

**A G E N D A**  
**JAMES CITY COUNTY DEVELOPMENT REVIEW COMMITTEE**  
**REGULAR MEETING**  
**Building A Large Conference Room**  
**101 Mounts bay Road, Williamsburg, VA 23185**  
**March 29, 2023**  
**4:00 PM**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MINUTES**

1. February 15, 2023 Meeting Minutes

**D. OLD BUSINESS**

**E. NEW BUSINESS**

1. C-23-0019. 3426 N. Riverside Drive Subdivision Exception Request
2. C-23-0013. 3150 Jolly Pond Road Subdivision Shared Driveway Exception Request

**F. ADJOURNMENT**

**ITEM SUMMARY**

**DATE:** 3/29/2023  
**TO:** The Development Review Committee  
**FROM:** Josh Crump, Principal Planner  
**SUBJECT:** February 15, 2023 Meeting Minutes

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**ATTACHMENTS:**

	Description	Type
📎	February 15, 2023 Meeting Minutes	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Development Review Committee	Crump, Josh	Approved	3/21/2023 - 8:37 AM
Development Review Committee	Holt, Paul	Approved	3/21/2023 - 9:15 AM
Publication Management	Pobiak, Amanda	Approved	3/21/2023 - 9:19 AM
Development Review Committee	Holt, Paul	Approved	3/21/2023 - 9:24 AM

**MINUTES**  
**JAMES CITY COUNTY DEVELOPMENT REVIEW COMMITTEE**  
**REGULAR MEETING**  
**Building A Large Conference Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**February 15, 2023**  
**4:00 PM**

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**A. CALL TO ORDER**

Ms. Null called the Development Review Committee (DRC) meeting to order at approximately 4 p.m.

**B. ROLL CALL**

**Present:**

Barbara Null, Chair  
Frank Polster  
Rob Rose  
Stephen Rodgers

**Staff in Attendance:**

Josh Crump, Principal Planner  
Tom Leininger, Principal Planner  
Suzanne Yeats, Planner

**C. MINUTES**

1. November 16, 2022, Meeting Minutes

Mr. Rodgers made a motion to approve the minutes of the November 16, 2022, meeting.

On a voice vote, the DRC voted to approve the Minutes of the November 16, 2023, meeting.  
(4-0)

**D. OLD BUSINESS**

There was no Old Business for discussion.

**E. NEW BUSINESS**

1. SP-22-0051. Ironbound Crossing Wawa and Church Parking

Mr. Thomas Leininger, Principal Planner stated that Mr. Mark Rinaldi has appealed the Planning Director's determination regarding the required landscape edge consisting of a structural site element such as fencing or a wall or combination, or the equivalent as stated in the adopted design guidelines. Mr. Leininger further stated that the applicant's landscape plan has provided a row of hedges to create a landscape edge. Mr. Leininger stated that the Planning Director determined that hedges did not meet the intent of the design guidelines.

Mr. Rinaldi provided a brief background of the parcel and the applicant's intent of the design guidelines and that it was not their intent to restrict the landscape edge to just a wall or fence

and that hedges met this requirement. Mr. Rinaldi stated that due to the numerous easements along the property lines of Ironbound Road and Old Ironbound Road, there would not be sufficient space for a fence or wall to be provided.

The members of the DRC had a brief discussion regarding how hedges could meet the intent of the design guidelines.

Mr. Polster made a motion to approve the applicant's appeal of the Planning Director's determination and allow for the use of hedges within the landscape edge.

The motion passed by a vote of 3-1.

2. SP-22-0089. Chickahominy Riverfront Park RV Storage Lot

Ms. Suzanne Yeats, Planner, stated that this matter was before the DRC for a determination of Master Plan consistency and approval of the proposed tree clearing. Ms. Yeats stated that Planning staff determined that the RV and boat storage lot is not generally consistent with the Master Plan and *Shaping Our Shores* report referenced in the currently adopted Special Use Permit (SUP); however, staff does find that the proposal would be consistent with the 2020 *Shaping Our Shores* updated Master Plan adopted by the Board as a guidance document for development of the Park, and the pending SUP application which is currently under review and includes including an updated 2023 Master Plan.

The DRC held a brief discussion on the proposed changes and the economic benefit to the County.

Mr. Polster made a motion to find the proposal generally consistent with the Master Plan and approve the proposed tree clearing.

The motion passed by a vote of 4-0.

**F. ADJOURNMENT**

Mr. Rodgers made a motion to adjourn.

On a voice vote the meeting was adjourned at approximately 4:42 p.m.

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Barbara Null, Chair

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Paul D. Holt, III, Secretary

**ITEM SUMMARY**

DATE: 3/29/2023

TO: The Development Review Committee

FROM: Thomas Wysong, Senior Planner II

SUBJECT: C-23-0019. 3426 N. Riverside Drive Subdivision Exception Request

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**ATTACHMENTS:**

	Description	Type
☐	Staff Report	Staff Report
☐	Location Map	Exhibit
☐	Exception Request	Backup Material
☐	Proposed Plat	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Development Review Committee	Crump, Josh	Approved	3/21/2023 - 3:59 PM
Development Review Committee	Holt, Paul	Approved	3/22/2023 - 11:29 AM
Publication Management	Pobiak, Amanda	Approved	3/22/2023 - 11:37 AM
Development Review Committee	Holt, Paul	Approved	3/22/2023 - 1:43 PM

**CONCEPTUAL PLAN-23-0019. 3426 N. Riverside Drive Subdivision Exception Request**

**Staff Report for the March 29, 2023, Development Review Committee Meeting**

**SUMMARY FACTS**

Applicant: Mr. Chase Grogg, Landtech Resources, Inc.  
Landowner: Mr. David L. Samuels  
Proposal: A request for an exception to Section 19-17 (4) of the James City County Subdivision Ordinance, which requires septic tank drainfields to be located on the lot they serve.  
Location: 3426 N. Riverside Drive  
Tax Map/Parcel No.: 0940100008K  
Project Acreage: ± 28.87 acres  
Current Zoning: A-1, General Agricultural  
Comprehensive Plan: Rural Lands  
Primary Service Area (PSA): Outside  
Staff Contact: Thomas Wysong, Senior Planner II

**REASON FOR PLANNING COMMISSION REVIEW**

Section 19-17 (4) of the Subdivision Ordinance requires that all lots have an on-site sewage disposal system (i.e., septic tank) and water source. The applicant is proposing to subdivide the reference property and is unable to locate septic tanks on the proposed lots. The applicant’s proposal is to locate the sewage disposal systems for all three lots on one lot, which is located at the rear of the proposed subdivision.

**FACTORS FAVORABLE**

1. The Virginia Department of Transportation (VDOT), the Fire Department, and the Virginia Department of Health have stated no objection to this exception request.

**FACTORS UNFAVORABLE**

1. Staff finds the request fails to meet the following three required exception criteria, as outlined in Section 19-18 of the Subdivision Ordinance:
  - Strict adherence to the Ordinance requirement will cause substantial injustice or hardship.
  - The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter.
  - The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.

**STAFF RECOMMENDATION**

Staff finds that the request does not meet the required exception criteria in the Ordinance and for this reason, recommends the Development Review Committee (DRC) recommend denial of the exception request to the Planning Commission.

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*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.*

**CONCEPTUAL PLAN-23-0019. 3426 N. Riverside Drive Subdivision Exception Request**

**Staff Report for the March 29, 2023, Development Review Committee Meeting**

**PROJECT DESCRIPTION**

- The applicant is proposing a three-lot family subdivision. As part of this parcel, the applicant proposes to locate sewage disposal systems for all three lots on one lot in the rear of the subdivision (Lot 11C), with a proposed drainage easement for these off-site systems.

**PROJECT HISTORY**

This project is currently in review as a family subdivision, pursuant to Section 24-214 (a)(2) c.

**SURROUNDING ZONING AND DEVELOPMENT**

- Surrounding properties to the north, south, east, and west are zoned A-1, General Agricultural, and designated Rural Lands on the Comprehensive Plan.

**STAFF ANALYSIS**

Section 19-17(4) of the Subdivision Ordinance states that each lot within a family subdivision is to have its own water source and on-site sewage systems. The applicant is applying for a subdivision exception request to permit off-site sewage systems. The analysis below provides information on each of the criteria listed in the Subdivision Ordinance Exception section:

The Commission shall not approve any exception unless it first receives a recommendation from the DRC and unless it finds that:

- a. Strict adherence to the Ordinance requirement will cause substantial injustice or hardship; and

*Based on the information provided within the application materials, staff does not find that a hardship or substantial injustice is caused by the Ordinance requirement. The fact that these areas of the property are not suitable for a septic tank means the property is generally unsuitable for subdividing, as proposed.*

- b. The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others; and

*The County's on-site sewage requirement is in place partly to address public safety, health, and welfare, as on-site sewage systems typically offer less opportunity for system disruption and permits easier maintenance. Recurring inspection and maintenance of septic tanks is required. Ensuring that these inspections and maintenance occurs could become problematic when the facility is located off-site and on someone else's property. Without regular inspection and maintenance, or should these activities become problematic or deferred due to a future off-site property owner, the possibility of septic tank failure and environmental contamination could greatly increase, thereby adversely affecting the property of others and negatively impacting health, safety, and welfare or surrounding property owners.*

- c. The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter; and

*Indeed, not all property within the County is suitable for subdividing; therefore, staff does not find that the facts upon which the request is based are unique to the property.*

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*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.*

**CONCEPTUAL PLAN-23-0019. 3426 N. Riverside Drive Subdivision Exception Request**

**Staff Report for the March 29, 2023, Development Review Committee Meeting**

- d. No objection to the exception has been received in writing from VDOT, the Virginia Department of Health, or the Fire Department; and

*Staff has consulted with applicable reviewing agencies, specifically with VDOT, the Virginia Department of Health, and the Fire Department, and no objections have been raised.*

- e. The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.

*Staff finds that the applicant has not provided sufficient evidence that the dimensions/building area of the proposed lots or the topography of the lots to be unusual compared with other parcels, or of a nature that would preclude the placement of on-site sewage systems with a potential redesign of site layout.*

**STAFF RECOMMENDATION**

Staff finds that the request does not meet the required exception criteria in the Ordinance and recommends the DRC recommend denial of the exception request to the Planning Commission.

TW/ap  
CP23-19\_3426NRvrsdeDr

**Attachments:**

- 1. Applicant Exception Request
- 2. Location Map
- 3. Proposed Plat

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*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.*





**March 6, 2023**

James City County Planning Commission  
Government Complex  
101 Mounts Bay Road  
Building F  
Williamsburg, VA 23185

**Reference: SUP-22-0027 3426 N. Riverside Dr. Minor Subdivision**

Dear James City County Planning Commission,

This project, a family subdivision, is proposed to create 3 lots from the parent parcel. The current configuration needs an exception to Section 19-17 (4) of the subdivision ordinance. Therefore, we hereby offer the following responses to the exception criteria to allow two offsite drainfield locations.

*(a) Strict adherence to the ordinance requirement will cause substantial injustice or hardship;*

- The soil in this area of James City County can make it difficult to be able to locate a conventional drainfield on a property. This property is one of those properties where there is a small pocket of good soil that would allow for conventional drainfields to be installed. Like adjoining properties, a weave of property lines could be established to allow the drainfields to be considered on property, but in the essence of simplicity and keeping the overall property shape an exception is requested.

*(b) The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others;*

- This exception does not affect any other property owner but our property.

*(c) The facts upon which the request is based are unique to the property and not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter;*

- Though this exception request does not adapt a general regulation to be adopted as an amendment, other properties within James City County have drainfields that are not located within main property boundary due to soil constraints.

*(d) No objection to the exception has been received in writing from the transportation department, health department, or fire chief; and*

- There has been no response from the Fire Chief. VDOT has no issue with the proposed subdivision. The health department is ok with the offsite drainfield locations as long as the easements that are created are done so in perpetuity.

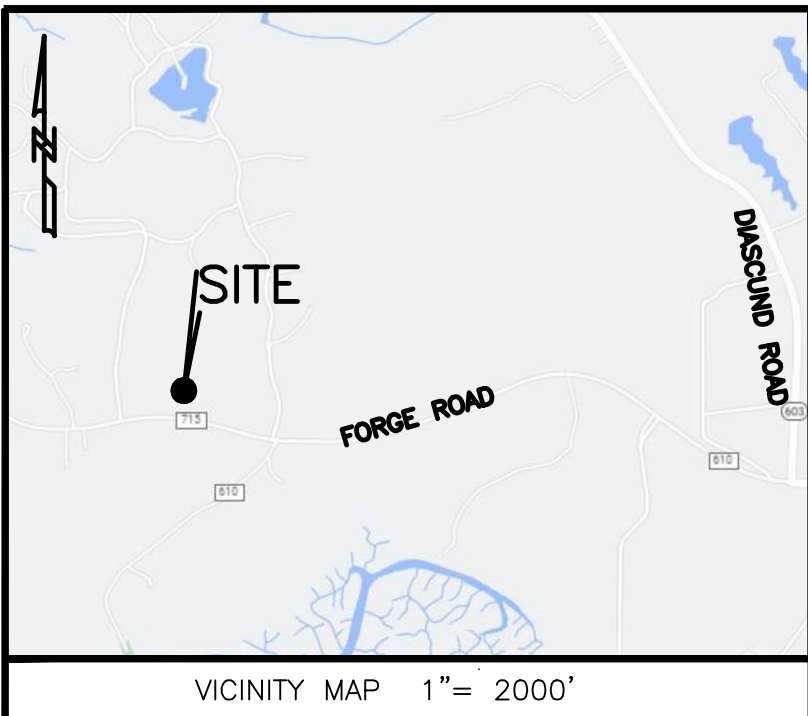
*(e) The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation of condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.*

- The soil conditions within the proposed lots do not allow for conventional septic systems to be installed. This proposal is to allow for easements to be placed over adjoining lots to more suitable soil in the rear of the property.

Given the special characteristics of this proposal, we feel that the exception is warranted. We request that the DRC decide in our favor to grant the exception to Section 19-17 (4) for this family subdivision.

Thank you for your consideration,

Chase Grogg



A SUBDIVISION OF  
 LOT 11  
 EAGLE TREE FARMS, INC.  
 POWHATAN DISTRICT JAMES CITY COUNTY VIRGINIA  
 DATE: 10/11/2022 JOB # 22-243

**LandTech**  
 Resources, Inc.  
 Engineering & Surveying Consultants  
 205 Bulifants Blvd., Suite E, Williamsburg, Virginia 23188  
 Phone: (757) 565-1677 Fax: (757) 565-0782  
 web: landtechresources.com  
 SHEET 1 OF 2

AREA TABULATION		
PARCEL	OLD AREA	NEW AREA
EXISTING LOT 11	1,257,468 S.F. / 28.87 AC.	0 S.F. / 0.0 AC.
LOT 11A		261,360 S.F. / 6.00 AC.
LOT 11B		154,233 S.F. / 3.54 AC.
LOT 11C		842,155 S.F. / 19.33 AC.

**JCC-S-22-0000**

**OWNERS CERTIFICATE PARCEL ID: 3030100018:**

THE SUBDIVISION OF LAND SHOWN ON THIS PLAT AND KNOWN AS SUBDIVISION OF LOT 11 EAGLE TREE FARMS, INC. IS WITH FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND OR TRUSTEES.

\_\_\_\_\_  
 DAVID L. SAMUELS DATE

**CERTIFICATE OF NOTARIZATION**

COMMONWEALTH OF VIRGINIA  
 CITY/COUNTY OF \_\_\_\_\_, I, \_\_\_\_\_, A NOTARY PUBLIC  
 IN AND FOR THE CITY/COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY  
 THAT THE PERSONS WHOSE NAMES ARE SIGNED TO THE FOREGOING WRITING HAVE  
 ACKNOWLEDGED THE SAME BEFORE ME IN THE CITY/COUNTY AFORESAID.  
 GIVEN UNDER MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
 NOTARY PUBLIC  
 MY COMMISSION EXPIRES \_\_\_\_\_  
 NOTARY REGISTRATION NO. \_\_\_\_\_

**CERTIFICATE OF SOURCE OF TITLE**

THIS IS TO CERTIFY THAT THE LAND EMBRACED IN THIS SUBDIVISION STANDS IN THE NAME OF DAVID L. SAMUELS AND WAS ACQUIRED FROM: DOROTHY F. SAMUELS AND PAULA R. SAMUELS BY THAT CERTAIN DEED DATED FEBRUARY 8, 2012 AND RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF JAMES CITY COUNTY, VIRGINIA IN INST. #120006185.

**CERTIFICATE OF APPROVAL**

THIS SUBDIVISION IS APPROVED BY THE UNDERSIGNED IN ACCORDANCE WITH WITH EXISTING SUBDIVISION REGULATIONS AND MAY BE ADMITTED TO RECORD.

\_\_\_\_\_  
 DATE VA DEPARTMENT OF TRANSPORTATION  
 \_\_\_\_\_  
 DATE VA DEPARTMENT OF HEALTH  
 \_\_\_\_\_  
 DATE SUBDIVISION AGENT OF JAMES CITY COUNTY

**GENERAL NOTES**

1. THIS PLAT WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT REFLECT ALL ENCUMBRANCES, EASEMENTS AND SETBACKS THAT AFFECT THE SUBJECT PROPERTY.
2. WETLANDS AS SHOWN WERE DELINEATED BY ROTH ENVIRONMENTAL.
3. THIS FIRM MADE NO ATTEMPT TO LOCATED UNDERGROUND UTILITIES.
4. LOTS ARE SERVED BY PRIVATE WATER AND PRIVATE SEWER SYSTEMS.
5. ALL NEW UTILITIES SHALL BE PLACED UNDERGROUND.
6. PARCELS LIE IN FIRM ZONE "X" ACCORDING TO FLOOD INSURANCE RATE MAPS #51095C0019D DATED 12/16/2015.
7. THIS PROPERTY FALLS PARTIALLY WITHIN THE RPA.
8. ANY EXISTING UNUSED WELLS SHALL BE ABANDONED IN ACCORDANCE WITH STATE PRIVATE WELL REGULATIONS AND JAMES CITY COUNTY CODE.
9. MONUMENTS SHALL BE SET IN ACCORDANCE WITH SECTIONS 19-34 THROUGH 19-36 OF THE COUNTY CODE.
10. THE VIRGINIA DEPARTMENT OF TRANSPORTATION, ITS AGENTS AND ASSIGNS ARE GRANTED THE EXCLUSIVE RIGHT TO MAINTAIN THE AREA DEDICATED FOR PUBLIC USE.
11. PRIOR TO ANY FURTHER LAND DEVELOPMENT ACTIVITIES; A SITE SPECIFIC WETLAND DELINEATION AND RPA DETERMINATION SHALL BE PERFORMED IN ACCORDANCE WITH THE CHESAPEAKE BAY PRESERVATION SECTION OF THE JAMES CITY COUNTY CODE.
12. WETLANDS AND LAND WITHIN RESOURCE PROTECTION AREAS SHALL REMAIN IN NATURAL UNDISTURBED STATE EXCEPT FOR THOSE ACTIVITIES PERMITTED BY SECTION 23-7(c)(1) OF THE JAMES CITY COUNTY CODE.
13. ON-SITE SEWAGE DISPOSAL SYSTEM INFORMATION AND SOILS INFORMATION SHOULD BE VERIFIED AND REEVALUATED BY THE HEALTH DEPARTMENT PRIOR TO ANY NEW CONSTRUCTION.
14. ON-SITE SEWAGE TREATMENT SYSTEMS SHALL BE PUMPED OUT AT LEAST ONCE EVERY FIVE YEARS PER SECTION 23-9(B)(6) OF THE JAMES CITY COUNTY CODE.
15. BUILDING SETBACKS FOR A-1 ZONING:  
 FRONT - 75'  
 SIDE - 15'  
 REAR - 35'
16. EXISTING GRAVEL DRIVE IN USE APPEARS TO BE DRIVEWAY ACCESS PER INST. #120006185
17. UNDERGROUND UTILITIES, IF ANY, HAVE NOT BEEN LOCATED FOR THIS PLAT. ONLY ABOVE GROUND UTILITIES ARE SHOWN.

**VDH SUBDIVISION APPROVAL STATEMENT**

THIS SUBDIVISION IS APPROVED FOR INDIVIDUAL ONSITE SEWAGE SYSTEMS IN ACCORDANCE WITH THE PROVISIONS OF THE CODE OF VIRGINIA, AND THE SEWAGE HANDLING REGULATIONS (12 VAC 5-620-20 et seq., THE "REGULATIONS") THIS SUBDIVISION WAS SUBMITTED TO THE HEALTH DEPARTMENT FOR REVIEW PURSUANT TO SEC. 32.1-163.5 OF THE CODE OF VIRGINIA WHICH REQUIRES THE HEALTH DEPARTMENT TO ACCEPT PRIVATE SOIL EVALUATIONS AND DESIGNS FROM AN AUTHORIZED ONSITE SOIL EVALUATOR (AOSE) OR A PROFESSIONAL ENGINEER WORKING IN CONSULTATION WITH AN AOSE FOR RESIDENTIAL DEVELOPMENT. THE DEPARTMENT IS NOT REQUIRED TO PERFORM A FIELD CHECK OF SUCH EVALUATIONS. THIS SUBDIVISION WAS CERTIFIED AS BEING IN COMPLIANCE WITH THE BOARD OF HEALTH'S REGULATIONS BY: ANN L. RUFF, AOSE NO. 1940001376, PHONE NO. 757-810-5293, ADDRESS: P.O. BOX 759, LIGHTFOOT, VA 23090. THIS SUBDIVISION APPROVAL IS ISSUED IN RELIANCE UPON THAT CERTIFICATION. PURSUANT TO SEC. 360 OF THE REGULATIONS THIS APPROVAL IS NOT AN ASSURANCE THAT SEWAGE DISPOSAL SYSTEM CONSTRUCTION PERMITS WILL BE ISSUED FOR ANY LOT IN THE SUBDIVISION UNLESS THAT LOT IS SPECIFICALLY IDENTIFIED AS HAVING AN APPROVED SITE FOR AN ONSITE SEWAGE DISPOSAL SYSTEM, AND UNLESS ALL CONDITIONS AND CIRCUMSTANCES ARE PRESENT AT THE TIME OF APPLICATION FOR A PERMIT AS ARE PRESENT AT THE TIME OF THIS APPROVAL. THIS SUBDIVISION MAY CONTAIN LOTS THAT DO NOT HAVE APPROVED SITES FOR ONSITE SEWAGE SYSTEMS. THIS SUBDIVISION APPROVAL IS ISSUED IN RELIANCE UPON THE CERTIFICATION THAT APPROVED LOTS ARE SUITABLE FOR "TRADITIONAL SYSTEMS", HOWEVER ACTUAL SYSTEM DESIGN MAY BE DIFFERENT AT THE TIME CONSTRUCTION PERMITS ARE ISSUED.

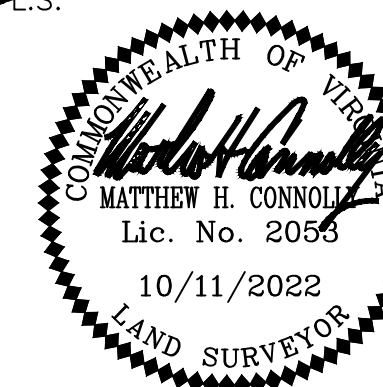
**PROPERTY INFORMATION**

PARCEL ID: 0940100008K  
 ADDRESS:  
 3426 N. RIVERSIDE DRIVE  
 LANEXA, VIRGINIA 23089  
 ZONING DISTRICT: A1 GENERAL AGRICULTURE

**ENGINEERS OR SURVEYORS CERTIFICATE**

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE OR BELIEF, THIS PLAT COMPLIES WITH ALL OF THE REQUIREMENTS OF THE BOARD OF SUPERVISORS AND ORDINANCES OF THE COUNTY OF JAMES CITY, VIRGINIA, REGARDING THE PLATTING OF SUBDIVISIONS WITHIN THE COUNTY.

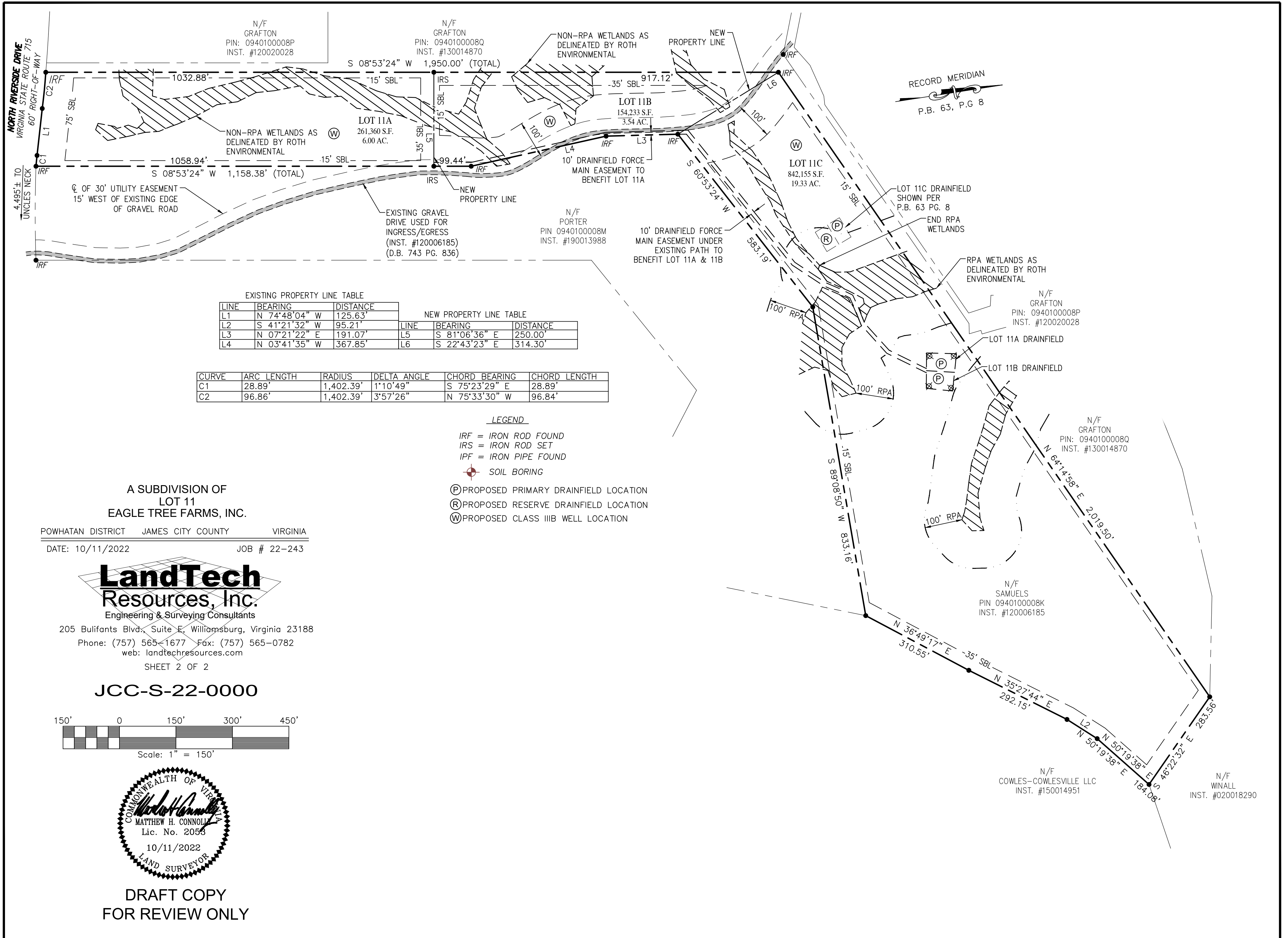
\_\_\_\_\_  
 MATTHEW CONNOLLY, E.S. DATE 10/11/2022



**DRAFT COPY  
 FOR REVIEW ONLY**

**STATE OF VIRGINIA, JAMES CITY COUNTY**

IN THE CLERKS OFFICE OF THE CIRCUIT COURT FOR THE COUNTY OF JAMES CITY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022. THIS PLAT WAS PRESENTED AND ADMITTED TO RECORD AS THE LAW DIRECTS AT \_\_\_\_\_ INSTRUMENT # \_\_\_\_\_ TESTE \_\_\_\_\_



EXISTING PROPERTY LINE TABLE

LINE	BEARING	DISTANCE
L1	N 74°48'04" W	125.63'
L2	S 41°21'32" W	95.21'
L3	N 07°21'22" E	191.07'
L4	N 03°41'35" W	367.85'

NEW PROPERTY LINE TABLE

LINE	BEARING	DISTANCE
L5	S 81°06'36" E	250.00'
L6	S 22°43'23" E	314.30'

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	28.89'	1,402.39'	1°10'49"	S 75°23'29" E	28.89'
C2	96.86'	1,402.39'	3°57'26"	N 75°33'30" W	96.84'

- LEGEND**
- IRF = IRON ROD FOUND
  - IRS = IRON ROD SET
  - IPF = IRON PIPE FOUND
  - SOIL BORING
  - (P) PROPOSED PRIMARY DRAINFIELD LOCATION
  - (R) PROPOSED RESERVE DRAINFIELD LOCATION
  - (W) PROPOSED CLASS III B WELL LOCATION

A SUBDIVISION OF  
LOT 11  
EAGLE TREE FARMS, INC.

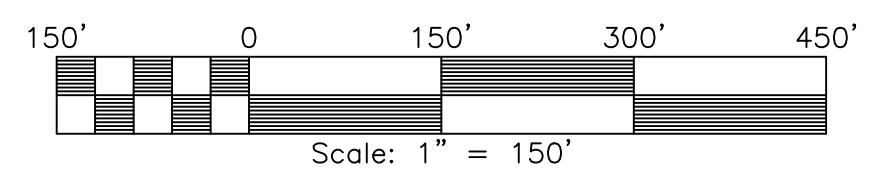
POWHATAN DISTRICT JAMES CITY COUNTY VIRGINIA  
DATE: 10/11/2022 JOB # 22-243



Engineering & Surveying Consultants  
205 Bulifants Blvd., Suite E, Williamsburg, Virginia 23188  
Phone: (757) 565-1677 Fax: (757) 565-0782  
web: landtechresources.com

SHEET 2 OF 2

JCC-S-22-0000



DRAFT COPY  
FOR REVIEW ONLY

**ITEM SUMMARY**

DATE: 3/29/2023

TO: The Development Review Committee

FROM: Thomas Wysong, Senior Planner II

SUBJECT: C-23-0013. 3150 Jolly Pond Road Subdivision Shared Driveway Exception Request

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**ATTACHMENTS:**

	Description	Type
☐	Staff Report	Staff Report
☐	Exception Request	Backup Material
☐	Location Map	Backup Material
☐	Approved Plat	Backup Material
☐	Shared Driveway Standards	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Development Review Committee	Crump, Josh	Approved	3/21/2023 - 3:59 PM
Development Review Committee	Holt, Paul	Approved	3/22/2023 - 9:36 AM
Publication Management	Daniel, Martha	Approved	3/22/2023 - 3:22 PM
Development Review Committee	Holt, Paul	Approved	3/22/2023 - 3:25 PM

**CONCEPTUAL PLAN-23-0013. 3150 Jolly Pond Road Subdivision Shared Driveway Exception Request**

**Staff Report for the March 29, 2023, Development Review Committee Meeting**

**SUMMARY FACTS**

Applicants: Bitler, Jonathan E. and Margaret J.  
Blue Ridge Custom Homes, LLC  
Palavra, Ivica and Humar, Snjezana  
Desouza, Heber R.  
Torres, Victor and Brandi

Landowners: Bitler, Jonathan E. and Margaret J.  
Blue Ridge Custom Homes, LLC  
Palavra, Ivica and Humar, Snjezana  
Desouza, Heber R  
Torres, Victor & Brandi

Proposal: A shared driveway exception request for an approved five-lot subdivision on Jolly Pond Road. Currently, each lot is required to access Jolly Pond Road through an approved 25-foot access easement located on 3148 Jolly Pond Road. This proposal would permit each lot to access Jolly Pond Road through their own approved frontage.

Locations: 3148 Jolly Pond Road  
3158 Jolly Pond Road  
3140 Jolly Pond Road  
3120 Jolly Pond Road  
3154 Jolly Pond Road

Tax Map/Parcel Nos.: 3030100021D  
3030100021B  
3030100021E  
3030100021F  
3030100021C

Project Acreage: ± 25.93 acres  
Current Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area (PSA): Outside

Staff Contact: Thomas Wysong, Senior Planner II

**REASON FOR DEVELOPMENT REVIEW COMMITTEE REVIEW**

Section 19-73 of the Subdivision Ordinance requires that all minor subdivisions of three or more lots limit direct access from the existing road to one shared driveway. The applicants are proposing to modify the driveway access for this subdivision that was approved by the Subdivision Agent on January 15, 2019.

In this proposal, each lot would be permitted direct access to Jolly Pond Road through existing approved frontage. If approved by the Planning Commission, a new plat showing the removal of the existing shared 25-foot Ingress/Egress Utilities Easement and the notes prohibiting access to Jolly Pond Road for each lot would be required to be approved administratively through the full plat review process by the County prior to site development.

**FACTORS FAVORABLE**

1. The Fire Department and the Virginia Department of Health have stated no objection to this exception request.

**FACTORS UNFAVORABLE**

1. The Virginia Department of Transportation (VDOT) has

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*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.*

**CONCEPTUAL PLAN-23-0013. 3150 Jolly Pond Road Subdivision Shared Driveway Exception Request**

**Staff Report for the March 29, 2023, Development Review Committee Meeting**

recommended against this approach.

2. Staff finds the subdivision fails to meet the following three required exception criteria, pursuant to Section 19-18:
  - Strict adherence to the Ordinance requirement will cause substantial injustice or hardship.
  - The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter.
  - The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.

**STAFF RECOMMENDATION**

Staff finds that the request does not meet the required exception criteria in the Ordinance and for this reason, recommends the Development Review Committee (DRC) recommend denial of the exception request to the Planning Commission.

**PROJECT DESCRIPTION**

- The applicants are proposing to modify the approved driveway access for this subdivision. Currently, each lot is required to access Jolly Pond Road through an approved 25-foot access easement located on 3148 Jolly Pond Road. This proposal would permit each lot to access Jolly Pond Road through their approved frontage.

**PROJECT HISTORY**

This minor subdivision was reviewed and approved in the fall of 2018 and the spring of 2019, pursuant to all applicable requirements of the County Subdivision Ordinance.

**SURROUNDING ZONING AND DEVELOPMENT**

- Surrounding properties to the north, south, east, and west are zoned A-1, General Agricultural, and designated Rural Lands on the Comprehensive Plan.

**STAFF ANALYSIS**

Section 19-73 of the Subdivision Ordinance states that a shared driveway shall be required for any subdivision with three or more undeveloped lots. This requirement, along with a number of other updates was added to the Subdivision Ordinance in 1999, after having been developed by a citizen and stakeholder committee charged with revisions to the Zoning and Subdivision Ordinances at that time. This update was preceded by inclusion of Rural Land Use Standards in the Development Standards section of the 1997 Comprehensive Plan which encouraged preservation of the natural, wooded, and rural character of the County by various measures, including “minimizing the number of street and driveway intersections along the main road by providing common driveways and interconnection of developments.” This language has remained in subsequent versions of the Comprehensive Plan’s Rural Lands Development Standards, including the current 2045 Comprehensive Plan. Over the years, many minor subdivisions have been approved with shared driveways, both inside the PSA and outside the PSA for minor subdivisions with larger lots taking access from rural roads.

The analysis below provides information on each of the criteria listed in the Subdivision Ordinance Exception section:

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*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.*



**CONCEPTUAL PLAN-23-0013. 3150 Jolly Pond Road Subdivision Shared Driveway Exception Request**

**Staff Report for the March 29, 2023, Development Review Committee Meeting**

The Commission shall not approve any exception unless it first receives a recommendation from the DRC and unless it finds that:

- a. Strict adherence to the Ordinance requirement will cause substantial injustice or hardship; and

*Based on the information provided within the application materials, staff does not find that a hardship or substantial injustice is caused by the Ordinance requirement.*

- b. The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others; and

*The County's higher access standard is in part to address public safety, health, and welfare through the goals of access management and safer progression of traffic by limited entry points, even in rural areas with a lesser volume of traffic. The higher standard also helps in retaining the rural character of these areas and roadways.*

- c. The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter; and

*Staff does not find that the facts upon which the request is based are unique to the property.*

- d. No objection to the exception has been received in writing from VDOT, the Virginia Department of Health, or the Fire Department; and

*Staff has consulted with applicable reviewing agencies, specifically with VDOT, the Virginia Department of Health, and*

*the Fire Department. VDOT has objected to this request.*

- e. The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.

*Staff finds that the applicants have not provided sufficient evidence that the dimensions/building area of the proposed lots or the topography of the lots to be unusual compared with other parcels, or of a nature that would preclude the placement of a shared driveway.*

**STAFF RECOMMENDATION**

Staff finds that the request does not meet the required exception criteria in the Ordinance and recommends the DRC recommend denial of the exception request to the Planning Commission.

TW/ap  
CP23-13\_3150JpdSubd

Attachments:

1. Applicant Exception Request
2. Location Map
3. Approved Plat
4. Sec. 19-73 (b) Shared Driveway Standards

January 9<sup>th</sup>, 2023

Dear JCC Board Members,

The five current lot owners of the “Minor Subdivision: #3150 Jolly Pond Road”, known as the “Wallace Minor Subdivision” are respectfully requesting you consider our proposal to change the requirement of one shared access entrance to allow each of the lot owners direct access onto Jolly Pond Road.

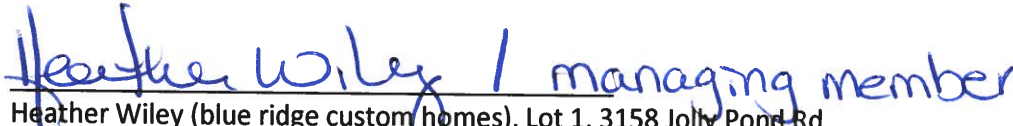
We ask you to consider the following seven main points when making your decision.

- **Change in traffic volume and access** - Jolly Pond Rd was changed from a through road to a dead-end road with the closure of Jolly Mill Pond Dam. The only access to the lots in the minor subdivision is from one direction from the east from Centerville Road (next to the James River Baptist Church). Currently there are only 12 single-family homes on this section of Jolly Pond Road with very limited opportunity to add additional homes along this 1.1 mile stretch of road.
- **Unnecessary hardship** – The existing plan requires residents of the Wallace Minor Subdivision Lots 1, 2, and 3 to travel along Jolly Pond Road past their property, in some cases as much as 700’, turn off Jolly Pond Rd and make an immediate 180-degree hairpin turn unto a newly constructed 15’ wide access road, parallel to Jolly Pond Rd and travel back the 700’ to their property.
- **Conflicting information** - Various plat plan information posted on the JCC Property Information website contradicts each other. The plat plan, Sheet 2 (attachment 1) depicts the shared access entrance for all 5 lots entering at Lot 2. Sheet 1 of the same plat plan (attachment 2) has no depiction of the shared access entrance, however, JCC officials interpret the shared entrance entering at Lot 4 based on the “No Access to Right of Way” depicted for Lots 2 & 5. Several house plans and lot layouts were predicated on the shared access entrance depicted on Sheet 2 and discussions with JCC officials as much as two years ago.
- **Restrictions on emergency response** – Ambulance, fire and other emergency response vehicles responding to calls at Lots 1, 2, & 3 would be hampered by the extra time and distance to respond and likely unable to make the 180 degree turn from Jolly Pond Road unto the 15’ shared access road across the front of Lot 3 – no shoulders and deep ditches along both sides of the road. Their only option would be to respond by parking on Jolly Pond Rd (only ~16 feet wide), closing it to all current residents with no other access back to Centerville Rd, not to mention the inability of any large vehicle to turn around on Jolly Pond Rd. While this may not be unusual for many of the rural roads in JCC, it is unnecessary in this case and can easily be avoided.
- **Increased water run off** – The current plan requires a 15’ x 320’ paved shared access road across the front of Lot 3. This 4,800 square feet of additional impervious paved surface only exacerbates the water run off problems along Jolly Pond Rd with ditches that currently overflow during heavy rain and are slow to drain bringing a myriad of other issues such as stagnate water breeding grounds for mosquitoes.
- **Agreement from current residents** – We have actively reached out to many of the current residents along Jolly Pond Road that would be impacted by your decision. There are no objections from these residents to our request for individual entrances to the lots in the Wallace Minor Subdivision. In addition, all of the property west of the Wallace Minor Subdivision have already been developed so there are no future properties that would be impacted by your decision.



- **Entrances/access already exist for Lots 1, 2, 3 and 4** – Property owners of Lots 3 and 4 coordinated with VDOT (application, permit and fees) for entrances already in-place and being used for construction. An existing entrance (in-place prior to the establishment of the Wallace Minor Subdivision) currently provides access for Lots 1 and 2 as well as the adjoining neighbors (Audrey Brown). With the exception of Lot 5, all necessary access entrances are already in-place.

We appreciate your time and careful consideration of this matter.

  
Heather Wiley (blue ridge custom homes), Lot 1, 3158 Jolly Pond Rd

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Victor & Brandi Torres, Lot 2, 3154 Jolly Pond Rd

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Jonathan & Margaret Bitler, Lot 3, 3148 Jolly Pond Rd

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Ivica Palavra, Lot 4, 3140 Jolly Pond Rd

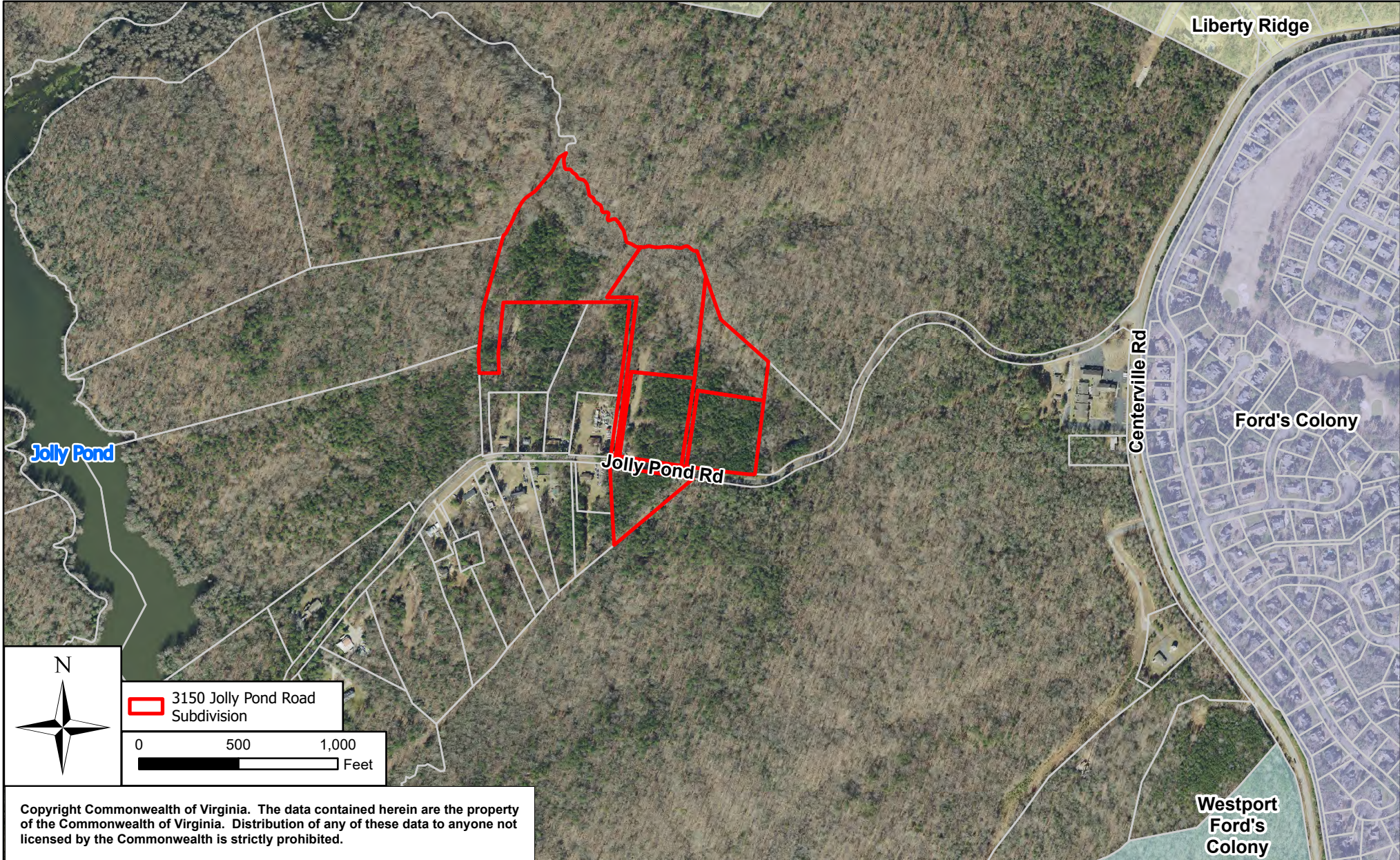
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Heber Desouza, Lot 5, 3120 Jolly Pond Rd

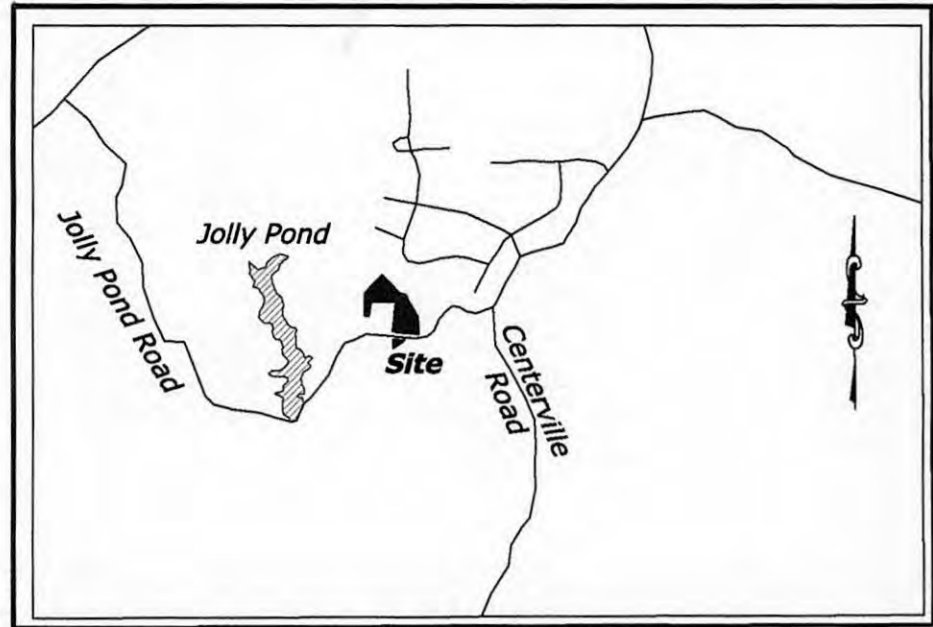


# JCC C-23-0013

## "3150 Jolly Pond Road Subdivision" Shared Driveway Exception Request



Copyright Commonwealth of Virginia. The data contained herein are the property of the Commonwealth of Virginia. Distribution of any of these data to anyone not licensed by the Commonwealth is strictly prohibited.



Vicinity Map Scale: 1" = 2000'

Owner's Certificate:

The subdivision of land shown on this plat and known as "Minor Subdivision of the Property of: Thomas B. Wallace(d) and Evangeline Wallace (Trustees)" is with free consent and in accordance with the desire of the undersigned owners, proprietors and/or trustees.

Signature of Evangeline Wallace, Date 12/20/18

Certificate of Notarization:

Commonwealth of Virginia City/County of Hampton (Name)

Notary Public Jo A. Woodard certifying the signatures of Thomas B. Wallace and Evangeline Wallace.



My commission expires: 02/28/2022, Notary registration number: 7046826

Curve Table and Line Table providing technical survey data including bearings, distances, and curve details.

Legend

- Utility Pole, Tree, Wetlands, Telephone Pedestal, Rod Set, Rod/Pipe Found, Bore Hole, Proposed Well, RPA Sign

William C. Kane, Jr. and Angela K. Kane, Parcel I.D. 3030100006



Robert Canaday and Mavis Elaine Canaday, et. als. Parcel I.D. 3030100013

Thomas B. Wallace(d), Trustee and Evangeline Wallace, Trustee. Parcel I.D. 3030100021

Randy M. Brown and Gwendolyn Brown, Parcel I.D. 3030100020A

Audrey H. Brown, Parcel I.D. 3030100019

Meridian Land Holdings, LLC, Parcel I.D. 3040100007

10' R/W hereby dedicated to James City County

Portion of Lot 3 82,545 Sq. Feet 1.895 Acres

Lot 3 138,480 Sq. Feet 3.179 Acres

Lot 4 5.645± Acres

Lot 1 130,680 Sq. Feet 3.000 Acres

Lot 2 130,680 Sq. Feet 3.000 Acres

Area Table and RPA Table

Table with 2 columns: Parcel I.D. and Area (Original, Inside RPA, Outside RPA) for various lots.

Flood Certification:

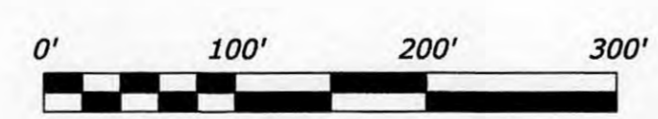
The subject property is located in Zone "X" as indicated on Flood Insurance Rate Map (FIRM), Map No. 51095C0116D with a Map Revised date of December 16, 2015.

Certificate of Approval:

Approval signatures and dates from Virginia Department of Transportation and Virginia Department of Health.

Zone - A1 Minimum Yard Requirements:

Table of yard requirements: Front Yard 75', Side Yard 15', Rear Yard 35', Accessory Structures Side Yard 5', Rear Yard 5'.



Health Department Note:

This subdivision is approved for individual onsite sewage systems in accordance with the Code of Virginia and the Sewage Handling and Disposal Regulations (12 VAC 5-610-10 et seq.), the "Regulations".

This subdivision was submitted to the Health Department for review pursuant to Sec. 32.1-163.5 of the Code of Virginia which requires the Health Department to accept private soil evaluations and designs from an Authorized Onsite Soil Evaluator (AOSE) or a Professional Engineer working in consultation with an AOSE for residential development.

Pursuant to Sec. 360 of the Regulations this approval is not an assurance that Sewage Disposal System Construction Permits will be issued for any lot in the subdivision unless that lot is specifically identified as having an approved site for an onsite sewage disposal system, and unless all conditions and circumstances are present at the time of application for a permit as are present at the time of this approval.

Source of Title:

The subject property (PID 3030100021) is as described in Instrument # 090009180 dated April 1, 2009, between Thomas B. Wallace(d), Grantor, and Thomas B. Wallace(d), Trustee of the Thomas B. Wallace Revocable Trust under an agreement dated May 2, 2009, and Evangeline Wallace, Trustee of the Evangeline Wallace Revocable Trust under an agreement dated March 2, 2009, Granteees.

The subject property excludes a 3.00 acre parcel situated to the east of the subject parcel. The 3.0 acre exclusion is indicated on a plat entitled "Sketch Showing Proposed 3.00 Acre Purchase Area" Pursuant to Order of the Circuit Court of the City of Williamsburg and James City County (Chancery File No. 15239).

Cumulatively, the current subject property (referenced as 23.99 acres less the 2.00 acre parcel south of Jolly Pond Road) is pursuant to Deed of Confirmation dated June 11, 2012, and recorded as Instrument # 120015179, among the land records of James City County, Va. Additionally, the subject property is pursuant to Final Order, Civil Action #07-202 in the aforesaid County Circuit Court records.

The above subject property is as described on a plat entitled "Boundary Survey, Property of Thomas B. and Evangeline Wallace (Trustees)" dated June 8, 2018 by Gardy & Associates, P.C., and recorded as Instrument # 180010244 and recorded in the Office of the Clerk of the Circuit Court of the County of James City, Virginia.

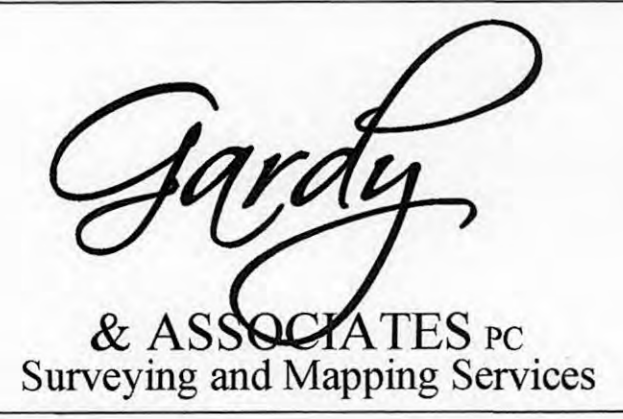
Surveyor's Certificate:

I hereby certify, to the best of my knowledge or belief, that this plat complies with all the requirements of the Board of Supervisors and Ordinances of the County of James City, Virginia, regarding the platting of subdivisions within the County. The plat is based on field-run surveys conducted during the months of May and June 2018.

Signature of David R. Gardy, L.S., November 21, 2018

2 Large/Small Plat(s) Recorded herewith as # 190000629

City of Williamsburg & County of James City Circuit Court. This PLAT was recorded on 1-15-2019 at 11:30 AM, PG 190000629



(804) 370-2551 FAX(804) 966-2820 www.gardysurveying.com



Minor Subdivision: #3150 Jolly Pond Road

Property of: Thomas B. Wallace(d) and Evangeline Wallace (Trustees) Parcel I.D.: 3030100021; LRSN: 1116 Inst. 090009180 Powhatan District, James City County, Virginia

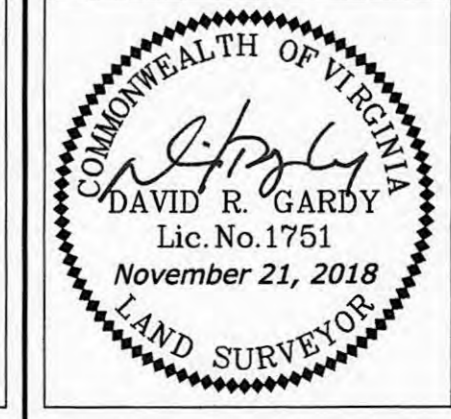


Table with 2 columns: MAG. DISTRICT, COUNTY, DATE, SHEET, DRAWN BY, JCC Case #, REV., DATE, Per County Comments.

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**Sec. 19-73. Shared driveway requirements for minor subdivisions.**

- (a) For all minor subdivisions of three or more lots, direct access from all lots to the existing road shall be limited to one shared driveway.

This requirement shall not apply to developed lots within a proposed minor subdivision. However, as long as there are three or more other lots that are undeveloped, this requirement shall apply to those lots. Upon the request of the subdivider, and after finding that such waiver would not adversely affect public health, safety or welfare, the agent may waive this requirement for subdivisions inside the primary service area which are along local roads, as defined.

- (b) Such driveway shall have a paved surface at least ten feet wide consisting of two inches of pavement over four to six inches of stone aggregate. In addition, the shared driveway must meet all applicable transportation department requirements for the portion of the driveway that ties into the public road. A detail depicting the driveway specifications shall be included on the subdivision plat. An erosion and sediment control plan and land disturbance permit may be required for the shared driveway, as determined by the engineering and resource protection director.
- (c) Such driveway shall be located within a shared access easement that is depicted on the subdivision plat.
- (d) No such subdivision shall be recorded until appropriate shared care and maintenance documents in a form approved by the county attorney have been executed. Such documents shall be recorded concurrently with the subdivision plat and shall set forth the following:
- (1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including surety when required by the county; and
  - (2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.

(Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13)