

AGENDA
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
November 13, 2024
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - Charlie West, a 3rd grade student at JBB Elementary School and a resident of the Jamestown District

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Authorization for Leave Payout

G. PUBLIC HEARING(S)

1. Lease of Real Property - 2054 Jamestown Road Lease Agreement with Hampton Marine Services Corporation
2. SUP-24-0022. 4871 Longhill Road, Williamsburg Montessori School
3. SUP-24-0010. 724 Arlington Island Road Tourist Home
4. AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal
5. SUP-24-0021. Niceland Farm Event Venue and Tourist Home

H. BOARD CONSIDERATION(S)

1. 2025 Legislative Agenda

I. BOARD REQUESTS AND DIRECTIVES

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. CLOSED SESSION

1. Discussion of the award of a public contract involving the expenditure of public funds, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711(A)(29) of the Code of Virginia and

pertaining to the contract for the joint operation of schools between the County and the City of Williamsburg.

2. Certification of Closed Session

L. ADJOURNMENT

1. Adjourn until 2 pm on December 10, 2024 for the Business Meeting

MEMORANDUM

DATE: November 13, 2024

TO: The Board of Supervisors

FROM: Amy S. Jarvis, Interim Director of Human Resources

SUBJECT: Authorization for Leave Payout

James City County offered a leave payout option to staff for the past two years. Based on the feedback and final cost, the County is recommending this option be provided to staff again this year.

I am requesting authorization to offer staff a leave payout option for vacation or paid time off leave, as we did in December 2023. The maximum payouts would be based on tiers of years of service: up to 10 years of service the maximum is \$3,000; 10 to 20 years of service the maximum is \$4,000; and 20 or more years of service the maximum is \$5,000. The leave payout includes the County Administrator and the County Attorney. The effective date would be December 27, 2024.

The estimated cost of the leave payout is \$1,000,000. The actual leave payout could be less based on the number of employees who elect it. In Fiscal Years 2022 and 2023, the actual leave payout amounts were \$293,000 and \$311,600, respectively. The attached resolution authorizes the use of the General Fund's Unassigned Fund Balance for these purposes and authorizes the appropriation in the applicable departments and funds.

Staff recommends adoption of the attached resolution.

ASJ/md
AuthLeavePyoutJCC-mem

Attachment

RESOLUTION

AUTHORIZATION FOR LEAVE PAYOUT

WHEREAS, James City County desires to recognize staff for their work over the past year and provide an opportunity for staff to avoid losing earned paid leave; and

WHEREAS, staff recommends a one-time leave payout of vacation or paid time off with multi-tier levels based on years of service, maximum payout capped at \$5,000; and

WHEREAS, the estimated cost for the leave payout is \$1,000,000, but the final cost could be less based on the number of employees who elect it.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve a one-time leave payout capped at \$5,000 effective December 27, 2024, and authorizes the use of the General Fund's Unassigned Fund Balance for this purpose to be appropriated in the applicable departments and funds for a total of up to \$1,000,000.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

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 13th day of November, 2024.

AuthLeavePyoutJCC-res

MEMORANDUM

DATE: November 13, 2024

TO: The Board of Supervisors

FROM: Alister Perkinson, Parks Administrator

SUBJECT: Lease of Real Property - 2054 Jamestown Road Lease Agreement with Hampton Marine Services Corporation

James City County (the “County”) currently owns a certain parcel of land located in the County of James City at 2054 Jamestown Road and further identified as James City County Real Estate Tax Map Parcel No. 4640100012, and commonly known as the James City County Marina or the Jamestown Yacht Basin (the “Property”).

The County currently leases a part of the Property to Hampton Marine Services Corporation (the “Tenant”) for the operation of a boat repair business for the convenience of Marina patrons. The current lease is on a month-to-month basis. Attached is a proposed lease agreement that will initiate a three-year lease for the part of the property currently used by the Tenant under the month-to-month lease. Important aspects of the lease agreement are outlined below.

Rent: If adopted, the Tenant will pay the County five hundred thirteen dollars and seventy-five cents (\$513.75) per month. Each year, the rent payment will increase by three percent (3%). Over the course of the lease the County will collect \$18,965 in rent payments.

Termination: The County may terminate the lease effective immediately upon an affirmative vote by the County’s Board of Supervisors to terminate the lease. This termination will require the Tenant to vacate within ten (10) days. The County or the Tenant may terminate the lease for any reason upon providing thirty (30) days’ written notice to the other party. This termination will require the Tenant to vacate within 30 days.

AP/md
Lease2054JtwnHMSC-mem

Attachment

RESOLUTION

LEASE OF REAL PROPERTY - 2054 JAMESTOWN ROAD

LEASE AGREEMENT WITH HAMPTON MARINE SERVICES CORPORATION

WHEREAS, James City County currently owns a certain parcel of land located in the County of James City at 2054 Jamestown Road and further identified as James City County Real Estate Tax Map Parcel No. 4640100012, and commonly known as the James City County Marina (the “Property”); and

WHEREAS, Hampton Marine Services Corporation owns and operates a business to repair boats and similar machinery; and

WHEREAS, Hampton Marine Services Corporation wishes to continue to lease a portion of the Property for the operation of its business; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the County should lease a portion of the Property to Hampton Marine Services Corporation for the convenience of James City County Marina patrons.

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 lease of the Property to Hampton Marine Services Corporation.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

		VOTES			
		<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ Teresa J. Saeed Deputy Clerk to the Board	NULL	_____	_____	_____	_____
	HIPPLE	_____	_____	_____	_____
	MCGLENNON	_____	_____	_____	_____
	ICENHOUR	_____	_____	_____	_____
	LARSON	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of November, 2024.

Lease2054JtwnHMSC-res

LEASE AGREEMENT

THIS LEASE AGREEMENT, entered into this _____ day of _____, 2024, by and between the County of James City, Virginia, a political subdivision of the Commonwealth of Virginia (the “County”), and Hampton Marine Services Corporation (the “Tenant”).

WITNESSETH:

WHEREAS, the County owns the property located at 2054 Jamestown Road, James City County, Virginia (the “Property” or the “Marina”); and

WHEREAS, the Tenant owns and operates a business to repair boats and similar machinery; and

WHEREAS, the Tenant wishes to lease a portion of the Property for the operation of its business; and

WHEREAS, the County agrees to lease a portion of the Property to the Tenant to allow for operation of a boat repair business at the Property for the convenience of Marina patrons.

NOW, THEREFORE, in consideration of the rent to be paid by the Tenant to the County, the mutual covenants set forth herein, and other good and valuable consideration, the parties agree as follows:

- 1) Subject to Paragraphs 2 and 3, the Tenant shall have exclusive use of the area marked in red and designated as “Exclusive Lease Area” on Exhibit A, which is attached and incorporated into this agreement; and non-exclusive use of the area marked in green and designated as “Shared Lease Area” on Exhibit A (together, the “Leased Area”).
- 2) The County may enter upon and make improvements to the Leased Area upon prior notice to the Tenant.
- 3) The County may permanently alter and/or relocate the Leased Area insofar as the Tenant is still reasonably able to operate its business.
- 4) Tenant shall also have use of one covered boat slip at the Marina.
- 5) The Tenant shall pay rent as delineated in paragraph 3 for use of the Leased Area and the boat slip. Rent shall be due and owing on the first day of each month. Rent shall be paid to James City County Parks and Recreation, 5320 Palmer Lane, Suite 2A Williamsburg, VA 23188. There shall be a fifty dollar (\$50.00) late fee if Rent is not received by the tenth day of any month, which fee shall be collectable as additional rent.

6) Term

- a. The term of the Lease shall be three (3) years beginning on January 1, 2025. Rent for the Leased Area shall be increased in years 2 and 3 by three percent (3%) according to the schedule below. Annual boat slip rent shall be \$1,000.

Year	Annual Leased Area Rent	Annual Boat Slip Rent	Annual Rent Total	Monthly Rent
1 (2025)	\$5,165.00	\$1,000.00	\$6,165.00	\$513.75
2 (2026)	\$5,320.00	\$1,000.00	\$6,320.00	\$526.66
3 (2027)	\$5,480.00	\$1,000.00	\$6,480.00	\$540.00

7) Maintenance and Utilities

- a. The Tenant shall pay for all maintenance, housekeeping, and custodial services for the Leased Area.
- b. The Landlord shall pay for all utilities for the Leased Area.

8) Use of Leased Area and Boat Slip

- a. The Tenant is authorized to use the Leased Area to make repairs to boats and other marine craft. As part of this agreement, the Tenant is authorized to use the County's boat lift located at the Marina.
- b. The Tenant is authorized to use the "Exclusive Lease Area" as shown on Exhibit A to operate its business, store boats, and park vehicles. The Tenant is authorized to grant access to the "Exclusive Lease Area" to its guests and customers.
- c. The Tenant is authorized to use the "Shared Lease Area" as shown on Exhibit A to access the "Exclusive Lease Area." No business operations, including but not limited to repairs, advertising, parking, and storage, are allowed to take place in the Shared Lease Area.
- d. The Tenant is authorized to use one covered boat slip, the location of which is agreed upon by the Tenant and the County or County's agent, to store a boat in service of its boat repair business. The County recognizes that such boat may also be used for personal use.
- e. The Tenant shall not cause or permit any Hazardous Substance to be used, stored, generated or disposed of on or in the Marina by the Tenant, the Tenant's agents, employees, contractors or invitees without the prior express written consent of the County. "Hazardous Substance" means any substance that is toxic, ignitable,

reactive or corrosive and that is or becomes regulated by any local government, the Commonwealth of Virginia or the United States Government. "Hazardous Substance" also includes any and all materials or substances that are defined as "hazardous waste," "extremely hazardous waste," or a "hazardous substance" pursuant to state, federal, or local law or becomes regulated by any federal, state or local authority. "Hazardous Substance" includes, but is not restricted to, asbestos, polychlorinated biphenyl's (PCBs), solvents, printing inks, pesticides, solvents, and leads. "Hazardous Substance" excludes petroleum when said petroleum is stored and dispensed in accordance with all federal, state, and local laws and regulations.

9) Default

- a. Default shall occur if the Tenant fails to pay Rent within ten (10) calendar days of the due date, or the Tenant violates any of the provisions of this Lease.
- b. Upon default, the County shall provide the Tenant a notice of default. The Tenant shall have an opportunity to cure the default within five (5) calendar days of the County sending notice.
- c. Upon default, interest shall accrue at a rate of six percent (6%) on any outstanding balance.
- d. If any default remains uncured five (5) days after the County sends notice to the Tenant, the County may, at its sole option, immediately terminate this Lease. Upon such termination the Tenant shall vacate the Leased Area before the end of the then-current month.

10) Termination of Lease

- a. The County or the Tenant may terminate the Lease for any reason upon providing thirty (30) days' written notice to the other party. The Tenant will have up to and including the 30th day to vacate the Leased Area.
- b. At vacation, the Tenant will remove all its property and leave the Leased Area in a suitable condition as determined by the County.

11) Liability and Insurance

- a. Tenant shall bear all loss, expense and damage arising out of, incidental to, or in connection with Tenant's use of the Property.
- b. Tenant shall purchase and maintain in full force and effect, at its own expense, commercial general liability insurance coverage to protect it and the County from claims which may arise out of or result from Tenant's use of the Property and

provision of services. Tenant shall provide a certificate of insurance naming the County as an additional insured.

12) Notice

a. If to County, then to:

County Administrator
James City County Government Center
101-D Mounts Bay Road
Williamsburg, Virginia 23185

With copy to:

County Attorney's Office
James City County Government Center
101-D Mounts Bay Road
Williamsburg, Virginia 23185

b. If to Tenant, then to:

Hampton Marine Services Corporation
4789 Captain John Smith Rd.
Williamsburg, VA 23185
Attention: Jeff Berube

13) All disputes shall be negotiated between the County and the Tenant; should those parties be unable to agree, the County Administrator or his designee shall resolve the issues in dispute.

14) This Lease may only be amended upon written consent of both parties.

15) Nothing herein shall be deemed or construed to create a partnership or joint venture between the parties.

16) This Lease constitutes the entire understanding between the County and the Tenant.

Signatures begin on the next page.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed.

HAMPTON MARINE
SERVICES CORPORATION

COUNTY OF JAMES CITY, VIRGINIA

BY: _____

Jeff Berube

BY: _____

Scott Stevens
County Administrator

DATE: _____

DATE: _____

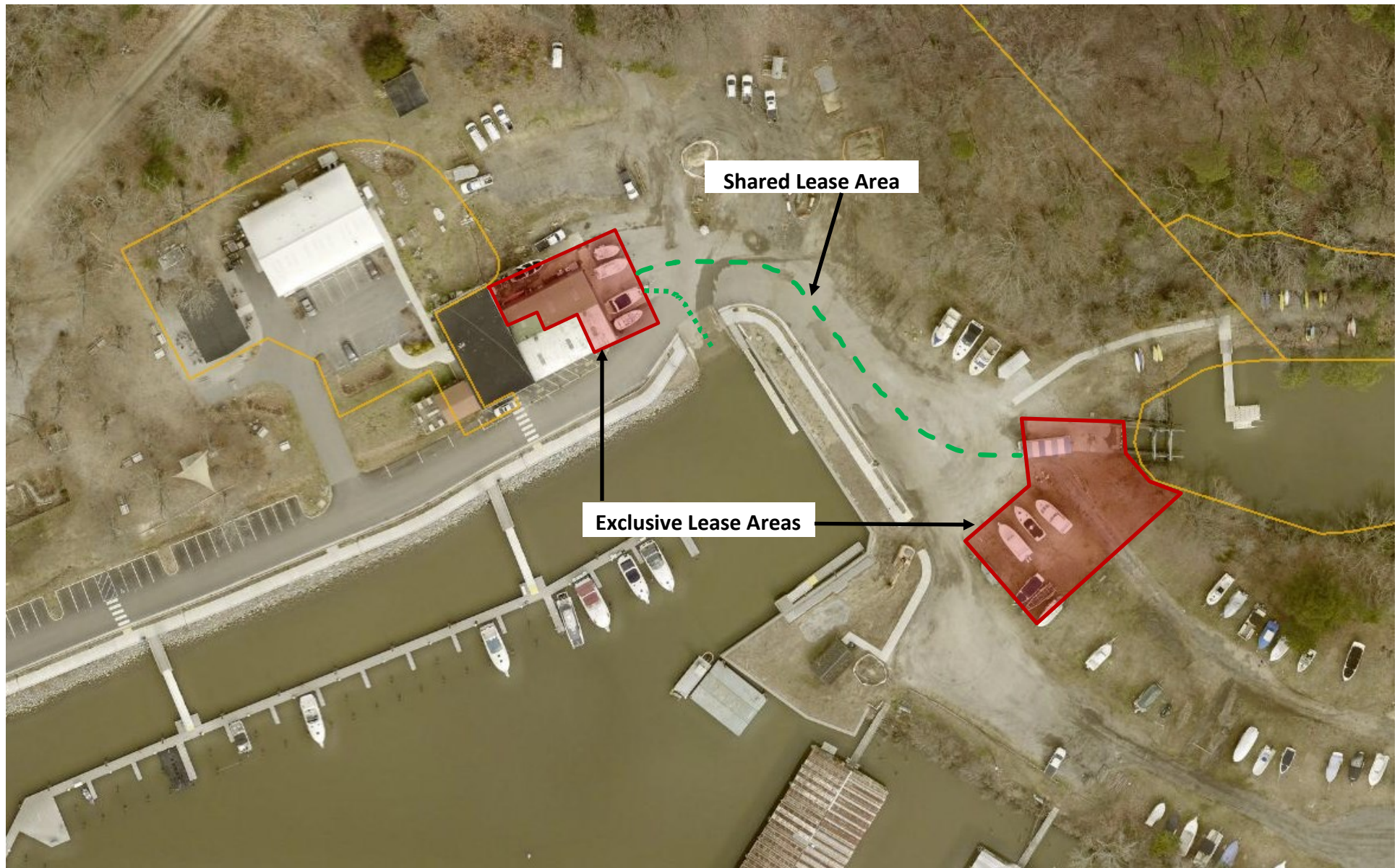
Approved as to form:

County Attorney

James City County

2054 Jamestown Road; the "Marina"

PIN: 4640100012



SPECIAL USE PERMIT-24-0022. 4871 Longhill Road, Williamsburg Montessori School
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing

SUMMARY FACTS

Applicant: Ms. Sandy Andrews of Williamsburg Montessori School

Landowner: Wellspring United Methodist Church

Proposal: To allow for a school within an existing place of public assembly (house of worship) for a maximum of 25 children.

Location: 4871 Longhill Road

Tax Map/Parcel No.: 3240100031

Property Acreage: ± 5.94 acres

Zoning: R-2, General Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

Staff Contact: Terry Costello, Senior Planner

PUBLIC HEARING DATES

Planning Commission: October 2, 2024, 6:00 p.m.

Board of Supervisors: November 13, 2024, 5:00 p.m.

FACTORS FAVORABLE

1. There is adequate off-street parking provided.
2. Staff finds the proposal to be compatible with the surrounding zoning and development.
3. Impacts: See Impact Analysis on Pages 4-5.
4. See Comprehensive Plan Analysis on Page 6.

FACTORS UNFAVORABLE

1. Impacts: See Impact Analysis on Pages 4-5.
2. See Comprehensive Plan Analysis on Page 6.

SUMMARY STAFF RECOMMENDATION

Approval, subject to the proposed conditions.

PLANNING COMMISSION RECOMMENDATION

At its October 2, 2024, meeting, the Planning Commission recommended approval of this Special Use Permit (SUP) application by a vote of 5-0 with a modification to Condition No. 6. The Planning Commission recommended changing the time limitation from one year to two years should the use be discontinued.

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

Condition No. 6 of the SUP resolution was updated changing the time limitation from one year to two years should the use be discontinued.

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-24-0022. 4871 Longhill Road, Williamsburg Montessori School
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing

PROJECT DESCRIPTION

Ms. Sandy Andrews of Williamsburg Montessori School has applied for an SUP to allow for a school within an existing place of public assembly (house of worship). An SUP is required for schools in the R-2 Zoning District.

The school will have a maximum of 25 children, grades 7 and 8. The current middle school population at the school's current address is 10 students. However, the request is to allow up to 25 students. Along with the students, there will be two full-time teachers and two part-time teachers. One part-time teacher will work mornings, four days per week, and the second will work one day per week. There will also be occasional visits by a school administrator.

The school year begins the last week of August and ends mid-June. The school instructional hours are from 8:15 a.m.-3:30 p.m., with drop-off times from 7:45-8:15 a.m., and pick-up times from 3:30-3:45 p.m. There will be no extracurricular activities or after school care at the site. All physical education activities will take place off-site. There may be the occasional classroom or lunchtime activity outside. These areas are noted on the Master Plan. During the summer months, it is anticipated that the facility will be vacant except for the occasional staff member in preparation for the new school year.

During the summer months, the school may operate a summer program for elementary school-aged children. These programs are typically recreational/education themed programs, occur for 6-8 weeks, with the hours of 8 a.m.-5 p.m. Last year this program was held June 17 through August 2. There will be a 20-student maximum capacity.

The current size of the church is approximately 7,647 square feet. The site currently has a mixture of paved and gravel parking spaces for a total of 105 parking spaces. The entrance to the site is paved and leads to the side driveway towards the back of the building that will be utilized as a drop-off and pick-up point. Most parents will utilize this feature. Some of the students (approximately three to five students) will be bussed from the school's main campus on Longhill Road. (The bus is a 20-passenger vehicle.)

There are church staff and small groups that meet during the day when the school is in session. The numbers are less than 10 individuals at any one time. Meetings with a higher number of attendees (larger than 10) occur either in the evening after 6 p.m. or on the weekends.

Due to the nature of the activities on-site and the time they occur, staff believes there is adequate parking for the staff and parents.

PLANNING AND ZONING HISTORY

- The original site plan for the Wellspring United Methodist Church of approximately 3,969 square feet was approved by the Planning Division in May 1981 before an SUP was required. The James City County Zoning Ordinance was amended in May 1999 to require an SUP for houses of worship (places of public assembly) on R-2 zoned property.
- An SUP (SUP-0019-2000) was approved in October 2000 for a kitchen and classroom expansion of approximately 3,745 square feet.
- An SUP (SUP-0018-2002) was approved in October 2002 for an adult daycare. The daycare is currently not operating.

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-24-0022. 4871 Longhill Road, Williamsburg Montessori School
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing

SURROUNDING ZONING AND DEVELOPMENT

- The following table lists the information on the adjacent parcels:

	ZONING DESIGNATION	EXISTING LAND USE	FUTURE LAND USE DESIGNATION
NORTH	LB, Limited Business and R-2, General Residential	Olde Towne Shopping Center and Windsor Forest Subdivision	Neighborhood Commercial and Low Density Residential
SOUTH	R-2, General Residential	Place of Public Assembly - King of Glory Church	Low Density Residential
EAST	R-2, General Residential	Williamsburg Plantation	Low Density Residential
WEST	R-2, General Residential and R-4, Residential Planned Community	Windsor Forest Subdivision and Ford's Colony Subdivision	Low Density Residential

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-24-0022. 4871 Longhill Road, Williamsburg Montessori School
Staff Report for the November 13, 2024, 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>Mitigated</u>	- The proposed use is not anticipated to exceed 100 peak hour trips. According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, approximately 19 morning peak hour trips will be generated and approximately nine afternoon peak hour trips will be generated. These numbers do not reflect any bussing of the students. The majority of the morning traffic from the school use will not coincide with most users currently on the property. The afternoon traffic generated will be minimal. - The subject property is located on a minor arterial road. Staff believes that the road is adequate for this use. - No changes are anticipated to the Level of Service (LOS) on Longhill Road. According to the Comprehensive Plan, the LOS is at Level A-C, and projects it to remain the same in 2045.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	- 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. - This property is within walking distance of a Williamsburg Area Transit Authority transit stop.
<u>Public Safety</u>	<u>No Mitigation Required</u>	- Fire Station 4 on Olde Towne Road serves this area of the County and is less than one mile from the property. - 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>	- N/A since no residential dwelling units are proposed.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	- N/A since no residential dwelling units are proposed.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	- Staff finds this project does not generate impacts that require mitigation.

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-24-0022. 4871 Longhill Road, Williamsburg Montessori School
Staff Report for the November 13, 2024, 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 Mitigation Required</u>	- The property is served by public water and private sewer. - The proposal does not generate impacts that require mitigation to groundwater or drinking water resources.
<u>Watersheds, Streams, and Reservoirs</u> Project is located in the Powhatan 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 will be subject to site plan approval and 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>No Mitigation Required</u>	- The subject property is located near residential and other uses. - The proposal includes no new associated development. Future expansions of the use will require an SUP amendment.
<u>Community Character</u>	<u>No Mitigation Required</u>	- Longhill Road is designated as 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>	- There are no covenants associated with the property.

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-24-0022. 4871 Longhill Road, Williamsburg Montessori School
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing

COMPREHENSIVE PLAN

The site is designated Low Density Residential on the Comprehensive Plan Land Use Map. Properties to the north, south, east, and west are designated Low Density Residential. Neighborhood Commercial is located north of the site on the corner of Longhill Road and Olde Towne Road. For Low Density Residential, appropriate primary uses recommended by the Comprehensive Plan 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 the proposal consistent with the residential character of the area, as no exterior changes to the building or property are proposed.

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

Traffic is anticipated to be typical of a community facility, and the traffic generated in the morning for the school should not coincide with most users that are currently on the property. The traffic in the afternoon would be minimal. Approximately 19 morning peak hour trips are anticipated, with approximately nine afternoon peak hour trips (ITE Trip Generation Manual). Outdoor activities will be minimal because physical education will occur off-site. The subject property must adhere to the County's Noise Ordinance, and there is no new lighting proposed. Signage will be used for directional purposes only.

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

This property is located on, and is accessed from, Longhill Road. The Virginia Department of Transportation classifies Longhill Road as a minor arterial road.

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

Staff finds that existing vegetation provides adequate screening of the property from adjacent properties. There are 50-foot vegetated buffers on both sides of the property and a large buffer at the rear. The building is approximately 300 feet from the right-of-way.

STAFF RECOMMENDATION

Per the Impact Analysis noted above, staff finds the proposed use will not negatively impact surrounding property or development nor is it expected to negatively impact LOS for roads or other public services. Staff finds the proposal consistent with the Zoning Ordinance and Comprehensive Plan. Staff recommends approval of this application, subject to the attached proposed conditions.

TC/md
SUP24-22WMontSch

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Applicant Narrative
5. Citizens' Comments
6. Unapproved Minutes of the October 2, 2024, 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-24-0022. 4871 LONGILL ROAD, WILLIAMSBURG MONTESSORI 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, Ms. Sandy Andrews of Williamsburg Montessori School, has applied for an SUP to allow for a school within an existing place of public assembly at 4871 Longhill Road and further identified as James City County Real Estate Tax Map Parcel No. 3240100031 (the “Property”); and

WHEREAS, the Planning Commission, following its public hearing on October 2, 2024, recommended approval of Case No. SUP-24-0022 by a vote of 5-0; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-24-0022; and

WHEREAS, the Board finds this use to be consistent with good zoning practices and the 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 24-214 and Section 19-17 of the James City County Code (the “County Code”), does hereby approve the issuance of Case No. SUP-24-0022, as described herein with the following conditions:

1. Master Plan. This SUP shall permit a school on property located at 4871 Longhill Road and further identified as James City County Real Estate Tax Map Parcel No. 3240100031 (the “Property”). The use and layout of the Property shall be generally as shown on the document entitled “SUP-24-0022, 4871 Longhill Road, Williamsburg Montessori School” and date stamped September 4, 2024 (the “Master Plan”), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.
2. Location. The school shall be operated within the existing place of public assembly on the Property. Outdoor activities shall be limited to the areas shown on the Master Plan.
3. Hours of Operation. The school (including the summer programs) shall be limited to hours of operation, which include drop-off and pick-up times from 7:30 a.m.-5:30 p.m., Monday through Friday.
4. Enrollments. Enrollment of the school shall be limited to 25 children. On or before July 1 of each year, school enrollment data for the previous calendar year and projected enrollment for the upcoming calendar year shall be provided to the Zoning Administrator, or designee. The enrollment numbers shall include the total number of children enrolled and the number of staff employed.

5. Commencement of Use. The school shall be in operation within 18 months from the date of approval of this SUP, or this SUP shall automatically be void.
6. Discontinuance of Use. Should the use permitted by this SUP be discontinued for a period of two years, the SUP shall become void.
7. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

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 13th day of November, 2024.

SUP24-22WMontSch-res

SUP-24-0022 4871 Longhill Road Williamsburg Montessori School SUP



SUP-24-0022, 4871 Longhill Road, Williamsburg Montessori School



Property Information

Tax Map ID: 3240100031
Wellspring United Methodist Church
4871 Longhill Road
Williamsburg, VA 23188
Zoning: R-2, General Residential
2045 Comp Plan: Low Density Residential
Legal Acreage: 5.94 acres

General Notes

- 1. Site is served by public water and private sewer.
- 2. Property is not located in a FEMA Flood Zone.
- 3. A portion of the property appears to be located in the Resource Protection Area.
- 4. Property has an existing entrance.
- 5. There are 105 parking spaces available on the property.

Sheet Index

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



Adjacent Properties

3241200001A Windsor Forest Assn P O Box 5602 Williamsburg, VA 23187-5602 R-2, General Residential	3232100004 R. Michael & Patrice A. Faubion PO Box 3583 Williamsburg, VA 23187-3583 R-2, General Residential
3241200009 Michael F. & Angela Leruth 112 Prentis Place Williamsburg, VA 23188-1583 R-2, General Residential	3232100005 Robert P. Jr. & Wanda L. Daniels 109 Windsor Way Williamsburg, VA 23188-1578 R-2 General Residential
3241200008 Alvene P. Conyers 108 Prentis Place Williamsburg, VA 23188-1583 R-2, General Residential	3240100033 King of Glory Lutheran 4897 Longhill Road Williamsburg, VA 23188-1572 R-2, General Residential
3841200007 Janis C. MacQuestion 104 Prentis Place Williamsburg, VA 23188-1583 R-2, General Residential	3240100026C Vacation Village at Williamsburg 4870 Longhill Road Williamsburg, VA 23188-1571 R-2, General Residential
3841200005 Stephen A. & Betsy P. McCormick 113 Wetherburn Lane Williamsburg, VA 23188-1582 R-2, General Residential	3232600004 Jesse D. Ranney & Elaine L. Horn-Ranney 112 Wetherburn Lane Williamsburg, VA 23188-1582 R-2, General Residential

September 5, 2024

SUP-24-0022 4871 Longhill Road Williamsburg Montessori School SUP



SUP-24-0022, 4871 Longhill Road, Williamsburg Montessori School SUP



Williamsburg Montessori School SUP Request
Wellspring United Methodist Church 4871 Longhill Road
Williamsburg, VA

Overview:

The Williamsburg Montessori School (WMS) is proposing to lease classroom space at Wellspring United Methodist Church located at 4871 Longhill Road for our middle school classes beginning January 1, 2025, for an initial two-year lease.

WMS currently holds classes for middle school (grades 7 and 8) at a leased property in the City of Williamsburg at 800 Richmond Road. We have been at this location for almost 10 years but have decided that as part of a wider classroom rearrangement we want to move the middle school to a less expensive location. Our current middle school student population at the Richmond Rd campus is 10, with our projected headcount over the next three school years being 10, 12, and 12. (Please note that private school headcount is a rather difficult thing to predict with accuracy.) To provide for growth we are asking for permission to house up to 25 students between the ages of 9 and 14 years old.

Along with our students there would be two full-time teachers, one part-time teacher in the mornings four days per week, and another part-time teacher for a couple hours one day per week. There would also be occasional visits from one of our administrators for an hour or two several days per week. Each of these adults would drive to the location. Monday through Friday, staff would utilize 2 or 3 parking spaces, with occasional visits bringing the total to 4 or 5 parking spaces for an hour or two. The remaining parking spaces would be available for visitors and business of the church.

Our school is in session from the last week of August through (roughly) June 10th, with the hours of operation being 7:55am – 3:45pm Monday through Friday. There would be no extracurricular programs or after care offered at this location outside of normal operating hours. During the summer months we will not hold normal classes but may run a daytime summer program for school-aged children. There will also be occasional staff visits to prepare for the next school year.

We anticipate no interior renovations will be necessary to prepare for the middle school. We do not expect to make any exterior alterations to the building other than installing signage with the church's Board of Trustees permission. Several picnic tables will be set up behind the building in the backyard for lunch and outdoor work areas.

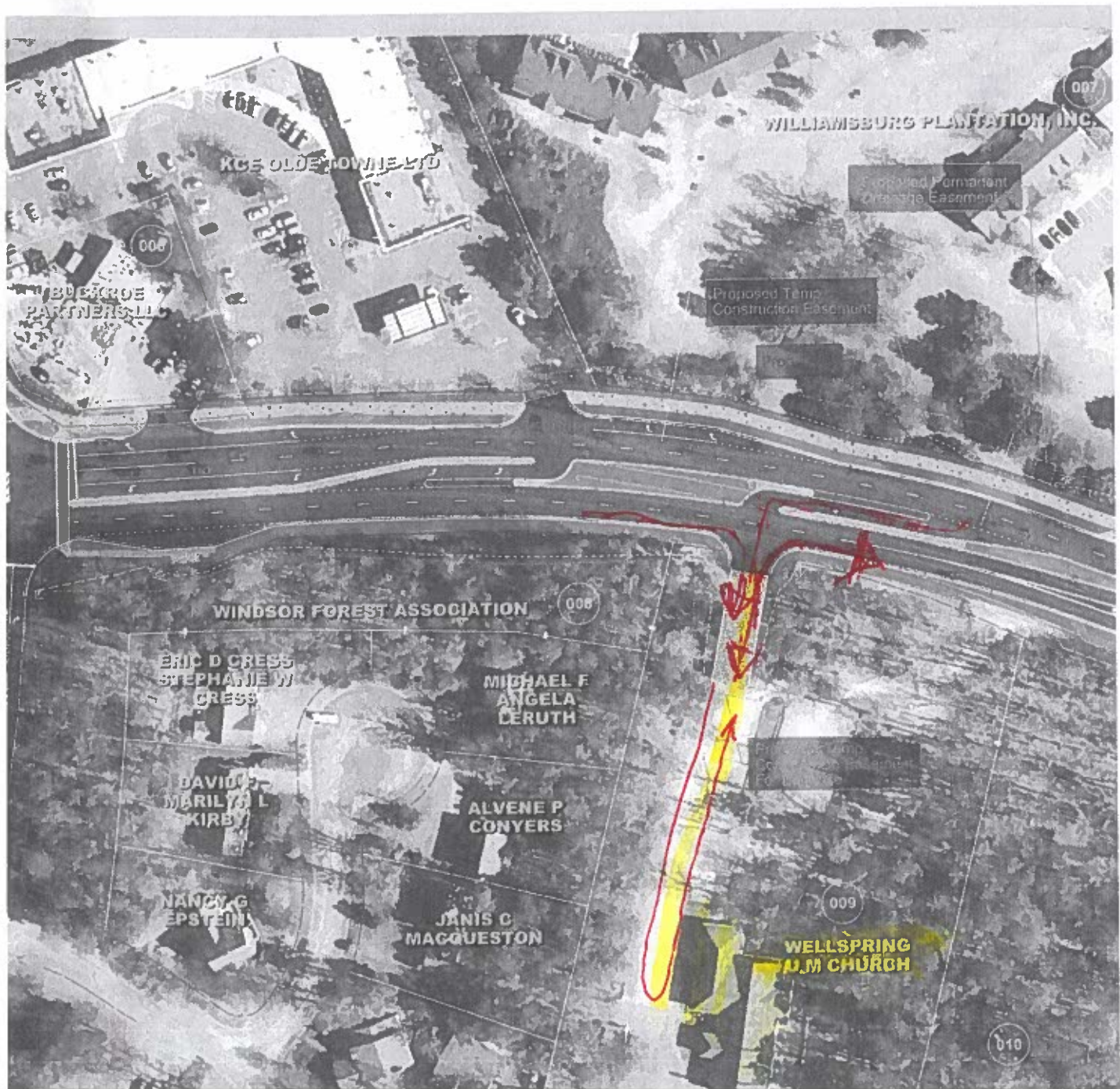
Middle school students are dropped off between 7:50am and 8:00am. Pickup in the afternoon is between 3:30pm and 3:45pm. We expect traffic count to be roughly 6-8 cars at both these times. The activity bus will help reduce the number of vehicles during drop off and pick by transporting several students from our Longhill Rd campus. The morning drop-off time and afternoon pickup time is during non-business hours for the church. Cars and the bus would utilize the side driveway towards the back of the building to drop off and pick up. Cars would

enter and exit using the designated lanes on Longhill Road. (See attached) We expect little or no impact on parking or traffic flow. Our bus would occasionally pick up and drop off the students when they attend an off-campus activity. We anticipate this will occur two or three times per week.

Conclusion:

Williamsburg Montessori School has been nourishing young minds for 42 years. We are making several classroom changes to improve our presentation to our students, and this move is one part of the improvement. We are excited about the potential opportunities this change will bring to our school, our students, and the community around us. Thank you for your consideration of our plan.

The Williamsburg Montessori School serves children from toddlers to middle school. It is dedicated to partnering with parents to foster each child's academic, physical, social, and emotional growth by embracing the educational and developmental philosophy of Dr. Maria Montessori. WMS provides a warm and welcoming environment and is dedicated to supporting children as they grow to actualize their full potential by becoming competent, self-motivated, ethically aware citizens who are prepared for life-long learning and meaningful participation in a rapidly changing society.



KCE OLD TOWN, INC.

WILLIAMSBURG PLANTATION, INC.

Proposed Permanent
Orange Easement

Proposed Temporary
Construction Easement

WINDSOR FOREST ASSOCIATION

ERIC D CRESS
STEPHANIE W
CRESS

MICHAEL F
ANGELA
DERUTH

DAVID
MARILYN L
KIRBY

ALVENE P
CONYERS

NANCY G
EPSTEIN

JANIS C
MACQUESTON

WELLSPRING
U.M. CHURCH

From: Will Albiston
Sent: Tuesday, October 1, 2024 8:33 AM
To: Terry Costello
Subject: FW: [External]SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School

Will Albiston
Administrative Coordinator



Community Development
101 Mounts Bay Rd., Building A
Williamsburg, VA 23185
757-253-6685

jamescitycountyva.gov

Most permit requests and inquiries can now be handled online

Visit JCC Permitlink: jamescitycountyva.gov/permitlink

From: Jan MacQueston <janteagues@verizon.net>
Sent: Monday, September 30, 2024 8:41 PM
To: Planning <planning@jamescitycountyva.gov>
Cc: Alvene Conyers <alveneconyers@gmail.com>; Michael F. Leruth <mfleru@wm.edu>; Angela Leruth <axleru@wm.edu>
Subject: [External]SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School

Dear James City County Planning Commission:

I am responding to the letter I received from your Director of Planning Susan M. Istenes, dated September 10, 2024, regarding the proposed expansion of the Montessori School at Wellspring Methodist Church.

First, I would like to say that Wellspring Methodist Church and I have been neighbors for more than 30 years. They have been an excellent neighbor. However, I have deep reservations with the expansion of a school renting space at the church.

In the overview written by a staff member from the Montessori School, there are several gray areas i.e., the number of children that will be enrolled over the next several years. Will these children have outdoor activities whereby the children would be noisy during the school day? This could occur during the lunch period at the proposed picnic tables. Is it possible that the children could trespass on to the homeowners' properties that are adjacent with the church? Additionally, it is stated that "during the summer months we will not hold normal classes but may run a daytime summer program for school-aged children." How many children? What would the age group be? Would the programs be out of doors?

There are three other houses of worship on Longhill Road. Has the Montessori School researched their space availability?

I do not speak for my neighbors; however, I would prefer that the Montessori School seek another space other than Wellspring Methodist Church to hold their classes and summer programs. I enjoy doing all sorts of projects in my backyard as it is an extremely serene and a peaceful setting. This is a very quiet neighborhood, and I would hope it will stay that way.

Sincerely,

Janis C. MacQueston
104 Prentis Place
Williamsburg, VA 23188-1583

From: Will Albiston
Sent: Tuesday, October 1, 2024 11:35 AM
To: Terry Costello
Subject: FW: [External]SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School

Will Albiston
Administrative Coordinator



Community Development
101 Mounts Bay Rd., Building A
Williamsburg, VA 23185
757-253-6685

jamescitycountyva.gov

Most permit requests and inquiries can now be handled online

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From: Alvene Conyers <alveneconyers@gmail.com>
Sent: Tuesday, October 1, 2024 11:00 AM
To: Planning <planning@jamescitycountyva.gov>
Subject: [External]SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School

Dear James City County Planning Commission:

I am responding to the letter I received from your Director of Planning Susan M. Istenes, dated September 10, 2024, regarding the proposed expansion of the Montessori School at Wellspring Methodist Church.

Property owners who border the Wellspring Church boundary could be placed at risk for claims should children sustain injuries on our properties. Therefore, I am opposed unless there is a barrier constructed that would keep the children off the neighbor's properties.

Sincerely,

Alvene P. Conyers
108 Prentis Place
Williamsburg, VA 23188-1583

**Unapproved Minutes of the October 2, 2024,
Planning Commission Regular Meeting**

Ms. Terry Costello, Senior Planner, addressed the Commission regarding the Special Use Permit (SUP) application. She noted the SUP would allow for a school within the existing site of Wellspring United Methodist Church. Ms. Costello highlighted traffic, enrollment, operation hours, and other factors of the application. She noted staff's recommendation in support of the SUP application was contingent on conditions stated in the Agenda Packet. Ms. Costello stated the applicant was available for any questions.

Mr. Haldeman asked if there were any additional outside areas other than the picnic area.

Ms. Costello responded there were no additional buildings, adding occasional science projects could take place in the gardens behind the church. She noted those classroom activities were a consideration.

Mr. Haldeman referenced Condition No. 6. He noted that item stated if the facility was closed for a year, then the SUP would be lost. Mr. Haldeman questioned the logic of that condition.

Ms. Costello responded that point was to avoid any school going in to use the facility. She noted the condition reflected if the school no longer remained then the SUP would no longer remain.

Mr. Haldeman referenced the COVID-19 pandemic and if the school closed under a similar situation.

Ms. Costello noted another SUP would be required if the original SUP expired. She further noted the possibility of an extension, adding the state had allowed for some SUP extensions due to the pandemic.

Mr. Haldeman thanked Ms. Costello.

Mr. Polster asked if Condition No. 6 wording could be rephrased. He recommended rewording to specify that any entity other than the Montessori to come in for the school use would invalidate the SUP. He asked for legal clarification.

Ms. Liz Parman, Deputy County Attorney, responded that generally SUPs were tied to the land and not to the landowner. She noted it would not be applicable.

Mr. Polster noted the applicant was not the landowner.

Mr. Rodgers referenced the school and the pandemic and questioned the definition of no activity.

Ms. Costello noted if a decision to no longer use the building as a school was the result. She further noted if the school vacated the building, then the SUP would disappear.

Mr. Polster stated he had concerns with the intent of the wording.

Ms. Costello stated if the school left then the SUP would be void.

Mr. Polster noted the concern regarding the school.

Ms. Costello stated another school could come in and use the property, but it would have to adhere to the same conditions of student enrollment number and other factors stated.

Mr. Polster stated the significance of the wording change to reflect that if the Montessori school was vacated in one year. He added the condition was specific to the use and the person using the school.

Mr. O'Connor referenced Ms. Parman's earlier comment that the SUP condition was tied to its use, but not to an entity. He noted if a pandemic occurred, the possibility of online schooling was a consideration. Mr. O'Connor spoke to these points in more detail.

Mr. Polster stated an alternative was to remove that condition and eliminate any misunderstanding.

Mr. Haldeman suggested consideration of a two-year timeframe.

Mr. Polster agreed with the two-year suggestion. He asked if two years could be incorporated in Condition No. 6.

There were no objections from staff or Planning Commissioners.

Mr. Polster asked if the applicant was agreeable to that change. He noted the applicant nodded her head in agreement. Mr. Polster stated Condition No. 6 would be revised to reflect two years regarding closure.

Mr. O'Connor thanked Ms. Costello.

Mr. O'Connor opened the Public Hearing.

As there were no speakers, Mr. O'Connor closed the Public Hearing.

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors of SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School with the conditions and modifications to Condition No. 6 of two years as opposed to one year.

On a voice vote, the Commission approved the motion. (5-0-2)

**SPECIAL USE PERMIT-24-0010. 724 Arlington Island Road Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. Cory J. Pignone

Landowner: Mr. Cory J. Pignone

Proposal: To allow for a tourist home rental of an entire one-bedroom, single-family dwelling.

Location: 724 Arlington Island Road

Tax Map/Parcel No.: 0931100001

Property Acreage: ± 8.7 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area (PSA): Outside

Staff Contact: Josh Crump, Principal Planner

PUBLIC HEARING DATES

Planning Commission: July 2, 2024, 6:00 p.m. (Public Hearing opened and deferred)
August 7, 2024, 6:00 p.m.

Board of Supervisors: November 13, 2024, 5:00 p.m.

FACTORS FAVORABLE

1. The applicant has acknowledged that, should this application be approved, he will obtain the proper licensing and inspections through the County and will be subject to appropriate use-based taxes.
2. There is adequate off-street parking for two vehicles.
3. Impacts: See Impact Analysis on Pages 4-5.
4. See Comprehensive Plan Analysis on Page 6.

FACTORS UNFAVORABLE

1. Staff finds the proposal is not fully consistent with the short-term rental recommendations of *Our County, Our Shared Future: James City County 2045 Comprehensive Plan*.
2. Impacts: See Impact Analysis on Pages 4-5.
3. See Comprehensive Plan Analysis on Page 6.

SUMMARY STAFF RECOMMENDATION

Staff finds the proposal to be not fully consistent with the recommendations for short-term rentals in the Comprehensive Plan. Staff, therefore, cannot recommend approval of this application. Should the Board approve this application, staff has included proposed conditions for consideration (Attachment No. 1).

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.

PLANNING COMMISSION RECOMMENDATION

At the August 7, 2024, Planning Commission meeting, the motion to recommend approval failed, with the Planning Commission voting 3-3 (Haldeman, Polster, and Rodgers in favor; Everson, Maye, and O'Connor opposed; Allmann absent) thus no recommendation from the Commission.

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

There have been no changes to the application since the August 7, 2024, Planning Commission meeting.

PROJECT DESCRIPTION

Following the issuance of a zoning notification, Mr. Cory Pignone has applied for a Special Use Permit (SUP) to allow for the short-term rental of a one-bedroom, single-family dwelling as a tourist home. The proposal includes no changes to the size or footprint of the home.

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 one-bedroom, single-family dwelling is not on public water and sewer. In previous tourist home applications, staff calculated the number of occupants to be two people per bedroom. Therefore, proposed Condition No. 4 states that the maximum number of occupants per contract, including children, is two. There is a circle drive in front of the house that would provide enough space for two vehicles.

PLANNING AND ZONING HISTORY

- There have been no legislative cases associated with the residence that was built in 1900.
- The applicant applied for an SUP for a short-term rental for this property in 2023 but withdrew it. This occurred prior to the issuance of the Zoning letter.
- A zoning notification was issued by the Zoning Division in 2024 indicating that the property was being used for a short-term rental without an SUP. The Airbnb listing was removed in August 2024.
- In addition, on June 26, 2023, a Field Correction Notice was issued by the Building Safety & Permits (BS&P) Division after investigating the property for electrical work being performed without any permits or inspections after a complaint from a neighbor. In conversation with the applicant, he claimed the work pre-dated his ownership of the property.
- In correspondence with BS&P, the applicant was told he would need to obtain a building permit for development in the floodplain in order to build a new set of stairs leading to the water. The applicant has built the stairs without having obtained a building permit. An application for a permit was submitted on July 19, 2024, and is still in progress with the applicant and his contractor.
- In addition, the applicant filed a wetlands permit application and a Chesapeake Bay Preservation Exception request for the steps and dock. Staff determined that a wetlands permit is not required because the impacted area is outside the jurisdiction of the local Wetlands Board. The Chesapeake Bay Preservation Exception request was approved administratively.

SURROUNDING ZONING AND DEVELOPMENT

- The property is located within the Arlene's View subdivision.
- The following table lists the information on the adjacent parcels:

	ZONING DESIGNATION	EXISTING LAND USE	FUTURE LAND USE DESIGNATION
NORTH	A-1, General Agricultural	Residential	Rural Lands
SOUTH	A-1, General Agricultural	Residential	Rural Lands
EAST	A-1, General Agricultural	Residential	Rural Lands
WEST	A-1, General Agricultural	Residential	Rural Lands

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-24-0010. 724 Arlington Island Road Tourist Home
Staff Report for the November 13, 2024, 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>	- The proposal is not anticipated to generate traffic exceeding typical residential use. - The subject property is located on a private road.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	- Pedestrian/bicycle accommodations are not triggered when there are no changes proposed to the building footprint.
<u>Public Safety</u>	<u>No Mitigation Required</u>	- Staff finds this project does not generate impacts that require mitigation to the County's Fire Department facilities or services. - The closest fire station, Fire Station 1, is 6.1 miles away.
<u>Public Schools</u>	<u>No Mitigation Required</u>	- Staff finds this project does not generate impacts that require mitigation.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	- Staff finds this project does not generate impacts that require mitigation.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	- Staff finds this project does not generate impacts that require mitigation.
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigation Required</u>	- The property is served by a private well and private septic system. - The proposal does not generate impacts that require mitigation to groundwater or drinking water resources.
<u>Watersheds, Streams, and Reservoirs</u> Project is located in the Diascund Creek Watershed.	<u>No Mitigation Required</u>	- The Stormwater and Resource Protection Division has reviewed this application and has 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.

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-24-0010. 724 Arlington Island Road Tourist Home
Staff Report for the November 13, 2024, 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>Nearby and Surrounding Properties</u>	<u>No Mitigation Required</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. Future expansions of the use would require an SUP amendment.
<u>Community Character</u>	<u>No Mitigation Required</u>	- Arlington Island Road is not a Community Character Corridor, and this property is not located within a Community Character Area.
<u>Covenants and Restrictions</u>	<u>No Mitigation Required</u>	- Staff 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-24-0010. 724 Arlington Island Road Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing

COMPREHENSIVE PLAN

The site is designated Rural Lands on the Comprehensive Plan Land Use Map. Per the Comprehensive Plan language, uses in Rural Lands should reflect and enhance the rural character of the County. Particular attention should be given to locating structures and uses outside of sensitive areas, and maintaining existing topography, vegetation, trees, and tree lines to the maximum extent possible, especially along roads and uses.

The Comprehensive Plan provides recommendations regarding locations for short-term rentals. Per the Comprehensive Plan, due to the unique impacts that can arise from transient residents in short-term rentals, the County should continue to carefully consider the impacts these uses can have on a community's quality of life. The thriving rural character of James City County continues to offer a variety of agritourism opportunities, for which short-term rentals may provide a truly unique opportunity and experience; one that provides economic benefits to rural property owners but does not directly compete with more conventional tourism-based opportunities inside the PSA. 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 Rural Lands on the Comprehensive Plan Land Use Map. Therefore, the application does meet this recommendation set forth in the Comprehensive Plan.

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

This property is located at the edge of an existing platted Arlene's View subdivision. Therefore, the application does meet this recommendation set forth in the Comprehensive Plan.

- Be located on a major road.

This property is located on Arlington Island Road. Arlington Island Road is a private road that is not within the system of the Virginia Department of Transportation streets. Therefore, the application does not meet this recommendation set forth in the Comprehensive Plan.

- 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 does not reside in James City County. Therefore, the application does not meet this recommendation set forth in the Comprehensive Plan.

STAFF RECOMMENDATION

Staff finds the proposal inconsistent with the recommendations of the Comprehensive Plan.

Staff, therefore, does not recommend approval of the proposed SUP. Should the Board of Supervisors approve this SUP, staff has included proposed conditions for consideration.

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-24-0010. 724 Arlington Island Road Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

JC/md
SUP24-10_724Arlt

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Applicant Narrative
5. Airbnb Listing
6. Approved Minutes of the July 2, 2024, Planning Commission Meeting
7. Approved Minutes of the August 7, 2024, Planning Commission Meeting
8. Wetlands Permit Letter

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-24-0010. 724 ARLINGTON ISLAND ROAD TOURIST HOME

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, Mr. Cory Pignone has applied for an SUP to operate a tourist home at 724 Arlington Island Road and further identified as James City County Real Estate Tax Map Parcel No. 0931100001 (the “Property”); and

WHEREAS, the Planning Commission, following its public hearing on July 2, 2024, and August 7, 2024, upon a motion to recommend approval of the application, a tie vote resulted, 3-3 (one Commissioner was absent) and did not make a recommendation for the Board of Supervisors; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-24-0010; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with good zoning practices and the 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 (the “County Code”), does hereby approve the issuance of Case No. SUP-24-0010 as described herein with the following conditions:

1. Master Plan. This SUP shall permit a tourist home on property located at 724 Arlington Island Road and further identified as James City County Real Estate Tax Map Parcel No. 0931100001 (the “Property”). The use and layout of the Property shall be generally as shown on the document entitled “SUP-24-0010, 724 Arlington Island Road Short Term Rental” and dated June 17, 2024 (the “Master Plan”), with any deviations considered per Section 24-23(a)(2) of the James City County Zoning Ordinance, as amended. This condition does not restrict improvements typical of a residential property as determined by the Director of Planning.
2. Commencement. An updated Certificate of Occupancy and evidence of a business license shall be provided to the Director of Planning within twelve (12) months from the issuance of the SUP, or this SUP shall automatically become void.
3. Number of Rental Rooms and Occupants. There shall be no more than one (1) bedroom available for rent to visitors and no more than two (2) rental occupants total at any one time.
4. Signage. No signage related to the tourist home shall be permitted on the Property.

5. Parking. Off-site parking for the tourist home shall be prohibited. No oversized commercial vehicles such as, but not limited to, buses and commercial trucks and trailers, associated with rental occupants of the tourist home, shall be allowed to park on the Property. No more than two (2) cars shall be allowed to be parked on the Property.
6. Contracts per Rental Period. There shall not be simultaneous rentals of the Property under separate contracts.
7. Existing Conditions. All existing conditions of the Property, including any unapproved or unpermitted structures or improvements, shall be brought into full compliance with all applicable regulations prior to the operation of the short-term rental. Full compliance shall mean obtaining all required permits and passing all required inspections. All required permits shall be obtained, and all required inspections of the Property shall be conducted by County Staff to verify full compliance within 12 months of the date of approval of this SUP or the SUP shall automatically be void.
8. Validity. This SUP shall be valid until December 31, 2027.
9. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____	_____	_____	_____
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Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of November, 2024.

SUP24-10_724Arlt-res

SUP-24-0010

Short Term Rental 724 Arlington Island Road



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Maxar, Microsoft

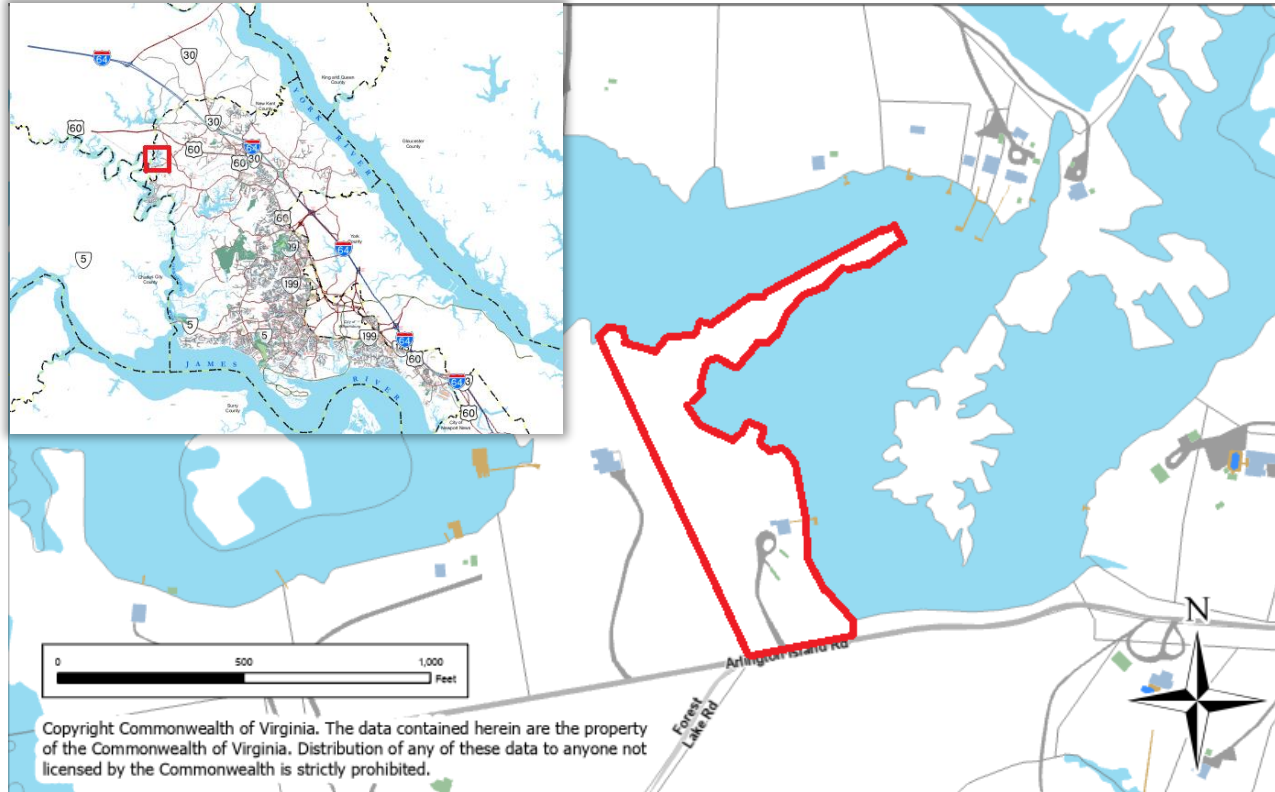
SUP-24-0010, 724 Arlington Island Road Short Term Rental

Property Information

0931100001
Cory Pignone
724 Arlington Island Road
Lanexa, VA 23089
Zoning: A-1, General
Agriculture
Comp. Plan: Rural Lands
Acres: 8.7

General Notes

1. Site is not served by public water and sewer.
2. Property is located in a FEMA floodplain zone.
3. Property does contain Resource Protection Area.
4. Property has an existing driveway.
5. A maximum of two parking spots shall be provided.



June 17, 2024

Sheet Index

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

SUP-24-0010

Short Term Rental 724 Arlington Island Road



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Maxar, Microsoft

Dear James City County Representative,

I purchased the property at 724 Arlington Island Rd in 2022. I live in Richmond, and fell in love with the property's picturesque waterfront views along Diascund Creek. My girlfriend and I were working from home more at the time, and wanted a more scenic place to spend time apart from our home in downtown Richmond.

The single family home on the property, as well as the grounds, had fallen into neglect for several years. The prior owner had used it as a hunting and fishing cabin, as well as a collection site for scrap, old vehicles, etc. Sadly, he fell ill and passed away, and the property spent several years in disrepair before being sold. We have cleaned up the grounds, inspected, repaired or replaced the major systems in the home, and eliminated all the eyesores and safety concerns.

Now, we split time between Richmond and this home in Lanexa. We particularly enjoy spending time on the water with our 2 dogs Cash and Chloe, swimming, kayaking, retrieval training, or fishing around the property. It has all modern conveniences, yet is a world apart from downtown Richmond.

After incurring significant expenses cleaning up and improving the property, and realizing how special the place is, I would like to share it with others via AirBnB when we are not utilizing it. The home is 1 bedroom, 1 bathroom, with a large open living space, kitchen, screened in porch, and shed. It has all modern conveniences, including central HVAC, washer/dryer, dishwasher, Starlink internet with streaming services, and a new outdoor fire pit for safe controlled camp fires. We have equipped the bedroom with 2 sets of bunk beds, and the living area with 2 pull out sofas, though we have never hosted that many folks there. I had the septic system inspected and pumped by a professional, and the home is equipped with modern safety measures, including smoke detectors, kitchen fire extinguisher, and first aid kit. I have a co-host to ensure active monitoring of messaging in case a guest has an issue or emergency. I also have a full time maintenance man I employ for my business at my disposal, in the event a sudden maintenance need arises.

The property is in a secluded bend in the creek, with the nearest neighbor's house about 500 feet away through the woods (and not visible from the house; see attached screenshot). Given that this is a small house that can't accommodate many people, and the property will be marketed for its peaceful, natural allure, there is very low risk of any noise or congestion impacts to neighbors.

Thank you so much for your consideration!

Cory Pignone

Rustic Waterfront Home

[Share](#) [Save](#)



Entire home in Lanexa, Virginia

7 guests · 1 bedroom · 1 bath

★ 4.88 · [8 reviews](#)



Hosted by Cory

Superhost · 6 months hosting



Self check-in

Check yourself in with the keypad.



Cory is a Superhost

Superhosts are experienced, highly rated Hosts.



Free cancellation before Jul 5

Get a full refund if you change your mind.

Indulge in the allure of our newly remodeled river house, situated along the Diascund Creek. Delight in approximately half a mile of exclusive waterfront, providing a private haven for serene moments. Unwind on the private dock, taking in the beauty of the surroundings. This is more than a getaway; it's an unforgettable waterfront escape.

What this place offers

 Waterfront

\$143 night

CHECK-IN 7/10/2024	CHECKOUT 7/13/2024
GUESTS 1 guest	

Reserve

You won't be charged yet

\$143 x 3 nights	\$429
Cleaning fee	\$85
Airbnb service fee	\$73
Total before taxes	\$587



This is a rare find

Cory's place is usually fully booked.

 [Report this listing](#)

-  Kitchen
-  Wifi
-  Dedicated workspace
-  Free parking on premises
-  Pets allowed
-  TV
-  Washer
-  Free dryer – In unit
-  Carbon monoxide alarm

Show all 44 amenities

3 nights in Lanexa

Jul 10, 2024 - Jul 13, 2024

<

July 2024

August 2024

>

Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6					1	2	3
7	8	9	10	11	12	13	4	5	6	7	8	9	10
14	15	16	17	18	19	20	11	12	13	14	15	16	17
21	22	23	24	25	26	27	18	19	20	21	22	23	24
28	29	30	31				25	26	27	28	29	30	31



Clear dates

★ 4.88 · 8 reviews

Overall rating	Cleanliness	Accuracy	Check-in	Communication	Location	Value
5	4.6	5.0	4.8	5.0	5.0	4.8



Jamie

Norfolk, Virginia

★★★★★

2 weeks ago

Stayed a few nights

Rustic but comfortable, the location is fabulouse, quiet and spacious and beautiful.



Jennifer

Milford, Pennsylvania

★★★★★ · 4 weeks ago · Stayed a few nights

Such a wonderful stay at Cory's place! Surroundings were absolutely beautiful....peaceful and private! House was comfortable, clean and well described....even more beautiful in person than the pictures reflect! Cory was super-helpful, easy to communicate with, responsive and kind 😊. Looking forward to staying there again soon!

Show more



Kelsey
6 years on Airbnb

★★★★★ · April 2024 · Stayed with kids

Beautiful, peaceful stay in the woods! This home was perfect for our family, the kids loved being near the water and I loved the yard that they could run around in. The beds were very comfortable and we felt very safe at this location. We would stay again in a heartbeat. Cory was very responsive and helpful.

Show more



Lydia
11 months on Airbnb

★★★★★ · March 2024 · Stayed with a pet

It was very peaceful and private. Just what we needed. We will be back very soon. Thanks for having such a wonderful place!



E.
Capitol Heights, Maryland

★★★★★ · March 2024 · Stayed over a week

Folks, buckle up for out of this world sunsets and sunrises. To start, the unit is better than the pictures. The layout is nice and open, and the living room has plenty of room for the pull out couch and a blow up bed if someone wants to not sleep on the bunk beds. The main highlight of course are the sunrises on the dock and the sunsets in the front of the house. After two weeks of watching each sunset and sunrise I have left a different person than...

Show more



Lekha
1 month on Airbnb

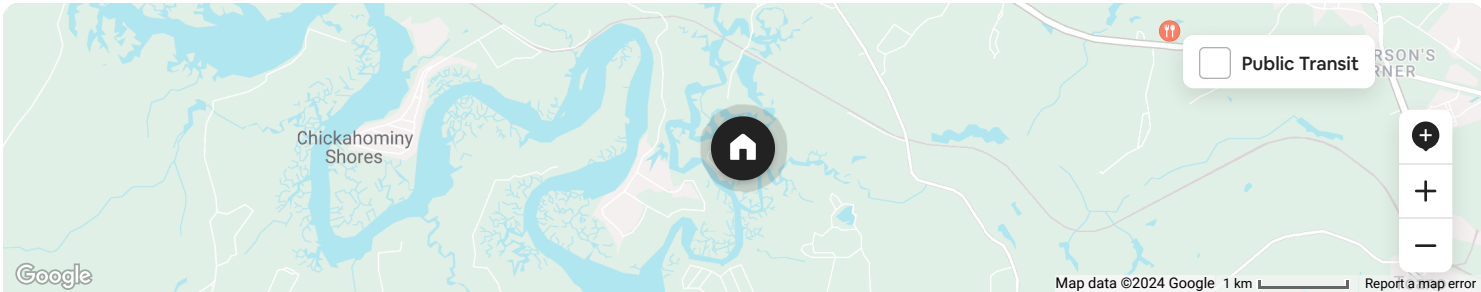
★★★★★ · March 2024 · Stayed a few nights

Perfect location for a relaxing and peaceful getaway. Both the inside and the outside are beautiful and cozy.

Show all 8 reviews

Where you'll be

Lanexa, Virginia, United States



Meet your Host





Cory
Superhost

43
Reviews

4.84 ★
Rating

6
Months hosting

Cory is a Superhost

Superhosts are experienced, highly rated hosts who are committed to providing great stays for guests.

Co-hosts

Devyn

Host details

Response rate: 100%

Responds within an hour

Message Host



To protect your payment, never transfer money or communicate outside of the Airbnb website or app.

Things to know

House rules

Check-in after 3:00 PM

Checkout before 10:00 AM

7 guests maximum

[Show more >](#)

Safety & property

Carbon monoxide alarm not reported

Smoke alarm

[Show more](#) >

Cancellation policy

Free cancellation before Jul 5.

Review the Host's full cancellation policy which applies even if you cancel for illness or disruptions caused by COVID-19.

[Show more](#) >

Explore other options in and around Lanexa

Richmond

Vacation rentals

Charlottesville

Vacation rentals

Williamsburg

Vacation rentals

Shenandoah

Vacation rentals

Lake Anna

Vacation rentals

Lynchburg

Vacation rentals

Massanutten

Vacation rentals

Roanoke

Vacation rentals

Myrtle Beach

Vacation rentals

Other types of stays on Airbnb

James River vacation rentals

James River monthly stays

Vacation rentals with lake access in James River

Pet-friendly vacation rentals in James River

Waterfront vacation rentals in James River

House vacation rentals in James River

Pet-friendly vacation rentals in Virginia

Vacation rentals with lake access in Virginia

Waterfront vacation rentals in Virginia

Support

Help Center

AirCover

Anti-discrimination

Disability support

Cancellation options

Report neighborhood concern

Hosting

Airbnb your home

AirCover for Hosts

Hosting resources

Community forum

Hosting responsibly

Airbnb-friendly apartments

Join a free Hosting class

Airbnb

Newsroom

New features

Careers

Investors

Gift cards

Airbnb.org emergency stays

English (US) \$ USD

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**Approved Minutes of the July 2, 2024,
Planning Commission Regular Meeting**

SUP-24-0010. Arlington Island Road Tourist Home

Mr. Josh Crump, Principal Planner, addressed the Commission stating that the applicant requested a deferral of the application to the August 7, 2024, Regular Meeting.

Mr. O'Connor opened the Public Hearing.

Dr. Ken Latimer, 704 Arlington Island Road, addressed the Commission in opposition to the application.

Mr. Polster made a motion to defer the application to the August 7, 2024, Regular Meeting.

On a voice vote, the Planning Commission voted to defer SUP-24-0010. Arlington Island Road Tourist Home to the August 7, 2024, Regular Meeting.

Mr. O'Connor stated that the Public Hearing would be continued to the August 7, 2024, Regular Meeting.

**Approved Minutes of the August 7, 2024,
Planning Commission Regular Meeting**

SUP-24-0010. Arlington Island Road Tourist Home

Ms. Tess Lynch, Senior Planner, stated that Mr. Cory Pignone applied for a Special Use Permit (SUP) to allow a Short-Term Rental for a one-bedroom home. Ms. Lynch stated the property is located at 724 Arlington Island Road, Zoned, A-1 General Agricultural, and is designated Rural Lands on the Comprehensive Plan Land Use Map. She noted that if granted, this SUP would allow for Short-Term Rentals throughout the year and no changes to the footprint of the home were proposed. Ms. Lynch stated staff finds some favorable factors for this application such as the presence of adequate off-street parking and that the applicant has stated that he would obtain the proper licensing and inspections. Ms. Lynch stated staff finds that this proposal is not fully consistent with the adopted Comprehensive Plan recommendations for Short-Term Rentals and staff is unable to recommend approval of this application. Ms. Lynch stated that should the Planning Commission recommend approval of this recommendation; staff has included proposed conditions for consideration.

Mr. Everson asked if it was correct that the Short-Term Rental was operating without an SUP after the applicant was notified that he needed one.

Ms. Lynch stated that the applicant applied for an SUP for a Short-Term Rental for the property in 2023 but withdrew it. He was operating the Short-Term Rental at that time and was issued a Zoning notification this year.

Mr. Everson asked if the applicant continued to operate after receiving the Zoning notification.

Ms. Lynch stated that the Airbnb listing was still active and showing as available to be rented.

Mr. Everson stated that the applicant clearly knew in 2023 that he needed an SUP and that in 2024 and it is currently posted on Airbnb.

Mr. Everson inquired about the absence of a Building Permit associated with the property.

Ms. Lynch stated that there was a set of stairs leading to the water which was rebuilt without the proper permits. She further stated an application for a permit through the Building Safety and Permits Division was submitted on July 19, 2024, and the Chesapeake Bay Permit had been applied for and it did not appear that the State Permit had been applied for yet.

Mr. Everson asked if any of these actions carried penalties.

Ms. Lynch stated that penalties are not levied while there is an active legislative process to rectify the situation.

Mr. Everson asked if staff became aware of the posting of the Airbnb listing after the applicant submitted his second application for an SUP.

Ms. Lynch stated that staff was aware of the listing before the second SUP was submitted and that was what prompted the Zoning notification.

Mr. Everson asked if it was correct that there is no penalty because the applicant is applying for the SUP.

Ms. Lynch stated yes.

Mr. Everson asked if there was no penalty even though the applicant withdrew the first application.

Ms. Lynch stated yes.

Mr. Everson asked if there was a penalty for not applying for the Building Permit or if there was a penalty for not applying for or receiving the Chesapeake Bay Permit.

Ms. Lynch stated that she was unsure and would have to check.

Mr. Maye asked if the property has deeded access to a boat ramp on an adjacent property.

Ms. Lynch replied that the landowner who stated that at the previous meeting did not respond to staff's outreach to provide confirmation.

Mr. Haldeman asked if the stairs discussed earlier lead to a dock. Ms. Lynch stated yes.

Mr. O'Connor reopened the Public Hearing which was opened at the previous meeting.

Mr. Cory Pignone, 1305 Hampton Street, Richmond, VA, gave a presentation in support of the application.

Mr. Maye asked if the gravel road was maintained privately and not by the State.

Mr. Pignone stated yes and that there was no formal agreement but that one neighbor coordinates the gravel. He stated that he contributed to last year's fund and that he plans to contribute twice as much if it is an operating Airbnb.

Mr. Rodgers asked about the co-host shown on the Airbnb listing.

Mr. Pignone stated that the co-host also lives in Richmond, and they work together on other business ventures. He further stated that the co-host functions as a backup in case Mr. Pignone is unable to respond to messages in a timely manner.

Mr. Everson asked what the typical reservation size was.

Mr. Pignone stated that one or two guests was most common but that there was a family with several kids that stayed once.

Mr. O'Connor closed the Public Hearing.

Mr. Rodgers asked about the public content of the comment made at the previous meeting regarding this case.

Mr. O'Connor stated that his understanding was that the comment was made by a neighbor with a boat launch who stated that there was an easement to his boat launch for the owner of the applicant's property and not for guests. Mr. O'Connor noted that he did not believe that the subject was the purview of the Planning Commission.

Mr. Everson stated that he was troubled by the history of Short-Term Rentals and permits on the property and that he felt there should be a penalty.

Mr. Polster provided background on the County's outreach to property owners operating Short-Term Rentals without SUPs. He stated that as a result of the outreach, property owners have sought to rectify those issues. He stated that he ascribes no ill intent to the applicant's actions. He noted the application is not on a major road and that the owner does not live on-site, both of which are inconsistent with the Comprehensive Plan's guidelines for Short-Term Rentals.

Mr. Haldeman stated that if there were violations of the County Code or Chesapeake Bay regulations that the Planning Commission was not the entity that would issue punitive action.

Mr. O'Connor reiterated that the Planning Commission's job was not punitive.

Mr. Rodgers noted his concern that two of the four criteria in the Comprehensive Plan for Short-Term Rentals were not met.

Discussion ensued between the Commissioners regarding the Comprehensive Plan's Short-Term Rental guidelines.

Mr. Polster made a motion to approve SUP-24-0010. 724 Arlington Island Road Tourist Home with the proposed conditions.

The motion did not pass (3-3).

Mr. O'Connor stated that the Planning Commission had no recommendation for the Board of Supervisors.



General Services
107 Tewning Road
Williamsburg, VA 23188
P: 757-259-4080
General.Services@jamescitycountyva.gov
jamescitycountyva.gov

Capital Projects	Fleet	Stormwater and Resource Protection	Facilities & Grounds	Solid Waste
107 Tewning Road Williamsburg, VA 23188 757-259-4080	103 Tewning Road Williamsburg, VA 23188 757-259-4122	101-E Mounts Bay Road Williamsburg, VA 23185 757-253-6670	113 Tewning Road Williamsburg, VA 23188 757-259-4080	1204 Jolly Pond Road Williamsburg, VA 23188 757-565-0971

September 16, 2024

Teressa Bergman
JB Contracting INC
17801 Hull Street Rd
Moseley, VA 23120

RE: Wetlands Permit WJPA 24-0020 / VMRC #24-1994
724 Arlington Island Rd
Pier and Walkway

Dear Ms. Bergman,

This office has reviewed the above joint wetlands permit application (JPA) for the installation of a pier and walkway on property located at 724 Arlington Island Road. The activity will occur in wetlands, but a James City County Wetlands Board permit will not be required because the wetland impacts are outside the jurisdiction of the local Wetlands Board.

However, all development activities located in the special flood hazard area shall comply with Article VI Division 3 Floodplain Area Regulations of the James City County Zoning Ordinance and receive all required approvals and permits prior to commencement of such activities. Prior to commencing work on any structure, a building permit is required from the County Building Safety and Permit Office, which can be contacted at (757) 253-6620.

This development shall not have any impact on adjacent properties; all construction / documentation submitted shall adhere to Guidance for Flood Risk Analysis and Mapping for Coastal Structures.

Please contact our office if you have any questions or concerns.

Sincerely,

Amanda Frazier

Amanda Frazier
Watershed Planner I
Stormwater and Resource Protection

Cc: Cory Pignone
boomancjp@aol.com

**AGRICULTURAL AND FORESTAL DISTRICT-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. David Nice

Landowner: Niceland Farm, LLC

Proposal: Withdrawal of ± 14.81 acres from the Barnes Swamp Agricultural and Forestal District (AFD).

Location: 9812 Old Stage Road

Tax Map/Parcel No.: 0420100008

Project Acreage: ± 14.81 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

Staff Contact: Morgan Risinger, Senior Planner

PUBLIC HEARING DATES

AFD Advisory Committee: July 18, 2024, 4:00 p.m.

Planning Commission: October 2, 2024, 6:00 p.m.

Board of Supervisors: November 13, 2024, 5:00 p.m.

FACTORS FAVORABLE

1. The request would not cause damage or disruption to the existing District.

FACTORS UNFAVORABLE

1. The request does not fully meet all four criteria set forth in the Board of Supervisors' policy.

AFD ADVISORY COMMITTEE RECOMMENDATION

At its July 18, 2024, meeting, the AFD Advisory Committee voted 8-1 to recommend approval of the withdrawal request to the Planning Commission and the Board of Supervisors.

PLANNING COMMISSION RECOMMENDATION

At its October 2, 2024, meeting, the Planning Commission voted 5-0 to recommend approval of the withdrawal request to the Board of Supervisors.

CHANGES SINCE THE PLANNING COMMISSION MEETING

None.

SUMMARY STAFF RECOMMENDATION

The adopted Board of Supervisors' policy governing withdrawal of property from AFDs states that "it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts." This withdrawal request was submitted outside of the renewal period for the Barnes Swamp AFD. Staff cannot support this request for withdrawal due to it not fully meeting all four of the

**AGRICULTURAL AND FORESTAL DISTRICT-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

criteria set forth in the Board's policy. Therefore, staff recommends the Board of Supervisors deny the withdrawal request.

DISTRICT HISTORY

- The Barnes Swamp AFD was created in 1986 for a term of four years and originally consisted of 29 parcels totaling $\pm$ 1,905 acres.
- The District was renewed at four-year intervals again in 1990, 1994, 1998, 2002, 2006, 2010, 2014, 2018, and 2022 with various additions and withdrawals taking place during that period.
- If this withdrawal is approved, the District would consist of approximately 1,958.77 acres.

WITHDRAWAL REQUESTS/WITHDRAWAL ANALYSIS

Mr. David Nice submitted a request to withdraw approximately 15 acres of the 188.68-acre parcel from the AFD. The requested withdrawal is to allow for the issuance of a Special Use Permit (SUP) for the operation of an event venue as detailed in Case No. SUP-24-0021. Pursuant to the review of the SUP materials, the total area of the withdrawal request has been adjusted to 14.81 acres as depicted on the Master Plan (Attachment No. 7).

On September 28, 2010, the Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels outside of renewal periods. That policy is enclosed (Attachment No. 5) and the withdrawal criteria are listed below with staff comments following in italics.

- A. The request is caused by a change in circumstances that could not have been anticipated at the time the application was made for inclusion in the District.

Historically, a change in circumstances has been interpreted to include "death of a property owner," as stated in the State Code,

but has not included new opportunities for development of a property. Therefore, staff finds that the proposed use of the property does not meet this criteria. The withdrawal policy, as adopted by the Board of Supervisors, states that it is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.

- B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.

Staff interprets "public purpose" as using the land for a public facility such as a school or fire station. The proposed use does not meet this criteria.

- C. The request would not cause damage or disruption to the existing District.

With this withdrawal, the District will continue to meet minimum acreage requirements. This proposal also leaves the remaining $\pm$ 173.87 acres within the Barnes Swamp AFD. Additionally, the portion of the property requesting to be removed includes existing buildings which would be used as part of the proposed event venue.

- D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan.

The Comprehensive Plan designates this parcel as Rural Lands. Rural Lands are intended to help protect and enhance the viability of agricultural and forestal resources and compatible rural economic development uses as important components of the local economy. Staff finds that the proposed use could be compatible provided that appropriate conditions are in place.

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.

**AGRICULTURAL AND FORESTAL DISTRICT-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

SURROUNDING ZONING AND DEVELOPMENT

Most surrounding properties are zoned A-1, General Agricultural, and designated Rural Lands on the Comprehensive Plan Land Use Map. The property is bordered to the north by New Kent County. Existing land uses on adjacent properties include single-family residences and undeveloped forested land.

NATURAL AND CULTURAL ASSETS

The site is identified as having natural and cultural assets on the Natural & Cultural Assets Plan maps (and/or other supplemental resources such as the United States Department of Agriculture's Natural Resources Conservation Service Web Soil Survey) as follows:

ASSET	PRESENCE	IMPACT
Habitat Core	None present on site	Not Applicable
Corridors	None present on site	Not Applicable
Agricultural Assets	Present on site	± 13.55 acres or 91.5% of the site is designated prime farmland. The remaining 173.87 acres of the property, including ± 137.55 acres designated as prime farmland, will remain in the Barnes Swamp AFD.

STAFF RECOMMENDATION

The adopted Board of Supervisors' policy governing withdrawal of property from AFDs states that "it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts." This withdrawal request was submitted outside of

the renewal period for the Barnes Swamp AFD. Staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Therefore, staff recommends the Board of Supervisors deny this withdrawal request.

MR/ap
AFD24-3_9812OStRdWD

Attachments:

1. Ordinance
2. Location Map
3. Barnes Swamp AFD Map
4. Barnes Swamp AFD 2022 Renewal Ordinance
5. Policy Governing the Withdrawals of Property from AFDs
6. AFD Withdrawal Request Letter
7. Master Plan Depicting AFD Withdrawal Area
8. Approved Minutes of the July 18, 2024, AFD Advisory Committee Meeting
9. Unapproved Minutes of the October 2, 2024, Planning Commission Meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-24-0003.

AMENDMENT OF ORDINANCE NO. 167A-18:

9812 OLD STAGE ROAD BARNES SWAMP AFD WITHDRAWAL

WHEREAS, a request has been filed with the Board of Supervisors of James City County, Virginia (the "Board"), to withdraw $\pm$ 14.81 acres of land as shown on a plan titled "Master Plan Niceland Farm Event Venue & Tourist Home" prepared by Vanasse Hangen Brustlin Inc., and dated September 13, 2024, from the Barnes Swamp Agricultural and Forestal District (AFD), which is currently $\pm$ 1,973.58 acres (the "Application"); and

WHEREAS, the $\pm$ 14.81 acres subject to the Application is a portion of the $\pm$ 188.68-acre property owned by Niceland Farm, LLC, located at 9812 Old Stage Road and identified as James City County Real Estate Tax Map Parcel No. 0420100008 (the "Property"); and

WHEREAS, at its July 18, 2024, meeting, the AFD Advisory Committee voted 8-1 to recommend approval of the Application; and

WHEREAS, a public hearing was advertised and held by the Planning Commission (the "Commission") at its October 2, 2024, meeting, pursuant to Section 15.2-4314 of the Code of Virginia, 1950, as amended (the "Virginia Code"), after which the Commission voted 5-0 to recommend approval of the Application; and

WHEREAS, pursuant to Sections 15.2-1427 and 15.2-4309 of the Virginia Code, a public hearing was advertised and held by the Board; and

WHEREAS, the Board finds that the withdrawal request meets the criteria set forth in the Board's Withdrawal Policy for Agricultural and Forestal Districts, dated September 28, 2010.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia, that Ordinance No. 167A-18 is hereby amended to remove $\pm$ 14.81 acres owned by Niceland Farm, LLC, as referenced herein, from the Barnes Swamp Agricultural and Forestal District.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

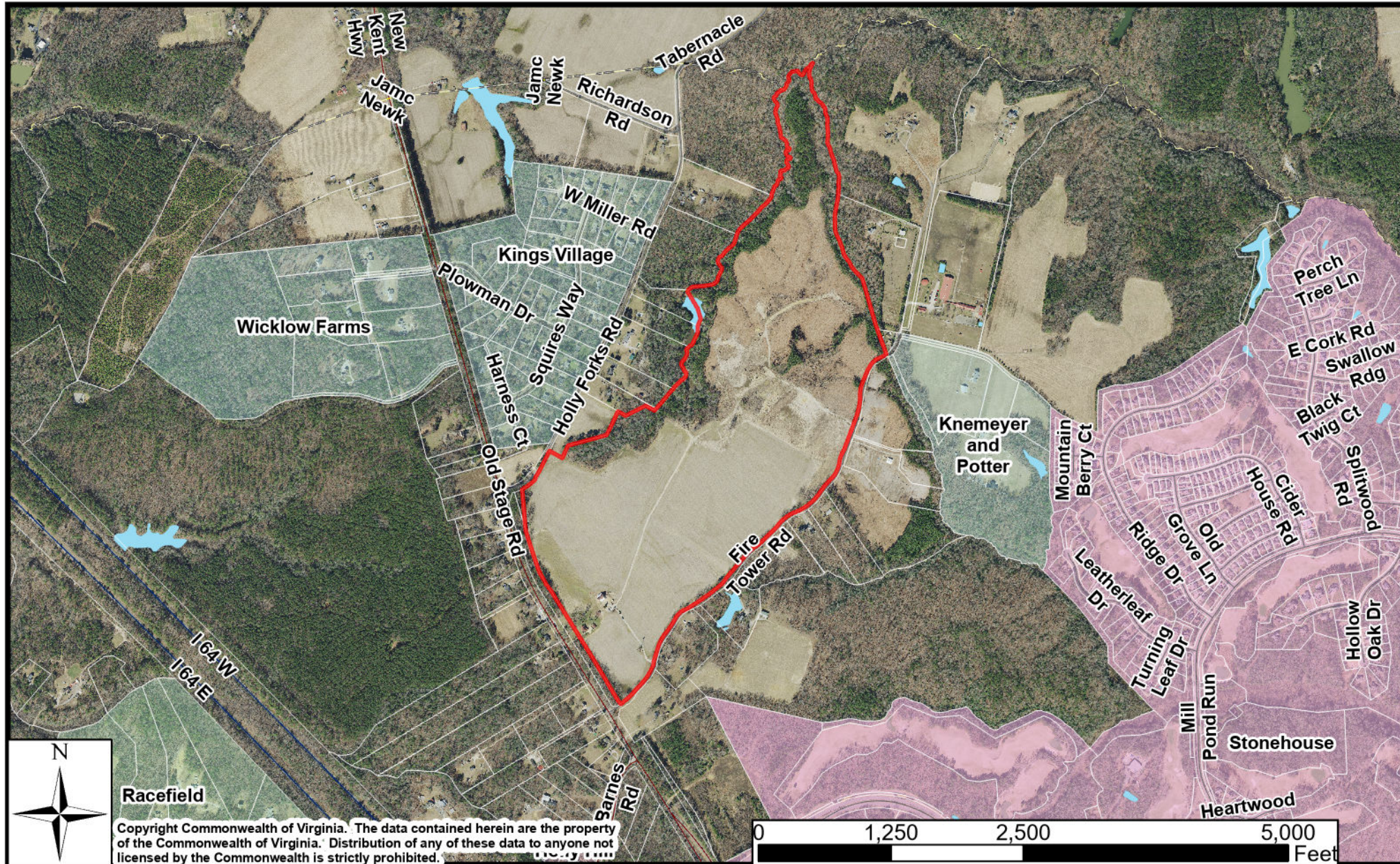
VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of November, 2024.

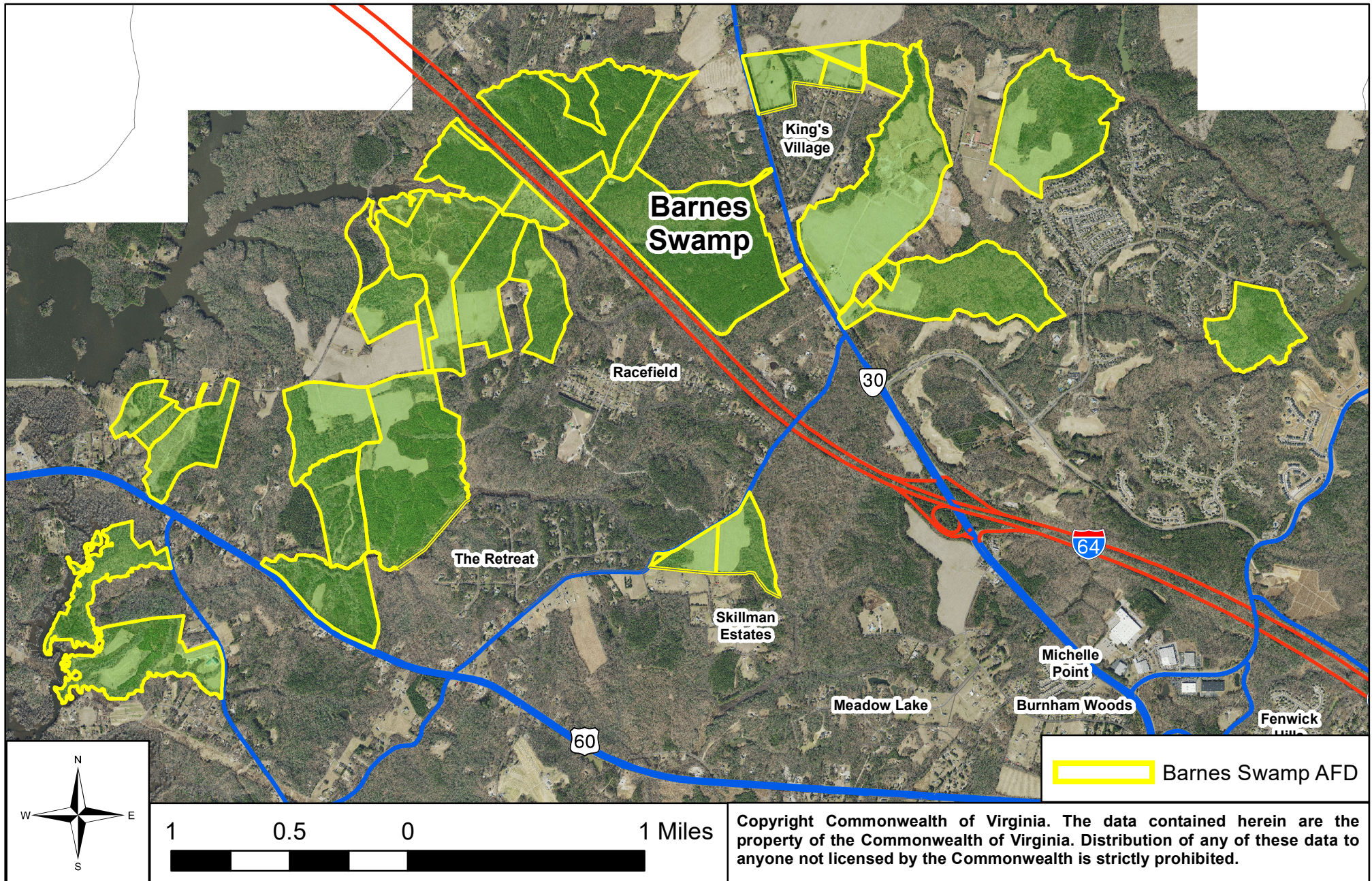
AFD24-3_9812OStRdWD-ord

AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal



JCC AFD-24-0002

Barnes Swamp Agricultural Forestal District



ADOPTED

SEP 13 2022

ORDINANCE NO. 167A-18

Board of Supervisors
James City County, VA

AGRICULTURAL AND FORESTAL DISTRICT-22-0003

BARNES SWAMP 2022 RENEWAL

WHEREAS, James City County has completed a review of the Barnes Swamp Agricultural and Forestal District (the "District"); and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code"), property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the District; and

WHEREAS, the Agricultural and Forestal District (AFD) Advisory Committee at its meeting on July 21, 2022, voted 6-0 to recommend renewal of the District; and

WHEREAS, the Planning Commission following its public hearing on August 3, 2022, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to recommend renewal of the District with the conditions listed below.

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

1. The Barnes Swamp Agricultural and Forestal District (the "District") is hereby continued to October 31, 2026, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq. (the "Act").
2. That the District shall include the following parcels, provided, however, that all land within 25 feet of road rights-of-way is excluded from the District:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Arline H. Bowmer Estate	0240100012	62.19
Berta L. Bowmer Estate	0240100013	18.90
Berta L. Bowmer Estate	0240100014	25.84
Alex L. Penland	0240100029	55.90
Maynard P. Phelps & Joy L. Barnes	0310100001	108.47
Leah R. Fry & Craig A. Beck	0310100001A	10.00
Maynard P. Phelps	0310100001B	10.23
Timothy & Joan Mills	0310100002	23.84
Katherine L. Hockaday, Ann Blair Hall Martin, & Justin Ray Martin	0310100003	39.26
Elizabeth O. Harwood	0320100001	43.53
Stephen E. & Rebecca Murphy, Trustee	0320100002	13.86
Frederick C. Johnson, Trustee	0320100002A	17.20
Betty Johnson & Lynn Fischer	0320100003	19.08
Betty Johnson & Lynn Fischer	0320100003A	93.99

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Robert M. Dzula	0320100004	28.08
Jane Farmer & Betty Rady	0330100003	70.00
Jane Farmer & Betty Rady	0330100004	70.00
Arline H. Bowmer, Estate	0330100006	96.75
Steven & Michelle Johnson	0340800003	52.63
Steven & Michelle Johnson	0340800005	68.43
John A. Richardson	0410100005	42.00
John A. Richardson	0410100006	10.00
Jonathan C. Kinney, Trustee	0410100010	196.30
Niceland Farm, LLC	0420100008	188.68
Cherri U. Spellmeyer, Trustee	0420100014	134.00
Donald A Hazelwood	0420100018	4.77
Pamaka, LLC	0420100020	112.44
Pamaka, LLC	0430100014A	1.12
Pamaka, LLC	0430100015	19.99
Pamaka, LLC	0430100016	36.84
Donald A. Hazelwood	0440100001	6.12
David K. & Karen P. Hogue	0540100001	60.77
Charles & Dianne Hasbrouck	0920100001	97.50
Shelton & Jennifer Daniels	1010100001	61.62
Total:		<u>1,838.71</u>

3. That pursuant to Sections 15.2-4309 of the Act, the Board of Supervisors requires that any parcel in the District shall not, without the prior approval of the Board of Supervisors, be developed to any more intensive use, other than uses resulting in more intensive agricultural or forestal production. Specifically, the following restrictions shall apply:
- a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCFs), provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. Land within the District may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawal of Properties from Agricultural and Forestal Districts, adopted September 28, 2010.
 - c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the Act, which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for WCFs on properties in the District that are in accordance with the County's policies and Ordinances regulating such facilities.


John J. McGlennon
Chairman, Board of Supervisors

ATTEST:


Teresa J. Saeed
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2022.

AFD22-3BnsSwpRen-res

RESOLUTION

POLICY GOVERNING THE WITHDRAWALS OF PROPERTY FROM AGRICULTURAL

AND FORESTAL DISTRICTS (AFDs)

WHEREAS, the Board of Supervisors has determined that Agricultural and Forestal Districts (AFDs) are a valuable tool to help protect the agricultural and forestal lands and industry in James City County; and

WHEREAS, premature withdrawals of land from the Districts is contrary to the intent of the Board in allowing the establishment of these Districts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following policy relating to the withdrawal of lands from AFDs during the terms of those Districts. This policy in no way supersedes the provisions for withdrawal by right under Sections 15.2-4311 or 15.2-4314D of the Code of Virginia.

1. It is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.
2. The criteria for withdrawal during the terms of the districts are as follows:

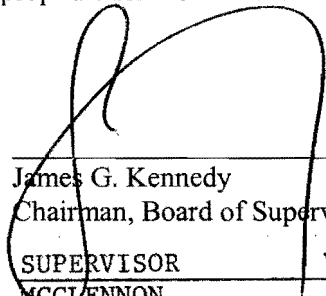
In order to establish "good and reasonable cause," a landowner requesting to withdraw property from an AFD must submit written information to demonstrate compliance with the following criteria:

- A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.
- B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.
- C. The request would not cause damage or disruption to the existing district.
- D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever other criteria as it deems appropriate for the individual case.

ATTEST:


Robert C. Middaugh
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCCLENNON	AYE
GOODSON	AYE
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.



May 15, 2024

Attn: Mr. Paul Holt
101-A Mounts Bay Road
PO Box 8784
Williamsburg, VA 23187

Dear Mr. Holt,

I am writing to request a certain portion of the farm located at 9812 Old Stage Rd, Toano, VA 23168, be removed from the AFD program, parcel #042010008, 188.68 acres.

We are requesting that approximately 15 (+/-) acres be removed for the purposes of creating an event center for music, weddings, etc.

I have attached the master plan prepared by VHB engineers and the plat of survey from AES.

We will be submitting this project through the S.V.P. process soon which will require the removal of this acreage.

I can be reached at 757-592-1470 with any questions.

Thank you,

A handwritten signature in dark ink, appearing to be 'DA', is written above the printed name.

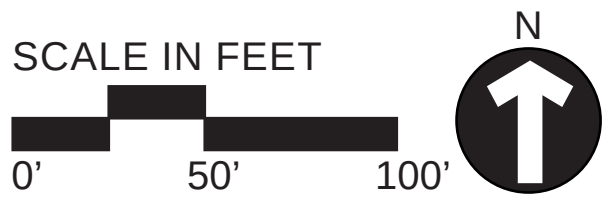
David A. Nice





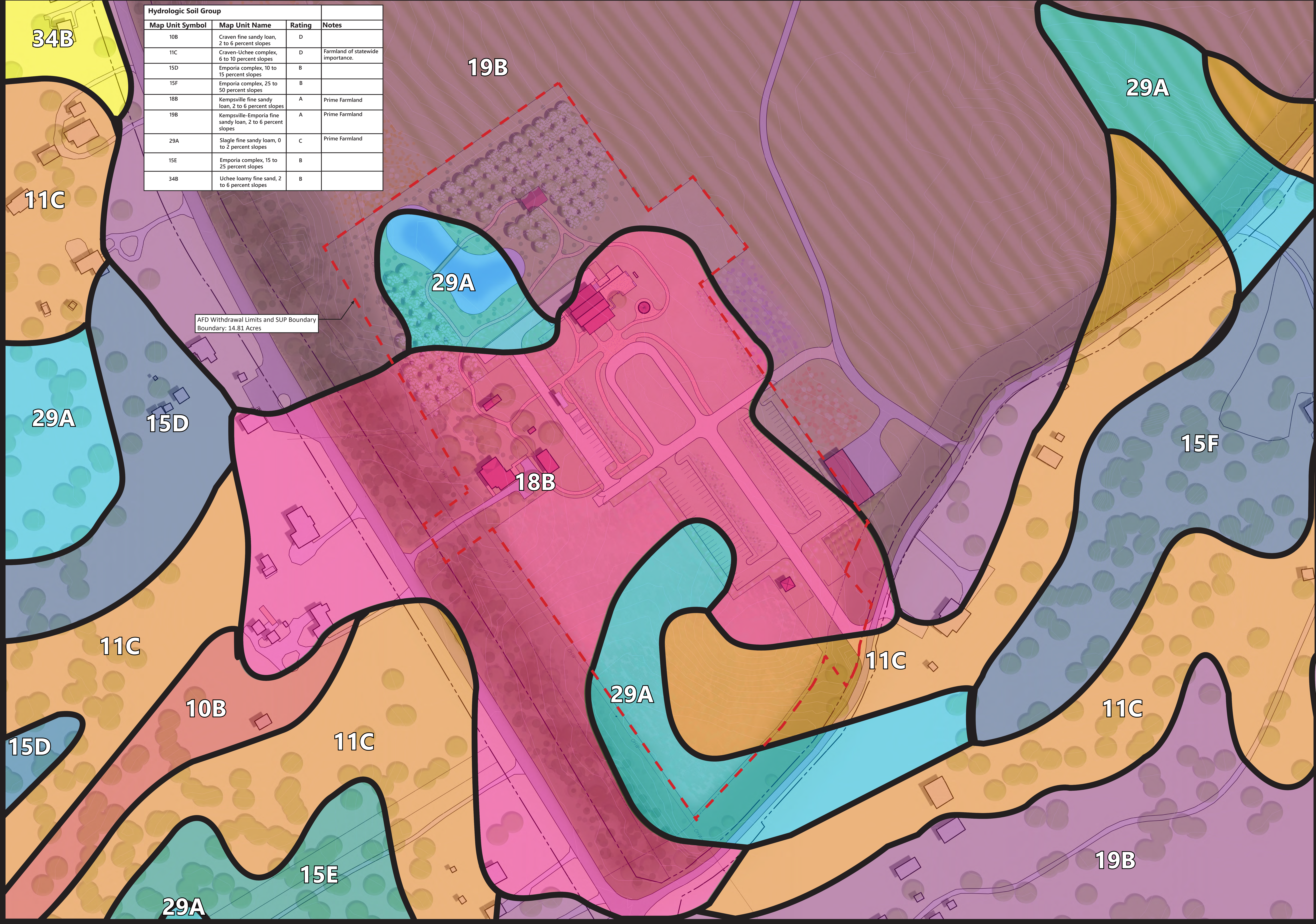
MASTER PLAN

NICELAND FARM EVENT VENUE & TOURIST HOME • WILLIAMSBURG, VA



DATE: September 13th, 2024
PROJECT NUMBER: 34857.00
351 McLaws Circle Suite 3 | Williamsburg, Virginia 23185
Tel: 757.220.0500 | www.VHB.com





MASTER PLAN SOILS MAP OVERLAY

NICELAND FARM EVENT VENUE & TOURIST HOME • WILLIAMSBURG, VA

DATE: September 13th, 2024
PROJECT NUMBER: 34857.00
351 McLaws Circle Suite 3 | Williamsburg, Virginia 23185
Tel: 757.220.0500 | www.VHB.com



MINUTES
JAMES CITY COUNTY AFD ADVISORY COMMITTEE
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
July 18, 2024
4:00 PM

A. CALL TO ORDER

Mr. Bruce Abbott called the Agricultural and Forestal District (AFD) Advisory Committee meeting to order at 4 p.m.

B. ROLL CALL

Present:

Bruce Abbott, Vice Chair
Richard Bradshaw
Loretta Garrett
David Hogue
Sandy Wanner
Barbara Null
Payton Harcum
William Harcum
Will McElfresh

Absent:

Chris Taylor

Staff:

Josh Crump, Principal Planner
Paxton Condon, Deputy Zoning Administrator/Senior Planner

C. MINUTES

1. Minutes of the April 18, 2024, Regular Meeting

Ms. Garrett made a motion to approve the Minutes.

On a voice vote, the Committee approved the Minutes of the April 18, 2024, Regular Meeting.

D. OLD BUSINESS

There was no old business.

E. NEW BUSINESS

1. AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal

Ms. Paxton Condon, Deputy Zoning Administrator/Senior Planner made a presentation to the Committee on the proposed withdrawal. Ms. Condon stated that Mr. David Nice has requested to withdraw approximately 15 acres of an approximately 188.68-acre parcel from the Barnes Swamp AFD. The requested withdrawal is to allow for the operation of an event venue, which will also require a Special Use Permit (SUP) which the applicant intends to submit in the near future. Ms. Condon stated that staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Ms. Condon stated that staff recommends that the AFD Advisory Committee recommend denial of this request.

Mr. Nice addressed the Committee in support of the request.

Ms. Garrett inquired about the location of the portion to be withdrawn.

Discussion ensued to clarify the meets and bounds of the area to be withdrawn and what existing structures would be incorporated.

Mr. Abbott inquired about staff's recommendation to recommend denial based on the Board of Supervisors' withdrawal policy.

Ms. Condon stated that the withdrawal met only two of the requirements which were that the request would not cause damage or disruption to the existing District and if the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan. Ms. Condon noted that the District would still meet minimum acreage requirements. Ms. Condon noted that the proposed use could be compatible provided that appropriate conditions are in place.

Mr. McElfresh inquired how long the parcel had been enrolled in the AFD.

Mr. Nice stated that he had enrolled the parcel in the AFD when he acquired it.

Mr. Abbott inquired how many years were left before the AFD renewal.

Mr. Crump stated that 2026 is the renewal year.

Ms. Garrett inquired about rollback taxes.

Mr. Bradshaw stated that he was not certain what the tax implications would be. Mr. Bradshaw noted that part of the parcel was changing from one agricultural use to another, and part of the parcel was already not receiving land use valuation.

Mr. Abbott noted that the event facility would bring more revenue.

Mr. Nice noted that his proposed project is in line with the goal of allowing property owners to make good economic use of their property while also preserving rural lands.

Mr. Nice further noted that the ground cover would not be changing drastically.

Mr. Bradshaw stated that cultivated agricultural land still qualifies for land use valuation even if it is not in an AFD.

Mr. Peyton Harcum made a motion to recommend approval of the withdrawal.

Ms. Garrett seconded the motion.

On a voice vote, the AFD Committee voted to recommend approval of the withdrawal. (8-1)

Mr. Bradshaw noted that his vote against the withdrawal was because he believes that properties enrolled in an AFD should not be removed prior to the term expiration.

Mr. Crump noted that this parcel was part of the original AFD when it was part of the Hazelwood Farm.

F. DISCUSSION ITEMS

Mr. Crump inquired about the Committee's interest in having signs similar to the ones in Louisa County to draw attention to the AFD program. Mr. Crump noted that he had not yet looked into cost or potential implantation.

The Committee was generally supportive of the idea; however, it was also noted that signs might have to be moved frequently to account for withdrawals. The Committee further discussed how the signs could be implemented on individual parcels.

Mr. Crump stated that he would reach out to Louisa County and find out more about its sign program.

Mr. Abbott shared information with the Committee on the potential for parcels in an AFD to be enrolled in Purchase of Development Rights programs or other conservation programs.

Mr. Bradshaw cautioned that AFDs are voluntary participation which can be terminated where conservation easements are permanent.

The Committee discussed pros and cons related to conservation easements.

Mr. Abbott noted that because the conservation easements were permanent protections it was recommended not to enroll until the AFD term was about to expire.

Mr. McElfresh inquired if there was a minimum size for the conservation easement.

Mr. Abbott stated that there was no minimum acreage requirement.

Ms. Null noted that the parcels could also have different ownership.

G. ADJOURNMENT

Mr. Hogue made a motion to adjourn.

Ms. Garrett seconded the motion.

On a voice vote, the meeting was adjourned at approximately 4:24 p.m.

Susan Istenes, Secretary

Bruce Abbott, Vice Chair

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
October 2, 2024
6:00 PM

A. CALL TO ORDER

Mr. O'Connor called the meeting to order at 6 p.m.

B. ROLL CALL

Planning Commissioners Present:

Tim O'Connor
Jack Haldeman
Frank Polster
Stephen Rodgers
Jay Everson

Planning Commissioners Absent:

Scott Maye
Kira Allmann

Staff Present:

Susan Istenes, Director of Planning
Liz Parman, Deputy County Attorney
Terry Costello, Senior Planner
Morgan Risinger, Senior Planner
Will Albiston, Community Development Assistant

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

As no one wished to speak, Mr. O'Connor closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. O'Connor noted there was no Development Review Committee (DRC) meeting nor Policy Committee meeting in September.

E. CONSENT AGENDA

1. Minutes of the September, 4, 2024, Regular Meeting

Mr. Haldeman made a motion to approve the Consent Agenda.

On a voice vote, the Commission approved the Consent Agenda. (5-0-2)

F. PUBLIC HEARING(S)

1. SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School

Ms. Terry Costello, Senior Planner, addressed the Commission regarding the Special Use Permit (SUP) application. She noted the SUP would allow for a school within the existing site of Wellspring United Methodist Church. Ms. Costello highlighted traffic, enrollment, operation hours, and other factors of the application. She noted staff's recommendation in support of the SUP application was contingent on conditions stated in the Agenda Packet. Ms. Costello stated the applicant was available for any questions.

Mr. Haldeman asked if there were any additional outside areas other than the picnic area.

Ms. Costello responded there were no additional buildings, adding occasional science projects could take place in the gardens behind the church. She noted those classroom activities were a consideration.

Mr. Haldeman referenced Condition No. 6. He noted that item stated if the facility was closed for a year, then the SUP would be lost. Mr. Haldeman questioned the logic of that condition.

Ms. Costello responded that point was to avoid any school going in to use the facility. She noted the condition reflected if the school no longer remained then the SUP would no longer remain.

Mr. Haldeman referenced the COVID-19 pandemic and if the school closed under a similar situation.

Ms. Costello noted another SUP would be required if the original SUP expired. She further noted the possibility of an extension, adding the state had allowed for some SUP extensions due to the pandemic.

Mr. Haldeman thanked Ms. Costello.

Mr. Polster asked if Condition No. 6 wording could be rephrased. He recommended rewording to specify that any entity other than the Montessori to come in for the school use would invalidate the SUP. He asked for legal clarification.

Ms. Liz Parman, Deputy County Attorney, responded that generally SUPs were tied to the land and not to the landowner. She noted it would not be applicable.

Mr. Polster noted the applicant was not the landowner.

Mr. Rodgers referenced the school and the pandemic and questioned the definition of no activity.

Ms. Costello noted if a decision to no longer use the building as a school was the result. She further noted if the school vacated the building, then the SUP would disappear.

Mr. Polster stated he had concerns with the intent of the wording.

Ms. Costello stated if the school left then the SUP would be void.

Mr. Polster noted the concern regarding the school.

Ms. Costello stated another school could come in and use the property, but it would have to adhere to the same conditions of student enrollment number and other factors stated.

Mr. Polster stated the significance of the wording change to reflect that if the Montessori school was vacated in one year. He added the condition was specific to the use and the person using the school.

Mr. O'Connor referenced Ms. Parman's earlier comment that the SUP condition was tied to its use, but not to an entity. He noted if a pandemic occurred, the possibility of online schooling was a consideration. Mr. O'Connor spoke to these points in more detail.

Mr. Polster stated an alternative was to remove that condition and eliminate any misunderstanding.

Mr. Haldeman suggested consideration of a two-year timeframe.

Mr. Polster agreed with the two-year suggestion. He asked if two years could be incorporated in Condition No. 6.

There were no objections from staff or Planning Commissioners.

Mr. Polster asked if the applicant was agreeable to that change. He noted the applicant nodded her head in agreement. Mr. Polster stated Condition No. 6 would be revised to reflect two years regarding closure.

Mr. O'Connor thanked Ms. Costello.

Mr. O'Connor opened the Public Hearing.

As there were no speakers, Mr. O'Connor closed the Public Hearing.

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors of SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School with the conditions and modifications to Condition No. 6 of two years as opposed to one year.

On a voice vote, the Commission approved the motion. (5-0-2)

Mr. O'Connor noted Item Nos. 2 and 3 would be presented collectively with separate votes on the items.

2. AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal

Ms. Morgan Risinger, Senior Planner, addressed the Commission regarding details of the Agricultural and Forestal District (AFD) withdrawal and SUP applications. She noted the AFD withdrawal of approximately 15 acres would allow for the SUP to operate the event venue. Ms. Risinger addressed the AFD withdrawal policy and its criteria. She noted staff determined no disruption to the AFD would be made with this application and that the proposed land use would be compatible with the Rural Lands designation. She further noted staff determined no public purpose would be served with the request nor was an unforeseen circumstance a consideration in the withdrawal request. Ms. Risinger stated the AFD Advisory Committee recommended approval of the withdrawal request to the Planning Commission and the Board of Supervisors at its July 18, 2024, meeting. She noted staff recommended the Planning Commission recommend denial to the Board based on the application failing to meet all four criteria of the Board's withdrawal policy.

Ms. Risinger stated the proposed event venue would host one event per day with no more than three events per week with a 360-attendee cap. She provided details on the venue features and barn space as well as the utilities. Ms. Risinger addressed the A-1 Zoning District's performance standards for event facilities as outlined in the Zoning Ordinance. Ms. Risinger

noted the SUP failed to meet all the performance standards which included maximum number of attendees, access from a local road rather than a major road, and the placement of structures or improvements on soil considered prime farmland and farmland of statewide importance by the United States Department of Agriculture. She addressed these points in more detail, adding that Condition No. 5 had been included to ensure vegetation preservation along Old Stage Road. Ms. Risinger noted other factors for consideration included stormwater concerns which were addressed in Condition Nos. 8-10. She further noted the number of attendees and parking as other considerations in the conditions. Ms. Risinger highlighted access to the venue and traffic data along Fire Tower Road and Old Stage Road, adding Condition No. 4 addressed road widening as part of the site plan submittal.

Ms. Risinger noted the existing single-family residence's operation as a tourist home was also incorporated into the application. She further noted there was an existing driveway from Old Stage Road. Ms. Risinger provided additional details regarding the conditions as they pertained to the residence. She noted staff recommended that the Planning Commission recommend approval to the Board of Supervisors. Ms. Risinger stated Mr. Stephen Romeo of Vanasse Hangen Brustlin, Inc. (VHB) and Mr. David Nice were present and available for questions.

Mr. Everson noted Condition No. 5 and the reference of a buffer along Fire Tower Road. He questioned what buffering was envisioned.

Ms. Risinger stated Condition No. 5 had no provision for buffering along Fire Tower Road. She explained the buffering referenced the area at the intersection of Old Stage Road to the northern end of the project site.

Mr. Everson thanked Ms. Risinger for the clarification.

Mr. O'Connor referenced an email he had received. He asked if the acreage was not withdrawn from the AFD, then was a by-right option for use still applicable if agri-tourism was still supported.

Ms. Risinger confirmed yes. She explained the AFD withdrawals restrict the issuance of an SUP for commercial use; therefore, the withdrawal request was necessary. Ms. Risinger noted if a facility was proposed which met all the performance standards or performed solely for agri-tourism events then neither the SUP nor the withdrawal would be required.

Mr. O'Connor asked what enforcement mechanism would be in place to determine if an event was supporting agri-tourism or a wedding.

Ms. Christy Parrish, Zoning Administrator, responded that if the SUP were granted then a wedding, agri-tourism supported event, corporate event, or other type of event could occur at the venue.

Mr. O'Connor noted no report regarding events was required.

Ms. Parrish noted there was a fine line in reference to the enforcement mechanism. She further noted review of the use would be based on a complaint basis or additional information received by staff. Ms. Parrish stated staff would then investigate, communicate with the property owner, and establish a plan as needed.

Mr. Polster asked for the definition of an agri-tourism event.

Ms. Parrish responded interpretation of State Code and County Ordinances were considerations. She compared the Sweethaven Lavender of Williamsburg as an example. Ms. Parrish noted the use of agri-tourism and guidance from the Attorney General's Office and spoke to those points in more detail. She further noted if the withdrawal request and SUP application were removed,

then Mr. Nice could still rent the house as a tourist home for the farm enjoyment by-right.

Mr. Rodgers questioned the timeline for the AFD withdrawal.

Ms. Risinger noted the next AFD renewal was slated for 2026. She further noted that staff would send letters out in May to all the properties in the AFD as well as to adjacent properties. Ms. Risinger stated the letters notified owners of the opportunity to request property withdrawal, adding that was by-right. She noted the specified removal would occur.

Mr. Rodgers asked if that was two years.

Ms. Risinger confirmed yes.

Mr. O'Connor thanked Ms. Risinger.

Mr. O'Connor opened the Public Hearing.

Mr. Stephen Romeo of VHB, Inc., 115 Tides Run, Yorktown. He highlighted the VHB project with a PowerPoint presentation which included a video of the property. Mr. Romeo noted one significant point of this project centered on access with the SUP supporting that point. He further noted Fire Tower Road was considered the safer access route as opposed to Old Stage Road. Mr. Romeo stated the speed limit was a major consideration. He added Fire Tower Road had a posted 25 mph speed limit. Mr. Romeo addressed the number and guests and access off Old Stage Road and by-right considerations, adding this process ensured a safe venue.

Mr. O'Connor thanked Mr. Romeo.

Mr. David Nice, 4571 Ware Creek Road, spoke on the property. He noted prior to the beginning of the project, Mr. Tom Coghill, Director of the County's Building Safety and Permits Division, had spoken with him assuring him as the property was an operating farm, exemptions were in place regarding building permits and inspections. Mr. Nice stated the project was built with the highest standards in place. He noted the original purpose was a musical venue. Mr. Nice further noted the home on the property would be used for brides rather than for Airbnb rentals. He spoke in more detail about the venue and the agri-tourism aspect. Mr. Nice stated if the applications were approved then he hoped the venue would open in the spring, adding calls were coming in daily regarding the venue. He addressed the minimum AFD withdrawal and emphasized the family had no intention of developing the farm.

Mr. O'Connor thanked Mr. Nice.

Ms. Sharon Seltzer, 9804 Fire Tower Road, addressed the Commission noting she lived in the house across from the proposed venue. She noted she had no opposition to the property becoming a wedding or musical venue, but she had some concerns and questions. Ms. Seltzer stated single-family homes were along Fire Tower Road which had a posted 30 mph speed limit. She expressed concern regarding traffic. Ms. Seltzer referenced the peak hour trip data and consideration of a Traffic Impact Analysis. She noted Dream Catchers was also nearby and the increased traffic activity when Dream Catchers hosted events. Ms. Seltzer referenced recent traffic accidents along Old Stage Road. She emphasized consideration for the best option for traffic access with regard to Fire Tower Road. Ms. Seltzer questioned the hours for the music, light pollution, and buffering for the area and the impact on the local residents.

Mr. O'Connor thanked Ms. Seltzer.

As there were no additional speakers, Mr. O'Connor closed the Public Hearing.

Mr. Polster noted his confusion regarding the agri-tourism definition. He further noted the

positive direction of the proposed venue toward the agri-business aspect within the County. Mr. Polster recognized the Nice family's commitment to that point over the years. He stated he was pleased the access would not be from Old Stage Road. Mr. Polster acknowledged a traffic light at Stonehouse would be needed with the last three developments occurring. He noted one of the conditions addressed lighting, noise, and other factors for consideration. Mr. Polster further noted those points were considerations staff reviewed regularly with applications. He spoke in favor of the entrance access off Fire Tower Road, buffer maintenance off Old Stage Road, and widening of the road, adding he would support the application.

Mr. Haldeman questioned the voting.

Mr. O'Connor clarified two votes would occur with one for the AFD withdrawal and the other for the SUP.

Mr. Haldeman spoke favorably about the project in its beauty and support of the local farming economy. He noted his support of the venue and tourist home, but stated he had concerns with the AFD withdrawal. Mr. Haldeman addressed the AFD policy.

Mr. Rodgers noted out-of-town guests generally were not late-night attendees at the wedding venues from his experience. He further noted that point could minimize disruption to surrounding homes and residents. Mr. Rodgers addressed the use of the barn and the preservation component of the venue. He supported the application, adding he felt the AFD withdrawal was more a removal with no disturbance to the land as the structures were already in place.

Mr. Everson echoed that point. He noted the public purpose of the agri-business aspect. Mr. Everson referenced the Comprehensive Plan to that point. He further noted his support of the application.

Mr. O'Connor echoed Mr. Haldeman's concern regarding the AFD withdrawal. He noted that if the entire parcel had been requested for withdrawal, he would be opposed. Mr. O'Connor further noted approximately 15 acres were requested for withdrawal with the balance of the land to remain in the AFD with an agricultural use. He referenced the Comprehensive Plan and how this application supported many of its components such as preservation and setbacks. Mr. O'Connor noted the agri-tourism uses while supporting open space preservation. He stated his support of the AFD withdrawal and the SUP.

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors on AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal.

Mr. O'Connor clarified a yes vote represented withdrawal from the AFD.

On a roll call vote, the Commission voted to make a recommendation to the Board of Supervisors on approval of AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal. (5-0-2)

3. SUP-24-0021. Niceland Farm Event Venue and Tourist Home

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors on SUP-24-0021. Niceland Farm Event Venue and Tourist Home with the conditions.

On a roll call vote, the Commission voted to make a recommendation to the Board of Supervisors on approval of SUP-24-0021. Niceland Farm Event Venue and Tourist Home with the conditions. (5-0-2)

Mr. O'Connor thanked the attendees of the meeting.

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for Planning Commission consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - October 2024

Ms. Istenes stated that she did not have any additional information.

Mr. Polster questioned Ms. Istenes' response regarding no Policy Committee meetings for the remainder of the year.

Ms. Istenes responded that she would follow up with Mr. Paul Holt, Director of Community Development, and reply to the Commissioners via email.

Mr. Polster noted his appreciation to that point.

Ms. Istenes stated an application had been received for the October 23, 2024, DRC meeting. She stated she thought the application would move forward.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. O'Connor noted Mr. Maye had coverage for the Board of Supervisors October meeting.

J. ADJOURNMENT

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 6:51 p.m.

Susan Istenes, Secretary

Tim O'Connor, Chair

**SPECIAL USE PERMIT-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. Stephen Romeo, Vanasse Hangen Brustlin (VHB) Inc., on behalf of Mr. David Nice

Landowner: Niceland Farm, LLC

Proposal: A Special Use Permit (SUP) to operate an event venue and tourist home.

Locations: 9812 Old Stage Road
9908 Old Stage Road

Tax Map/Parcel Nos.: 0420100008
0410100019

Project Acreage: ± 14.81 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area (PSA): Outside

Staff Contact: Morgan Risinger, Senior Planner

PUBLIC HEARING DATES

Planning Commission: October 2, 2024, 6:00 p.m.

Board of Supervisors: November 13, 2024, 5:00 p.m.

FACTORS FAVORABLE

1. Staff finds the proposal generally consistent with the Comprehensive Plan.
2. Subject to the proposed conditions, staff finds the proposal will not negatively impact surrounding development.
3. Impacts: See Impact Analysis on Pages 5-6.

FACTORS UNFAVORABLE

1. Impacts: See Impact Analysis on Pages 5-6.

PLANNING COMMISSION RECOMMENDATION

At its October 2, 2024, meeting, the Planning Commission voted 5-0 to recommend the Board of Supervisors approve the application, subject to the proposed conditions.

CHANGES SINCE THE PLANNING COMMISSION MEETING

None.

SUMMARY STAFF RECOMMENDATION

Staff finds that the proposal is compatible with surrounding zoning and development and is generally consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve the application, subject to the proposed conditions.

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-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

PROJECT DESCRIPTION

Mr. Stephen Romeo, VHB Inc., has applied for an SUP on behalf of Mr. David Nice to operate an event venue and tourist home. The applicant's Community Impact Statement (Attachment No. 3) states that the proposed event venue would include hosting weddings and corporate functions with an anticipated frequency of one event per day and no more than three events per week. The venue would utilize an existing renovated barn as well as outdoor areas which are planned to include a performance stage, flexible open space, an orchard, a farm pond with a pedestrian bridge, a repurposed grain silo, a dedicated location for food trucks, and attendee parking. The venue would have a maximum capacity of 360 attendees including event staff, caterers, photographers, and vendors. An existing single-family residence is located adjacent to the proposed event venue and is intended to be used as a tourist home. The tourist home could be used in conjunction with or independently from the event venue as well as for by-right agritourism activities.

Section 24-48 of the Zoning Ordinance defines event venues as "places of public assembly used primarily as event facilities" and provides performance standards. In the A-1 Zoning District, places of public assembly used primarily as event facilities are permitted by-right if they are in accordance with all the performance standards or require SUPs if not all of the performance standards are met. The proposal meets several of the performance standards, including the minimum parcel size of 10 acres, a 150-foot-wide setback from the Old Stage Road Community Character Corridor (CCC), a 75-foot-wide setback from adjacent properties, maintain existing vegetation in these setback areas, and locating any areas for outdoor amplified sound or music at least 100 feet from adjacent properties. However, the proposal does not meet three of the performance standards. The first is that event facilities shall have a maximum of 300 attendees. The proposal specifies that the expected maximum occupancy would

be 360 attendees, which does not meet the standard. The second is that access shall be taken from roads classified by the Virginia Department of Transportation (VDOT) as arterial roads. The proposed access will be from Fire Tower Road, which is a local road and does not meet this standard. The third is that the placement of the permanent components of a proposed event facility should avoid areas designated by the United States Department of Agriculture (USDA) as prime farmland or farmland of statewide importance. The applicant has provided an exhibit depicting prime farmland and farmland of statewide importance (Attachment No. 5) showing the placement of the structures and parking areas being located in an area where the soil type is considered to be farmland of statewide importance. As these performance standards are not met, an SUP is required for the proposed facility.

In accordance with the performance standards, the areas where amplified sound and music may be played outdoors are over 100 feet from the nearest property line. The flexible event space and outdoor areas around the existing barn are approximately 550 feet from the Fire Tower Road right-of-way and 500 feet from the Old Stage Road right-of-way. Other open areas around the farm pond and food truck location are approximately 250 feet from the Old Stage Road right-of-way at their nearest points.

The 9812 Old Stage Road property is actively farmed and includes soil types which are well suited for agricultural production. Of the 14.81 acres delineated on the proposed Master Plan, approximately 13.55 acres are designated as "prime farmlands" and approximately 1.26 acres are designated as "farmlands of statewide importance" by the USDA. While the performance standards call for these soils to be protected, it is important to consider that locating the event venue in this area and utilizing existing structures and driveway entrances will allow for the remaining 173.87 acres to remain in agricultural 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-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

The 9908 Old Stage Road property provides an existing vegetative buffer along Old Stage Road consisting of primarily mature trees ranging from approximately 75 to 80 feet in width. Condition No. 5 is proposed to ensure this vegetation is preserved for the area that is along the limits of the SUP. In addition to this existing vegetation, the Zoning Ordinance requires a vegetative buffer with an average width of 30 feet along Fire Tower Road and landscaping to be provided along parking lots. These requirements will be reviewed during the site plan stage.

Individual well and on-site sewage systems will be constructed specifically for the event venue. The Virginia Department of Health (VDH) will review the site plan materials to ensure that the systems meet design requirements.

The proposed stormwater management approach includes the use of pervious grass pavers in the parking areas, vegetated filter strips along parking areas and driveways, and grading to direct runoff to the farm pond and natural drainage channels. The Stormwater and Resource Protection Division has proposed Condition Nos. 8-10 to mitigate potential impacts of stormwater on the property including requiring that the necessary water quality treatment be provided on-site. A detailed stormwater management plan will be reviewed during the site plan stage.

The application indicates that the existing barn with renovations would have a maximum occupancy of 360 people and proposes a maximum of 360 attendees for events. Staff generally finds that the proposed site area of 14.81 acres and the layout of activity areas and improvements proposed on the Master Plan would reasonably accommodate 360 attendees on-site. Staff has proposed a condition to limit the maximum number of attendees, including vendors and event staff, to 360 to ensure that events held at the venue are consistent with the details of the application.

The proposed event venue layout includes 110 on-site parking spaces for event attendees. The Zoning Ordinance requires a minimum of 72 spaces and a maximum of 86 spaces for an event venue with a capacity of 360 attendees. A waiver to exceed the maximum number of parking spaces will be considered during the site plan stage. Based on a preliminary review, staff generally finds that this amount of parking is reasonable for the proposed use.

The event venue takes access from Fire Tower Road utilizing an existing driveway entrance. The application indicates that 90 peak hour vehicle trips to the site and 94 peak hour vehicle trips from the site will be generated based on the Institute of Transportation Engineers Trip Generation Manual rate for a church with 360 seats during the peak hour of operation on a Sunday. As the arrival and departure times for events are anticipated to be separated by more than an hour, the use does not require a Traffic Impact Analysis to be completed. In addition, the application indicates that Old Stage Road will continue to operate at a Level of Service A. Additionally, the applicant intends to widen the pavement of Fire Tower Road, from Old Stage Road to the proposed entrance to the event venue, to 24 feet in width to accommodate two-way traffic. Staff has included Condition No. 4 to ensure that the road widening is a component of the site plan submittal and constructed prior to the event venue becoming operational.

The existing single-family residence to be used as a tourist home includes three bedrooms. No changes to the size or footprint of the home are proposed. An existing driveway is provided from Old Stage Road which includes sufficient area to park four vehicles, which is adequate for the tourist home use. There will be no vehicular connections from the tourist home driveway to the event venue driveway. The residence is served by existing individual well and on-site sewage systems. In previous tourist home applications, staff has calculated the number of occupants to be two people per bedroom.

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**SPECIAL USE PERMIT-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

Accordingly, staff has included Condition No. 11 which states that there shall be a maximum of six occupants. Staff notes that the use of the residence for agritourism activities would not be subject to these limitations.

PLANNING AND ZONING HISTORY

- The properties have historically been used for agricultural production.
- In 2018, a minor subdivision of the 9812 Old Stage Road property was approved and recorded which created four new parcels which are located on the east side of Fire Tower Road. As part of this subdivision process, the Development Review Committee and Planning Commission reviewed and approved a waiver from the Subdivision Ordinance requirement to provide a shared driveway for the parcels.

SURROUNDING ZONING AND DEVELOPMENT

- Properties along the adjacent portions of Old Stage Road and Fire Tower Road are zoned A-1, General Agricultural, designated Rural Lands on the Comprehensive Plan Land Use Map, and located outside the PSA. Development in this area is primarily comprised of single-family residential development outside of subdivisions.
- Properties further to the south are zoned MU, Mixed Use, PUD-R, Planned Unit Development - Residential, and B-1, General Business, designated Mixed Use and Low Density Residential, on the Comprehensive Plan Land Use Map, and located inside the PSA. Development on these properties is comprised of existing residential subdivision development and vacant lands which are intended for commercial development.

	ZONING DESIGNATION	EXISTING LAND USE	FUTURE LAND USE DESIGNATION
NORTH	A-1, General Agricultural	Single- family residential	Rural Lands
SOUTH	MU, Mixed Use; PUD-R, Planned Unit Development - Residential; and B-1, General Business	Single- family residential; and vacant commercial land	Rural Lands
EAST	A-1, General Agricultural	Single- family residential	Rural Lands
WEST	A-1, General Agricultural	Single- family residential	Rural Lands

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SPECIAL USE PERMIT-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, 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>Mitigated</u>	- The proposed event venue will utilize an existing driveway entrance from Fire Tower Road. Fire Tower Road is designated as a local road. - The application indicates that a maximum of 90 peak hour trips will be generated entering the site and a maximum of 94 peak hour trips will be generated exiting the site which will be separated by the duration of the event. - The applicant has proposed widening Fire Tower Road, from Old Stage Road to the proposed entrance to the event venue, to 24 feet in width to accommodate two-way traffic to and from the event venue. Condition No. 4 requires the details of the road widening to be included in the site plan for the event venue and installed before a Certificate of Occupancy is issued. - The proposed tourist home takes access from Old Stage Road which is designated as a minor arterial road.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	- No pedestrian or bicycle improvements are shown along this side of Old Stage Road on the Pedestrian Accommodations Master Plan or Regional Bikeways Master Plan. - This site is not within walking distance of a WATA bus stop.
<u>Public Safety</u>	<u>No Mitigation Required</u>	- Fire Station 1 on Forge Road serves this area of the County and is located approximately 4.3 miles from the property. - The Fire Department reviewed the proposal and recommended approval of the application. - 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 is not expected to generate impacts to public schools.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	- The proposal is not expected to generate impacts to public parks and recreation.

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SPECIAL USE PERMIT-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, 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 Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	- The proposal is not expected to generate impacts to public libraries and cultural centers.
<u>Groundwater and Drinking Water Resources</u>	<u>Mitigated</u>	- The property does not receive public water and sewer. - VDH will review the proposed individual well and on-site sewage systems for the event venue during the site plan stage.
<u>Watersheds, Streams, and Reservoirs</u> Project is located in the Ware Creek Watershed.	<u>Mitigated</u>	- The Stormwater and Resource Protection Division reviewed the proposal and provided Condition Nos. 8-10 to ensure that the design of stormwater management facilities adequately addresses stormwater impacts of the event venue.
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	- The properties are not designated as a high-sensitivity or ultra-sensitivity area by the James City County Archaeological Assessment. - The proposed event venue is located on land which has been previously disturbed by agricultural operations and structures.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	- Condition No. 5 requires existing vegetation to be preserved along Old Stage Road. - Condition No. 6 prohibits lighting from the event facility from crossing property lines and limits the height of light poles. - Condition No. 7 limits the proposed event venue to one freestanding sign with design similar to the architecture of the buildings.
<u>Community Character</u>	<u>Mitigated</u>	- Condition No. 5 requires existing vegetation to be preserved along Old Stage Road. - The properties are located along Old Stage Road which is a Wooded CCC. Existing vegetation along Old Stage Road provides adequate buffering of the proposed uses.
<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.

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**SPECIAL USE PERMIT-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

NATURAL AND CULTURAL ASSETS

The site is identified as having natural and cultural assets on the Natural & Cultural Assets Plan maps (and/or other supplemental resources such as the USDA's Natural Resources Conservation Service Web Soil Survey) as follows:

ASSET	PRESENCE	IMPACT
Habitat Core	None present on site	Not Applicable
Corridors	None present on site	Not Applicable
Agricultural Assets	Present on site	± 13.55 acres or 91.5% of the site is designated prime farmland. As the proposed site will utilize the existing structures and areas immediately adjacent to the existing structures, the remaining 173.87 acres of the property, including ± 137.55 acres designated as prime farmland, can remain in agricultural use.

COMPREHENSIVE PLAN

The site is designated Rural Lands on the Comprehensive Plan Land Use Map. Recommended uses include agricultural and forestal activities, agritourism, rural-support businesses, and certain commercial uses which require very low intensity settings. The Rural Lands Development Standards have the following guidance which are applicable to the proposed event venue.

Uses in Rural Lands should reflect and enhance the rural character of the County. Particular attention should be given to the following:

- Locating structures and uses outside of sensitive areas.

The proposed improvements do not impact the Resource Protection Area or areas of steep slopes.

- Maintaining existing topography, vegetation, trees, and tree lines to the maximum extent possible, especially along roads and between uses.

Existing vegetation along Old Stage Road will be retained and the proposal's use of existing structures and driveways will help to maintain existing topography.

- Discouraging development on farmland, open fields, scenic roadside vistas, and other important agricultural/forestal soils and resources.

The proposed improvements are located on an area of the property which contains soils designated as "prime farmlands" and "farmlands of statewide importance" by the USDA as shown on Attachment No. 5. Staff notes that the proposed limits of the SUP area are generally located around the existing structures and disturbance of the soils which reduces the overall proposed amount of new disturbance. The remainder of the property will remain in the Barnes Swamp Agricultural and Forestal District for agricultural use.

- Encouraging enhanced landscaping to screen structures located in open fields using a natural appearance or one that resembles traditional hedgerows and windbreaks.

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**SPECIAL USE PERMIT-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

Existing vegetation along Old Stage Road will be retained which resembles the appearance of traditional windbreaks and provides adequate buffering along the CCC.

- Locating new driveways or service roads so that they follow existing contours and old roadway corridors whenever feasible.

No new driveways or service roads are proposed. The proposed site access for the event venue will follow an existing driveway.

- Generally limiting the height of structures to an elevation below the height of surrounding mature trees and scaling buildings to be compatible with the character of the existing community.

The event venue is proposed to primarily utilize existing structures which are at elevations below the height of surrounding trees.

- Minimizing the number of street and driveway intersections along the main road by providing common driveways.

The site will utilize an existing entrance off of Fire Tower Road which connects with Old Stage Road.

- Utilizing lighting only where necessary and in a manner that eliminates glare and brightness.

Should site lighting be proposed during the site plan stage, the proposed conditions restrict the permitted height of light poles and prohibit light trespass across property lines.

Staff finds the proposed event venue to be generally consistent with the Rural Lands Development Standards.

The Comprehensive Plan provides the following recommendations regarding locations for short-term rentals.

Per the Comprehensive Plan, due to the unique impacts that can arise from transient residents in short-term rentals, the County should continue to carefully consider the impacts these uses can have on a community's quality of life. The thriving rural character of James City County continues to offer a variety of agritourism opportunities, for which short-term rentals may provide a truly unique opportunity and experience; one that provides economic benefits to rural property owners but does not directly compete with more conventional tourism-based opportunities inside the PSA. 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 Rural Lands on the Comprehensive Plan Land Use Map. Therefore, the application meets this recommendation set forth in the Comprehensive Plan.

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

This property is not located internal to an existing platted subdivision. Therefore, the application meets this recommendation set forth in the 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-24-0021. Niceland Farm Event Venue and Tourist Home
Staff Report for the November 13, 2024, Board of Supervisors Public Hearing**

- Be located on a major road.

The proposed tourist home takes access from Old Stage Road, which is classified by VDOT as a minor arterial road. Therefore, the application meets this recommendation set forth in the Comprehensive Plan.

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

While the owner will not live and reside on the property and this recommendation is not fully met, the proposed tourist home is directly adjacent to the proposed event venue and its use in coordination with the event venue will provide an increased level of management of the home.

While the proposed tourist home does not fully meet the short-term rental recommendations, staff finds that the location would be appropriate for a tourist home and its unique situation of being included within the master planning of the event venue serves to mitigate potential impacts.

Overall, staff finds that this application is generally consistent with the Comprehensive Plan.

STAFF RECOMMENDATION

Staff finds that the proposal is compatible with surrounding zoning and development and is generally consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve the application, subject to the proposed conditions.

MR/ap
SUP24-21NcelndFm

Attachments:

1. Resolution
2. Location Map
3. Community Impact Statement
4. Master Plan
5. Soils Map Exhibit
6. Unapproved Minutes of the October 2, 2024, Planning Commission Regular Meeting
7. Citizen Correspondence

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-24-0021. NICELAND FARM EVENT VENUE AND TOURIST HOME

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, Mr. Stephen Romeo of Vanasse Hangen Brustlin (VHB) Inc., on behalf of Mr. David Nice, has applied for an SUP to allow for the operation of a place of public assembly used primarily as an event facility and a tourist home on property owned by Niceland Farm, LLC, and located at 9812 and 9908 Old Stage Road and further identified as James City County Real Estate Tax Map Parcel Nos. 0420100008 and 0410100019, respectively (collectively, the “Properties”), as shown on a plan titled “Master Plan Niceland Farm Event Venue & Tourist Home” prepared by VHB, Inc., and dated September 13, 2024; and

WHEREAS, the Planning Commission, following its public hearing on October 2, 2024, recommended approval of Case No. SUP-24-0021 by a vote of 5-0; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-24-0021; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with good zoning practices and the 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 (the “County Code”), does hereby approve the issuance of Case No. SUP-24-0021 as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the operation of a place of public assembly used primarily as an event facility (the “Event Facility”) and a tourist home (the “Tourist Home”), on property located at 9812 and 9908 Old Stage Road and further identified as James City County Real Estate Tax Map Parcel Nos. 0420100008 and 0410100019, respectively (collectively, the “Properties”). The Properties shall be developed substantially in accordance with the Master Plan titled “Master Plan Niceland Farm Event Venue & Tourist Home” prepared by VHB, Inc., and dated September 13, 2024 (the “Master Plan”), with any deviations considered per Section 24-23(a)(2) of the County Code, as amended.
2. Maximum Number of Attendees. A maximum number of 360 attendees may be on the Property at any given time. The term “Attendees” includes, but is not limited to, any event staff, caterers, photographers, and vendors.
3. Event Facility Site Access. Attendees shall access the Event Facility using the entrance from Fire Tower Road as depicted on the Master Plan.

4. Road Improvements. Subject to the review and approval of the Virginia Department of Transportation, the pavement width of Fire Tower Road shall be widened to 24 feet in width from its intersection with Old Stage Road to the Event Facility entrance as depicted on the Master Plan. Such improvements shall be included in the site plan for the Event Facility and installed prior to the issuance of a Certificate of Occupancy (CO) for the Event Facility.
5. Landscape Buffer. A vegetative buffer of existing vegetation within the 9908 Old Stage Road Property shall be preserved along approximately 1,300 feet of the Properties' frontage along Old Stage Road from its intersection with Fire Tower Road to the northwest. A landscape plan for the Event Facility showing such buffer shall be reviewed and approved by the Director of Planning or designee prior to final site plan approval.
6. Event Facility Lighting. All new exterior light fixtures for the Event Facility, including new building lighting, shall have recessed fixtures with no lens, bulb, or globe extending below the casing. All new light poles shall not exceed 20 feet in height from finished grade. No light trespass, defined as 0.1-foot-candle or higher, shall extend across any property line. A lighting plan for the Event Facility shall be reviewed and approved by the Director of Planning or designee prior to final site plan approval.
7. Event Facility Signage. The Event Facility shall be allowed one exterior freestanding sign. The freestanding sign shall be externally illuminated, monument style, not to exceed eight feet in height and have a base of masonry or other materials similar in type and color with structures of the Event Facility. The Director of Planning or designee shall review and approve the design of the sign prior to final site plan approval and prior to any subsequent sign modifications.
8. Offsite Nutrient Credit Purchase Prohibited. The purchase of offsite nutrient credits for the treatment of water quality for the Event Facility shall be prohibited.
9. Special Stormwater Criteria. Special Stormwater Criteria ("SSC") measures shall be required for the Event Facility. The Director of Stormwater and Resource Protection Division or designee shall approve the SSC measures prior to final site plan approval.
10. Farm Pond. The farm pond depicted on the Master Plan shall not include internal slopes equal to or steeper than 3H:1V for public safety.
11. Maximum Number of Tourist Home Occupants. There shall be no more than three bedrooms available for rent to visitors and no more than six rental occupants total in the Tourist Home at any one time.
12. Tourist Home Contracts. There shall not be simultaneous rentals of the Tourist Home under separate contracts.
13. Tourist Home Access and Parking. The existing driveway from Old Stage Road as depicted on the Master Plan shall be limited to access for the Tourist Home. 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 driveway.

14. Tourist Home Signage. No signage related to the Tourist Home shall be permitted.
15. Tourist Home Licensing. Evidence of a business license and updated CO for the Tourist Home shall be provided to the Director of Planning or designee within 12 months from the issuance of this SUP.
16. Commencement. If construction of the Event Facility has not commenced within 36 months from the date of adoption of this SUP, the SUP shall become void. Construction shall be defined as obtaining final site plan approval for the Event Facility.
17. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

BE IT FURTHER RESOLVED by the Board of Supervisors of James City County, Virginia, that SUP-24-0021 authorized herein shall not be effective and no site plan may be approved until the area shown on the Master Plan is withdrawn from the Barnes Swamp Agricultural and Forestal District enacted by Ordinance No. 167A-18 adopted on September 13, 2022.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

		VOTES			
		<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ Teresa J. Saeed Deputy Clerk to the Board	NULL	_____	_____	_____	_____
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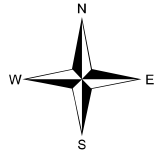
Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of November, 2024.

SUP24-21NcelndFm-res

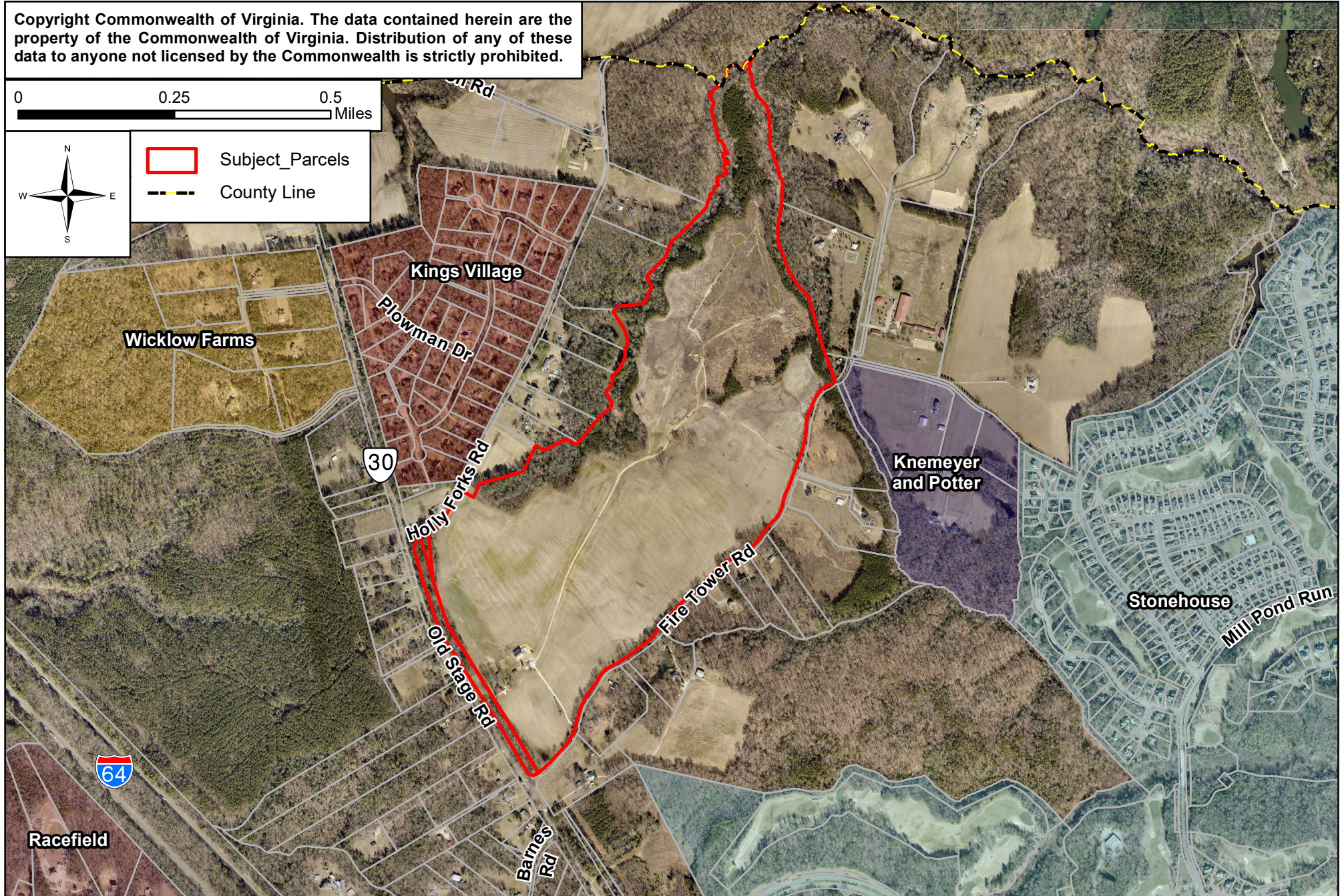
JCC SUP-24-0021, Niceland Farm Event Venue & Tourist Home

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Niceland Farm Event Venue and Tourist Home

Project Description

The Niceland Farm Event Venue and Tourist Home provides a unique opportunity in James City County to hold events such as weddings and corporate functions in a beautiful rural farm setting. The 14.81 acres dedicated to the Event Venue and Tourist Home includes a new farm pond, an orchard, adequate parking, flexible open space, a formal drop off, and a series of walkways connecting spaces throughout the site. The current barn structure will be repurposed to accommodate hosting events and includes a small stage for musicians to perform outdoors. The existing farmhouse will function as the Tourist Home. The nearest fire station is approximately 4.3 miles/ 5-7 minutes away.

Project Information:

Event Venue:

- Maximum of 1 event per day and no more than 3 in one week. This is not a daily venue.
- Private well and septic system adequately sized to support the venue
- All event venue guests and staff will be required to use the entrance from Fire Tower Road

Tourist Home

- Includes 3 bedrooms
- Not a permanent residence
- Available for occasional group rental at discretion of owner
- Old Stage Road driveway for tourist home use only

Proposed Site Improvements

The proposed site improvements as depicted on the "Master Plan" to support the function of the event venue include the following:

- Renovated existing barn including outdoor stage
- Existing farmhouse converted to Tourist Home
- Farm Pond with pedestrian bridge
- Orchard
- Covered pavilion within the orchard to host ceremonies or small events
- Accessible pedestrian walkways
- Flexible open green space to be utilized for events
- Grain silo repurposed for outdoor guest services such as bar or food service
- Dedicated location for a temporary food truck
- Formal drop off area in front of the barn
- Gravel roads interior to the site
- Parking
 - Reinforced turf event parking
 - Gravel support parking
 - Paved ADA accessible parking
- Dedicated service and utilitarian area for loading/ unloading and trash

Site Development and Stormwater

The proposed development will comply with the stormwater standards specified in the Virginia Stormwater Management Handbook, Version 1.0.

No development will result in the clearing of any woods along the Old Stage Road right-of-way. The required setbacks in accordance with the James City County Zoning Ordinance will be adhered to.

The site sits at the highest elevation in James City County. The site is located in the Ware Creek Watershed. Due to the upland nature of the site, no wetlands are located within 700 feet of the proposed land disturbance. The eastern upstream

branch of Bird Swamp lies east of the site, across Fire Tower Road. Portions of the gravel road and parking areas will drain to this natural channel. The western upstream branch of Bird Swamp lies north of the site on the same parcel. Several buildings and the manmade pond will drain to this natural channel. The proposed development will limit the amount of runoff towards Fire Tower Road through regrading and the use of permeable parking surfaces.

The unimproved northern portion of the SUP area will drain to a natural low area where a decorative farm pond will be constructed. The pond will have an overflow weir that sends overflow stormwater across the farm to the western tributary of Bird Swamp. Due to the decorative nature and location of this pond, it is not desirable to utilize it as a BMP because side slope, aquatic bench, and flow path criteria may not be feasible to meet regulatory requirements. The side slopes of the pond will be flatter than 3H:1V.

Only the development within the SUP limits will adhere to DEQ and JCC stormwater management requirements. The remainder of the site qualifies for the agricultural exemption.

Stormwater quality compliance can be achieved for the development through a combination of sheet flow to a vegetated filter strips (P-FIL-07) and tree planting (P-FIL-09). The proposed orchard around the pond could provide up to 0.1 lbs/yr of phosphorus removal. The vegetative filter strips could provide the remaining 2.2 lbs/yr of phosphorus removal required. The filter strips could be installed along the sides of the new parking lots and main entry driveway as these areas will not be piped to the farm pond. Refer to the Master Plan for additional information and locations of all proposed improvements.

A permeable reinforced turf is proposed for the parking lots but will not be designed to adhere to the permeable pavement BMP specifications. Much of the site consists of 'A' soils and most of the runoff from the permeable parking surface will infiltrate before overflowing to the filter strips.

Approximately 10 acres of the site will be disturbed as part of this development. All disturbances will occur on the upland part of the property. No RPA buffer or steep slope disturbance is proposed as part of this project.

The existing structures and driveways amount to approximately 0.6 acres of impervious cover. The proposed development will increase the impervious cover by 1.5 to 2 acres, depending on the permeability of the parking lot surface.

Transportation

The existing renovated barn, the main feature of proposed Event Venue, is a 2-story structure of 1,900± sf per floor, for a total of 3,800± sf. The expected maximum occupancy is 360 people (180 per floor).

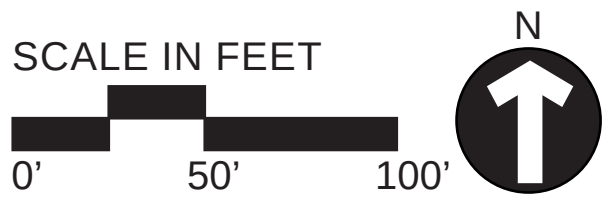
County Code requires access to be located on an arterial roadway. The Niceland Farm development is located east of Old Stage Road and north of Fire Tower Road. A waiver for this site access requirement is requested such that the site driveway can be constructed on Fire Tower Road rather than Old Stage Road. Fire Tower Road would provide a safer access as Old Stage Road has a posted speed limit of 50-mph compared to the 30-mph posted speed limit on Fire Tower Road and wayfinding would be easier. Fire Tower Road currently operates at Level of Service A (LOS A). The proposed Event Venue is projected to add 90 Peak Hour Trips In and 94 Peak Hour Trips Out per ITE 11th Edition Rates using Code 560 "Church". The in and out trips are separated in time by the duration of the specific Church Service or Mass, which are usually in excess of 1 hour. Therefore, the Peak Hour Generator for this proposal does not exceed the 100 Peak Hour Trip threshold requirement for a Traffic Impact Analysis. Fire Tower Road will continue to operate at Level of Service A (LOS A) with the addition of the proposed traffic generated from the Event Venue as the Peak delay would be 7.3 seconds. Additionally, due to the nature of the proposed use, trips to and from the site will be concurrent and during off-peak hours and it is preferable for the entrance to be separated from the arterial to support this arrival and departure pattern. If a waiver for this requirement is granted, Fire Tower Road the Owner will widen the pavement width to 24 feet between Old Stage Road and the site driveway.

The Tourist Home would retain access via the existing driveway connected to Old Stage Road.



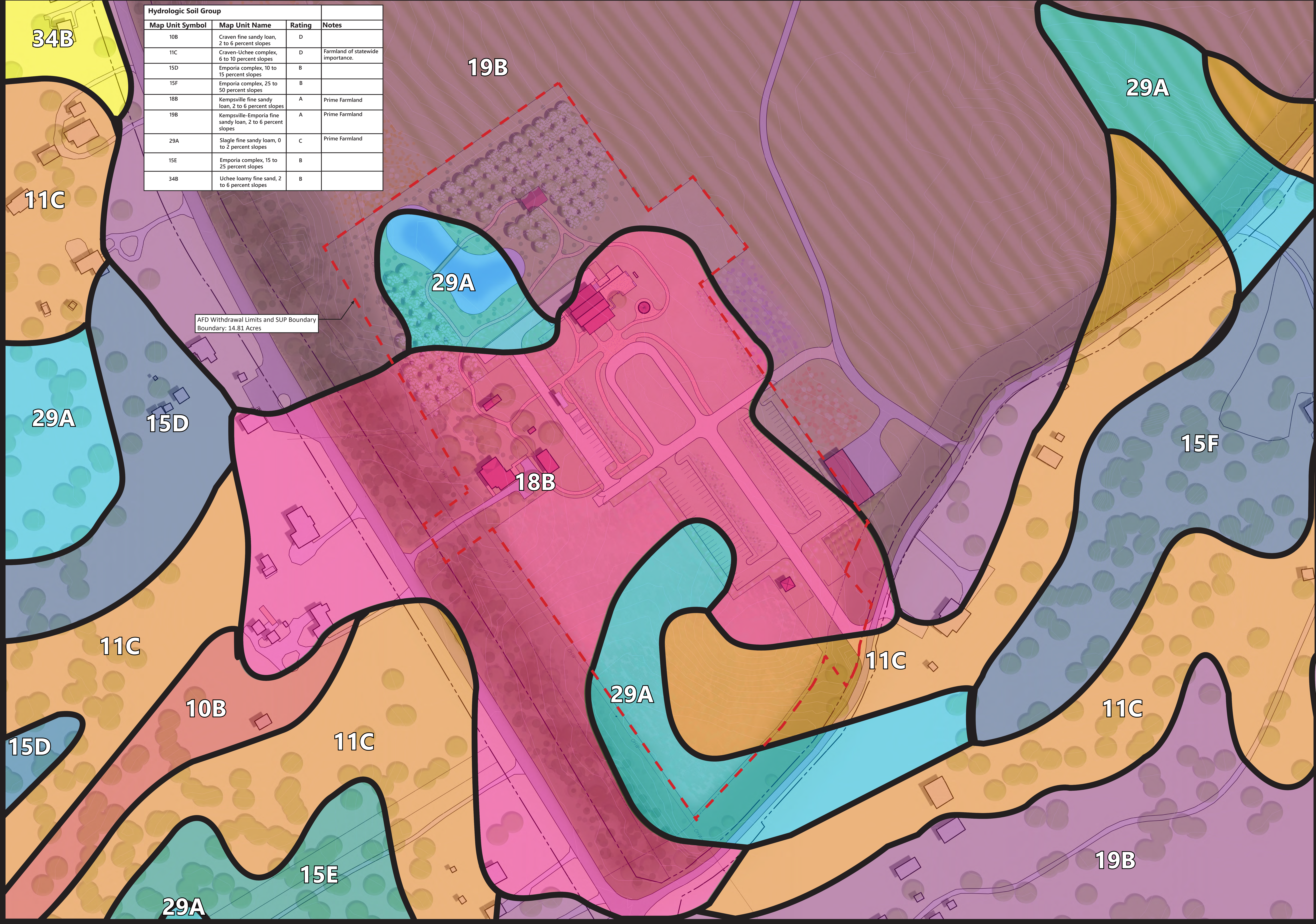
MASTER PLAN

NICELAND FARM EVENT VENUE & TOURIST HOME • WILLIAMSBURG, VA



DATE: September 13th, 2024
PROJECT NUMBER: 34857.00
351 McLaws Circle Suite 3 | Williamsburg, Virginia 23185
Tel: 757.220.0500 | www.VHB.com





MASTER PLAN SOILS MAP OVERLAY

NICELAND FARM EVENT VENUE & TOURIST HOME • WILLIAMSBURG, VA

DATE: September 13th, 2024
PROJECT NUMBER: 34857.00
351 McLaws Circle Suite 3 | Williamsburg, Virginia 23185
Tel: 757.220.0500 | www.VHB.com



MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
October 2, 2024
6:00 PM

A. CALL TO ORDER

Mr. O'Connor called the meeting to order at 6 p.m.

B. ROLL CALL

Planning Commissioners Present:

Tim O'Connor
Jack Haldeman
Frank Polster
Stephen Rodgers
Jay Everson

Planning Commissioners Absent:

Scott Maye
Kira Allmann

Staff Present:

Susan Istenes, Director of Planning
Liz Parman, Deputy County Attorney
Terry Costello, Senior Planner
Morgan Risinger, Senior Planner
Will Albiston, Community Development Assistant

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

As no one wished to speak, Mr. O'Connor closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. O'Connor noted there was no Development Review Committee (DRC) meeting nor Policy Committee meeting in September.

E. CONSENT AGENDA

1. Minutes of the September, 4, 2024, Regular Meeting

Mr. Haldeman made a motion to approve the Consent Agenda.

On a voice vote, the Commission approved the Consent Agenda. (5-0-2)

F. PUBLIC HEARING(S)

1. SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School

Ms. Terry Costello, Senior Planner, addressed the Commission regarding the Special Use Permit (SUP) application. She noted the SUP would allow for a school within the existing site of Wellspring United Methodist Church. Ms. Costello highlighted traffic, enrollment, operation hours, and other factors of the application. She noted staff's recommendation in support of the SUP application was contingent on conditions stated in the Agenda Packet. Ms. Costello stated the applicant was available for any questions.

Mr. Haldeman asked if there were any additional outside areas other than the picnic area.

Ms. Costello responded there were no additional buildings, adding occasional science projects could take place in the gardens behind the church. She noted those classroom activities were a consideration.

Mr. Haldeman referenced Condition No. 6. He noted that item stated if the facility was closed for a year, then the SUP would be lost. Mr. Haldeman questioned the logic of that condition.

Ms. Costello responded that point was to avoid any school going in to use the facility. She noted the condition reflected if the school no longer remained then the SUP would no longer remain.

Mr. Haldeman referenced the COVID-19 pandemic and if the school closed under a similar situation.

Ms. Costello noted another SUP would be required if the original SUP expired. She further noted the possibility of an extension, adding the state had allowed for some SUP extensions due to the pandemic.

Mr. Haldeman thanked Ms. Costello.

Mr. Polster asked if Condition No. 6 wording could be rephrased. He recommended rewording to specify that any entity other than the Montessori to come in for the school use would invalidate the SUP. He asked for legal clarification.

Ms. Liz Parman, Deputy County Attorney, responded that generally SUPs were tied to the land and not to the landowner. She noted it would not be applicable.

Mr. Polster noted the applicant was not the landowner.

Mr. Rodgers referenced the school and the pandemic and questioned the definition of no activity.

Ms. Costello noted if a decision to no longer use the building as a school was the result. She further noted if the school vacated the building, then the SUP would disappear.

Mr. Polster stated he had concerns with the intent of the wording.

Ms. Costello stated if the school left then the SUP would be void.

Mr. Polster noted the concern regarding the school.

Ms. Costello stated another school could come in and use the property, but it would have to adhere to the same conditions of student enrollment number and other factors stated.

Mr. Polster stated the significance of the wording change to reflect that if the Montessori school was vacated in one year. He added the condition was specific to the use and the person using the school.

Mr. O'Connor referenced Ms. Parman's earlier comment that the SUP condition was tied to its use, but not to an entity. He noted if a pandemic occurred, the possibility of online schooling was a consideration. Mr. O'Connor spoke to these points in more detail.

Mr. Polster stated an alternative was to remove that condition and eliminate any misunderstanding.

Mr. Haldeman suggested consideration of a two-year timeframe.

Mr. Polster agreed with the two-year suggestion. He asked if two years could be incorporated in Condition No. 6.

There were no objections from staff or Planning Commissioners.

Mr. Polster asked if the applicant was agreeable to that change. He noted the applicant nodded her head in agreement. Mr. Polster stated Condition No. 6 would be revised to reflect two years regarding closure.

Mr. O'Connor thanked Ms. Costello.

Mr. O'Connor opened the Public Hearing.

As there were no speakers, Mr. O'Connor closed the Public Hearing.

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors of SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School with the conditions and modifications to Condition No. 6 of two years as opposed to one year.

On a voice vote, the Commission approved the motion. (5-0-2)

Mr. O'Connor noted Item Nos. 2 and 3 would be presented collectively with separate votes on the items.

2. AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal

Ms. Morgan Risinger, Senior Planner, addressed the Commission regarding details of the Agricultural and Forestal District (AFD) withdrawal and SUP applications. She noted the AFD withdrawal of approximately 15 acres would allow for the SUP to operate the event venue. Ms. Risinger addressed the AFD withdrawal policy and its criteria. She noted staff determined no disruption to the AFD would be made with this application and that the proposed land use would be compatible with the Rural Lands designation. She further noted staff determined no public purpose would be served with the request nor was an unforeseen circumstance a consideration in the withdrawal request. Ms. Risinger stated the AFD Advisory Committee recommended approval of the withdrawal request to the Planning Commission and the Board of Supervisors at its July 18, 2024, meeting. She noted staff recommended the Planning Commission recommend denial to the Board based on the application failing to meet all four criteria of the Board's withdrawal policy.

Ms. Risinger stated the proposed event venue would host one event per day with no more than three events per week with a 360-attendee cap. She provided details on the venue features and barn space as well as the utilities. Ms. Risinger addressed the A-1 Zoning District's performance standards for event facilities as outlined in the Zoning Ordinance. Ms. Risinger

noted the SUP failed to meet all the performance standards which included maximum number of attendees, access from a local road rather than a major road, and the placement of structures or improvements on soil considered prime farmland and farmland of statewide importance by the United States Department of Agriculture. She addressed these points in more detail, adding that Condition No. 5 had been included to ensure vegetation preservation along Old Stage Road. Ms. Risinger noted other factors for consideration included stormwater concerns which were addressed in Condition Nos. 8-10. She further noted the number of attendees and parking as other considerations in the conditions. Ms. Risinger highlighted access to the venue and traffic data along Fire Tower Road and Old Stage Road, adding Condition No. 4 addressed road widening as part of the site plan submittal.

Ms. Risinger noted the existing single-family residence's operation as a tourist home was also incorporated into the application. She further noted there was an existing driveway from Old Stage Road. Ms. Risinger provided additional details regarding the conditions as they pertained to the residence. She noted staff recommended that the Planning Commission recommend approval to the Board of Supervisors. Ms. Risinger stated Mr. Stephen Romeo of Vanasse Hangen Brustlin, Inc. (VHB) and Mr. David Nice were present and available for questions.

Mr. Everson noted Condition No. 5 and the reference of a buffer along Fire Tower Road. He questioned what buffering was envisioned.

Ms. Risinger stated Condition No. 5 had no provision for buffering along Fire Tower Road. She explained the buffering referenced the area at the intersection of Old Stage Road to the northern end of the project site.

Mr. Everson thanked Ms. Risinger for the clarification.

Mr. O'Connor referenced an email he had received. He asked if the acreage was not withdrawn from the AFD, then was a by-right option for use still applicable if agri-tourism was still supported.

Ms. Risinger confirmed yes. She explained the AFD withdrawals restrict the issuance of an SUP for commercial use; therefore, the withdrawal request was necessary. Ms. Risinger noted if a facility was proposed which met all the performance standards or performed solely for agri-tourism events then neither the SUP nor the withdrawal would be required.

Mr. O'Connor asked what enforcement mechanism would be in place to determine if an event was supporting agri-tourism or a wedding.

Ms. Christy Parrish, Zoning Administrator, responded that if the SUP were granted then a wedding, agri-tourism supported event, corporate event, or other type of event could occur at the venue.

Mr. O'Connor noted no report regarding events was required.

Ms. Parrish noted there was a fine line in reference to the enforcement mechanism. She further noted review of the use would be based on a complaint basis or additional information received by staff. Ms. Parrish stated staff would then investigate, communicate with the property owner, and establish a plan as needed.

Mr. Polster asked for the definition of an agri-tourism event.

Ms. Parrish responded interpretation of State Code and County Ordinances were considerations. She compared the Sweethaven Lavender of Williamsburg as an example. Ms. Parrish noted the use of agri-tourism and guidance from the Attorney General's Office and spoke to those points in more detail. She further noted if the withdrawal request and SUP application were removed,

then Mr. Nice could still rent the house as a tourist home for the farm enjoyment by-right.

Mr. Rodgers questioned the timeline for the AFD withdrawal.

Ms. Risinger noted the next AFD renewal was slated for 2026. She further noted that staff would send letters out in May to all the properties in the AFD as well as to adjacent properties. Ms. Risinger stated the letters notified owners of the opportunity to request property withdrawal, adding that was by-right. She noted the specified removal would occur.

Mr. Rodgers asked if that was two years.

Ms. Risinger confirmed yes.

Mr. O'Connor thanked Ms. Risinger.

Mr. O'Connor opened the Public Hearing.

Mr. Stephen Romeo of VHB, Inc., 115 Tides Run, Yorktown. He highlighted the VHB project with a PowerPoint presentation which included a video of the property. Mr. Romeo noted one significant point of this project centered on access with the SUP supporting that point. He further noted Fire Tower Road was considered the safer access route as opposed to Old Stage Road. Mr. Romeo stated the speed limit was a major consideration. He added Fire Tower Road had a posted 25 mph speed limit. Mr. Romeo addressed the number and guests and access off Old Stage Road and by-right considerations, adding this process ensured a safe venue.

Mr. O'Connor thanked Mr. Romeo.

Mr. David Nice, 4571 Ware Creek Road, spoke on the property. He noted prior to the beginning of the project, Mr. Tom Coghill, Director of the County's Building Safety and Permits Division, had spoken with him assuring him as the property was an operating farm, exemptions were in place regarding building permits and inspections. Mr. Nice stated the project was built with the highest standards in place. He noted the original purpose was a musical venue. Mr. Nice further noted the home on the property would be used for brides rather than for Airbnb rentals. He spoke in more detail about the venue and the agri-tourism aspect. Mr. Nice stated if the applications were approved then he hoped the venue would open in the spring, adding calls were coming in daily regarding the venue. He addressed the minimum AFD withdrawal and emphasized the family had no intention of developing the farm.

Mr. O'Connor thanked Mr. Nice.

Ms. Sharon Seltzer, 9804 Fire Tower Road, addressed the Commission noting she lived in the house across from the proposed venue. She noted she had no opposition to the property becoming a wedding or musical venue, but she had some concerns and questions. Ms. Seltzer stated single-family homes were along Fire Tower Road which had a posted 30 mph speed limit. She expressed concern regarding traffic. Ms. Seltzer referenced the peak hour trip data and consideration of a Traffic Impact Analysis. She noted Dream Catchers was also nearby and the increased traffic activity when Dream Catchers hosted events. Ms. Seltzer referenced recent traffic accidents along Old Stage Road. She emphasized consideration for the best option for traffic access with regard to Fire Tower Road. Ms. Seltzer questioned the hours for the music, light pollution, and buffering for the area and the impact on the local residents.

Mr. O'Connor thanked Ms. Seltzer.

As there were no additional speakers, Mr. O'Connor closed the Public Hearing.

Mr. Polster noted his confusion regarding the agri-tourism definition. He further noted the

positive direction of the proposed venue toward the agri-business aspect within the County. Mr. Polster recognized the Nice family's commitment to that point over the years. He stated he was pleased the access would not be from Old Stage Road. Mr. Polster acknowledged a traffic light at Stonehouse would be needed with the last three developments occurring. He noted one of the conditions addressed lighting, noise, and other factors for consideration. Mr. Polster further noted those points were considerations staff reviewed regularly with applications. He spoke in favor of the entrance access off Fire Tower Road, buffer maintenance off Old Stage Road, and widening of the road, adding he would support the application.

Mr. Haldeman questioned the voting.

Mr. O'Connor clarified two votes would occur with one for the AFD withdrawal and the other for the SUP.

Mr. Haldeman spoke favorably about the project in its beauty and support of the local farming economy. He noted his support of the venue and tourist home, but stated he had concerns with the AFD withdrawal. Mr. Haldeman addressed the AFD policy.

Mr. Rodgers noted out-of-town guests generally were not late-night attendees at the wedding venues from his experience. He further noted that point could minimize disruption to surrounding homes and residents. Mr. Rodgers addressed the use of the barn and the preservation component of the venue. He supported the application, adding he felt the AFD withdrawal was more a removal with no disturbance to the land as the structures were already in place.

Mr. Everson echoed that point. He noted the public purpose of the agri-business aspect. Mr. Everson referenced the Comprehensive Plan to that point. He further noted his support of the application.

Mr. O'Connor echoed Mr. Haldeman's concern regarding the AFD withdrawal. He noted that if the entire parcel had been requested for withdrawal, he would be opposed. Mr. O'Connor further noted approximately 15 acres were requested for withdrawal with the balance of the land to remain in the AFD with an agricultural use. He referenced the Comprehensive Plan and how this application supported many of its components such as preservation and setbacks. Mr. O'Connor noted the agri-tourism uses while supporting open space preservation. He stated his support of the AFD withdrawal and the SUP.

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors on AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal.

Mr. O'Connor clarified a yes vote represented withdrawal from the AFD.

On a roll call vote, the Commission voted to make a recommendation to the Board of Supervisors on approval of AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal. (5-0-2)

3. SUP-24-0021. Niceland Farm Event Venue and Tourist Home

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors on SUP-24-0021. Niceland Farm Event Venue and Tourist Home with the conditions.

On a roll call vote, the Commission voted to make a recommendation to the Board of Supervisors on approval of SUP-24-0021. Niceland Farm Event Venue and Tourist Home with the conditions. (5-0-2)

Mr. O'Connor thanked the attendees of the meeting.

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for Planning Commission consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - October 2024

Ms. Istenes stated that she did not have any additional information.

Mr. Polster questioned Ms. Istenes' response regarding no Policy Committee meetings for the remainder of the year.

Ms. Istenes responded that she would follow up with Mr. Paul Holt, Director of Community Development, and reply to the Commissioners via email.

Mr. Polster noted his appreciation to that point.

Ms. Istenes stated an application had been received for the October 23, 2024, DRC meeting. She stated she thought the application would move forward.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. O'Connor noted Mr. Maye had coverage for the Board of Supervisors October meeting.

J. ADJOURNMENT

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 6:51 p.m.

Susan Istenes, Secretary

Tim O'Connor, Chair

Morgan Risinger

Subject: RE: [External]SUP-24-0021 Concerns

From: Sharon Seltzer <sharon.seltzer@gmail.com>

Sent: Monday, October 7, 2024 1:19 PM

To: Planning <planning@jamescitycountyva.gov>

Subject: [External]SUP-24-0021 Concerns

Good afternoon,

I am writing in reference to SUP-24-0021, Niceland Farm Event Venue and Tourist Home. I attended the Planning Commission Meeting on Wednesday, October 2nd, and am aware that the Planning Commission voted in favor of supporting the application, subject to the proposed conditions.

My home is located at 9804 Fire Tower Road, directly across from this proposed venue. As stated on page 4 of the staff report the “development in this area is primarily comprised of single-family residential development.” We are a single-family home with children and animals. This past Saturday evening on October 5, 2024, a wedding called “The King Wedding” took place on the property. Although we are located quite a distance (approximately 800 feet) from the “venue” the music was so loud that we could hear it through our closed doors and windows. It was not just the awareness of music, but we could clearly hear and identify the song that was playing. It was like we were living next door to a club.

Upon reviewing the county code for noise regulations section 15-20, it clearly says that “excessive noise is a serious hazard to the public health, welfare, peace and safety and the quality of life.” It also states that even in the case of permits, “the county administrator may prescribe any reasonable conditions necessary to minimize any adverse affect upon the community.”

Additionally, in reading James City County Code Section 24-48, Place of public assembly used primarily as an event facility, it states that “all sources of amplified music shall be oriented toward the interior of the property.” This was clearly not the case, as the music was oriented toward the exterior of the property – Fire Tower Road.

We live in a single--family residential home that has been here since 1967, on a small rural road that is comprised of other single-family residential homes. We should be able to reasonably expect that we won’t be subjected to noise at this level. Considering the permit says up to 3 events per week, this would create unlivable conditions for the surrounding residents.

I have further concerns regarding the amount of traffic and the applicability of the Institute of Transportation Engineers Tip Generation Manual. By utilizing this and comparing to a church service, e peak trips is just under the 100 that would require a true Traffic Impact Analysis. The SUP indicated that 110 parking spaces are being requested, this does not seem to add up. At a capacity of 360, this would mean there would need to be 4 persons per vehicle, which is highly improbable. The traffic coming off of Fire Tower whips right into that gravel driveway at 30 miles per hour and there is no signage to indicate that they should slow down. As our home and property is located directly across from this driveway, I am also concerned about the possibility of intoxicated drivers leaving this venue and causing harm to our persons or property and other patrons traversing these roads.

The Staff Report also indicates that “the Zoning Ordinance requires a vegetative buffer with an average width of 30 feet along Fire Tower Road” (page 2), but in the meeting on Wednesday it was mentioned that this would not be required. However, I also read that this is a requirement in Jose Ribeiro’s Interoffice Memorandum, Section 24-98. This requirement is also included in County Code 24-48, section (3)b. I would like to know why this is no longer a

requirement, as any vegetation between the venue and our house would help to buffer and reduce the noise that this venue will create.

If this SUP is approved, how late can these events go and how much noise is acceptable to be generated? In researching other venues like this in the county, I don't know that any are outdoor venues with residential homes in close proximity. If there are others, I would like to be provided with the information on them. I would ask that the county carefully work through this approval process to ensure that all of its citizens are considered and protected.

I appreciate any and all help and insight you can provide.

Sincerely,

Sharon Seltzer

MEMORANDUM

DATE: November 13, 2024
TO: The Board of Supervisors
FROM: Adam R. Kinsman, County Attorney
SUBJECT: 2025 Legislative Agenda

Each year the Board of Supervisors adopts an agenda detailing the positions and legislation it recommends that the General Assembly consider during its upcoming session. Once adopted, the agenda is forwarded in November to our four local legislators for their consideration and, hopefully, support.

The proposed Agenda includes several desired changes to the Virginia Code, multiple position statements, and support for the legislative agendas of Virginia Municipal League, Virginia Association of Counties, Hampton Roads Planning District Commission, Hampton Roads Transportation Planning Organization, and the Virginia Coalition of High Growth Communities.

I recommend adoption of the attached resolution.

ARK/ap
LegisAgen25-mem

Attachment

RESOLUTION

2025 LEGISLATIVE PROGRAM

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2025 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its Legislative Program and believes that it is in the best interests of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2025 Legislative Program and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2025 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

		VOTES			
		<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
	NULL	_____	_____	_____	_____
_____ Teresa J. Saeed	HIPPLE	_____	_____	_____	_____
Deputy Clerk to the Board	MCGLENNON	_____	_____	_____	_____
	ICENHOUR	_____	_____	_____	_____
	LARSON	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of November, 2024.

LegisAgen25-res



JAMES CITY COUNTY 2025 LEGISLATIVE PROGRAM

1. AMEND VIRGINIA CODE SECTION 24.2-604 TO EXTEND THE 40-FOOT “NO CONTACT” RULE TO INCLUDE THE ENTIRE BUILDING, NOT JUST THE ENTRANCES.
2. FULLY REMOVE THE SPENDING CAP ON SCHOOL SUPPORT POSITIONS.
3. DECENTRALIZE THE HAMPTON/PENINSULA HEALTH DISTRICT INTO THREE SEPARATE, SMALLER DISTRICTS.
4. REMOVE LANGUAGE FROM THE BUDGET THAT MODIFIES THE DISTRIBUTION BETWEEN THE COMMONWEALTH AND LOCALITIES OF ANY EXCESS FEES COLLECTED BY THE CLERKS OF THE CIRCUIT COURTS AS PROVIDED FOR IN VA. CODE § 17.1-285.

5. IMPACT FEES

The County encourages the General Assembly to revise existing impact fee laws to encourage the use of statutorily-calculated impact fees in lieu of cash proffers.

6. STATE FUNDING

James City County requests that the state adequately fund for local road improvements, tourism, substance abuse and mental health treatment, public education, stormwater local assistance funds (“SLAF” funding), public libraries, and to amend the budget to provide funds for capital improvements related to schools, including but not limited to pre-K facilities.

7. GROCERY TAX

The County encourages the General Assembly to ensure that any reduction in the grocery tax includes permanent replacement funding for local governments and school divisions.

8. SHORT TERM RENTALS

The County requests that the General Assembly reject any attempt to usurp local zoning control of short term housing rentals.

9. VIRGINIA RETIREMENT SYSTEM

The County recommends that the General Assembly amend VRS regulations to allow retired police officers and school resource officers to return from retirement without affecting their VRS status.

10. COLONIAL BEHAVIORAL HEALTH EXPANSION

The County encourages the General Assembly to approve Colonial Behavioral Health’s request for funding to expand a building on its Merrimac campus to provide for crisis service operations.

11. LEGISLATIVE PROGRAMS OF VML/VACO/VIRGINIA COALITION OF HIGH GROWTH COMMUNITIES/HRPDC/TPO

The County supports the legislative agendas of VML, VaCo, the Virginia Coalition of High Growth Communities, the HRPDC, and the HRTPO.