0009-2008 was approved to amend SUP-0030-2001 to allow the operation of an elementary school until June 30, 2010 in addition to the preschool.

Mr. Risinger stated that for the current proposal, the applicant anticipates using the temporary classroom trailers for the elementary school for the 2021/2022 school year and using the permanent school building for preschool starting in the 2022/2023 school year.

Mr. Risinger stated that staff is recommending conditions that would mitigate the impacts of the use and replace the conditions of SUP-0009-2008. Mr. Risinger stated that with the conditions, the child day care center and school uses on the property would be limited to a total enrollment capacity of 200 students, pre-k through 8th grade, with hours of operation from 7 am to 6 pm, Monday through Friday. Mr. Risinger stated that the temporary classroom trailers would be removed from the property prior to September 1, 2022. Mr. Risinger further stated that additional conditions are proposed regarding landscaping, exterior lighting, outdoor noise and signage. Mr. Risinger stated that the proposed conditions would allow the continued operation of the church as a place of public assembly.

Mr. Risinger stated that staff finds this proposal to be compatible with surrounding development and consistent with the adopted 2035 Comprehensive Plan and Zoning Ordinance. Mr. Risinger stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Ms. Leverenz inquired if there is a provision to ensure that the modular building is of good quality and be serviceable for a number of years.

Mr. Risinger stated that the building must meet all aspects of the Building Code and would be subject to remediation if it fell into a state of disrepair.

Mr. Polster inquired about the buffering for the back area.

Mr. Risinger stated that the buffer would be reviewed during site plan review and would be subject to Planning Director approval. Mr. Risinger stated that this would also include preservation of existing vegetation.

Mr. Polster inquired about the four-foot vinyl screen shown on the Master Plan and the buffering on either side.

Mr. Risinger stated that the vinyl screen is existing and would remain in place. Mr. Risinger further stated that the area on either side were the 15-foot side setbacks for the property and that there is a 35-foot rear setback as well. Mr. Risinger stated that any landscaping would be done in addition to what currently exists.

Mr. Haldeman called for disclosures from the Commission.

There were no disclosures.

Mr. Haldeman opened the Public Hearing.

Mr. Mark Thornblom, President of the School Board for Greenwood Christian Academy, addressed the Commission in support of the application.

As no one else wished to speak, Mr. Haldeman closed the Public Hearing.

Mr. Krapf made a motion to recommend approval of the application subject to the attached conditions.

On a roll call vote, the Commission voted to recommend approval of SUP-21-0015. Crosswalk Community Church Daycare and School. (6-0)

ITEM SUMMARY

DATE: 9/14/2021

TO: The Board of Supervisors

FROM: Tom Leininger, Senior Planner

SUBJECT: SUP-21-0013. 2631 Lake Powell Road, Tourist Home

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	Resolution	Resolution
☐	Location Map	Backup Material
☐	Master Plan	Backup Material
☐	Applicant Narrative	Backup Material
☐	Unapproved Minutes of the August 4, 2021, Planning Commission Meeting	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	8/23/2021 - 6:06 PM
Development Management	Holt, Paul	Approved	8/23/2021 - 6:06 PM
Publication Management	Daniel, Martha	Approved	8/25/2021 - 11:51 AM
Legal Review	Kinsman, Adam	Approved	8/25/2021 - 11:57 AM
Board Secretary	Fellows, Teresa	Approved	9/1/2021 - 9:07 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:43 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:44 AM

**SPECIAL USE PERMIT-21-0013. 2631 Lake Powell Road Tourist Home
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. Brandon Lapetina
Land Owners: Troy H. and Helen W. Lapetina Trustee
Proposal: To allow for a tourist home rental of an entire three-bedroom residential home as a tourist home. The owner does not live on-site.
Location: 2631 Lake Powell Road
Tax Map/Parcel No.: 4830100028
Property Acreage: ± .35 acres
Zoning: R-2, General Residential
Comprehensive Plan: Low Density Residential
Primary Service Area: (PSA) Inside
Staff Contact: Tom Leininger, Senior Planner

PUBLIC HEARING DATES

Planning Commission: August 4, 2021, 6:00 p.m.
Board of Supervisors: September 14, 2021, 5:00 p.m.

FACTORS FAVORABLE

1. Staff finds the proposal consistent with the 2015 Comprehensive Plan, *Toward 2035: Leading the Way*.
2. Staff finds the proposal will not negatively impact surrounding development.
3. Impacts: See Impact Analysis on Pages 3-4.

FACTORS UNFAVORABLE

1. Impacts: See Impact Analysis on Pages 3-4.
2. Staff finds the proposal inconsistent with the proposed short-term rental language of the Draft 2045 Comprehensive Plan.

SUMMARY STAFF RECOMMENDATION

Staff recommends the Board of Supervisors approve this application subject to the attached conditions.

PLANNING COMMISSION RECOMMENDATION

At its August 4, 2021, regular meeting, the Planning Commission voted 6-0 to recommend approval of the Special Use Permit (SUP) request to the Board of Supervisors subject to the proposed conditions.

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

None.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0013. 2631 Lake Powell Road Tourist Home
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

PROJECT DESCRIPTION

Mr. Brandon Lapetina has applied for an SUP to allow for a short-term rental of an existing three-bedroom house as a tourist home. This house is not the primary residence for Mr. Lapetina, who lives at 2635 Lake Powell Road, adjacent to the subject parcel. The proposal includes no changes to the size or footprint of the house.

The Zoning Ordinance defines a tourist home as “a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients.” The proposed conditions limit the number of bedrooms available for rental to three bedrooms.

The property has an existing driveway and an existing parking area sufficient to accommodate guests. The three-bedroom home is on public water and sewer. In previous tourist home applications, staff calculated the number of occupants to be two people per bedroom. Per the applicant, there are two bedrooms with bunk beds with space for three occupants each. Per SUP Condition No. 3, the maximum number of occupants per contract, including children, is eight.

PLANNING AND ZONING HISTORY

- There have been no legislative cases associated with this parcel. There have been two previous boundary line adjustments associated with this parcel and neighboring parcels.

SURROUNDING ZONING AND DEVELOPMENT

- The property is not located within any major or minor subdivision.

- The properties surrounding this parcel to the north, south, and west are all zoned R-2, General Residential.
- Properties to the east are all zoned R-1, Limited Residential.
- Properties to the north, west, and east are all designated Low Density Residential on the 2035 Comprehensive Plan Land Use Map.
- Properties to the south are all designated Rural Lands on the 2035 Comprehensive Plan Land Use Map.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0013. 2631 Lake Powell Road Tourist Home
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The proposal is not anticipated to generate traffic exceeding a typical residential use. - The subject property is located on a collector road. No changes anticipated to Level of Service on Lake Powell Road.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Per the Adopted Regional Bikeways Map and Pedestrian Accommodations Master Plan, Lake Powell Road is an existing shared roadway. - There are no changes to the existing footprint of the building and bicycle and pedestrian accommodations are not required per Section 24-35(c)(2) of the Zoning Ordinance.
<u>Public Safety</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Fire Station 3 on John Tyler Highway serves this area of the County and is approximately 2.4 miles from the proposed tourist home. - Staff finds this project does not generate impacts that require mitigation to the County’s Fire Department facilities or services.
<u>Public Schools</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - N/A since no residential dwelling units are proposed.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - N/A since no residential dwelling units are proposed.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Staff finds this project does not generate impacts that require mitigation.
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The property receives public water and sewer. - James City Service Authority has reviewed the proposal and recommended approval.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0013. 2631 Lake Powell Road Tourist Home
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Watersheds, Streams, and Reservoirs</u> Project is located in the Mill Creek Watershed.	<u>No Mitigation Required</u>	- The Stormwater and Resource Protection Division has reviewed this application and had no objections. No new impervious surface is proposed as part of this SUP request. Should exterior site improvements be made in the future, those improvements would be subject to additional environmental review at that time.
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	- The subject property has been previously disturbed and has no known cultural resources on-site.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	- Traffic is anticipated to be typical of a residential home, the subject property must adhere to the County’s Noise Ordinance, and the proposed SUP conditions will restrict commercial signage and exterior lighting. Future expansions of the use would require an SUP amendment.
<u>Community Character</u>	<u>No Mitigation Required</u>	- Lake Powell Road is not a Community Character Corridor and this parcel is not located within a Community Character Area.
<u>Covenants and Restrictions</u>	<u>No Mitigation Required</u>	- The applicant has verified that he is not aware of any covenants or restrictions on the property that prohibit the proposed use.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0013. 2631 Lake Powell Road Tourist Home
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

2035 COMPREHENSIVE PLAN

The site is designated Low Density Residential on the 2035 Comprehensive Plan Land Use Map.

Low Density Residential describes areas within the PSA and usually have a natural characteristics suitable for residential development.

Appropriate primary uses recommended by the Comprehensive Plan include single-family homes, multifamily units, accessory units, and cluster housing. Limited commercial uses may also be considered appropriate should the proposal meet the following standards:

- Complements the residential character of the area.

Staff finds the proposal consistent with the residential character of the area, as no exterior changes to the home or property are proposed.

- Have traffic, noise, lighting, and other impacts similar to surrounding residential uses.

Staff finds that impacts will be similar to nearby residential uses. Traffic is anticipated to be typical of a residential home, the subject property must adhere to the County's Noise Ordinance, and the proposed SUP conditions will restrict commercial signage and exterior lighting. Future expansions of the use would require an SUP amendment.

- Generally be located on collector or arterial roads at intersections.

This property is located on, and takes access from, Lake Powell Road. This segment of Lake Powell Road is classified by the

Virginia Department of Transportation (VDOT) as a collector Road.

- Provide adequate screening and buffering to protect the character of nearby residential areas.

Staff finds that existing vegetation and fencing provide adequate screening from adjacent properties. Additionally, staff notes that this use inherently retains the same visual character as nearby residences.

Staff finds the proposal meets the following Comprehensive Plan goals:

Land Use

LU 4.5 - Promote infill, redevelopment, revitalization, and rehabilitation within the PSA.

Economic Development

ED 2.3 - Promote tourism and associated industries as a year-round industry.

ED 5 - Encourage infill development, the redevelopment of existing parcels, and the adaptive reuse of existing buildings to efficiently use infrastructure and natural resources.

2045 COMPREHENSIVE PLAN

Although the 2045 Comprehensive Plan has not been adopted by the James City County Board of Supervisors, the draft plan provides recommendations regarding locations for short-term rentals. This

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0013. 2631 Lake Powell Road Tourist Home
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

information below is provided for context only based on the current draft language:

If located within a residential context, short-term rentals should serve to complement the residential character of the area rather than altering its nature. Therefore, while every location can be considered uniquely, short-term rentals are most appropriately located subject to the following development standards:

- Be located on lands designated Rural Lands, Neighborhood Commercial, Community Commercial, Mixed Use, or Economic Opportunity.

This property is designated Low Density Residential on both the adopted 2035 Comprehensive Plan Land Use Map and the draft 2045 Comprehensive Plan Land Use Map.

- Be located on the edge or corner of an existing platted subdivision, rather than internal to it.

This parcel is not located within an existing platted subdivision and fronts on Lake Powell Road.

- Be located on a major road.

This property is located on, and takes access from, Lake Powell Road. This segment of Lake Powell Road is classified by VDOT as a collector road.

- Be operated in a manner such that the property owner will continue to live and reside on the property during the rental.

The owner of the home will not reside on the same property as the proposed rental. The homeowner will live at the adjacent property located at 2635 Lake Powell Road.

Staff finds the proposal meets the following 2045 Comprehensive Plan goals.

Land Use

LU 4.3 - Promote infill, redevelopment, revitalization, and rehabilitation within the PSA.

Economic Development

ED 2.1 - Promote tourism, including eco-tourism and agri-tourism and associated industries as a year-round asset.

ED 4 - Encourage infill development, the redevelopment of existing parcels, and the adaptive reuse of existing buildings that efficiently uses infrastructure and natural resources, as well as establishes or enhances the area's sense of place and community character.

PROPOSED SUP CONDITIONS

The full text of the proposed conditions are provided in Attachment No. 1.

STAFF RECOMMENDATION

With the attached conditions, staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan.

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

**SPECIAL USE PERMIT-21-0013. 2631 Lake Powell Road Tourist Home
Staff Report for the September 14, 2021, Board of Supervisors Public Hearing**

Staff therefore recommends the Board of Supervisors approve this application subject to the attached conditions.

TL/ap
SUP21-13-2361LkPwTH

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Applicant Narrative
5. Unapproved Minutes of the August 4, 2021, Planning Commission Meeting

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

RESOLUTION

CASE NO. SUP-21-0013. 2631 LAKE POWELL ROAD TOURIST HOME

WHEREAS, the Board of Supervisors of James City County, Virginia, has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Brandon Lapetina has applied for an SUP on behalf of the owners, Troy and Helen Lapetina, Trustees of the Troy H. Lapetina and Helen W. Lapetina Living Trust to allow for the operation of a tourist home on property located at 2631 Lake Powell Road, further identified as James City County Real Estate Tax Map Parcel No. 4830100028 (the "Property"); and

WHEREAS, the Planning Commission, following its public hearing on August 4, 2021, recommended approval of Case No. SUP-21-0013 by a vote of 6-0; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-21-0013; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with good zoning practices and the 2035 Comprehensive Plan Land Use Map designation for the Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-21-0013 as described herein with the following conditions:

1. Master Plan: This Special Use Permit (SUP) shall permit a tourist home on property located at 2631 Lake Powell Road and further identified as James City County Real Estate Tax Map Parcel No. 4830100028 (the "Property"). The use and layout of the Property shall be generally as shown on the document entitled "JCC SUP-21-0013, 2631 Lake Powell Road, Tourist Home" and date stamped July 12, 2021 (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended. This condition does not restrict improvements typical of a residential property as determined by the Director of Planning.
2. Commencement of Construction: Evidence of a business license and updated Certificate of Occupancy shall be provided to the Director of Planning within twelve (12) months from the issuance of the SUP, or this SUP shall automatically be void.
3. Number of Rental Rooms and Occupants: There shall be no more than three (3) bedrooms available for rent to visitors and no more than eight (8) rental occupants total at any one time.
4. Contracts per Rental Period: There shall not be simultaneous rentals of the Property under separate contracts.
5. Signage: No signage related to the tourist home shall be permitted on the Property.

- 6. Parking: Off-site parking for the tourist home shall be prohibited. No oversized commercial vehicles associated with rental occupants of the tourist home, such as, but not limited to, buses and commercial trucks and trailers, shall be allowed to park on the Property.
- 7. Severability: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Michael J. Hipple
 Chairman, Board of Supervisors

ATTEST:

Teresa J. Fellows
 Deputy Clerk to the Board

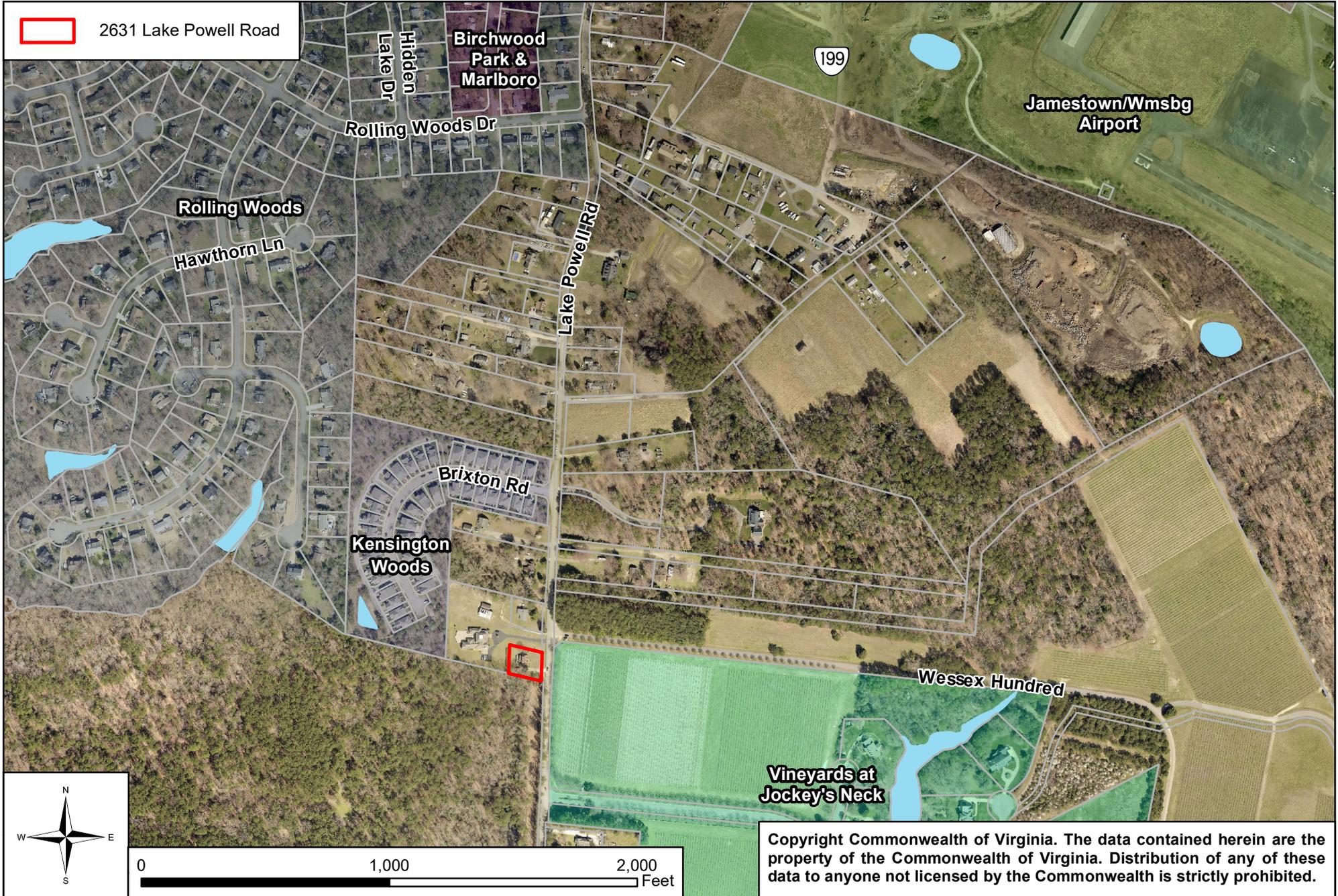
SADLER
 ICENHOUR
 LARSON
 MCGLENNON
 HIPPLE

VOTES			
<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.

SUP21-13-2631LkPwTH-res

JCC SUP-21-0013, 2631 Lake Powell Rd, Tourist Home



JCC SUP-21-0013, 2631 Lake Powell Road, Tourist Home

Property Information

4830100028
 Troy H. Lapetina Trustee
 2631 Lake Powell Road
 Williamsburg, VA 23185
 R2 General Residential
 Comp Plan: Low Density Residential
 Acres: .35

General Notes

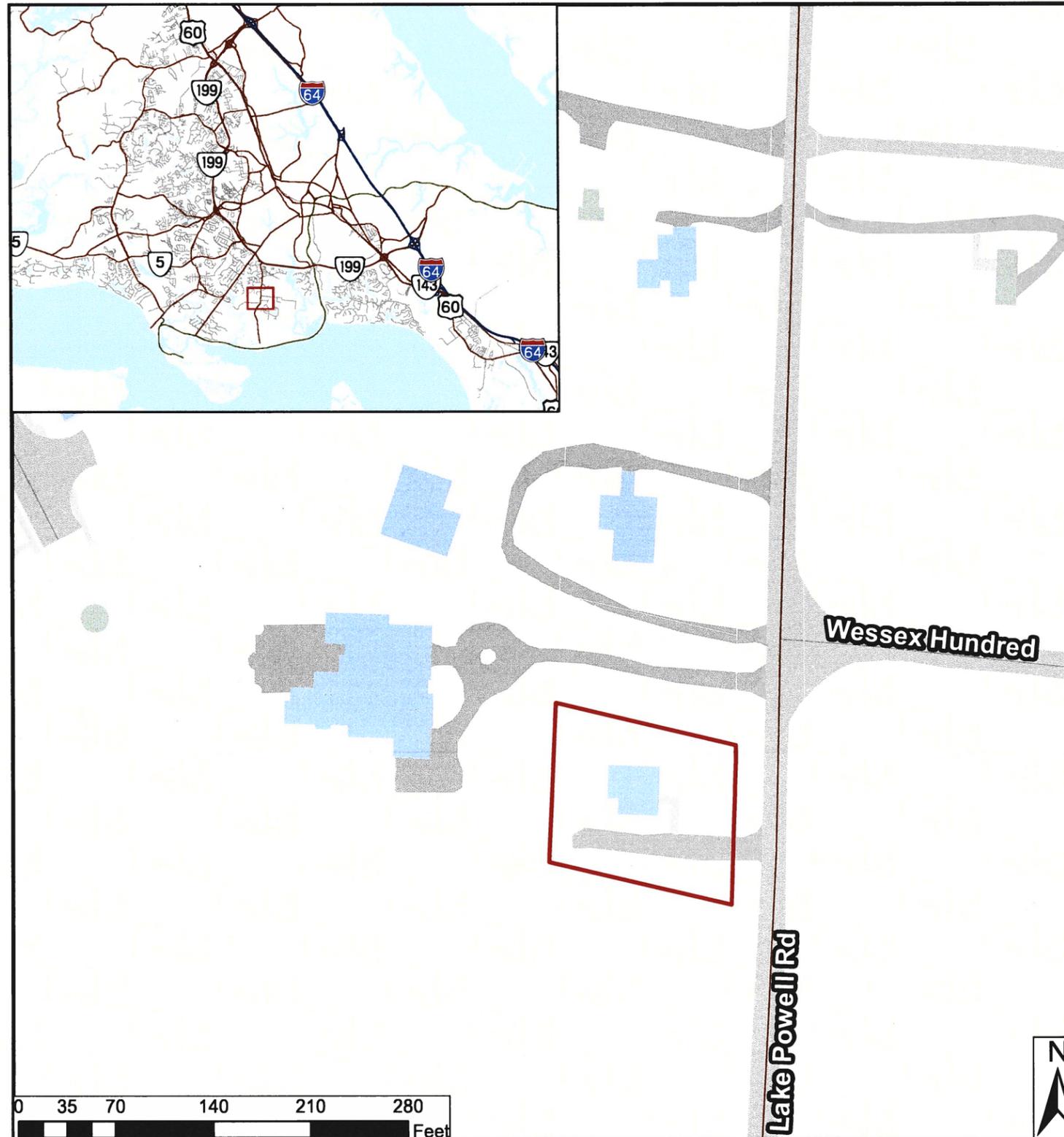
1. Site is served by public water and sewer.
2. Property is not located in a FEMA Flood zone.
3. Property does not contain Resource Protection Area.
4. Property has an existing driveway.
5. A minimum of three parking spots shall be provided (one parking spot per bedroom).

Adjacent Properties

4830100026 Troy H. Lapetina Trustee 2635 Lake Powell Road Williamsburg, VA 23185 R2 General Residential	2320100028 Vineyards HOA Inc. 2630 Lake Powell Road Williamsburg, VA 23185 R1 Limited Residential
4830100035 James City County Bible and Agricultural Training SC 2205 Treasure Island Road Williamsburg, VA 23185 R8 Rural Residential	

Sheet Index

1. Cover Page
2. Location Map
3. Site Details

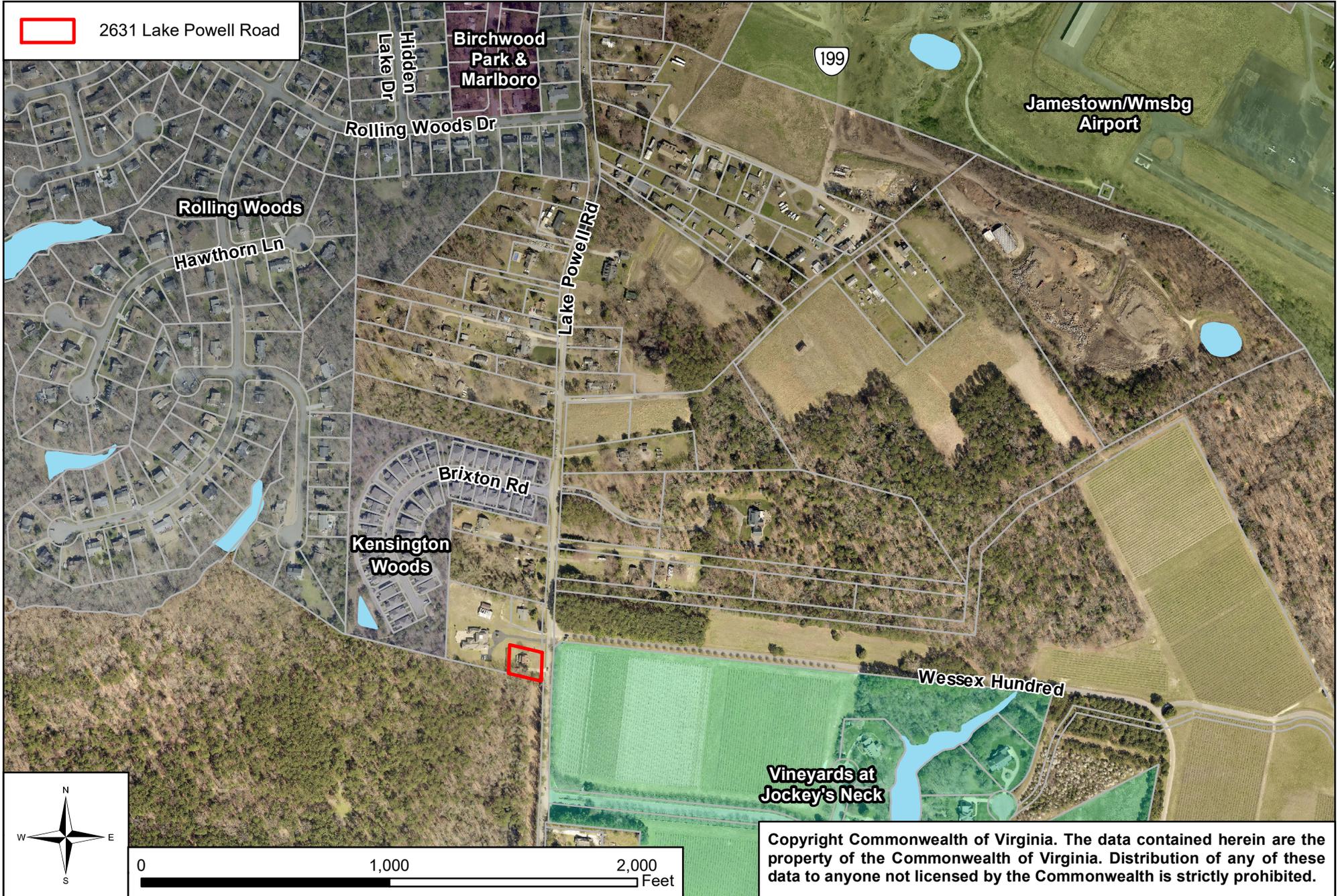


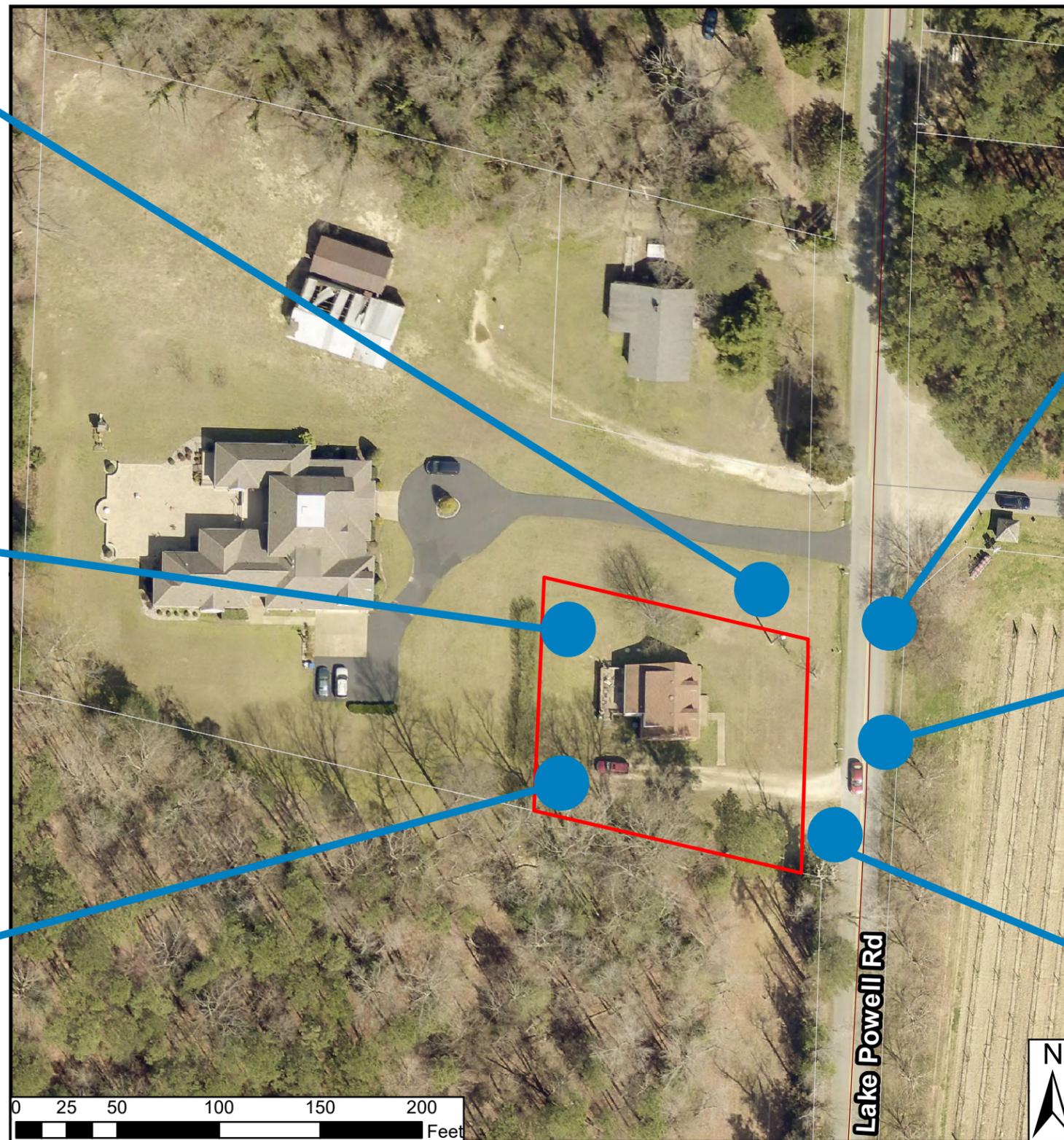
PLANNING DIVISION

JUL 12 2021

RECEIVED

JCC SUP-21-0013, 2631 Lake Powell Rd, Tourist Home





2631 Lake Powell Road narrative

This home has been in our family for close to 4 decades, and we are excited to share its convenient location with visitors to the area! It's a 3 bedroom, 2 bath house that is ideal for families visiting any number of the local tourist attractions, for parents or extended family to make a weekend trip to visit their college student, or guests of the winery across the street or the airport just down the road. Given the size of the home, we can't expect any noticeable impact to noise, traffic, or other disruption to the surrounding area—which is heavily wooded to one side, and borders the owner's property on the other two sides.

**Unapproved Minutes of the August 4, 2021
Planning Commission Regular Meeting**

SUP-21-0013. 2631 Lake Powell Road Tourist Home

Mr. Brandon Lapetina has applied for a Special Use Permit to allow for an entire 3-bedroom home to be used as a Tourist Home. The property is located a 2631 Lake Powell Road. This use is considered a Tourist Home because the owner will live offsite during the time of rentals. The property is zoned R-2, General Residential, is designated Low Density Residential in the Comprehensive Plan, and is located inside the PSA.

No changes to the footprint of the home are proposed. The owner of the home resides at the adjacent property.

Staff considered the home's location, parking provisions, and appearance to be favorable factors in the evaluation of this application. Staff is recommending conditions intended to mitigate the impacts of the use and preserve the residential character of the home. Such conditions include restrictions on commercial signage and lighting, and any future expansions of the use would require an SUP amendment.

Staff finds the proposal to be compatible with the 2035 Comprehensive Plan, Zoning Ordinance, and surrounding development, and recommends that the Planning Commission recommend approval of this application subject to the proposed conditions.

Mr. Haldeman called for disclosures from the Commission.

There were no disclosures.

Mr. Haldeman opened the Public Hearing.

As no one wished to speak, Mr. Haldeman closed the Public Hearing.

Ms. Leverenz stated that she wished the moratorium on Tourist homes had remained in place until the 2045 Comprehensive Plan was adopted; however, this application seemed to be consistent with the proposed language. Ms. Leverenz made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of SUP-21-0013. 2631 Lake Powell Road Tourist Home. (6-0)

ITEM SUMMARY

DATE: 9/14/2021

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Disposition of James City County Property for the Widening of Croaker Road

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Resolution	Resolution
☐	Map	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Development Management	Holt, Paul	Approved	8/24/2021 - 8:47 AM
Publication Management	Daniel, Martha	Approved	8/25/2021 - 11:53 AM
Legal Review	Kinsman, Adam	Approved	8/25/2021 - 11:57 AM
Board Secretary	Fellows, Teresa	Approved	9/1/2021 - 9:06 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:41 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:42 AM

MEMORANDUM

DATE: September 14, 2021

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Disposition of James City County Property for the Widening of Croaker Road

The widening of Croaker Road to four lanes from Richmond Road to the James City County Library first began in 2012. The project is now fully funded, fully designed, and has moved from the engineering phase of the project to the right-of-way phase. The construction phase is expected to take two years and will begin in Fiscal Year 2023.

Improvements will include not only two additional lanes for vehicle traffic, but facilities for pedestrians and bicyclists will be constructed as well. Enhanced landscaping will be installed since this project is located within the Norge Community Character Area and existing overhead utilities will be located underground, as authorized by the Board of Supervisors on October 8, 2019.

As part of this project, several easements are needed from the County on the Williamsburg Regional Library property located at 7770 Croaker Road. These include:

- +/- 51,513 square feet of temporary construction easements for Slopes, Ditches, Entrances, and Basins;
- a +/- 472-square-foot permanent drainage easement;
- a 20-foot-wide (+/- 573 square foot) permanent utility easement for James City Service Authority; and,
- a second 20-foot-wide (+/- 325 square foot) permanent utility easement for JCSA.

Staff recommends adoption of the attached Resolution authorizing the County Administrator to execute those documents necessary for the granting of the utility easements necessary to complete this roadway project.

PDH/ap
DispWdCroakerRd-mem

- Attachments:
1. Resolution
 2. Map

RESOLUTION

DISPOSITION OF JAMES CITY COUNTY PROPERTY FOR THE WIDENING

OF CROAKER ROAD

WHEREAS, James City County (the “County”) currently owns a certain parcel of land located at 7770 Croaker Road which is further identified as James City County Real Estate Tax Map No. 1340100023A (the “Property”); and

WHEREAS, the Virginia Department of Transportation (VDOT) is widening Croaker Road from Richmond Road to the James City County Library; and

WHEREAS, as part of constructing these improvements, additional temporary and permanent easements for VDOT and the James City Service Authority (JCSA) are necessary from the Property; and

WHEREAS, the County has determined that these easements are necessary for the construction of the roadway improvements; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the County should allow for easements as shown on the plan sheets for project 0607-047-630 that were prepared by VDOT entitled “Right of Way Plan Sheet Showing Proposed Right of Way & Easements Conveyed by Deed to the Commonwealth of Virginia,” sheet numbers 5RW, 6RW, and 7RW, dated September 14, 2020 and last revised June 15, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute those documents necessary for the easements to VDOT and the James City Service Authority.

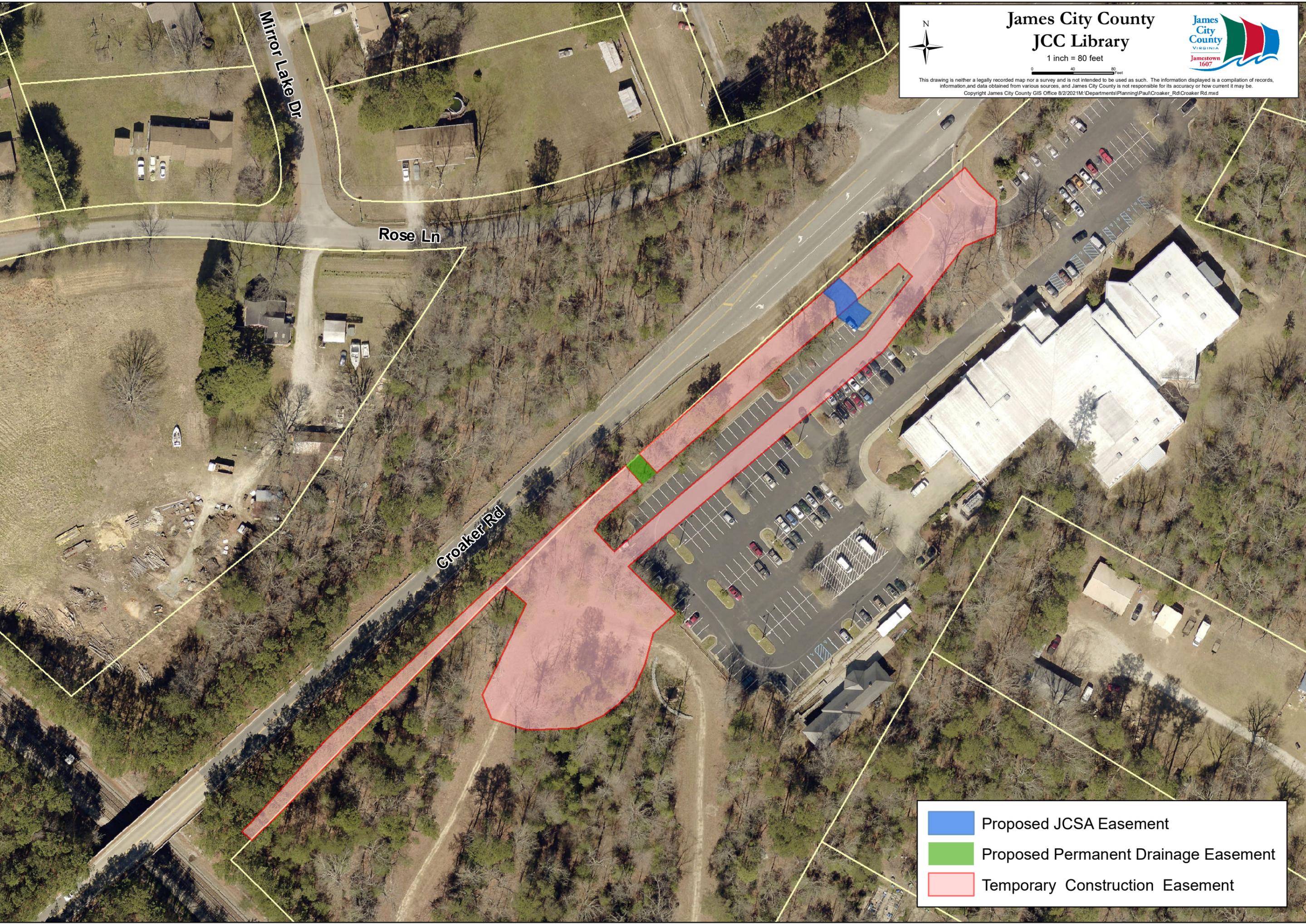
Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Fellows
Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.



-  Proposed JCSA Easement
-  Proposed Permanent Drainage Easement
-  Temporary Construction Easement

ITEM SUMMARY

DATE: 9/14/2021

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Approval of \$85,000,000 Williamsburg Landing bond issuance

ATTACHMENTS:

	Description	Type
☐	memo	Cover Memo
☐	Resolution	Resolution
☐	Applicant-provided Exhibit (TEFRA)	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	8/11/2021 - 10:24 AM
Publication Management	Daniel, Martha	Approved	8/11/2021 - 10:44 AM
Legal Review	Kinsman, Adam	Approved	8/11/2021 - 1:17 PM
Board Secretary	Fellows, Teresa	Approved	8/24/2021 - 11:11 AM
Board Secretary	Rinehimer, Bradley	Approved	8/24/2021 - 1:50 PM
Board Secretary	Fellows, Teresa	Approved	9/1/2021 - 9:06 AM

MEMORANDUM

DATE: September 14, 2021

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Williamsburg Landing, Inc. \$85,000,000 Revenue Bond Issuance

The Economic Development Authority of James City County, Virginia (the “EDA”) has approved the Virginia Williamsburg Landing, Inc.’s (“Williamsburg Landing”) request that the EDA issue up to \$85,000,000 of its revenue bonds to provide funds to refinance previously-issued bonds and to finance other capital projects at the Williamsburg Landing development. The Internal Revenue Code provides that the Board of Supervisors must approve the issuance of these bonds. Should the Board approve the approval of the issuance of the Bonds, it does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the plan of finance or Williamsburg Landing. Further, the bonds are not deemed to constitute a debt or a pledge of the faith and credit or taxing power of the EDA or the County.

The County’s outside bond counsel, Hunton Andrews Kurth, LLP, has reviewed the request on behalf of the County and the EDA and have indicated no legal issues with the request.

Supporting materials are attached. Should the Board desire to approve this request, I recommend adoption of the attached Resolution.

ARK/md
WbgLdgRevBdIss-mem

Attachment

RESOLUTION

WILLIAMSBURG LANDING, INC. \$85,000,000 REVENUE BOND ISSUANCE

WHEREAS, the Economic Development Authority of James City County, Virginia (the “Authority”) has approved the application of Williamsburg Landing, Inc. (the “Borrower”), a Virginia nonstock corporation, requesting that the Authority issue up to \$85,000,000 of its revenue bonds in one or more series at one time or from time to time (the “Bonds”) to provide funds to make a loan to the Borrower:

1. To refinance the Borrower's obligations related to the following:
 - a. Economic Development Authority of the City of Williamsburg, Virginia Revenue Bond (Williamsburg Landing Project), Series 2007; and
 - b. Industrial Development Authority of Mathews County, Virginia Revenue and Refunding Bond (Williamsburg Landing Project), Series 2007; and
 - c. Industrial Development Authority of Mathews County, Virginia Revenue Bond (Williamsburg Landing Project), Series 2011A; and
 - d. Industrial Development Authority of Mathews County, Virginia Revenue Bond (Williamsburg Landing Project), Series 2011B; and
 - e. Industrial Development Authority of Mathews County, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2012A; and
 - f. Industrial Development Authority of Essex County Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2012B; and
 - g. Economic Development Authority of the City of Williamsburg, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2012C; and
 - h. Economic Development Authority of Gloucester County, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2012D; and
 - i. Industrial Development Authority of Mathews County, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2013A; and
 - j. Authority's Revenue Bond (Williamsburg Landing, Inc.), Series 2013B; and
 - k. Joint Industrial Development Authority of Northampton County and its Incorporated Towns Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2015A; and
 - l. Industrial Development Authority of Mathews County, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2015B; and
 - m. Economic Development Authority of Mathews County, Virginia Revenue Bond (Williamsburg Landing, Inc.), Series 2016A; and

- n. Economic Development Authority of Lancaster County, Virginia Revenue Bond (Williamsburg Landing, Inc.), Series 2016B; and
- o. Economic Development Authority of the City of Williamsburg, Virginia Revenue Bond (Williamsburg Landing, Inc.), Series 2016C; and
- p. Joint Industrial Development Authority of Northampton County and its Incorporated Towns Revenue Bond (Williamsburg Landing, Inc.), Series 2016D; and
- q. Interest Rate Swap Transactions with Manufactures and Traders Trust Company.

The above (a) through (q) assisted the Borrower in financing and refinancing costs of constructing, equipping, renovating, and improving of the Borrower's senior living community (the "Community") located in and around 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185.

- 2. To finance other capital projects at the Community all within the existing structures or existing parking facilities located at the Community and amounts required for reserves, working capital, capitalized interest, costs of issuance and other financing expenses related to the issuance of the Bonds.

Items (1) and (2) above are collectively referred to as the "Plan of Finance".

WHEREAS, on August 17, 2021, the Authority held a public hearing regarding the Plan of Finance;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds and Section 15.2-4906 of the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended ("Act") sets forth the procedure for such approval; and

WHEREAS, the Authority issues its bonds on behalf of James City County, Virginia (the "County"), the facilities to be financed and refinanced with the proceeds of the Bonds are located in the County and the Board of Supervisors of James City County, Virginia (the "Board"), constitutes the highest elected governmental unit of the County; and

WHEREAS, the Authority has recommended that the County approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution providing initial approval of the issuance of the Bonds, a certificate of the public hearing, and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia:

- 1. The Board approves the issuance of the Bonds, in an aggregate principal amount up to \$85,000,000, by the Authority for the benefit of the Borrower, solely to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Act, to permit the Authority to assist in accomplishing the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or the Borrower. In accordance with Section 15.2-4909 of the Act, the Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit or taxing power of the Commonwealth or any political subdivision thereof, including the Authority and the County.
3. This resolution shall take effect immediately upon its adoption.

 Michael J. Hipple
 Chairman, Board of Supervisors

ATTEST:

 Teresa J. Fellows
 Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.

WbgLdgRevBdIss-res

August 17, 2021

Board of Supervisors
of James City County, Virginia
101 Mounts Bay Road
Williamsburg, Virginia 23185

**Economic Development Authority of James City County, Virginia
Proposed Financing for Williamsburg Landing, Inc.**

Williamsburg Landing, Inc. (the "Borrower"), a Virginia nonstock corporation, whose principal place of business is 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185, has requested that the Economic Development Authority of James City County, Virginia (the "Authority"), issue up to \$85,000,000 of its revenue bonds, in one or more series at one time or from time to time (the "Bonds"), the proceeds of which will be loaned to the Borrower:

(1) to refinance all or a portion of the outstanding debt and related obligations of the Borrower, which financed and refinanced costs of constructing, equipping, renovating and improving of the Borrower's senior living community the community (the "Community") located at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185.

(2) to finance other capital projects at the Community all within the existing structures or existing parking facilities located at the Community and amounts required for reserves, working capital, capitalized interest, costs of issuance and other financing expenses related to the issuance of the Bonds. Items (1) and (2) are collectively referred to as the "Plan of Finance."

As set forth in the inducement resolution of the Authority attached hereto, the Authority has authorized the issuance of the Bonds to accomplish the Plan of Finance. The Authority has conducted a public hearing on the Plan of Finance and has recommended that you approve the Plan of Finance and the issuance of the Bonds by the Authority as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code").

Attached hereto is (1) a certificate evidencing (A) the conduct of the public hearing and (B) the adoption of the inducement resolution regarding the Plan of Finance by the Authority, (2) the Fiscal Impact Statement required pursuant to Section 15.2-4907 of the Virginia Code and (3) the form of resolution suggested by bond counsel to evidence your approval.

Secretary
Economic Development Authority of James City
County, Virginia

CERTIFICATE

The undersigned Secretary of the Economic Development Authority of James City County, Virginia (the "Authority") hereby certifies as follows:

1. A meeting of the Authority was duly called and held on Tuesday, August 17, 2021, at 4:00 p.m., before the Authority, in the Main Conference Room of 101-D, James City County Government Center, 101 Mounts Bay Road, Williamsburg, Virginia 23185, pursuant to proper notice given to each Director of the Authority before such meeting. The meeting was open to the public. The time of the meeting and the place at which the meeting was held provided a reasonable opportunity for persons of differing views to appear and be heard.

2. The Chair announced the commencement of a public hearing on the application of Williamsburg Landing, Inc., a Virginia nonstock corporation, and that a notice of the hearing was published once a week for two successive weeks in a newspaper having general circulation in James City County, Virginia (the "Notice"), with the second publication appearing not less than six days nor more than twenty-one days prior to the hearing date. A copy of the Notice is attached and has been filed with the minutes of the Authority and is attached as Exhibit A.

3. A summary of the statements made at the public hearing is attached as Exhibit B.

4. Attached as Exhibit C is a true, correct and complete copy of the inducement resolution (the "Resolution") adopted at such meeting of the Authority by a majority of the Directors present at such meeting. The Resolution constitutes all formal action taken by the Authority at such meeting relating to matters referred to in the Resolution. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on this date.

WITNESS my hand and the seal of the Authority, as of August 17, 2021.

Secretary, Economic Development Authority of
James City County, Virginia

[SEAL]

Exhibits:

- A - Copy of Certified Notice
- B - Summary of Statements
- C - Approving Resolutions

EXHIBIT A

NOTICE OF PUBLIC HEARING

(See Attached)

EXHIBIT B

SUMMARY OF STATEMENTS

Representatives of Williamsburg Landing, Inc. appeared before the Authority to describe the project and the proposed bond issue. [[[No one appeared in opposition to the proposed bond issue.]]]

EXHIBIT C

APPROVING RESOLUTION

(See Attached)

**FISCAL IMPACT STATEMENT
FOR PROPOSED BOND FINANCING**

Date: August 17, 2021

To the Board of Supervisors of James City County, Virginia

Applicant: Williamsburg Landing, Inc. (the "Borrower")
Facility/ Refinancing of debt for a Life Plan Community.
Plan of
Finance:

1.	Maximum amount of financing sought	\$85,000,000
2.	Estimated taxable value of the facility's real property to be constructed in the locality. ⁽¹⁾	N/A
3.	Estimated real property tax per year using present tax rates. ⁽¹⁾	N/A
4.	Estimated personal property tax per year using present tax rates. ⁽¹⁾	N/A
5.	Estimated merchants' capital tax per year using present tax rates. ⁽¹⁾	N/A
6.	(a) Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality ⁽¹⁾	N/A
	(b) Estimated dollar value per year of goods that will be purchased from non Virginia companies within the locality ⁽¹⁾	N/A
	(c) Estimated dollar value per year of services that will be purchased from Virginia companies within the locality ⁽¹⁾	N/A
	(d) Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality ⁽¹⁾	N/A
7.	Estimated number of regular employees on year round basis.	340
8.	Average annual salary per employee.	\$39,750

(1) No new structures will be built with the proceeds of the bonds.

Chair
Economic Development Authority of James City
County, Virginia

At a regular meeting of the Board of Supervisors of James City County, Virginia, held on September __, 2021, the following Board members were recorded as present:

PRESENT:

On motion by _____, seconded by _____, the attached Resolution was adopted by a majority of the members of the Board of Supervisors by a roll call vote, the votes being recorded as follows:

MEMBER

VOTE

[Proposed Form of Board of Supervisors Resolution]

**RESOLUTION
OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA**

WHEREAS, the Economic Development Authority of James City County, Virginia (the "Authority") has approved the application of Williamsburg Landing, Inc. (the "Borrower"), a Virginia nonstock corporation, requesting that the Authority issue up to \$85,000,000 of its revenue bonds in one or more series at one time or from time to time (the "Bonds") to provide funds to make a loan to the Borrower:

- (1) to refinance the Borrower's obligations related to the following:
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 - b. Industrial Development Authority of Mathews County, Virginia Revenue and Refunding Bond (Williamsburg Landing Project), Series 2007;
 - c. Industrial Development Authority of Mathews County, Virginia Revenue Bond (Williamsburg Landing Project), Series 2011A;
 - d. Industrial Development Authority of Mathews County, Virginia Revenue Bond (Williamsburg Landing Project), Series 2011B;
 - e. Industrial Development Authority of Mathews County, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2012A;
 - f. Industrial Development Authority of Essex County Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2012B;
 - g. Economic Development Authority of the City of Williamsburg, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2012C;
 - h. Economic Development Authority of Gloucester County, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2012D;
 - i. Industrial Development Authority of Mathews County, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2013A;
 - j. Authority's Revenue Bond (Williamsburg Landing, Inc.), Series 2013B;

- k. Joint Industrial Development Authority of Northampton County and its Incorporated Towns Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2015A;
- l. Industrial Development Authority of Mathews County, Virginia Revenue and Refunding Bond (Williamsburg Landing, Inc.), Series 2015B;
- m. Economic Development Authority of Mathews County, Virginia Revenue Bond (Williamsburg Landing, Inc.), Series 2016A;
- n. Economic Development Authority of Lancaster County, Virginia Revenue Bond (Williamsburg Landing, Inc.), Series 2016B;
- o. Economic Development Authority of the City of Williamsburg, Virginia Revenue Bond (Williamsburg Landing, Inc.), Series 2016C;
- p. Joint Industrial Development Authority of Northampton County and its Incorporated Towns Revenue Bond (Williamsburg Landing, Inc.), Series 2016D; and
- q. Interest Rate Swap Transactions with Manufactures and Traders Trust Company.

The above (a) through (q) assisted the Borrower in financing and refinancing costs of constructing, equipping, renovating and improving of the Borrower's senior living community (the "Community") located in and around 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185.

(2) to finance other capital projects at the Community all within the existing structures or existing parking facilities located at the Community and amounts required for reserves, working capital, capitalized interest, costs of issuance and other financing expenses related to the issuance of the Bonds.

Items (1) and (2) above are collectively referred to as the "Plan of Finance".

WHEREAS, on August 17, 2021, the Authority held a public hearing regarding the Plan of Finance;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds and Section 15.2-4906 of the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended ("Act") sets forth the procedure for such approval;

WHEREAS, the Authority issues its bonds on behalf of James City County, Virginia (the "County"), the facilities to be financed and refinanced with the proceeds of the Bonds are located in the County and the Board of Supervisors of James City County, Virginia (the "Board"), constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the County approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution providing initial approval of the issuance of the Bonds, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA:

1. The Board approves the issuance of the Bonds, in an aggregate principal amount up to \$85,000,000, by the Authority for the benefit of the Borrower, solely to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Act, to permit the Authority to assist in accomplishing the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or the Borrower. In accordance with Section 15.2-4909 of the Act, the Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit or taxing power of the Commonwealth or any political subdivision thereof, including the Authority and the County.

3. This resolution shall take effect immediately upon its adoption.

Adopted by the Board of Supervisors of James City County, Virginia, on September __, 2021.

Clerk
Board of Supervisors of James City County,
Virginia

[SEAL]

ITEM SUMMARY

DATE: 9/14/2021

TO: The Board of Supervisors

FROM: Michael Woolson, Section Chief - Resource Protection

SUBJECT: Appeal of Notice of Violation, 5032 River Drive

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Resolution to Affirm ESC Violation	Resolution
☐	Resolution to Affirm SWM Violation	Resolution
☐	Resolution to Reverse ESC Violation	Resolution
☐	Resolution to Reverse SWM violation	Resolution
☐	Figure 1. June 23, 2017	Backup Material
☐	Figure 2. July 2, 2017	Backup Material
☐	Figure 3. September 15, 2017	Backup Material
☐	Figure 4. September 15, 2017	Backup Material
☐	Figure 5. October 17, 2020	Backup Material
☐	Figure 6. May 31, 2021	Backup Material
☐	Figure 7. June 18, 2021	Backup Material
☐	Figure 8. June 21, 2021	Backup Material
☐	Figure 9. June 23, 2021	Backup Material
☐	Figure 10. July 1, 2021	Backup Material
☐	Figure 11. July 1, 2021	Backup Material
☐	Exhibit A. Sensitive Area Activity Application, June 28, 2017	Backup Material
☐	Exhibit B. : The Structures Group, forensic review and structural design of retaining wall, June 19, 2017	Backup Material
☐	Exhibit C. ECS slope evaluation, August 3, 2001	Backup Material
☐	Exhibit D: Building Permit application, June 21, 2017	Backup Material
☐	Exhibit E: Building Permit Final, December 8, 2017	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Engineering & Resource Protection	Small, Toni	Approved	8/30/2021 - 9:10 AM

Development Management	Holt, Paul	Approved	8/30/2021 - 10:53 AM
Publication Management	Daniel, Martha	Approved	8/30/2021 - 10:57 AM
Legal Review	Kinsman, Adam	Approved	8/31/2021 - 9:19 AM
Board Secretary	Fellows, Teresa	Approved	9/1/2021 - 9:06 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:40 AM
Board Secretary	Purse, Jason	Approved	9/7/2021 - 7:42 AM

MEMORANDUM

DATE: September 14, 2021

TO: The Board of Supervisors

FROM: Michael D. Woolson, Section Chief, Resource Protection
Elizabeth Parman, Assistant County Attorney

SUBJECT: Appeal of Notice of Violation for Land Disturbing, Erosion and Sediment Control, and Stormwater Management Ordinance Violations, dated June 28, 2021 - 5032 River Drive

Mr. Gregory S. Bean filed an appeal to the James City County Board of Supervisors (the "Board") on July 28, 2021, on behalf of Mr. Danny Patterson (the "Owner"). The Owner is appealing the administrative decision that there are violations of County Code Chapter 8 - Erosion and Sediment Control Ordinance ("Ordinance") at 5032 River Drive (the "Property") because the permit requirements outlined in Section 8-4 and Section 8-22 of the James City County Code have not been met.

Mr. Gregory S. Bean, Esq. represents Mr. Patterson in this matter.

Pursuant to James City County Code Section 8-8 and Section 8-32, the Board of Supervisors shall hear appeals of administrative decisions. In reviewing the agent's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and the County agent. After considering the evidence and opinions, the Board of Supervisors may affirm, reverse, or modify the decision of the County agent. The Board of Supervisors' decision shall be final, subject only to review by the circuit court of James City County.

Background Information

On June 21, 2021, staff received a phone call from the Virginia Marine Resources Commission (VMRC) about a potential navigation hazard in Diascund Creek due to some trees in the water. Staff conducted a field investigation on June 21, 2021, and discovered that the hillside between the existing house located at 5032 River Drive and Diascund Creek had collapsed sending debris into the creek. The hillside collapse appeared to affect 5030, 5032, and 5034 River Drive, an area of approximately 6,000 square feet. In the ensuing office investigation, staff was not able to locate the submittal of any plan or permit showing the work to be done at 5032 River Drive. After talking to neighbors, it was determined that approximately 30 to 50 dump truck loads of dirt were delivered and spread out in the rear yard with the understanding that it was intended to fill in holes from a recently removed deck.

On June 28, 2021, staff sent a Notice of Violation to Mr. Patterson that outlined the nature of the violations on the property. Specifically, the work caused a global rotational slope failure in the Resource Protection Area (RPA). Neither Mr. Patterson nor his contractor submitted an erosion and sediment control plan or applied for a land disturbing permit as required by County Code Chapter 8.

History

In 2017, Mr. Patterson applied for a Chesapeake Bay Preservation Waiver (CBE-17-095) to allow for the construction of a retaining wall to help stabilize the structural integrity of the existing home. He also submitted an erosion and sediment control plan (E&S-028-17) and received a building permit (B17-2037). The retaining wall received final building approval on December 8, 2017. When E&S-028-17 was

approved, it was determined that a land disturbing permit was not required because the extent to the work was less than 2,500 square feet.

In 2001, Mr. Patterson commissioned ECS Consulting Engineers to do a slope stability analysis. The report was supplied to the County on June 28, 2017 as supporting documentation for the justification of a retaining wall in the Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application. The results of this slope stability analysis showed that a rotational slope failure was possible.

The retaining wall built in 2017 was removed at some point in time prior to the slope failure of June 21, 2021. There are no records that Mr. Patterson applied for a demolition permit to remove the retaining wall or the deck on the back of the house.

Staff Findings

Staff has reviewed the appeal and associated documents and offers the following information for the Board's consideration.

1. Mr. Danny Patterson is the current owner of the Property located at 5032 River Drive.
2. On June 21, 2021, Mr. Patterson hired a contractor to fill in a portion of his rear yard, the entirety of which is in the RPA.
3. At approximately 3:30 p.m. on June 21, 2021, the slope collapsed due to the extra weight that had been placed on it over the course of the day. The slope failure affected neighboring properties and resulted in land disturbance of approximately 6,000 square feet. Staff received a call from the VMRC at approximately 4:30 p.m. relaying concerns about navigation hazards in Diascund Creek.
4. Neither Mr. Patterson nor his contractor applied for or received any County approvals for the work that was done. He did not submit an erosion and sediment control plan as required by County Code Section 8-4 and he did not apply for a land disturbing permit as required by County Code Section 8-22. Mr. Patterson previously applied for permits for a retaining wall completed in 2017.

Issues to be Decided by the Board

1. Whether Mr. Patterson violated County Code Section 8-4 for failing to submit an erosion and sediment control plan for land disturbing activity.
2. Whether Mr. Patterson violated County Code Section 8-22 for failing to obtain a stormwater (land disturbing) permit.

MDW/EP/md
AppViol-5032RvrDr-mem

Attachments:

1. Figures
 - Figure 1. Picture, June 23, 2017
 - Figure 2. Picture, July 2, 2017
 - Figure 3. Picture, September 15, 2017
 - Figure 4. Picture, September 15, 2017

Figure 5. Picture, October 17, 2020

Figure 6. Picture, May 31, 2021

Figure 7. Picture, June 18, 2021

Figure 8. Picture, June 21, 2021

Figure 9. Picture, June 23, 2021

Figure 10. Picture, July 1, 2021

Figure 11. Picture, July 1, 2021

2. Exhibits

Exhibit A: Sensitive Area Activity Application, June 28, 2017

Exhibit B: The Structures Group, forensic review and structural design of retaining wall, June 19, 2017

Exhibit C: ECS slope evaluation, August 3, 2001

Exhibit D: Building Permit application, June 21, 2017

Exhibit E: Building Permit Final, December 8, 2017

RESOLUTION

AFFIRMING THE EROSION AND SEDIMENT CONTROL VIOLATION

AT 5032 RIVER DRIVE

WHEREAS, Mr. Gregory Bean, Esq., on behalf of Mr. Danny Patterson (“Appellant”), has appeared before the Board of Supervisors of James City County (the “Board”) on September 14, 2021, to appeal a Notice of Violation issued on June 28, 2021, to the Appellant for violations of County Code Chapter 8, Erosion and Sediment Control Ordinance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 0930300007 and further identified as 5032 River Drive (the “Property”); and

WHEREAS, the Board, pursuant to County Code Section 8-8, has listened to the arguments presented by the Appellant and by the County agent and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, by a majority vote of its members affirms the Notice of Violation issued to Mr. Danny Patterson on June 28, 2021, and finds that Mr. Danny Patterson is in violation of County Code, Chapter 8, Article I, Erosion and Sediment Control Section 8-4.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, encourages the parties to reach a settlement agreement to abate the violation.

NOW, THEREFORE, BE IT FINALLY RESOLVED that the Board of Supervisors of James City County, Virginia, urges the County Attorney’s Office to seek the maximum penalties allowed by the County Code if this matter is brought before the Circuit Court.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Fellows
Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.

RESOLUTION

AFFIRMING THE STORMWATER MANAGEMENT VIOLATION AT 5032 RIVER DRIVE

WHEREAS, Mr. Gregory Bean, Esq., on behalf of Mr. Danny Patterson (“Appellant”), has appeared before the Board of Supervisors of James City County (the “Board”) on September 14, 2021, to appeal a Notice of Violation issued on June 28, 2021, to the Appellant for violations of County Code Chapter 8, Erosion and Sediment Control Ordinance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 0930300007 and further identified as 5032 River Drive (the “Property”); and

WHEREAS, the Board, pursuant to County Code Section 8-32, has listened to the arguments presented by the Appellant and by the County agent and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, by a majority vote of its members affirms the Notice of Violation issued to Mr. Danny Patterson on June 28, 2021, and finds that Mr. Danny Patterson is in violation of County Code, Chapter 8, Article II, The Virginia Stormwater Management Program, Section 8-22.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, encourages the parties to reach a settlement agreement to abate the violation.

NOW, THEREFORE, BE IT FINALLY RESOLVED that the Board of Supervisors of James City County, Virginia, urges the County Attorney’s Office to seek the maximum penalties allowed by the County Code if this matter is brought before the Circuit Court.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Fellows
Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.

RESOLUTION

REVERSING THE EROSION AND SEDIMENT CONTROL VIOLATION

AT 5032 RIVER DRIVE

WHEREAS, Mr. Gregory Bean, Esq., on behalf of Mr. Danny Patterson (“Appellant”), has appeared before the Board of Supervisors of James City County (the “Board”) on September 14, 2021, to appeal a Notice of Violation issued on June 28, 2021, to the Appellant for violations of County Code Chapter 8, Erosion and Sediment Control Ordinance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 0930300007 and further identified as 5032 River Drive (the “Property”); and

WHEREAS, the Board, pursuant to County Code Section 8-8, has listened to the arguments presented by the Appellant and by the County agent and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, by a majority vote of its members reverses the Notice of Violation issued to Mr. Danny Patterson on June 28, 2021, and finds that Mr. Danny Patterson is not in violation of County Code, Chapter 8, Article I, Erosion and Sediment Control.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Fellows
Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.

RESOLUTION

REVERSING THE STORMWATER MANAGEMENT VIOLATION AT 5032 RIVER DRIVE

WHEREAS, Mr. Gregory Bean, Esq., on behalf of Mr. Danny Patterson (“Appellant”), has appeared before the Board of Supervisors of James City County (the “Board”) on September 14, 2021, to appeal a Notice of Violation issued on June 28, 2021, to the Appellant for violations of County Code Chapter 8, Erosion and Sediment Control Ordinance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 0930300007 and further identified as 5032 River Drive (the “Property”); and

WHEREAS, the Board, pursuant to County Code Section 8-32, has listened to the arguments presented by the Appellant and by the County agent and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, by a majority vote of its members reverses the Notice of Violation issued to Mr. Danny Patterson on June 28, 2021, and finds that Mr. Danny Patterson is not in violation of County Code, Chapter 8, Article II, The Virginia Stormwater Management Program.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Fellows
Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of September, 2021.

























Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application

Engineer JUN 28 2017 Election

RECEIVED

For Office Use Only CBE 17-095
CB Number CBS 17-028

Submission Requirements: (Check all applicable)

- A \$25 non-refundable processing fee payable to Treasurer, James City County.
- RPA - landward 50' - Complete Items 1 - 5, and sign on Page 3.
- RPA - seaward 50' - Complete Items 1 - 5, sign on Page 3 and submit an additional \$100 non-refundable fee payable to Treasurer, James City County, for the Chesapeake Bay Board.
- Conservation Easement - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Steep Slopes \geq 25 percent - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Attach plans as required (see instruction on Page 4, Item 4).
- Applicable surety as required for mitigation (see **Mitigation Rates Table** on Page 2).

Upon completion, please return pages 1-3 to the JCC Engineering and Resource Protection Division

Property Owner Information:

Date: 6-19-17

Name: Danny E. Patterson
 Address: 5032 River Drive; Lanexa, VA 23089
 Phone: 757-897-2871 Fax: _____ Email: depatterson@verizon.net

Contact (if different from above):

Name: Michael A. Matthews Phone: 757-220-0465
 Email: mmatthews@thestructuresgroup.com

Project Information:

Project Address: 5032 River Drive; Lanexa, VA 23089
 Subdivision Name, Lot, and Section No.: Cyprus Point Subdivision
 Parcel Identification No. or Tax Map No.: 0930300007
 Date Lot was platted: 7-8-83 Line or Bldg Permit No.: A171119/EIS-28-17

Activity Location and Impacts (Square Feet - SF): (check all that apply)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Steep Slopes \geq 25 percent <u>2,197</u> (SF) | <input checked="" type="checkbox"/> RPA - Landward 50' <u>2,197</u> (SF) |
| <input type="checkbox"/> Conservation Easement _____ (SF) | <input type="checkbox"/> RPA - Seaward 50' _____ (SF) |
| <input type="checkbox"/> Trees to be Removed _____ (#) | <input checked="" type="checkbox"/> Proposed Impervious Cover <u>+122</u> (SF) |

Activity involves: (check all that apply)

- | | | |
|---|---|--|
| <input type="checkbox"/> New principal structure construction | <input type="checkbox"/> Building addition to principal structure | <input type="checkbox"/> Attached Deck |
| <input type="checkbox"/> Permitted buffer modifications: | <input type="checkbox"/> Dead/diseased/dying tree removal | <input type="checkbox"/> Sightline |
| <input checked="" type="checkbox"/> Accessory (Detached) Structure or Patio | <input type="checkbox"/> Invasive/noxious weed removal | <input type="checkbox"/> Access path/trail |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Redevelopment: _____ | |

These documents were printed from the official JCC Records Management Imaging site

**Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application**

For Office Use Only CBK17-028
CB5
 CB Number 17-028

1. Description of requested sensitive area activity and reason for request:

(In the description, please indicate the reason for the proposed structure or activity, the location, sizes and dimensions of feature. For decks or expansions, indicate if ground floor, first floor or other levels)

A timber retaining wall is proposed to be installed approximately 20'-0" down slope from the existing residence to prevent additional erosion and distress to the residence. The retaining wall is proposed to be 122' long and up to 8-0" tall.

2. As per Section 23-9 of the Chesapeake Bay Preservation Ordinance, if there is an on-site sewage disposal system on this property, has it been inspected and/or pumped out in the past five years? Yes No

3. Are permits from other local, State or Federal agencies required for any portion of this project? Yes No
 (If yes, please explain) James City County Building Permit

4. Water Quality Impact Assessment

The purpose of a water quality impact assessment is to demonstrate that the project will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and that it will retard runoff, prevent accelerated erosion, promote infiltration, and filter non-point source pollution equivalent to the full undisturbed 100-foot buffer.

A. Why is this encroachment necessary? Can it be relocated to avoid RPA impacts?

The existing slope has failed. No, The entire rear portion of the property is completely within the RPA boundary.

B. What measures will be used to minimize impervious area? Examples: pervious pavers, removal of existing impervious surfaces (concrete, pavement, etc.) in the RPA not needed for the project

The proposed retaining wall will be filled and graded with topsoil to minimize the impact of the impervious cover.

5. Proposed mitigation measures:

Note: All mitigation measures must be shown in detail on a mitigation plan. Show both location of mitigation measures and plant species if applicable. All mitigation plants must be native species and be located in the sensitive area (RPA or Conservation Easement).

Mitigation Rates Table

<u>Impervious Area (SF)</u>	<u>Mitigation Required</u>	<u>Surety</u>
<400	1 tree and 3 shrubs	\$250
400-1,000	1 canopy tree, 2 understory trees and 3 shrubs per 400 SF (or fraction thereof)	\$1,000
>1,000	Plant at same rate as 400 – 1,000; or may be determined by Director of Engineering and Resource Protection Division	To be determined

**Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application**

For Office Use Only *CBB 17-095*
 CB Number *CBS 17-028*

A. Vegetation/ground cover enhancement of buffer (see Mitigation Rates Table on previous page).

- Number of native canopy trees _____
- Number of native understory trees _____
- Number of native shrubs _____
- Square feet of native ground cover _____
- Square feet of mulch _____

B. Best Management Practices (BMPs)

- | | |
|---|---|
| <input type="checkbox"/> EC-2 (degradable) erosion control matting | <input type="checkbox"/> Bioretention or rain garden practice |
| <input type="checkbox"/> Dry Swale | <input type="checkbox"/> Infiltration Area/Trench/Drywell |
| <input checked="" type="checkbox"/> Silt fence | <input type="checkbox"/> Structural BMP (Wet or Dry Pond) |
| <input type="checkbox"/> Turf (Nutrient) Management Plan | <input type="checkbox"/> Rain Barrel |
| <input type="checkbox"/> Gravel under deck (3" of gravel over synthetic filter fabric under entire deck area) | |
| <input type="checkbox"/> Other: _____ | |

I understand that the following are approval conditions:

- 1) Mitigation for the above activity shall follow the approved mitigation plan and be guaranteed with a form of surety acceptable to the County Attorney.
- 2) Limits of disturbance as shown on the approved plan shall not be exceeded.
- 3) This approval shall become null and void if construction has not begun within 12 months of the approval date.
- 4) Surety will be released following the completion and inspection of mitigation plantings.

Property owner signature *Don S. Pate* Date *6/16/17*
 Program Administrator *[Signature]* Date *7/6/17*
 Authorized Signature

<p>For Office Use Only</p> <p><i>Approval of retaining wall and drainage structures to guarantee the structural integrity of the existing home.</i></p> <p><i>Approval expires 7/6/18</i></p>	<p>Surety Amount: _____</p> <p>Date/Rec No.: _____</p> <p>Fee Paid? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Amount: <u><i>25,000</i></u></p> <p>Date/Rec No.: <u><i>6/29/17 # 3158</i></u></p>
---	---



**FLOOD
ZONE**

Building Safety & Permits Copy

The Structures Group, Inc.

Consulting Engineers

June 19, 2017

Danny E. Patterson
5032 River Drive
Lanexa, Virginia 23089

Re: Patterson/5032 River Drive
TSG No. VA17083.FOR

APPROVED FOR GENERAL
CONFORMANCE TO THE

DATE: 8/9/17 2012 USBC BY: SEM

Dear Mr. Patterson:

With your authorization, we performed a cursory forensic review and structural design for the retaining wall structure to resolve the slope failure at the rear of the single family residence located at 5032 River Drive within the Cypress Point section of James City County, Virginia. The purpose of our review was to determine the nature and extent of distress exhibited in the slope.

Our site visit was conducted on Friday, May 26, 2017, in your company as well as Michael Woolson and Ashely Tatge with the James City County Engineering and Resource Protection Division. During our site visit, we reviewed the existing slope failure as well as the foundation of the residence, cataloging areas of distress noted.

The single family residence is a two (2) story timber framed structure, with an attached one (1) car garage located on the front elevation. The exterior of the main residence consists of wood siding. The residence is partially constructed over a slab on grade and partially over a masonry foundation enclosing a vented crawl space. The roof consists of gable framed roofs over the main portion of the residence as well as the garage, with all roof surfaces covered with asphalt shingles. A timber framed deck is located along the rear elevation of the residence. Closer review revealed the exterior finish grade of the property sloped from front to rear.

During our site visit, we noted a global slope failure of the soil approximately 20' behind the rear elevation of the residence resulting in an approximate 5' to 6' vertical drop off. It was noted that the slope failure also led to the collapse of both the dock and the stairwell leading to the dock. Further, it was also noted that the slope failure led to the collapse of the existing timber bulkhead located approximately 10' from the shore of Diascund Creek. Closer inspection of the shoreline revealed that the rip-rap had also been pushed out towards the creek.

Along the foundation of the deck attached to the residence, it was noted that the lattice had been pushed out away from the residence and towards the creek. Further inspection of the foundation of the residence revealed minor cracks in the parged surface of the rear corner of the left and right elevation masonry foundation walls.

SOIL SURVEY AND RESEARCH

Our research included a review of the Soil Survey of James City and York Counties and the City of Williamsburg Virginia, produced in 2014 by the United States Department of Agriculture. This soil survey revealed that the residence was constructed in an area consisting of primarily Emporia complex soil series with 15 to 25 percent slopes. This soil has a moderate shrink-swell potential.

Based on our research, it seems the residence, while constructed circa 1960, lies within the Chesapeake Bay Resource Preservation Area (RPA) of James City County. It should be noted that James City County, Virginia is one of 84 localities in Virginia subject to the requirements of the Bay Act program because of the County's geographic location in the Tidewater region of Virginia. The Bay Act program is mandated by the Commonwealth of Virginia by Title 62.1, Chapter 3.1, Article 2.5 of the Code of Virginia and Chapter 830, Chesapeake Bay Preservation Designation and Management Regulations, 9VAC25-830-10 et. seq. of Virginia Administrative Code. Construction within the RPA of James City County is governed by an ordinance that controls and regulates runoff towards wetlands, streams, and tributaries to the Chesapeake Bay. Most land use activities in the RPA are generally prohibited or restricted unless an exception or waiver is granted by the Chesapeake Bay Preservation Board.

Upon research of past geotechnical work performed on the property, it was noted that a geotechnical report was prepared by ECS dated August 3, 2001. According to the report, bulkheads were constructed between the house and the creek in 1987 and 1994 and failed along with a significant portion of the slope in August of 2000. While repairs to the rip-rap toe support and slope were performed in October 2000, further settlement and movement of the slope was detected in March/April of 2001. Therefore, in order to stabilize the slope, ECS recommended the installation of a retaining wall along the toe of the slope, just beyond the edge of the rip-rap. ECS recommended piles spaced 5' on center with a minimum embedment depth of at least 15' below the mean low water. This retaining wall system was constructed; however, it has recently failed due to a global slope failure and has overturned towards the creek damaging the adjacent boat dock.

The report by ECS also included soil boring logs from two (2) locations on the property and included an analysis of the existing slope in 2001. The 2001 ECS report and boring logs have been attached to this report.

CONCLUSIONS

Our analysis of the existing slope failure and the existing distress to the foundation of the residence revealed that the existing earth on the steep slope of the lot is unstable and has experienced a global failure. It is our opinion that the slope failure, if left unmitigated, will result in future distress and possible failure of the foundation of the residence.

Following our meeting, it was determined that some form of a retaining wall system would be needed to stabilize the slope and protect the foundation and deck of the existing residence. It was determined that due to the severity of the existing global slope failure and its location within the Resource Protection Area, the review of such remedial repair plans will go through the James City County Environmental Department as well as the Building Safety and Permits Division.

A retaining wall site plan has been prepared and two (2) copies of this plan have been submitted to the James City County Engineering and Resource Protection Division with a copy of this letter. It is our

Danny E. Patterson
TSG No. VA17083.FOR
June 19, 2017
Page 3

recommendation that the proposed retaining wall site plan be submitted as part of the application to the Chesapeake Bay Board. Based on our discussions at the site, we feel that this project may go through a brief administrative review process.

Likewise, to facilitate a simultaneous review process, we have submitted the James City County Building Permit Application to the James City County Building Safety and Permits Division along with an additional two (2) copies of the plan. For your reference, we have attached one (1) copy of the drawings and copies of the Chesapeake Bay Board Application and James City County Permit Application which have been submitted.

We appreciate the opportunity to be of service in this matter. If you have any questions, please feel free to contact our office.

Sincerely,
The Structures Group, Inc.



Joseph W. Krallinger, E.I.T.
Staff Engineer



Michael A. Matthews, P.E.
President

MAM/msv

attachments





ENGINEERING CONSULTING SERVICES, LTD.

Geotechnical • Construction Materials • Environmental

August 3, 2001

Mr. Danny Patterson
5032 River Drive
Lanexa, VA 23089

ECS Project No. 6521

Reference: Slope Evaluation
Patterson Residence – 5032 River Drive
Lanexa, Virginia

Dear Mr. Patterson:

Engineering Consulting Services, Ltd. is pleased to present the results of the subsurface exploration and geotechnical engineering analysis for the above referenced project.

Overview:

It is our understanding that the existing residence was built on a relatively level plateau in 1980. The north side of the property slopes down about 20 feet to Diascund Creek, a tributary of the Chickahominy River that is located about 1,500 feet to the south. Bulkheads were constructed between the house and the creek in 1987 and 1994. These bulkheads (retaining walls) failed, along with a significant portion of the slope in August 2000. Repairs to the slope ("rip-rip" toe support and slope reconstruction) was performed in October 2000; however, settlement/movement of the "rip-rip" and slope cracks were detected in March/April 2001.

Scope of Work:

Two (2) soil test borings (extended to depths of 20 and 30 feet) were performed by Scott Drilling on May 11, 2001. The 20 foot boring (B-2) was performed within the front yard of the house and the 30 foot boring (B-1) was performed near the top of the slope at the rear of the house. A slotted PVC-Pipe was installed at each borehole location for groundwater readings. The purpose of the borings was to ascertain the general subsurface conditions (soil type and groundwater), to aid in evaluating the stability of the existing slope. A location diagram and the boring logs are attached with this report.

2119-D North Hamilton Street, Richmond Virginia 23230 • (804) 353-6333 • Fax (804) 353-9478

Offices: Richmond, VA • Washington, D.C. • Norfolk, VA • Williamsburg, VA • Roanoke, VA • Fredericksburg, VA • Danville, VA

Baltimore, MD • Frederick, MD • Research Triangle Park, NC • Wilmington, NC • Charlotte, NC • Greensboro, NC • Greenville, SC • Atlanta, GA

The test borings were performed with an ATV-mounted drill rig, which utilized continuous flight augers to advance the boreholes. Representative soil samples were obtained from the borings by means of the split-barrel sampling procedure in accordance with ASTM Specification D-1586. In this procedure, a 2 inch O.D., split barrel sampler is driven into a soil a distance of 24 inches by a 140-pound hammer falling 30 inches. The first 6 inches is considered the seating interval. The number of blows required to drive the sampler through the next two 6-inch intervals is termed the Standard Penetration Test (SPT) value, and is indicated for each sample on the boring logs. A reference notes sheet for the boring logs is attached with this letter.

ECS engineering personnel visually classified representative soil samples that were collected from the borings and returned to our ECS office. The engineering properties of the soil, along with groundwater data collected on various dates (5/13, 5/14, and 6/1/01), were utilized for slope stability analysis.

Conclusions and Recommendations:

Based on visual inspection of the existing slope, in it's current condition, it is obvious that the "Rip-Rap" toe reinforcement and slope reconstruction that was performed in or about October 2000 wasn't effective in stabilizing the already weakened slope. Although the concept of reinforcing the toe of the previously failed slope with "Rip-Rap" is considered an acceptable stabilization method (alternative), it is my opinion that prudent engineering design wasn't employed. In this respect, if the base of the slope was mucked-out (including the excavation at the toe), and if a heavy duty geosynthetic fabric and/or geogrid had been used to retain the "Rip-Rap", the additional slope movement may have been prevented. Furthermore, the depth of the excavation and "Rip-Rap" placement should have been extended below the potential failure plane for maximum effectiveness. It should be noted, however, that the actual conditions at the time of "Rip-Rap" placement are not fully known at this time. Reportedly, the base area was very wet and soft, which made construction difficult. Typically under these working conditions, the quality of the work is greatly reduced, and some form of additional failure occurs regardless of the design.

ECS has performed a limited evaluation of the existing slope using PCSTABL software. This evaluation is considered limited since a detailed survey of the slope isn't available. The evaluation was performed based on linear measurements and slope angle approximation. Based on this evaluation the existing slope is approximately 2H (horizontal) to 1V (vertical), and has a calculated Safety Factor of 1.33 against failure. Most slopes are designed with a maximum slope of 2H:1V and a minimum Safety Factor of 1.5. A plot of the slope configuration is included with this report.

Since the calculated Safety Factor of the existing slope is less than 1.5, consideration should be given to improving the stability of the slope. Typically, flattening the slope is the most common and inexpensive method for slope stability improvement; however, this alternative is not practical due to space restrictions. Reinforcing the toe is also a common alternative; however, the presence of surface water (in this case a tidal condition) and the presence of existing "Rip-Rap" stone makes standard excavation impractical. Installation of a retaining wall supported by a piling system could possibly be the most practical and cost effective alternative. Generally speaking, the pilings could consist of driven timber or concrete piles, or cast-in-place concrete piles. The piles should be installed in a row along the face of the slope, just beyond the edge of the "Rip-Rap" or at the approximate mid-point of the slope (where the current fault line exists). The tip of the piles should extend at least 15 feet below the MLW elevation. Piles should be installed on approximate 5 foot center-to-center spacing. The top of the piles should be extended above the surface as required for pile cap (bracing) or retaining wall construction.

Closing:

We have enjoyed being of service to you on this project. If you should have any questions regarding the information and recommendations contained herein or if we can be of further assistance, please do not hesitate to contact us.

Respectfully,

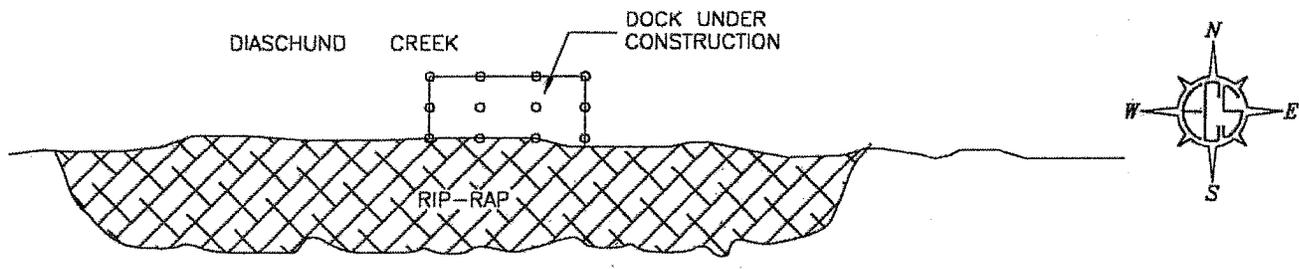
ENGINEERING CONSULTING SERVICES, LTD.



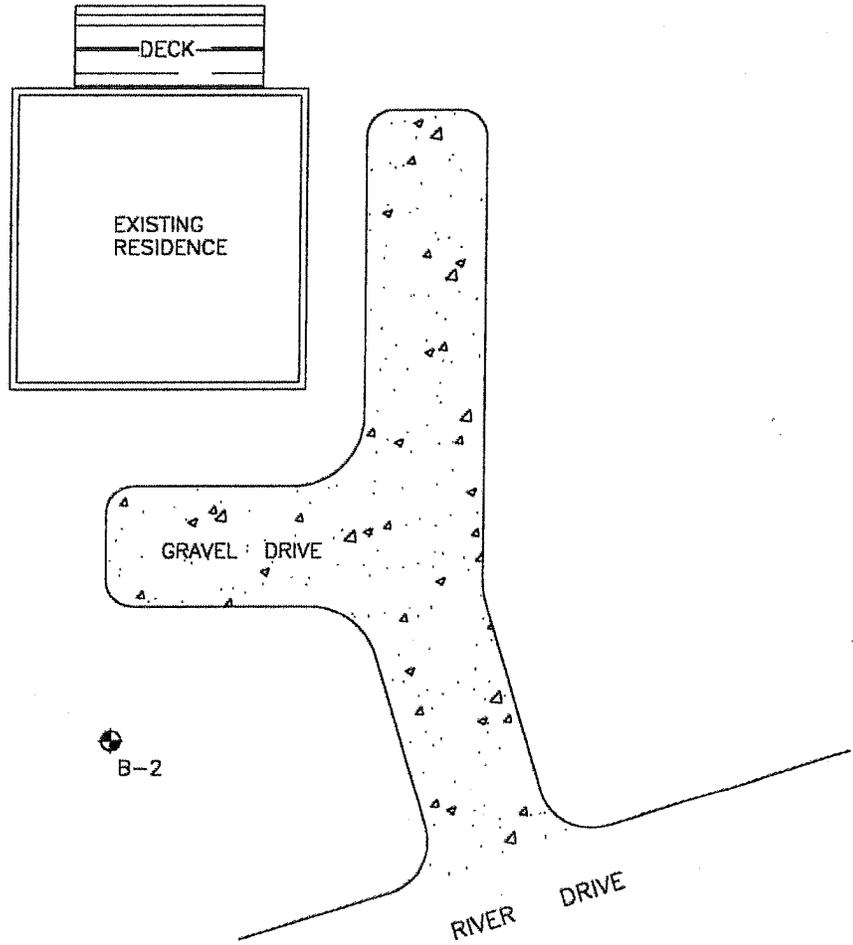
David E. Stinnette, P.E.
Engineering Services Manager



Attachments: Boring Location Diagram
Boring Logs
PCSTABL Plot (with comments/notes)
Reference Notes Sheet For Boring Logs and USCS Sheet



B-1



⊕ - Approximate Boring Location

Not to Scale

PREPARED FOR:

DANNY E. PATTERSON



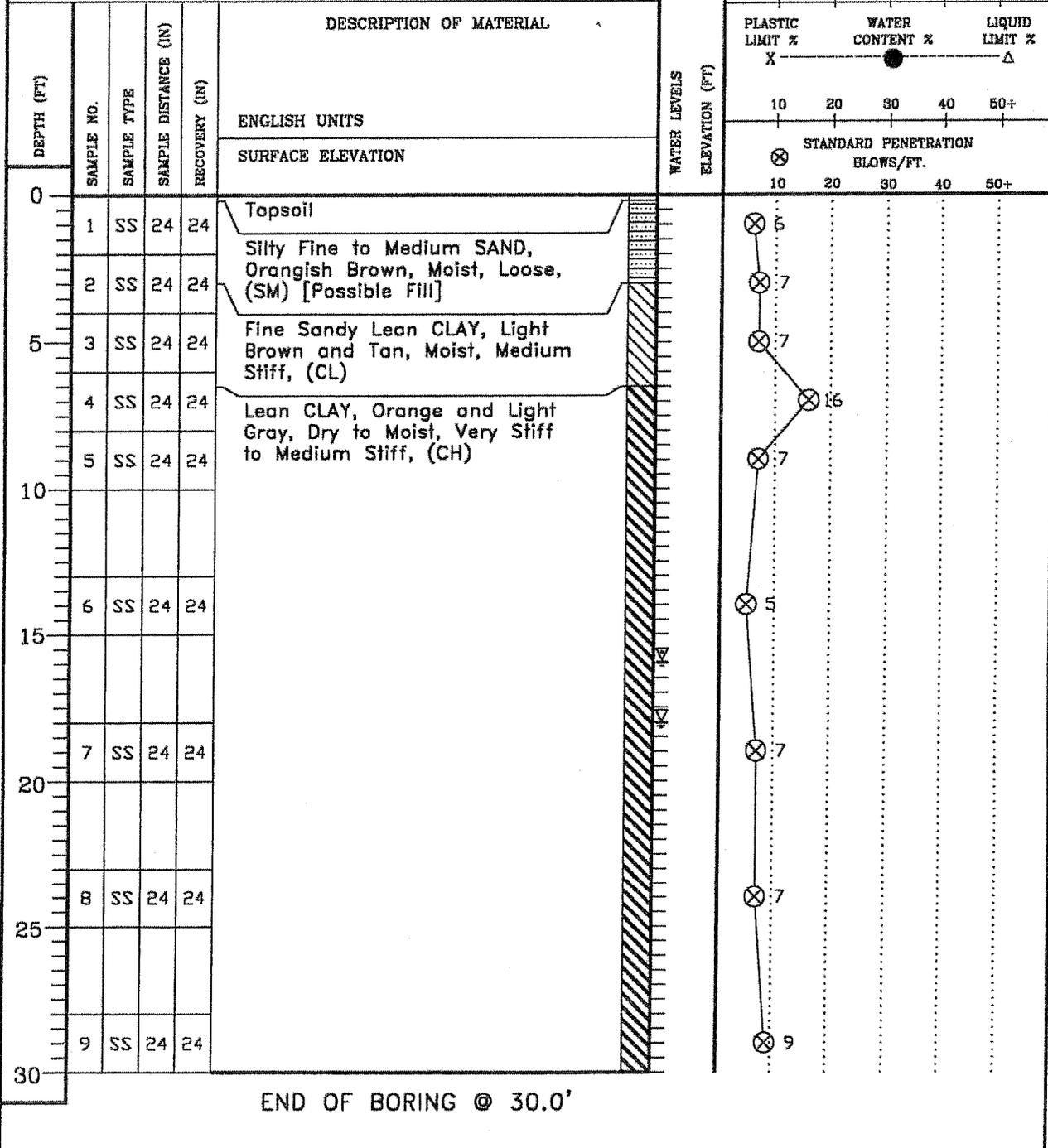
BORING LOCATION DIAGRAM

PATTERSON RESIDENCE
SLOPE FAILURE EVALUATION
JAMES CITY CO., VIRGINIA

ECS, LTD. PROJECT NO. 6521

CLIENT DANNY E. PATTERSON	JOB # 6521	BORING # B-1	SHEET 1 OF 1	ECS LTD
PROJECT NAME PATTERSON RESIDENCE-SLOPE FAILURE EVAL.	ARCHITECT-ENGINEER			

SITE LOCATION
5032 RIVER DRIVE, JAMES CITY COUNTY, VA



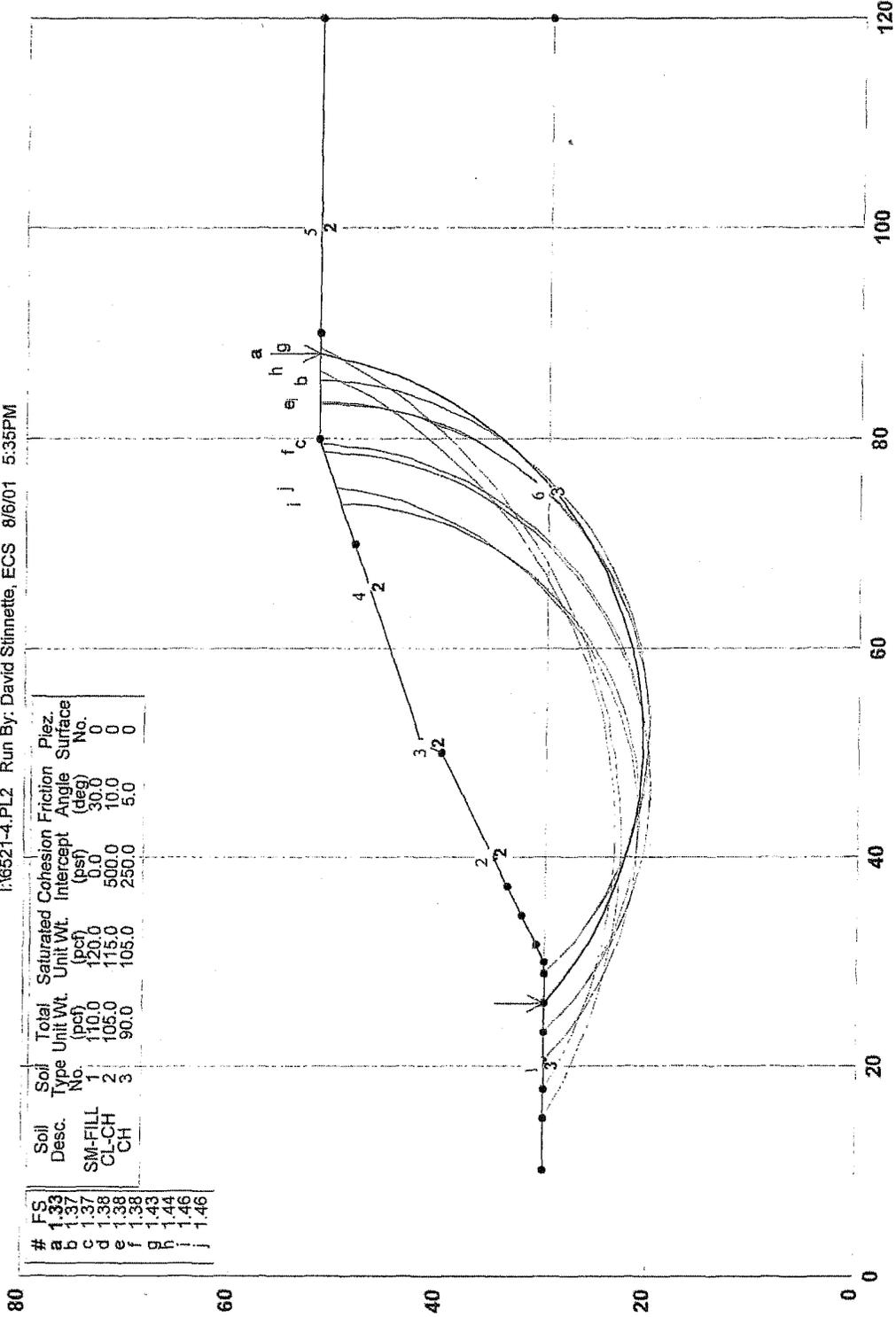
THE STRATIFICATION LINES REPRESENT THE APPROXIMATE BOUNDARY LINES BETWEEN SOIL TYPES IN-SITU THE TRANSITION MAY BE GRADUAL

▽WL 18.0'	WS OR (D)	BORING STARTED	5-11-01	TOPSOIL DEPTH 2"
▽WL(AB)	▽WL(AC)	BORING COMPLETED	5-11-01	CAVE IN DEPTH • N/A
▽WL 15.9' @ 6-1-01		RIC ATV	FOREMAN SCOTT	DRILLING METHOD HOLLOW STEM AGUER

CLIENT DANNY E. PATTERSON				JOB # 6521	BORING # B-2	SHEET 1 OF 1	ECS LTD																																																														
PROJECT NAME PATTERSON RESIDENCE-SLOPE FAILURE EVAL.				ARCHITECT-ENGINEER																																																																	
SITE LOCATION 5032 RIVER DRIVE, JAMES CITY COUNTY, VA							○ CALIBRATED PENETROMETER TONS/FT. ² 1 2 3 4 5+ PLASTIC LIMIT % WATER CONTENT % LIQUID LIMIT % X ————— ● ————— Δ 10 20 30 40 50+																																																														
DEPTH (FT)	SAMPLE NO.	SAMPLE TYPE	SAMPLE DISTANCE (IN)	RECOVERY (IN)	DESCRIPTION OF MATERIAL																																																																
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SURFACE ELEVATION							⊗ STANDARD PENETRATION BLOWS/FT. 10 20 30 40 50+																																																														
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PATTERSON RESIDENCE - SLOPE EVALUATION / ECS PROJECT NO. 6521

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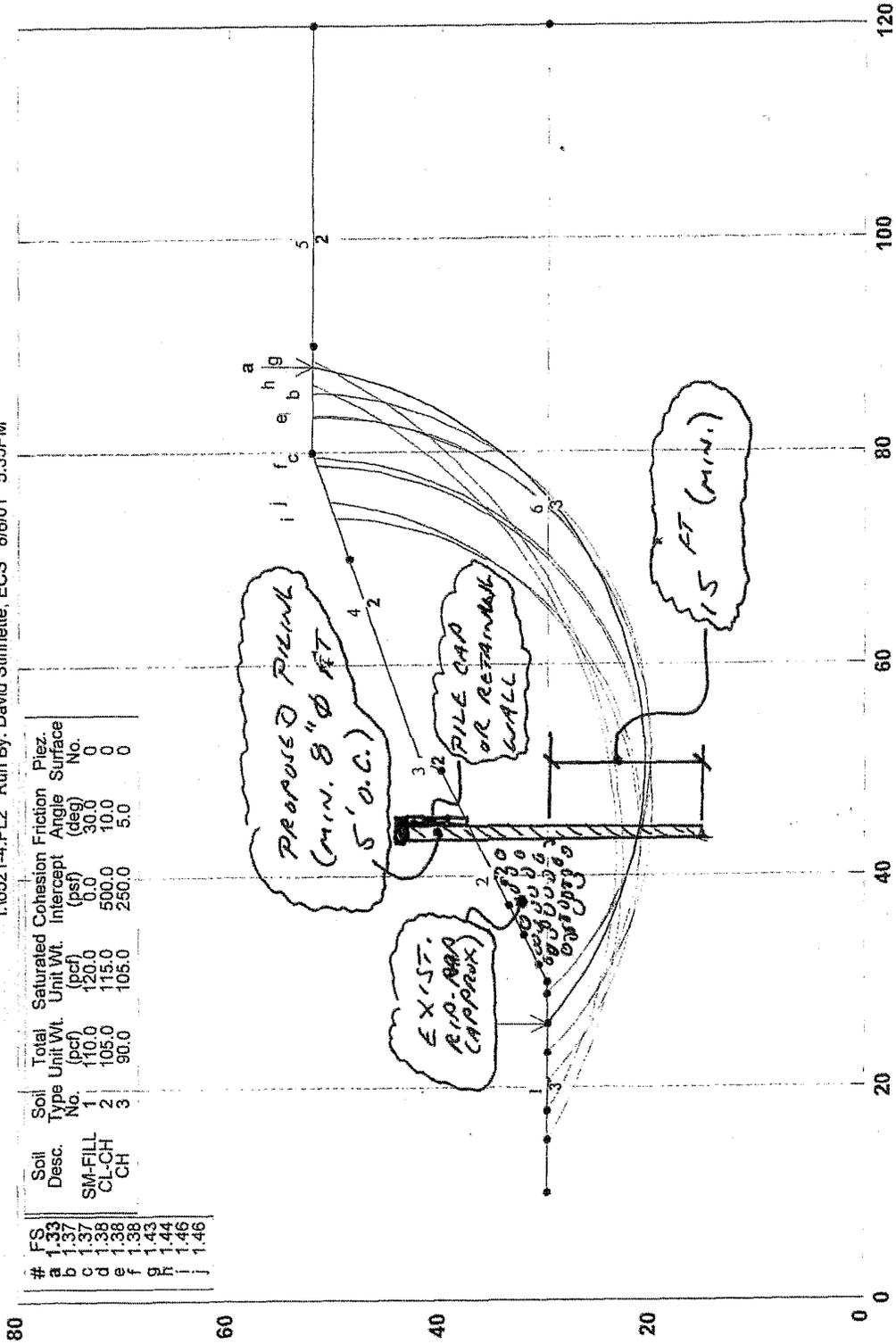
PCSTABL5M/si FSmin=1.33
Safety Factors Are Calculated By The Modified Bishop Method

STED



PATTERSON RESIDENCE - SLOPE EVALUATION /ECS PROJECT NO. 6521

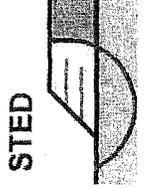
I:\6521-4.PL2 Run By: David Sinnette, ECS 8/6/01 5:35PM



Soil Desc.	Soil Type No.	Total Unit Wt. (pcf)	Saturated Unit Wt. (pcf)	Cohesion Intercept (psf)	Friction Angle (deg)	Piez. Surface No.
SM-FILL	1	110.0	120.0	0.0	30.0	0
CL-CH	2	105.0	115.0	500.0	10.0	0
CH	3	90.0	105.0	250.0	5.0	0

#	FS
a	1.33
b	1.37
c	1.38
d	1.38
e	1.38
f	1.38
g	1.43
h	1.44
i	1.46
j	1.46

PCSTABLE5M/si FSmin=1.33
 Safety Factors Are Calculated By The Modified Bishop Method



REFERENCE NOTES FOR BORING LOGS

I. Drilling and Sampling Symbols:

SS - Split Spoon Sampler	DC - Dutch Cone Penetrometer	PM - Pressuremeter	BS - Bulk Sample of Cuttings
ST - Shelby Tube Sampler	PA - Power Auger (no sample)	WS - Wash Sample	RB - Rock Bit Drilling
RC - Rock Core; NX, BX, AX	HSA - Hollow Stem Auger		

Standard Penetration Test (SPT) refers to the blows per foot of a 140 lb hammer free falling 30 inches on a 2 in. O.D. split-spoon sampler, as specified in ASTM D-1586. The SPT blow count is commonly referred to as the N-value. Typically the split-spoon sampler is driven to depths of 18 to 24 inches. The SPT result, N-value, is commonly determined by summing the second and third 6-inch increments.

II. Correlation of Penetration Resistances to Soil Properties:

COHESIVE SOILS (CLAY, SILT and COMBINATIONS)

CONSISTENCY	SPT, N (Blows/Foot)	UNDRAINED SHEAR STRENGTH C, (PSF)
VERY SOFT	< 2	< 250
SOFT	3 - 5	250 - 500
MEDIUM STIFF	6 - 10	500 - 1000
STIFF	11 - 15	1000 - 2000
VERY STIFF	16 - 30	2000 - 4000
HARD	> 31	> 4000

NON-COHESIVE SOILS (SAND, GRAVEL, SILT and COMBINATIONS)

DENSITY	SPT, N (Blows/Foot)	RELATIVE DENSITY (%)
VERY LOOSE	< 5	0 - 15
LOOSE	6 - 10	16 - 35
MEDIUM DENSE	11 - 30	36 - 65
DENSE	31 - 50	66 - 85
VERY DENSE	51 - 80	86 - 98
EXTREMELY DENSE	> 81	99 - 100

[Particle Size Identification]:

- Boulders: 8 inch diameter or more
- Cobbles: 3 to 8 inch diameter
- Gravel:

Coarse	1 to 3 inch
Medium	1/2 to 1 inch
Fine	1/4 to 1/2 inch
- Sand:

Coarse	2.00 mm to 1/4 inch (diameter of pencil lead)
Medium	.42 mm to 2.00 mm (diameter of broom straw)
Fine	.074 mm to .42 mm (diameter of human hair)

III. Water Level Measurement Symbols:

WL - Water Level	WS - While Sampling	WD - While Drilling	ACR - After Casing Removal
WCI - Wet Cave In	DCI - Dry Cave In	BCR - Before Casing Removal	

The water levels are those water levels actually measured in the borehole at the times indicated by the symbol. The measurements are relatively reliable when augering, without adding drilling fluids in a granular soil. In clays and plastic silts, the accurate determination of water levels may require several days for the water level to stabilize. In such cases additional methods of measurement are generally applied.

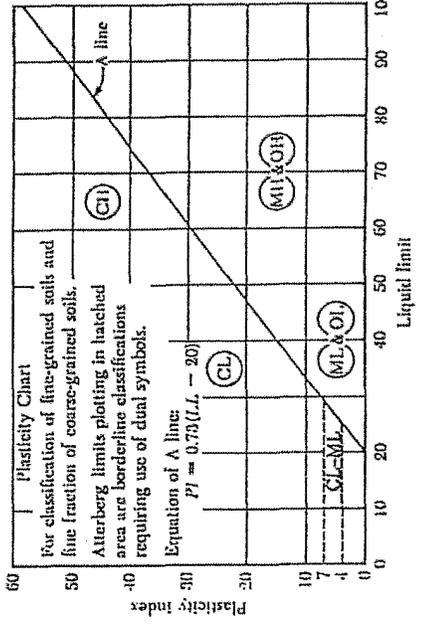
UNIFIED SOIL CLASSIFICATION SYSTEM (USCS)

Table Unified System of Classification

Major divisions	Group symbols	Typical names
Gravels 50% or more of coarse fraction retained on No. 4 sieve	Clean Gravels	Well-graded gravels and gravel-sand mixtures, little or no fines
	Gravels with Fines	Poorly graded gravels and gravel-sand mixtures, little or no fines
Sands More than 50% of coarse fraction passes No. 4 sieve	Clean Sands	Silty gravels, gravel-sand-silt mixtures
	Sands with Fines	Clayey gravels, gravel-sand-clay mixtures
Fine-Grained Soils 50% or more passes No. 200 sieve	Sands and Clays Liquid limit greater than 50%	Well-graded sands and gravelly sands, little or no fines
		Poorly graded sands and gravelly sands, little or no fines
	Sils and Clays Liquid limit 50% or less	Silty sands, sand-silt mixtures
		Clayey sands, sand-clay mixtures
Highly Organic Soils	ML	Inorganic silts, very fine sands, rock flour, silty or clayey fine sands
	CL	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays
	OL	Organic silts and organic silty clays of low plasticity
	MH	Inorganic silts, micaceous or diatomaceous fine sands or silts, elastic silts
	CH	Inorganic clays of high plasticity, fat clays
	OH	Organic clays of medium to high plasticity
PT	Peat, muck, and other highly organic soils	

Table (Continued)

Classification criteria	Classification criteria
$C_u = D_{60}/D_{10}$ Greater than 4 $C_c = \frac{(D_{30})^2}{D_{10} \times D_{60}}$ Between 1 and 3 Not meeting both criteria for GW	Greater than 4 Between 1 and 3 Atterberg limits plotting in hatched area are borderline classifications requiring use of dual symbols
Atterberg limits plot below "A" line or plasticity index less than 4 Atterberg limits plot above "A" line and plasticity index greater than 7	Atterberg limits plotting in hatched area are borderline classifications requiring use of dual symbols
$C_u = D_{60}/D_{10}$ Greater than 6 $C_c = \frac{(D_{30})^2}{D_{10} \times D_{60}}$ Between 1 and 3 Not meeting both criteria for SW	Greater than 6 Between 1 and 3 Atterberg limits plotting in hatched area are borderline classifications requiring use of dual symbols
More than 12% pass No. 200 sieve 5% to 12% pass No. 200 sieve Less than 5% pass No. 200 sieve Classification on basis of percentage of fines Borderline classification requiring use of dual symbols GW, GP, SW, SP, GM, GC, SM, SC	Plasticity Chart For classification of fine-grained soils and fine fraction of coarse-grained soils. Atterberg limits plotting in hatched area are borderline classifications requiring use of dual symbols. Equation of A line: $PI = 0.73(LL - 20)$



Visual-manual identification, see ASTM Designation D2488.



Patterson

Application for Building Permit

Contractor Information

License No.: 2705156333
 Company Name: RA Coloman Inc
 Address: 4626 Hickory Glen Road
 City: Williamsburg State: VA Zip: 23185
 Phone No.: (757) 903-4855 Fax No. ()
 Email Address: RANDY @ RA COLOMAN INC. COM
 Signature: [Signature]
 Print Name: Randy A Coloman Jr President

Owner Information

Name: Danny Patterson
 Address: 5032 River Drive
 City: Lanexa State: VA Zip: 23089
 Phone No.: (757) 897-2871 Fax No. ()
 Email Address: depatterson@verizon.net
 Signature: [Signature]
 Print name: Danny Patterson
 Agent: The Structures Group, Inc.
 Print Name: Michael A. Matthews, P.E.

Description of Work: Construction of new timber retaining to be installed to prevent additional slope failure
 The retaining wall is approximately 122'-0" long and up to 8'-0" tall

Location of Work

Tax Map No.: 0930300007
 Street Address: 5032 River Drive
 City: Lanexa State: VA Zip: 23089
 Zone: A1 Subdivision: _____

(For Commercial Projects Only)

Site Plan No. _____ Date Approved: _____
 Mechanic's Lien Agent
 Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone No.: () Fax No. ()

Building Information

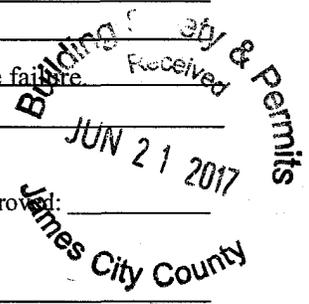
Stories _____ No. Rooms _____ No. Baths _____ No. Bath Fix _____
 No. Fireplaces _____ Type: _____
 Exterior Finish: vinyl brick wood other _____
 Interior Finish: Gypsum wallboard wood other _____
 Flooring: carpet wood vinyl other _____
 Roofing: asphalt fiberglass wood other _____
 Heat Type: gas heat pump electric other _____
 Air Conditioning Type: central window none _____
 Estimated Construction Value: \$50,000⁰⁰
 (Do not include Lot \$)

Floor Area (sq.ft.): _____
 (Do not include Basement, Garage, and Deck/Porch)
 Deck (sq.ft.): _____
 Porch (sq.ft.): _____
 Basement Area (sq.ft.): _____
 Garage Area (sq.ft.): _____
 Total Area (sq.ft.): _____
 Public Sewer Septic Well Grinder Pump
 Public H₂O

OFFICE USE ONLY

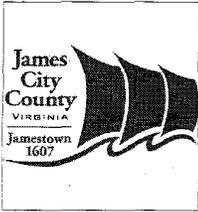
Special Flood Hazard Area: Yes No Zone AE

Lot Width: _____	Improvement Code: <u>RW</u>	Notes: <u>2012 USBC</u>
Lot Depth: _____	Structure Used As: <u>Retaining Wall</u>	<u>Taxes are current</u>
Front Property Line: _____	Occupancy Class: <u>R5</u>	FLOOD ZONE
Right Property Line: _____	Occupancy Load: _____	
Left Property Line: _____	Type Construction: <u>VB</u>	
Rear Property Line: _____	Zoning Approved: <u>sem</u>	
PERMIT NO.: <u>B17-2037</u>	Plan Approved: _____	
LINE NO.: <u>A17-1119</u>	PLAN REVIEW FEE: <u>15.00</u>	
Date/Time In: <u>8/22/17</u>	PERMIT FEE: <u>500.00</u>	
Date Plan Reviewed: <u>8/9/17</u>	ERPFEE: <u>10.00</u>	
	SMR FEE: <u>\$525⁰⁰</u>	
	TOTAL: _____	



Notes: CALL RANDY AT 757-342-3316 FOR PLANS AND MEET

Building Safety and Permits Inspection Request/Report



Permit No: **B17-2037** 08-Dec-2017
Address: **5032 RIVER DRIVE** Ticket: 439903
Tax Map #: **0930300007** SubDivision: **CYPRESS POINT** Soil: MODERAT
Time Preference (Not Guaranteed) [] Owner: **DANNY E PATTERSON**

Permit Type	Improvement	Type of Inspection	Contractor
Building	RW	Final	R A COLEMAN LAN (757) 903-4855

Last Inspection (if not approved)
9/20/2017 Building LK 0 Sched: PILINGS RANDY COLEMAN 757-342-3316 Final
RESULT: *99* *12/8/17*

Approved Rejected Code *Kirkpatrick* Inspector Verified

ITEM SUMMARY

DATE: 9/14/2021

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Deputy Clerk

SUBJECT: Adjourn until 1 pm on September 28, 2021 for the Business Meeting

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	9/2/2021 - 1:12 PM