

MINUTES
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
October 11, 2022
5:00 PM

A. CALL TO ORDER

Mr. McGlennon called the meeting to order at approximately 5:03 p.m. following the James City Service Authority Board of Directors Regular Meeting.

B. ROLL CALL

James O. Icenhour, Jr., Jamestown District
Michael J. Hipple, Powhatan District
Ruth M. Larson, Berkeley District
P. Sue Sadler, Vice Chairman, Stonehouse District
John J. McGlennon, Chairman, Roberts District

Scott A. Stevens, County Administrator
Adam R. Kinsman, County Attorney

ADOPTED
NOV 29 2022
Board of Supervisors
James City County, VA

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - Dahlia Quiles, a 3rd grade student at James River Elementary School and a resident of the Roberts District

Mr. McGlennon gave highlights of Dahlia's interests and activities.

Dahlia led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Ms. Peg Boarman, 17 Settlers Lane, noted she was present to talk trash to the Board. Ms. Boarman made positive remarks of the County as she felt visually the community looked great and exhibited less trash. Ms. Boarman mentioned concerns with unsecured loads, adding it was illegal to have an uncovered load. Ms. Boarman requested the public to remind neighbors, friends, and family to secure and cover the loads to prevent litter in the community. Ms. Boarman noted a substantial turnout for the Community Conversations held on September 29, 2022, with discussion on the trash and consolidated waste disposal. Ms. Boarman commended County staff for all efforts regarding trash collection. Ms. Boarman displayed a card which was given to each Board member which included a photo of each 2022 James City County Clean Business Quarterly Award Winner to date. Ms. Boarman added there was one final quarter nomination in December 2022. Ms. Boarman welcomed the public to

nominate a business that had adopted green initiatives or enacted environmentally friendly business practices. Ms. Boarman spoke about the Repair Fair & Recycling Expo, which would be held on Saturday, November 19 at Warhill High School from 9 a.m. to 2 p.m. She mentioned the focus was to educate, provide public outreach, prevent litter, and encourage recycling efforts. Ms. Boarman welcomed volunteers to join the Clean County Commission.

F. CONSENT CALENDAR

None.

G. PUBLIC HEARING(S)

1. **ORD-22-0002. Amendments for R-8, Rural Residential and A-1, General Agricultural Lot Size and Related Requirements**

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 4 NAYS: 1 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon

Nays: Sadler

Mr. Wysong addressed the Board noting in spring of 2019 the County began the Comprehensive Plan update by distributing a County-wide survey to allow public input for future County desires. Mr. Wysong noted the survey received a significant number of respondents, of which over 80% of respondents supported the concept of reducing the number of lots which could be divided for large rural properties. Mr. Wysong further noted various public input opportunities during the Comprehensive Plan update process revealed a strong desire to preserve the rural character of the County. Mr. Wysong remarked guided by citizen input, preserving rural character became one of the priorities in the adopted long-term vision for the County within the Comprehensive Plan. Mr. Wysong mentioned guidance based on this vision for areas outside of the County's growth area and designated for Rural Lands the recommended density was one unit per 20 acres. Mr. Wysong indicated the proposed density was based on the Open Space Study and Rural Character Preservation Analysis prepared by the County's planning consultant. Mr. Wysong highlighted the various discussions on the subject throughout the 2021-2022 timeframe. Mr. Wysong stated the 2045 Comprehensive Plan was adopted by the Board of Supervisors in October 2021, adding in the spring of 2022, the Board of Supervisors adopted an Initiating Resolution pertaining to the R-8, Rural Residential and A-1, General Agricultural Districts. Mr. Wysong touched on the three specific Board directives. He stated the first directive was to amend the Zoning and Subdivision Ordinances to revise the R-8 and A-1 Districts to be consistent with the stated Rural Lands Designation Description and Development Standards contained in the adopted 2045 Comprehensive Plan. Mr. Wysong spoke about the second directive which was to include language that grandfathered all parcels in existence as of January 1, 2022, that were 25 or fewer acres. Mr. Wysong discussed the third directive was to include language that eliminated the central well requirement for subdivisions that were consistent with the stated Rural Lands Designation Description and Development Standards. Mr. Wysong noted in response to these directives, staff had prepared draft Ordinance language that accurately fulfilled each directive request. Mr. Wysong mentioned this amendment was consistent with the appropriate and primary uses stated for Rural Lands within the 2045 Comprehensive Plan and did not change the intent or the permitted uses within the A-1 District. Mr. Wysong highlighted the wide variety of agricultural and forestal uses which were permitted and/or specially permitted, in addition to approximately 50 commercial uses which were permitted and/or specially permitted in this zoning district. Mr. Wysong added property owners in the A-1 District would

still be permitted to create lots for family members that were less than the minimum lot size through the family subdivision Special Use Permit (SUP) application process. Mr. Wysong noted the draft language provided in the Board's Agenda Packet was reviewed by the Policy Committee at its August 11, 2022, and August 22, 2022, meetings. The Policy Committee recommended this language proceed to the Planning Commission by a vote of 4-0. Mr. Wysong further noted the Planning Commission at its September 11, 2022, meeting, recommended approval of this amendment by a vote of 4-3. Mr. Wysong stated the Policy Committee, nor the Planning Commission, had added or revised any of the language. Mr. Wysong mentioned staff recommended approval of this Ordinance amendment, adding he welcomed any questions the Board might have.

Ms. Sadler requested for public notification purposes to reiterate the family subdivision aspect of the Ordinance amendment.

Mr. Wysong replied currently if a family subdivision was desired in the A-1 Zoning District, which was a lot size less than the minimum lot requirement the individual would be required to apply for an SUP for a family subdivision. He added the process would remain the same with the Ordinance amendment.

Ms. Sadler asked if this Ordinance amendment did not apply to family subdivisions.

Mr. Wysong replied correct.

Ms. Sadler asked if a property was within an Agricultural and Forestal District (AFD) would that vary.

Mr. Wysong replied it would not change the process, adding AFD requirements would still need to be followed.

Ms. Sadler requested to Mr. Paul Holt, Director of Community Development and Planning, to the podium for a question. Ms. Sadler requested an update on the Purchase of Development Rights (PDR) Program for public notification purposes, in addition to details on the presentation given to the Board recently.

Mr. Holt addressed the Board noting over the past several years the Board had taken several steps towards rebuilding its Open Space Preservation Program. Mr. Holt highlighted examples such as in Fiscal Year (FY) 2021 the Board approved additional staff resources to manage existing County easements and to allow for new opportunities. Mr. Holt stated in FY 2022-2023 the Board allocated funds in the County's adopted budgets. Mr. Holt mentioned current funds were approximately \$1.6 million, adding those funds could be used for future preservation efforts. Mr. Holt noted as the funds continued to increase overtime the County would be in a robust position to collaborate with property owners, partners, and receive matching grants towards new conservation easements. Mr. Holt further noted the Board received an overview from staff at the Board of Supervisors May 24, 2022, Business Meeting, on the various tools and funding resources. Mr. Holt mentioned the Open Space Tool Decision Tree which aided in identifying the most suitable tools for the property owners desire for the land and timelines. He added the Open Space Tool Decision Tree was available on the County website.

Ms. Sadler asked for the directives to access it on the County website.

Mr. Holt replied once you access the County website homepage hover over the Government tab and click Community Development, click the Planning tab on the left and click the Comprehensive Plan hyperlink, and it was located in the Open Space Discussion segment. Mr. Holt mentioned if there were concerns accessing the Open Space Tool Decision Tree to email

the Department and staff would provide the requested information.

Ms. Sadler thanked Mr. Holt. Ms. Sadler stated she looked forward to further discussion on the subject as time moved forward. Ms. Sadler advised if this Ordinance amendment passed this evening, she would be in support of the PDR Program to allow for compensation of landowners who may qualify.

Mr. McGlennon welcomed Mr. Tim O'Connor, Planning Commission representative, to the podium.

Mr. O'Connor addressed the Board noting this matter had been thoroughly discussed, researched, and debated for several past Comprehensive Plans. Mr. O'Connor advised the Planning Commission recommended approval to the Board of Supervisors by a vote of 4-3. Mr. O'Connor noted the Planning Commission members who voted in support of this application was largely due to compliance with the adopted 2045 Comprehensive Plan stated goals. Mr. O'Connor further noted the Planning Commission members who were not in favor was primarily due to the concern as to whether 25 acres was the correct number for grandfathered acreage, in addition to other rural land parcel impacts. Mr. O'Connor welcomed any questions the Board might have.

Ms. Sadler recognized Ms. Barbara Null, Planning Commission representative, in attendance.

Mr. McGlennon thanked Mr. O'Connor.

Mr. McGlennon opened the Public Hearing.

1. Ms. Linda Rice, 2394 Forge Road, addressed the Board noting that she was in attendance representing the community organization Friends of Forge Road and Toano (FORT). Ms. Rice stated she had resided on Forge Road for approximately 45 years and the community organization FORT had originated in 2004. Ms. Rice noted FORT had various discussions on issues such as rural land preservation, maintaining the history of the rural lands particularly in the upper part of the County, and the rural land uses. Ms. Rice read the FORT letter to the Board of Supervisors included in the Agenda Packet. Ms. Rice commended the Board for its support to promote the preservation of rural lands and the proposed amendments would bring the Zoning Ordinance in conformance with the adopted 2045 Comprehensive Plan. Ms. Rice expressed her support of this proposal.

2. Ms. Mary Aadahl, 2724 Forge Road, addressed the Board noting she was opposed to this proposal. Ms. Aadahl expressed her concerns that this proposal would diminish property rights and homeownership. Ms. Aadahl mentioned landowners who owned more than 25 acres would potentially encounter a decline in value and the aspiration of affordable housing in the County would not be feasible. Ms. Aadahl expressed her concerns that this proposal would create negative impacts to landowners and middle-class citizens. Ms. Aadahl requested the County utilize alternative programs and resources to achieve the preservation of rural lands. Ms. Aadahl reiterated she was not in support of this proposal.

3. Ms. Linda Henderson Gordon, 2000 Bush Neck Road, addressed the Board noting her and her family's history and involvement in the County. Ms. Gordon expressed her concerns with government power, control, and motives. Ms. Gordon cited details from a University of Virginia study. Ms. Gordon spoke about the demand for green space to further enhance development expansion. Ms. Gordon mentioned the agenda of the International Council for Local Environmental Initiatives (ICLEI), United Nations, and the World Economic Forum. Ms. Gordon stated these globalist proposals were hindered by the U.S. Constitution, Bill of Rights, 5th and 14th Amendments. Ms. Gordon discussed the 5th Amendment and the Takings clause which explained the ways the government was able to seize private properties for public

use. Ms. Gordon mentioned Pennsylvania Coal Company versus Mahon as a prime example. Ms. Gordon expressed she was not in support of this proposal and urged the County to reject this proposal.

4. Mr. Hayden Gordon, 4994 John Tyler Highway, addressed the Board noting the previous speaker, Ms. Gordon, was his wife and he agreed with her on the subject. Mr. Gordon expressed the importance of preserving the rural lands; however, he felt those landowners who retained their property should not be penalized and forced restrictions on land use. Mr. Gordon mentioned the various properties he and his wife owned in the County. Mr. Gordon noted he was not in support of this proposal.

5. Mr. Will Harcum, 108 Arena Street, addressed the Board noting his family's farm was located at 3183 Chickahominy Road. Mr. Harcum stated he grew up working the land in Norge, Toano, and Lanexa, adding he was the youngest member on the AFD Advisory Committee. Mr. Harcum expressed the importance and support of preserving rural lands; however, he did not believe this was the approach to take. Mr. Harcum stated this rezoning would negatively impact landowners and devalue properties. Mr. Harcum mentioned during hardships landowners would sell small lots of property to remain afloat, adding this proposal would create significant restrictions. Mr. Harcum recommended utilizing further enrollment in the AFDs, amend the AFDs to allow additional properties who would not normally qualify, and discover other incentives for landowners to retain acreage. Mr. Harcum expressed if this Ordinance amendment passed the green space in the rural parts of the County would diminish. Mr. Harcum added landowners would be forced to sell their property at a substantially lower price and/or lease their property for solar farm purposes. Mr. Harcum mentioned this proposal was inequitable and those who were in support of it were not affected by it. Mr. Harcum stated he was not in support of this proposal.

6. Mr. Gary Massie, 8644 Merry Oaks Lane, addressed the Board noting he and his family owned 10 parcels in the A-1, General Agricultural District, adding the parcels ranged in size from 2.268 acres to 106 acres. Mr. Massie explained the various uses of the owned parcels. Mr. Massie noted nine parcels were outside of the Primary Service Area (PSA) and one parcel was located within the PSA. Mr. Massie further noted he had a boundary line adjustment affecting four of those parcels, which were currently under County staff review. Mr. Massie requested the Board of Supervisors vote against this proposal. Mr. Massie touched on the Planning Commission deliberations on the amendment, adding the three Planning Commission members who voted against this amendment spoke volumes. Mr. Massie expressed frustration with the change from three-acre lots to 20-acre lots, in addition to the one unit per 20 acres, which served no purpose in his opinion. Mr. Massie spoke about affordable housing, adding a great majority of affordable housing was within the A-1 Zoning District. Mr. Massie mentioned this amendment would create further limitation to affordable housing within the County. Mr. Massie noted he was not in support and encouraged the Board to vote against this proposal.

7. Ms. Sheila Chandler, 7900 Newman Road, addressed the Board noting she and her husband owned Chandler Farm at 7742 Newman Road. Ms. Chandler mentioned this farm had been family-owned for six generations. Ms. Chandler expressed her displeasure with what this Ordinance amendment entailed. Ms. Chandler noted landowners should not have forced regulations as to what to do with their own property. Ms. Chandler understood various aspects to local government; however, this was not a proposal she could support. Ms. Chandler expressed the illogical concept of one unit on 20 acres. Ms. Chandler agreed to the point of limitations with affordable housing. Ms. Chandler encouraged the Board to vote against this proposal.

8. Mr. Ronnie Bowmer, 115 Wilderness Lane, addressed the Board noting he was the fourth-generation owner of various parcels within the County. Mr. Bowmer expressed his

disagreement with this Ordinance amendment. Mr. Bowmer mentioned his family in attendance was the fifth generation who enjoyed the land, and if this amendment passed the freedom of the land would be diminished. Mr. Bowmer mentioned the concept of pastures and horses would not be the future of the County rural areas, but an abundance of solar farms. Mr. Bowmer expressed this proposal was inequitable and a government overreach, adding he did not support it. Mr. Bowmer urged the Board to vote against this proposal.

9. Mr. Blake Bowmer, 115 Wilderness Lane, addressed the Board noting he was the son of the previous speaker. Mr. Bowmer mentioned he would be the future fifth-generation owner of this farm and he was highly opposed to this proposal. Mr. Bowmer touched on the illogical concept of 20-acre lots to compensate for those who helped overdevelop James City County. Mr. Bowmer mentioned this Ordinance amendment diminishes property rights of landowners. Mr. Bowmer encouraged the Board of Supervisors to vote against this proposal.

10. Mr. Randy Taylor, 204 Crescent Drive, addressed the Board noting he urged the Board to vote against this proposal. Mr. Taylor expressed he understood the wishes of County residents and the Board of Supervisors to deter future development outside of the PSA. Mr. Taylor stated as a lifelong resident of the County, he did not wish to see the rural lands developed; however, he did not believe that infringing on landowners' property rights was the approach to take. Mr. Taylor touched on the inequitable zoning change that would come from this Ordinance amendment. Mr. Taylor mentioned he and his family owned several parcels of land over 25 acres within the County, adding he had no desire to subdivide or develop on the land. Mr. Taylor touched on the effective PDR Program which purchased development rights from willing landowners; however, the disadvantage was the costs associated with the program. Mr. Taylor explained this zoning change would allow the County to benefit without having to compensate landowners. Mr. Taylor recommended reinstating the PDR Program. Mr. Taylor spoke about family subdivision restrictions and the SUP process. Mr. Taylor noted if this Ordinance amendment were to be approved, he requested the Board eliminate the SUP process and allow by-right development. Mr. Taylor stated he was not in support of this application.

11. Mr. Chris Taylor, 3921 Powhatan Parkway, addressed the Board noting he was in attendance to encourage the Board to vote against this proposal. Mr. Taylor requested the Board to have an equitable perspective on this matter. Mr. Taylor expressed his disagreement with the lot size regulations proposed. Mr. Taylor stated he had been a County resident his entire life, adding he and his family-owned various parcels within the County. Mr. Taylor mentioned he had no intention of developing the land or subdividing it; however, he was not looking to lose his current property rights. Mr. Taylor noted in 2001, the County created the PDR Program and over 78% of County citizens voted in favor of a bond to aid in financing the program. Mr. Taylor further noted in 2011 the PDR Program was inactive due to insufficient funds to continue the program. Mr. Taylor questioned the allegiance to County citizens, adding there were other ways to deter development; however, this was not the way to accomplish such a task. Mr. Taylor spoke about the family subdivision aspect and if it was a permitted use why was there an SUP process which required Board approval, with no guarantees. Mr. Taylor stated for the reasons addressed he did not support this proposal.

12. Mr. Whit Richardson, 4424 Knob Road, Richmond, Virginia, addressed the Board noting he now resided in Richmond, Virginia; however, he grew up in the City of Williamsburg and his family had lived in the County for over 100 years. Mr. Richardson stated he owned a parcel of land on Jolly Pond Road adjacent to two of the Williamsburg-James City County (WJCC) Public Schools, adding it was a 43-acre parcel, which if this Ordinance amendment passed it would negatively impact him and his family. Mr. Richardson mentioned he had heard the details of this proposal last year and proceeded to subdivide the parcel prior to the potential zoning change. Mr. Richardson was unaware that if the subdivision plat was not reviewed by County staff prior to today that it would not be considered. Mr. Richardson commented a significant

amount of money had been invested into the subdivision process, adding he had no intention of developing the land; however, it was to retain the value of the land if such Ordinance amendment were passed. Mr. Richardson stated he was not in attendance to support either side of this proposal, but he did agree with the preservation of rural lands.

Mr. McGlennon thanked all public speakers for their robust opinions and civilized approach on this matter. Mr. McGlennon mentioned the Board had received 38 emails from October 3-11, 2022, of which 34 of the emails were in favor of the proposal and four emails were opposed to the proposal. Mr. McGlennon noted the importance of addressing that information for public records purposes.

Mr. McGlennon closed the Public Hearing.

Mr. McGlennon asked if any Board members had questions.

Mr. Icenhour stated he had a question pertaining to the family subdivision aspect. Mr. Icenhour noted the family subdivision SUP process was required; however, he reiterated Mr. Wysong's point of it being less onerous than the normal SUP process. Mr. Icenhour asked Mr. Holt if there ever had been a family subdivision SUP request that was denied.

Mr. Holt replied not that he was aware of based on the research conducted on the subject.

Mr. McGlennon replied he was not positive; however, he felt to his knowledge there had been a family subdivision SUP request that had been denied.

Mr. Hipple mentioned he could speak to the family subdivision aspect as he was one of the first family subdivisions approved in the County, adding he had no issues in the process. Mr. Hipple noted to his knowledge he did not recall any family subdivision requests being denied.

Mr. Holt replied he had found references in the County Code regarding family subdivisions as early as the 1989 Ordinance, adding he did not investigate passed that timeframe.

Mr. Hipple remarked the family subdivision process was much slower in the past as it was a new process.

Ms. Larson requested Mr. Holt to speak to the SUP process for the family subdivision and the reasoning for the implemented SUP process.

Mr. Holt replied he did not have an opportunity to do extensive research on the Board's reasoning at the time for the SUP process for family subdivisions; however, he could certainly investigate that further. Mr. Holt noted he would need to consult with the County Attorney's Office if that needed to be a legislative process or not.

Ms. Larson stated if this Ordinance amendment were to pass, she would request further evaluation into the family subdivision aspect to determine if the SUP process was necessary.

Mr. Holt replied he did not recall a legislative component to the SUP process for family subdivisions referenced in the State Code; however, he was not positive on that.

Ms. Sadler agreed with Ms. Larson's point and suggested a small filing fee opposed to going through the entire SUP process. Ms. Sadler expressed her understanding of the various concerns on this possible Ordinance amendment as it was vital to prevent further development; however, with population growth came the demand for additional services that the County provided. She added she understood the landowners' concerns of protecting their investment as she too was raised on a family farm. Ms. Sadler mentioned if this Ordinance amendment

were to pass, she fully supported the PDR Program and all efforts to fund it to aid landowners. Ms. Sadler suggested collaborative efforts between the County and landowners to find alternative ways to uphold value and utilization of the land. Ms. Sadler stated she was not in support of this Ordinance amendment.

The audience applauded.

Mr. Icenhour spoke about land use guidelines and restrictions. Mr. Icenhour mentioned the zoning aspect and the regulations determined how the land could be utilized. Mr. Icenhour mentioned for instance, his property was located inside of a major subdivision within the PSA which had various stern restrictions. Mr. Icenhour stated as development had taken its course within the County it had disproportionately targeted areas outside of the PSA. Mr. Icenhour added the three-acre lot minimum and central well requirement was used to be a deterrent; however, that was not the case anymore. Mr. Icenhour noted prior to established developments within the County was farmland, adding when developed those developed properties paid less in personal property tax than it demanded in County services. Mr. Icenhour explained whether the development was within the PSA or not, the burden of development was on existing County citizens. Mr. Icenhour pointed out the various components of both aspects and the result future development had on the community. Mr. Icenhour remarked based on the adopted 2045 Comprehensive Plan, the value of the land should be based upon the use of the land and the land designation. Mr. Icenhour spoke about the approximately \$15 million PDR bond citizens voted in favor of to initiate the PDR Program. He mentioned the program did not run out of funds; however, the funds were not used. Mr. Icenhour explained that the Board of Supervisors at the time chose not to utilize those funds which resulted in funds expiring, even with a two-year extension on the bond. Mr. Icenhour expressed his desire of another bond referendum to put the funds to an effective use.

Mr. Hipple explained the PDR Program was postponed due to County debt, adding rational decisions had to be made at the time for financial management purposes. Mr. Hipple expressed his appreciation for the public input. Mr. Hipple mentioned the unforeseen changes as time moved forward, adding the Board attempted to find the most appropriate solution to address the issue(s). Mr. Hipple spoke about the family subdivision aspect and further evaluation to ensure the most effective approach. Mr. Hipple thanked all in attendance.

Ms. Larson reiterated her request for further evaluation on the family subdivision aspect. Ms. Larson mentioned her support for the PDR Program, in addition to consideration regarding the amount of funds that would be necessary for the program to be effective.

Mr. McGlennon thanked all in attendance despite the different views on the subject. Mr. McGlennon agreed to Mr. Hipple's point of the unforeseeable future and what it entailed. Mr. McGlennon spoke to Mr. Icenhour's point as there were already regulations in place such as the three-acre lot minimum and revisions were implemented to attempt to influence the way in which the County grew for the better. Mr. McGlennon mentioned his support for the PDR Program, adding in the past there were challenges with the program as landowners were not interested despite the incentives. Mr. McGlennon hoped to seek alternative options to help retain land as that was the County's mission to preserve rural lands even if it came with a cost. Mr. McGlennon expressed this public input helped the Board understand the landowners' desires and willingness to preserve the rural lands, which he believed was a great step to reinvigorating some of these programs that did not initially work in the past.

Mr. Kinsman asked if Mr. Hipple's motion would include all three items such as the: proposed A-1 Ordinance; proposed R-8 Ordinance; and proposed Subdivision Ordinance.

Mr. Hipple confirmed yes.

At approximately 6:38 p.m., the Board recessed for a short break.

At approximately 6:44 p.m., the Board reconvened.

2. Z-22-0001 & SUP-22-0012. 5700 Williamsburg Landing Rezoning and SUP Amendment

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

Mr. Wysong addressed the Board noting Mr. Paul Gerhardt, Kaufman & Canoles, P.C., had applied on behalf of Williamsburg Landing, Inc., to rezone approximately 2.65 acres from the R-8, Rural Residential District to the R-5, Multifamily Residential District, in addition to amending the existing SUP for the Williamsburg Landing Continuing Care Retirement Community to include the existing parking lot and gated access as part of this development. Mr. Wysong mentioned the subject acreage had been previously approved and was already developed as a gated entrance and surface parking lot. Mr. Wysong stated there were no dwelling units or improvements proposed. Mr. Wysong remarked if this application were approved it would establish zoning consistency within the parcel and would include one SUP which would govern the development in its entirety. Mr. Wysong noted at the September 7, 2022, meeting, the Planning Commission recommended approval of the proposed rezoning and SUP amendment, subject to proposed conditions by a vote of 7-0. Mr. Wysong further noted staff recommended the Board approve this application. Mr. Wysong welcomed any questions the Board might have, adding the applicant team was in attendance as well.

Mr. McGlennon asked if any Board members had questions.

Mr. O'Connor addressed the Board noting there were no changes to the master plan, adding the rezoning and SUP amendment was for uniformity and consistency purposes only. Mr. O'Connor welcomed any questions the Board might have.

Mr. McGlennon opened the Public Hearing.

1. Mr. Benming Zhang, 4801 Courthouse Street Suite 300, addressed the Board introducing the applicant team in attendance: Mr. Greg Storer, President and CEO of Williamsburg Landing, Inc., and Mr. Gerhardt. Mr. Zhang thanked County staff for collaborative efforts.

Mr. McGlennon closed the Public Hearing.

3. SUP-22-0013. 3252 N. Riverside Drive Contractor's Office and Warehouse

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

Ms. Terry Costello, Senior Planner, addressed the Board noting Mr. Lloyd Stephens, Stephens Remodeling, had applied for an SUP to allow for the operation of a contractor's office and warehouse located at 3252 North Riverside Drive. Ms. Costello noted it was zoned A-1, General Agricultural, adding a contractor's office was a specially permitted use in the A-1 Zoning District. Ms. Costello further noted Mr. Stephens currently operated his business at 7845 Richmond Road. Ms. Costello stated there were a total of five full-time employees, in addition to he and his wife. Ms. Costello mentioned there was one employee who came to the

property once a week and all other employees worked directly at the job sites. Ms. Costello remarked customers typically did not come to the property; however, approximately four or five customers came to the office annually. Ms. Costello stated most deliveries were from the manufacturer to the various job sites; however, on average, there would be one delivery per month to the property, and one delivery from the property to a job site. Ms. Costello indicated all equipment would be stored inside the warehouse and all vehicles associated with the business were taken home by employees. Ms. Costello noted staff found the proposal to be compatible with surrounding zoning and development and consistent with the 2045 Comprehensive Plan. Ms. Costello further noted staff recommended approval of this application, subject to the proposed conditions. Ms. Costello stated at its September 7, 2022, meeting, the Planning Commission recommended approval of this application, with amended conditions, by a vote of 7-0. Ms. Costello welcomed any questions the Board might have, adding the applicant was in attendance as well.

Mr. McGlennon asked if any Board members had questions.

Mr. McGlennon opened the Public Hearing.

Mr. McGlennon closed the Public Hearing, as there were no speakers.

Mr. O'Connor addressed the Board noting the Planning Commission had asked Mr. Stephens if one additional condition could be added pertaining to no soil stockpiling on the property. Mr. O'Connor mentioned Mr. Stephens agreed to the request. Mr. O'Connor noted all Planning Commission members voted in favor of this application.

Mr. McGlennon thanked Mr. O'Connor.

Mr. Hipple stated he met with Mr. and Mrs. Stephens on the property previously. He remarked there was a nice buffer surrounding the property. Mr. Hipple mentioned Mr. Stephens was considerate of residents nearby. Mr. Hipple stated he had not heard any negative concerns regarding this proposal. Mr. Hipple mentioned positive remarks about Mr. Stephens and his company.

4. SUP-22-0016. 141 Blow Flats Rd. Battery Storage

A motion to Defer was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

Ms. Paxton Condon, Planner, addressed the Board noting Mr. Brian Quinlan, Calvert Energy, LLC, had applied for an SUP to construct an electrical generation facility at 141 Blow Flats Road. Ms. Condon stated the property was zoned M-2, General Industrial and designated General Industry on the 2045 Comprehensive Plan. Ms. Condon noted the property was located inside the PSA and was currently undeveloped. Ms. Condon noted the proposed facility would consist of 15 battery storage containers and required 100-foot setback from all property lines. Ms. Condon further noted this facility would allow for energy to be stored from the grid and utilized later during shortages or at times of higher demand. Ms. Condon stated at its September 7, 2022, meeting, the Planning Commission voted 6-0 to find the proposal consistent with the 2045 Comprehensive Plan and recommended approval to the Board of Supervisors, subject to the proposed conditions. Ms. Condon welcomed any questions the Board might have, adding the applicant team was in attendance as well.

Mr. McGlennon asked if any Board members had questions.

Mr. Icenhour stated he had a question for Mr. Kinsman. Mr. Icenhour asked about the decommissioning bond for this application and the longevity of the bond to ensure expiration was not during the lifespan of this facility.

Mr. Kinsman replied a Decommissioning Agreement would be required, and adjustments could be made to ensure extended timeframe.

Mr. Icenhour stated this was an unusual type of installation and he was uncertain of the projected service life on this type of facility. He expressed his willingness to support the application; however, he wanted to ensure the County had the protection aspect pertaining to the decommissioning segment. Mr. Icenhour mentioned the National Fire Protection Association (NFPA) standards were not listed for this application. Mr. Icenhour asked Ms. Condon if there were any concerns the Fire Department had with this application.

Ms. Condon replied the Fire Department raised no concerns regarding this application; however, there was an Emergency Management Plan requirement and reviewal during the site plan phase.

Mr. Icenhour thanked Ms. Condon.

Mr. O'Connor stated he had the same question in reference to the NFPA standards not being listed; however, he mentioned this was a relatively new use across the country. Mr. O'Connor expressed his willingness to support the application being that there was an Emergency Management Plan requirement. Mr. O'Connor informed the Board that there would be additional applications for Blows Flats Road forthcoming and the beneficial aspect of minimal traffic generated by this application. Mr. O'Connor welcomed any questions the Board might have.

Mr. McGlennon thanked Mr. O'Connor.

Mr. McGlennon opened the Public Hearing.

1. Mr. Michael Pelfrey, 186 Blue Water Road, Wake, VA, addressed the Board noting he was the owner of 141 Blow Flats Road, and he was in support of this application.

Mr. McGlennon requested Mr. Quinlan to the podium.

Mr. Icenhour inquired about the projected service life on this equipment.

2. Mr. Quinlan, 12921 Buckeye Drive, Gaithersburg, MD, addressed the Board noting the equipment would be there for at least 20 to 30 years. Mr. Quinlan stated the batteries wear out over a lifetime depending on how frequently the batteries were used and how often the batteries were cycled. Mr. Quinlan mentioned batteries would be replaced; however, the system would remain there.

Mr. McGlennon inquired about the capital investment on this project.

Mr. Quinlan replied approximately \$30 million.

Mr. McGlennon asked if there would be any potential expansions to this facility.

Mr. Quinlan replied no, adding he did not anticipate any phasing component with this project. Mr. Quinlan stated it would interconnect with the distribution lines and the distribution lines only had a certain amount of capacity which would be fully utilized, so there would not be room for expansion.

3. Mr. Kade Lamon, 1608 Manufacture Drive, addressed the Board noting he was not in support of this application based on its location. Mr. Lamon stated this project was suitable based on zoning criteria; however, he mentioned the various residential dwelling units located nearby. Mr. Lamon recommended a new development be considered for this location for the health and safety of nearby residents. Mr. Lamon mentioned the vegetation buffer would not mitigate against a potential chain reaction. Mr. Lamon touched on the negative impacts if the devices were to fail releasing toxic gases into the atmosphere. Mr. Lamon cited the Occupational Safety and Health Administration guidelines for Permissible Exposure Limits. Mr. Lamon mentioned the various dwelling units which would be directly impacted if such failure were to occur. Mr. Lamon discussed the Dominion Energy Virginia battery storage pilot projects which had been previously approved and comparison components. Mr. Lamon stated he did support the use of battery storage technology; however, based on appropriate locations for these facilities such as: rural solar farms and/or existing substations. Mr. Lamon recognized the Skiffes Creek Substation as an ideal location for this facility. Mr. Lamon requested the Board further evaluate this proposal.

Mr. McGlennon closed the Public Hearing.

Mr. McGlennon asked if these various concerns were considered during the application process.

Mr. Holt stated as a standard process for land use the master plan and the proposed details were sent out for review to all County agencies, adding in this instance it was also sent to the Fire Department. Mr. Holt mentioned that this was a new technology; however, the Fire Department reviewed the master plan and did not raise any concerns for the legislative component for this case. Mr. Holt spoke about several proposed conditions, such as Condition No. 6 to require an Emergency Management Plan with several subcomponents included in that condition. Mr. Holt anticipated a lot of details which would need to be worked out as part of the site plan approval should the Board approve this application. Mr. Holt deferred those technical questions raised to the applicant team in attendance.

Ms. Sadler asked if the Fire Department had a plan if an incident occurred.

Mr. Holt reiterated that the Emergency Management Plan would address how an incident would be managed. Mr. Holt stated the Emergency Management Plan had not yet been developed.

Ms. Larson asked if an Emergency Management Plan were developed and County staff were unfamiliar with this technology, how would it be determined that the Emergency Management Plan proposed was the right plan to be implemented.

Mr. Holt stated the plan was developed by applicant input; however, he could not speak to the technical terminology aspect. Mr. Holt pointed out County experience with various electrical type cases with large industrial electrical based development. Mr. Holt mentioned the unfamiliar component addressing electrical issues and/or an emergency management response pertaining to a battery storage facility as this was new technology to the County.

Mr. McGlennon mentioned when the switching station was proposed questions arose regarding if the Fire Department could respond directly or had to wait until Dominion Energy arrived on the scene in order to provide access. Mr. McGlennon expressed various concerns with this application which may need to be further evaluated.

Mr. Hipple discussed the Standard Operation Procedure (SOP) which the Fire Department would need to establish for this technology. Mr. Hipple mentioned once established the SOP

would then be implemented into the Emergency Management Plan. Mr. Hipple remarked SOPs were established for all emergency type situations.

Mr. Holt stated the Emergency Management Plan must be approved during the site plan phase by both the County Fire Chief and County Police Chief. Mr. Holt mentioned the Planning Commission required a mutually agreed upon schedule for the Facility Operator to provide information sessions and training for public safety personnel, in addition to posting all relative contact information on-site.

Ms. Sadler asked if the Emergency Management Plan was required prior to site plan approval.

Mr. Holt replied correct and prior to the commencement of construction.

Ms. Sadler requested certainty that County public safety personnel would develop a plan prior to any site approval on this application.

Mr. Holt confirmed yes, reiterating the County Fire Chief and County Police Chief were required to approve the Emergency Management Plan prior to moving forward.

Mr. McGlennon welcomed the applicant to address the topic-related concerns Mr. Lamon addressed.

Mr. Quinlan stated the system had a NFPA standard for batteries and for the containment of batteries. Mr. Quinlan mentioned this system was designed to meet or exceed the containment requirements for battery storage which essentially meant that the fire was contained within the container to prevent burning through the container walls. Mr. Quinlan indicated the system also had blow-out panels to prevent gas build-up. Mr. Quinlan mentioned there had been improved designs over the years to prevent fires. Mr. Quinlan stated the unit also had a built-in Dry Chemical Fire Suppression System. Mr. Quinlan addressed the health safety concern noting the fire does produce hydrogen fluoride; however, if a fire were to occur it would produce the hydrogen fluoride for less than a minute which would not produce enough hydrogen fluoride to exceed the levels that were considered toxic.

Mr. McGlennon expressed his desire to defer this item to further evaluate some of the raised concerns regarding this application.

Mr. Hipple replied if the Board approved the application this evening it would not move forward until the necessary requirements were met and approved by County personnel.

Mr. McGlennon stated he was aware of that; however, he felt further discussion should be had prior to granting approval.

Mr. Hipple asked Mr. Quinlan if the Dry Chemical Fire Suppression System was a Halon Fire Suppression System.

Mr. Quinlan replied he was uncertain.

Mr. McGlennon asked if staff could obtain additional information and come back before the Board in a month.

Mr. Holt recommended postponement of this application for approximately a month. Mr. Holt mentioned potential collaborative efforts with Fire Chief Ryan Ashe and the applicant team to obtain additional information on certain aspects of the application.

Mr. McGlennon stated the Board would provide a list of questions pertaining to this application for County staff.

H. BOARD CONSIDERATION(S)

None.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour stated on September 28, 2022, he participated on the Williamsburg Health Foundation panel regarding collaboration between nonprofit organizations and local governments. Mr. Icenhour mentioned as a result of that meeting, he had an opportunity to meet with some of the County nonprofit organizations for further discussion. Mr. Icenhour stated he attended the Community Conversations at the James City County Recreation Center, adding it was a good turnout. Mr. Icenhour noted he attended the 50th Anniversary Celebration for Anheuser-Busch.

Mr. Hipple stated he attended a luncheon with the James City Lions Club, adding another meeting would be forthcoming. Mr. Hipple wished Supervisor Larson a happy birthday.

Ms. Larson stated she also attended the 50th Anniversary Celebration for Anheuser-Busch. Ms. Larson extended congratulations to Frothy Moon Brewhouse for its grand opening on October 3, 2022. Ms. Larson mentioned she had attended the Virginia Tourism Awards, adding Ms. Victoria Cimino, CEO of Visit Williamsburg, was nominated for an award. Ms. Larson congratulated Ms. Cimino for her nomination. Ms. Larson thanked her fellow Board members and County staff for the difficult decisions made on various proposals as it was a challenging task.

Ms. Sadler stated she would be attending the Virginia Peninsula Regional Jail meeting tomorrow with Mr. Stevens. Ms. Sadler mentioned her attendance at a Governor's Land luncheon that was held today. She further noted the Honorable Lieutenant Governor of Virginia, Winsome Earle-Sears, was the guest speaker, adding it was an honor to meet her and welcome her to the County.

Mr. McGlennon stated he attended the Community Conversations meeting held on September 29, 2022, adding he felt the public was very attentive. Mr. McGlennon mentioned he attended the 50th Anniversary Celebration for Anheuser-Busch on October 1, 2022. Mr. McGlennon noted the Busch family and their various business endeavors within the community played a significant role in the growth of the County population. Mr. McGlennon recognized Mr. Charles Bragg, a County citizen who had recently passed. Mr. McGlennon stated Mr. Bragg was an active member of the Historic Route 5 Association and a leading faculty member at the Virginia Peninsula Community College, formerly known as Thomas Nelson Community College. Mr. McGlennon extended condolences to his family.

Ms. Larson recognized Mr. Gerry Lewis, a County citizen who had also recently passed. Ms. Larson stated he had worked for the WJCC School System for 46 years. Ms. Larson mentioned his kindness and long service to the community.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Stevens spoke about the Community Conversations meeting that was held on September 29, 2022, at the James City County Recreation Center. Mr. Stevens expressed his appreciation for all who had attended. Mr. Stevens recognized Mr. Jason Purse, Assistant County Administrator, for a well-done presentation on the discussion of a future County government center based on the space needs and studies conducted, in addition to the proposed locations. Mr. Stevens also recognized Ms. Cassie Cordova, Environmental Sustainability Coordinator, for her presentation on the solid waste discussion. Mr. Stevens remarked it was a good turnout and engagement at the meeting. Mr. Stevens mentioned Ms. Latara Rouse, Communications Manager, for her coordination efforts. Mr. Stevens welcomed citizens who had questions pertaining to the meeting to please contact him directly at 757-253-6603.

K. CLOSED SESSION

None.

L. ADJOURNMENT

1. Adjourn until 1 p.m. on October 25, 2022 for the Business Meeting

A motion to Adjourn was made by James Icenhour Jr, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

At approximately 7:29 p.m., Mr. McGlennon adjourned the Board of Supervisors.


Deputy Clerk