A G E N D A JAMES CITY COUNTY PLANNING COMMISSION REGULAR MEETING County Government Center Board Room 101 Mounts Bay Road, Williamsburg VA 23185 December 6, 2017 7:00 PM

A. CALL TO ORDER

- B. ROLL CALL
- C. PUBLIC COMMENT

D. REPORTS OF THE COMMISSION

E. CONSENT AGENDA

1. Minutes of the November 1, 2017 Regular Meeting

F. PUBLIC HEARINGS

- 1. SUP-0011-2017. 3001 Ironbound Road Tourist Home
- 2. SUP-0013-2017. Kensington School
- 3. SUP-0028-2016. Solar Electrical Generation Facility at Norge
- 4. ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations
- 5. ZO-0002-2017. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals

G. PLANNING COMMISSION CONSIDERATIONS

1. Z-0004-2017. Powhatan Terrace Proffer Amendment

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - December 2017

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

J. ADJOURNMENT

ITEM SUMMARY

DATE:	12/6/2017
TO:	The Planning Commission
FROM:	Paul D. Holt, III, Secretary
SUBJECT:	Minutes of the November 1, 2017 Regular Meeting

ATTACHMENTS:

	Description		Туре	
۵	Minutes of the November 1, 2017 Regular Meeting		Cover Memo	
REVIEWERS:				
Department	Reviewer	Action	Date	
Planning Commission	Holt, Paul	Approved	11/29/2017 - 5:03 PM	
Planning Commission	Holt, Paul	Approved	11/29/2017 - 5:03 PM	
Publication Management	Colonna, Tina	Approved	11/29/2017 - 5:07 PM	
Planning Commission	Holt, Paul	Approved	11/29/2017 - 5:07 PM	

MINUTES

JAMES CITY COUNTY PLANNING COMMISSION REGULAR MEETING County Government Center Board Room 101 Mounts Bay Road, Williamsburg VA 23185 November 1, 2017 7:00 PM

A. CALL TO ORDER

Mr. Rich Krapf called the meeting to order at 7:00 p.m.

B. ROLL CALL

Planning Commissioners Present: Rich Krapf Tim O'Connor Felice Pete Jack Haldeman Danny Schmidt John Wright Heath Richardson

Absent: None

Staff Present: Paul Holt, Director of Community Development and Planning Roberta Sulouff, Senior Planner Savannah Pietrowski, Planner Alex Baruch, Planner José Ribeiro, Senior Planner Max Hlavin, Assistant County Attorney

Mr. Krapf welcomed Felice Pete to the Planning Commission

C. PUBLIC COMMENT

Mr. Krapf opened Public Comment.

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

D. REPORTS OF THE COMMISSION

Mr. Danny Schmidt stated that the Development Review Committee (DRC) met on October 18 to review C-0072-2017, Oakland Farm. Mr. Schmidt stated that the proposal was for the construction of 126 apartment units on a parcel located at 7581 Richmond Road. Mr. Schmidt stated that the apartments are intended to be affordable units. Mr. Schmidt stated that the property is currently zoned A-1, General Agricultural. Mr. Schmidt stated that and the applicant intends to submit a rezoning application to rezone the property to R-5, Multi-family

Residential. Mr. Schmidt stated that the DRC discussed traffic impacts on Richmond Road, pedestrian access to adjacent businesses, exterior lighting, and parking. Mr. Schmidt stated the DRC also discussed the requirement for installation of a bike path if the development is approved. Mr. Schmidt stated that no action was required by the DRC; however, the feedback was well received by the applicant in preparation for submission of a Rezoning application.

Mr. Jack Haldeman stated that the Policy Committee met on October 12 to discuss the updates to the Zoning Ordinance to address the construction regulations of small accessory structures in the special flood hazard area. Mr. Haldeman stated that staff presented two options for consideration. Mr. Haldeman stated that staff is working with the Department of Conservation and Recreation (DCR) to review all sections of the Floodplain Area Regulations to ensure compliance with the National Flood Insurance Program as the DCR has recently amended certain regulations and added several definitions. Mr. Haldeman stated that the Committee postponed consideration of the amendments to its November 9, 2017 meeting. Mr. Haldeman stated that the sense of Committee was that Option Two which requires accessory structures in the Special Flood Hazard Area comply with elevations requirements or, if not elevated or dry flood-proofed be in compliance with a list of standards for use, size, construction materials and other construction standards.

E. CONSENT AGENDA

1. Minutes of the October 4, 2017 Regular Meeting

Mr. Tim O'Connor requested that the issue with the minutes cutting off text be resolved before they were finalized.

Mr. Heath Richardson made a motion to approve the Consent Agenda.

Mr. Krapf noted that since Ms. Pete did not participate in the October 4, 2017 meeting, she would abstain from voting on those minutes.

On a voice vote the Commission approved the Consent Agenda. (6-0-1, Ms. Pete abstaining)

F. PUBLIC HEARINGS

1. SUP-0005-2017. Lightfoot Marketplace SUP Amendment & SUP-0007-2017. Lightfoot Marketplace Automotive Service Center

Mr. José Ribeiro, Senior Planner, stated that on October 4, 2017, the Planning Commission voted to recommend approval of Case Nos. SUP-0006-2017 and SUP-0008-2017 to the Board of Supervisors, by a vote of 6-1 and 4-3, respectively, with amendments to SUP conditions as proposed by the applicant.

Mr. Ribeiro stated that the Commission voted 4-3 to defer consideration of Case Nos. SUP-0005-2017 and SUP-0007-2017 to the November 1, 2017 Planning Commission meeting, in order to allow the applicant additional time to address issues related to the location of dumpsters on the site and the architectural elevation for the proposed Automotive Service Center.

Mr. Ribeiro stated that since the October Planning Commission meeting changes have been made by the applicant in response to comments made by the Commission and staff.

Mr. Ribeiro stated that for the dumpster serving the fast food restaurant and the dental office, the applicant has revised the location of the enclosed dumpster further away from the proposed restaurant's seating area. Mr. Ribeiro stated that the applicant has also indicated that a second dumpster will be added to the enclosure in order to accommodate the proposed uses.

Mr. Ribeiro stated that staff and the applicant worked together in order to identify an alternative location for the dumpster next to the proposed Automotive Service Center that preserves the location and completeness of the internal pedestrian network. Mr. Ribeiro stated that as a result, the dumpster was relocated to the left of the proposed building and away from internal streets and pedestrian accommodations. Mr. Ribeiro further stated that the applicant has submitted a revised architectural elevation for the proposed Automotive Service Center. Mr. Ribeiro stated that staff finds the changes made to the slope of the roof and the addition of a glass door facing Richmond Road are elements consistent with the approved Architectural Guidelines for Lightfoot Marketplace. Mr. Ribeiro stated that should this SUP be approved, final architectural details would be resolved prior to issuance of a Building Permit per SUP Condition No. 2.

Mr. Ribeiro stated that at the October 4, 2017 Planning Commission meeting, the applicant presented requested changes to SUP Condition No. 2 Architectural Review. Mr. Ribeiro stated that the applicant requests to eliminate language requiring that the final building architectural elevations be consistent with the 2013 elevations titled "Lightfoot Marketplace-Architectural Renderings" and requiring that the front façade for this building face Richmond Road. Mr. Ribeiro stated that staff does not support deleting the reference to the 2013 elevations or the frontage requirement from this condition, as these are important elements that are part of the original vision for the Lightfoot Marketplace project.

Mr. Ribeiro stated that staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors, subject to staff's proposed SUP conditions.

Mr. Heath Richardson inquired about the changes to the SUP conditions.

Mr. Ribeiro stated that the conditions proposed by staff for SUP-0005-2017, Lightfoot Marketplace SUP Amendment are contained in Attachment No. 5. Mr. Ribeiro stated that the conditions proposed by staff for SUP-0007-2017, Lightfoot Marketplace Automotive Center, are contained in Attachment No. 6 and the conditions proposed by the applicant in Attachment No. 7. Mr. Ribeiro noted that the applicant's changes are related to Condition No. 2 Architectural Review.

Mr. Jack Haldeman inquired if the concerns over the location of the dumpster have been resolved.

Mr. Ribeiro confirmed.

Mr. Krapf noted that staff and the applicant concur on the proposed conditions for SUP-0005-2017, Lightfoot Marketplace SUP Amendment. Mr. Krapf further noted that for SUP-0007-2017, Lightfoot Marketplace Automotive Center, the differences are in Condition No. 2 for the Architectural Review. Mr. Krapf inquired if staff believed the

revised language for Condition No. 2 would have long-term impacts on future development or redevelopment on that parcel.

Mr. Paul Holt stated that the remainder of the development is governed by the Master Plan and the language that includes the Design Guidelines. Mr. Holt stated that approval of the revised language might set a small precedent for future redevelopment; however, the applications currently being considered represent the entirety of the parcel.

Mr. Krapf stated that he was concerned that if an adjacent parcel was absorbed by the development or if an existing structure was renovated, there would be issues with the 2013 Architectural Guidelines versus the language requested by the applicant.

Mr. Holt noted that shortly after the initial SUP for Lightfoot Marketplace was approved there was an application for a rebuild of the adjacent McDonald's. Mr. Holt noted that there was an effort to ensure that the proposal was harmonious with the Lightfoot Marketplace Architectural Guidelines.

Mr. Ribeiro noted that the applicant concurs with the SUP conditions for SUP-0005-2017. Mr. Ribeiro further noted that the applicant's only concern with the SUP conditions for SUP-0007-2017 are related to the Architectural Guidelines.

Mr. O'Connor inquired if the requirement was still in place for construction to commence within 36 months.

Mr. Ribeiro confirmed that the 36-month requirement did not change.

Mr. Krapf noted that the Commission would need to vote on each SUP separately.

Mr. Krapf further noted that the Public Hearing was closed at the previous meeting and would not be reopened.

Mr. Krapf offered the applicant the opportunity to address the Commission.

Mr. Tim Trant, Kaufman & Canoles, PC, 4801 Courthouse Street, requested that the Commission approve the elevations presented for the automotive service center and approve the applicant's requested change to the SUP conditions for SUP-0007-2017.

Mr. Rob Murphy, 575 Maryville Center Rd, St., Louis MO, representing Valvoline, addressed the Commission in support of the application. Mr. Murphy stated that they are eager to be part of the community. Mr. Murphy further stated that the elevations presented represent a good faith effort to adapt the company's prototype to the architectural design guidelines for Lightfoot Marketplace. Mr. Murphy noted that he believed Valvoline would be a complimentary to use to the existing and proposed uses and would provide a needed service to the community.

Mr. Krapf opened the floor for discussion by the Commission.

Mr. Schmidt stated that he is pleased with the applicant's efforts to adapt the design to be homogenous with the existing architecture.

Mr. Richardson stated that he finds the revised elevations to be acceptable. Mr. Richardson further stated that he would support both applications.

Mr. Krapf stated that he had concerns about whether approving these applications would set a precedent for further deviation from the architectural guidelines. Mr. Krapf noted that when the SUP for Lightfoot Marketplace was approved in 2013, the Commission took great care to ensure that the development was harmonious with the surrounding development and the community character corridor. Mr. Krapf stated that, with an understanding of the structural limitations affecting the design and the efforts made by the applicant, he could support both applications.

Mr. Haldeman made a motion to recommend approval of SUP-0005-2017.

On a roll call vote, the Commission voted to recommend approval of SUP-0005-2017, Lightfoot Marketplace SUP Amendment. (7-0)

Mr. O'Connor made a motion to recommend approval of SUP-0007-2015 the SUP conditions proposed by the applicant.

On a roll call vote, the Commission voted to recommend approval of SUP-0007-2015 Lightfoot Marketplace Automotive Center. (7-0)

2. SUP-0009-2017. 3601 La Grange Parkway Expansion

Ms. Savannah Pietrowski, Senior Planner, stated that Mr. Samuel Edwards has applied for an SUP to allow the manufacture, compounding, processing or packaging of beverages or food and food products on approximately 11 acres in the Stonehouse Commerce Park. Ms. Pietrowski noted that the property is zoned PUD-C and designated Mixed-Use on the Comprehensive Plan Land Use Map. Ms. Pietrowski stated that there is an existing 68,000 square-foot building on the property. Ms. Pietrowski further stated that if the SUP is approved an expansion would be constructed behind the existing building and would include up to eight smokers to be used for the smoking of meat and meat products. Ms. Pietrowski stated that the manufacture, compounding, processing or packaging of beverages or food and food products with all activities conducted in a fully enclosed building, with no dust, noise or odor effects is permitted by-right in the PUD-C district; however, because this proposal would involve the construction of smokers producing smoke, odor and noise, an SUP is required. Ms. Pietrowski stated that because the impacts of odor and smoke are dependent on weather, there is no way to guarantee that odor and smoke will be confined onsite; however, with the proposed conditions, staff finds the impacts outside of the commerce park should be mitigated to the greatest extent possible.

Ms. Pietrowski stated that staff finds the proposal to be compatible with the surrounding uses and development of the Stonehouse Commerce Park. Ms. Pietrowski further stated that staff finds the proposal consistent with the Comprehensive Plan and the Zoning Ordinance. Ms. Pietrowski stated that staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

Mr. Haldeman inquired whether the new facility would be owned by La Tienda.

Ms. Pietrowski stated that she was not certain of the ownership arrangements. Ms. Pietrowski stated that she believed the underlying ownership of the parcel would remain the same.

Mr. Haldeman inquired if it would be all the same business.

Ms. Pietrowski stated that it would be two separate businesses.

Mr. Haldeman inquired about feedback from adjacent property owners.

Ms. Pietrowski stated that adjacent property owners were notified; however, no comments or questions were received.

Mr. Krapf called for disclosures from the Commission.

Mr. Richardson stated that he participated in the site visit to a similar facility in Ivor, VA.

Mr. Schmidt stated that he spoke with Mr. Tim Harris, owner of La Tienda.

Mr. Krapf stated that he also visited the facility in Ivor to gauge the impacts of the facility.

Mr. Krapf opened the Public Hearing.

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

Mr. Krapf opened the floor for discussion by the Commission.

Mr. Schmidt stated that he intends to support the application and welcomes the Edwards Ham Company to the County.

Mr. Krapf stated that he believes the proposal will be beneficial to both companies and is a good use of the property.

Mr. Haldeman made a motion to recommend approval of SUP-0009-2017.

On a roll call vote the Commission voted to recommend approval of SUP-0009-2017. 3601 La Grange Parkway Expansion. (7-0)

3. SUP-0011-2017. 3001 Ironbound Road Tourist Home

Ms. Lauren White, Planner stated that Mr. Telmo Armando Contreras has applied for an SUP to allow the operation of a tourist home at 3001 Ironbound Road. Ms. White stated that the property is zoned R-8, Rural Residential and designated Low-Density Residential on the Comprehensive Plan Land Use Map.

Ms. White stated that the proposal will not involve any changes to the size or footprint of the structure.

Ms. White stated that the existing driveway is of sufficient length to provide adequate parking capacity. Ms. White further stated that the existing mature vegetation and fencing provide adequate screening of the use from adjacent properties.

Ms. White stated that under the current ordinances and the draft ordinance amendments, the proposed operation would be classified as a Tourist Home and would require an SUP.

Ms. White stated that staff finds the proposal to be compatible with surrounding development. Ms. White further stated that staff finds the proposal to be consistent with the Comprehensive Plan and the Zoning Ordinance. Ms. White stated that staff recommends the Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

Mr. Krapf inquired if this case could be considered under the existing ordinance.

Ms. White stated that under both the existing ordinance and the ordinance amendments being considered by the Policy Committee, the application would be considered a Tourist Home and would require an SUP.

Mr. Krapf requested confirmation that the case before the Commission was to determine if an SUP should be granted for this property under the current regulations.

Ms. White confirmed.

Mr. Krapf inquired if staff anticipated anything coming out of the ordinance amendments that would substantially impact this application.

Ms. White stated that staff did not find anything in the proposed amendments that would impact the application.

Mr. Schmidt stated that, under the proposed amendments, Homestays in R-8 would be by-right.

Ms. White stated that this application falls under the category of Tourist Home which is distinctly different from a Homestay. Ms. White noted that Homestays are considered to be more residential in nature, while a Tourist Home is more commercial.

Mr. O'Connor inquired if the Tourist Home was the rental of the entire home or if individual bedrooms could be rented to separate groups.

Ms. White stated that the entire home would be rented. Ms. White stated that limiting the number of rental contracts per night was not included as an SUP condition for this application.

Mr. Holt clarified that there would be no limitation on renting the rooms individually, depending on how the applicant is marketing the property.

Mr. O'Connor if there was a requirement for the property to be owner occupied.

Ms. White stated that as a Tourist Home, there was no requirement for the property to be occupied by the owner.

Mr. Krapf called for disclosures from the Commission.

There were no disclosures.

Mr. Krapf opened the Public Hearing.

Mr. Armando Contreras, 116 Holly Hills Drive, representing Armando Holdings, LLC, made a presentation to the Commission in support of the application. Mr. Contreras stated that his intention is to rent the entire house, not individual rooms.

Mr. Krapf inquired if two separate groups would be allowed to occupy the property at the same time.

Mr. Contreras stated that he did not intend to rent to separate groups.

Mr. Krapf inquired if there had been complaints regarding parties or noise.

Mr. Contreras stated that there had not been any complaints.

Mr. Haldeman inquired if anyone checked on the property while it was being rented.

Mr. Contreras stated that he does not check regularly.

Mr. Maurice Thomas, 2906 Robert Hunt North, stated that there have been some issues with outdoor parties creating excessive noise.

Ms. Marion Lemire, friend of the applicant, stated that the applicant would be responsive to neighbors' concerns about noise and parties. Ms. Lemire stated that neighbors should communicate with the property owner if there is a concern.

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

Mr. Krapf requested that Ms. White elaborate on the definition of Tourist Home.

Ms. White stated that Tourist Home as a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients. Ms. White stated that there is also another category that short-term rentals can fall under which is Rental of Rooms. Ms. White stated that, while the Zoning Ordinance does not define Rental of Rooms, a previous Zoning Administrator clarified that it means that rooms only, and not the entire property, are rented with a caretaker living on the property. Ms. White further stated that the Tourist Home designation allows a little more flexibility.

Mr. Krapf inquired if the SUP conditions limited the number of rooms that could be rented.

Ms. White stated that the proposed conditions limited the number of rooms to three.

Mr. O'Connor stated that he has concerns about what could occur on the property with a future owner without a condition limiting the number of contracts. Mr. O'Connor stated that he is not in favor of the application as it stands at this time.

Mr. Krapf inquired it would be possible to defer the matter until the ordinance amendments are considered.

Mr. Holt stated that State Code requires that the Commission act on an application within 100 days. Mr. Holt stated that this could potentially give the Commission until its February 2018 meeting. Mr. Holt stated that, based on the results of the upcoming Policy Committee meeting, the ordinance amendments could be considered by the full Planning Commission in December.

Mr. Krapf inquired if there was a precedent for adding conditions limiting the number of separate groups renting the property and noise volume.

Mr. Holt stated that the County's noise ordinance is always in effect. Mr. Holt further stated that if a neighbor is unsuccessful in addressing noise complaints with the property owner, the Police Department does enforce the noise ordinance.

Mr. Holt further stated that the Commission could send the application forward with a recommendation to add conditions regarding a limit on the number of contracts. Mr. Holt further stated that the Commission could defer the application to its December 6, 2017 meeting so that the Commission could review revised SUP conditions or the Commission could recommend approval and direct staff to provide the additional SUP conditions before the Board considers the application.

Mr. Richardson stated that he would not be comfortable with a deferral when potential new regulations could affect the application. Mr. Richardson stated that he would prefer to add a condition limiting the number of contracts. Mr. Richardson inquired if the applicant would be agreeable to that condition.

Mr. Holt stated that staff has not had an opportunity to share language for such condition with the applicant. Mr. Holt stated that a deferral would give staff and the applicant time to discuss the language.

Mr. Richardson stated that under those circumstances, he would not oppose a deferral but would want it to be heard at the next meeting.

Mr. Krapf stated that he would prefer to defer the application to the next meeting so that staff and the applicant can work out satisfactory language and so that the Policy Committee would have an additional meeting to consider if similar regulations should be considered for the ordinance amendments.

Mr. Schmidt commended the applicant for complying with the County's requirements. Mr. Schmidt further stated that he would support a deferral.

Mr. Richardson made a motion to postpone the matter to the December 6, 2017 Planning Commission meeting.

On a roll call vote the Commission voted to postpone the matter to its December 6, 2017 regular meeting. (6-1)

4. AFD-2-86-1-2017, Croaker AFD Addition, 9730 Sycamore Landing Road

Mr. Alex Baruch, Planner, stated that Ms. Mary Mitchell has applied to add 9730 Sycamore Landing Rd. into the Croaker AFD. Mr. Baruch stated that the property is 48.49 acres and has frontage along the York River. Mr. Baruch stated that the parcel is

zoned A-1, General Agricultural and is designated as Rural Lands on the Comprehensive Plan.

Mr. Baruch stated that the subject property is over one mile away from the core parcels in the Croaker AFD therefore State Code requires that the local governing body finds that the parcel contains agriculturally and forestally significant land to be added. Mr. Baruch stated that the definition of agriculturally and forestally significant land in State Code is: land that has recently or historically produced agricultural and forestal products, is suitable for agricultural or forestal production or is considered appropriate to be retained for agricultural and forestal production as determined by such factors as soil quality, topography, climate, markets, farm structures and other relevant factors.

Mr. Baruch stated that on October 12, 2017, the AFD Advisory Committee found the parcel is agriculturally and forestally significant and recommended approval of this application to the Planning Commission by a vote of 5-1. Mr. Baruch stated that with the AFD Advisory Committee's recommendation of approval and finding that this property is agriculturally significant, staff recommends that the Planning Commission recommend approval of the proposed addition to the Croaker AFD, subject to the conditions listed in the attached ordinance, consistent with other properties in the district.

Mr. Tim O'Connor asked how long until the district would go through the renewal process.

Mr. Baruch stated that the Croaker AFD is on the 2018 renewal timeline.

Mr. Rich Krapf asked if there were any disclosures from the Commission.

Mr. Krapf opened the Public Hearing.

Mr. Richard Mitchell, son of Mary Mitchell, representing the Mitchell LLC, made a presentation to the Commission on the proposed AFD addition. Mr. Mitchell stated that he believes the property would be an asset to the Croaker AFD district. Mr. Mitchell stated that the property use is split approximately in half with agricultural pasture land close to Sycamore Landing Rd. and forest in the ravines on the half closer to the York River. Mr. Mitchell stated that the property has been cut multiple times over the approximately 100 years since the family has owned the property using various approaches appropriate for their needs at that time. Mr. Mitchell stated that they will be working with a farmer to continue the farming use already being done on the property. Mr. Mitchell stated that they are leasing property in the York River from the Chesapeake Bay Foundation for oyster farming. Mr. Mitchell stated that adding this property to the Croaker AFD would help continue their sustainable farming techniques into the future.

Mr. Krapf asked if there were any questions for the applicant.

Mr. Heath Richardson asked if the property would produce any timer/firewood this year.

Mr. Mitchell stated that there would not be any firewood produced this year for sale.

Mr. Richardson asked if they intend to produce and sell firewood in the future.

Mr. Mitchell stated that is their intention.

Mr. Richardson asked if the oyster harvesting is done for sale or for private use and if it will be expanded in the future.

Mr. Mitchell stated that it is currently being done for private use but would look into expanding the use for sale in the future.

Mr. Krapf closed the Public Hearing.

Mr. Krapf opened the floor to the Commission for questions, discussion or a motion.

Mr. Richardson stated that it is pretty clear that the caveat in State Code allows a property to be included in the AFD if it is agriculturally significant property and that it seems appropriate for the property to be added to the AFD.

Mr. Jack Haldeman stated that he was struck the same way when reading through the materials.

Mr. Krapf stated that he felt the same way.

Mr. Danny Schmidt stated that it looks like a great plan for the property.

Mr. John Wright made a motion to recommend approval of the application.

On a roll call vote, the James City County Planning Commission voted to approve the application 7-0.

5. Z-0001-2017, SUP-0001-2017, MP-0001-2017. Williamsburg Landing, Marclay Road

Mr. Alex Baruch, Planner, stated that Mr. Will Holt and Mr. Paul Gerhardt of Kaufman and Canoles have applied for a rezoning, SUP, height waiver and master plan for a portion of 20 Marclay Road. Mr. Baruch stated that the property is across from the Williamsburg-Jamestown Airport adjacent to College Creek and is immediately adjacent to Williamsburg Landing.

Mr. Baruch stated that the proposal is to rezone a portion of the property to R-5 from R-8. Mr. Baruch stated that the application includes a special use permit to allow up to 135 independent living facility units, and a height waiver for the proposed apartment buildings to be constructed up to 60 feet from grade. Mr. Baruch noted that the height waiver will be considered jointly by the Board of Supervisors with the rezoning, SUP and master plan, but does not require a vote by the Planning Commission. Mr. Baruch stated that a balloon test was conducted on Friday, April 28, 2017 at 10 a.m. in the approximate location of the proposed 60-foot structure. Mr. Baruch noted that photos from multiple vantage points are provided with the case materials.

Mr. Baruch stated that the proposal is a stand-alone rezoning and SUP request as the application does not amend the existing Williamsburg Landing Master Plan. Mr. Baruch noted that the proposed SUP conditions include three conditions intended to mitigate concerns expressed by the Virginia Department of Aviation. Mr. Baruch further stated that proposed conditions are also included to mitigate impacts from the airport, require a review of building materials and colors, address signage, water conservation standards,

enhanced landscaping along Marclay Road. and require a right-turn lane warrant analysis for the Lake Powell Road and Williamsburg Landing Drive intersection to be submitted and approved before final site plan approval. Mr. Baruch noted that Board policies being adhered to through the master plan and proposed conditions include the streetscapes and archeology policies.

Mr. Baruch stated that on the 2035 Comprehensive Plan Land Use Map, 20 Marclay Rd. is designated as Airport and is located inside the Primary Service Area. Mr. Baruch stated that principal suggested uses for the developable land associated with the Airport include aviation with airport related commercial and office development as clearly secondary uses. Mr. Baruch stated that the residential component of this proposal does not adhere to the Airport designation from the Comprehensive Plan, as residential uses are not an acceptable use in Airport designated land.

Mr. Baruch stated that the Federal Aviation Administration (FAA) made a determination of no hazard for a 35-foot structure and 60-foot structure on the property stating that the structures would not exceed obstruction standards and would not be a hazard to air navigation.

Mr. Baruch stated that this project is adjacent to Williamsburg Landing, which is designated as Low Density Residential on the 2035 Comprehensive Plan Land Use Map and is located inside the primary service area. Mr. Baruch noted that single-family homes, multifamily units and retirement care communities are all recommended uses in low density residential areas, provided that development complements the residential character of the surrounding area; has traffic, noise and lighting impacts similar to surrounding uses, is generally located on collector or arterial roads at intersections and provides adequate screening and buffering to protect the character of nearby residential areas.

Mr. Baruch stated that the Comprehensive Plan recommends a gross density of one to four units per acre in low density residential areas. Mr. Baruch stated that this application proposes a density of 8.71 dwelling units per acre. Mr. Baruch stated that when considering the entire development of Williamsburg Landing and including this proposal, the density overall would be 3.78 dwelling units per acre. Mr. Baruch stated that to achieve a higher gross density, certain public benefits must be provided. Some examples of those public benefits include: mixed-cost housing, affordable and workforce housing, enhanced environmental protection or development that adheres to principles of open space design.

Mr. Baruch stated that the proposed SUP conditions provide for property owner notification of proximity to the airport, the review of architectural elevations, conformance with Board of Supervisors Archaeological Policy and Streetscape Policy, water conservation standards and Nutrient Management Plan. Mr. Baruch stated that proffers are not accepted for residential rezonings; therefore, additional public benefits are not provided, including impacts to schools, traffic, utilities infrastructure such as the James City Service Authority (JCSA), and providing affordable and workforce housing opportunities. Mr. Baruch stated that, while the development may be age-targeted, without the ability to guarantee age restrictions, the project is fiscally negative per the submitted FY17 Fiscal Impacts Analysis worksheet.

Mr. Baruch stated that staff recommends that the Planning Commission recommend denial of the proposed rezoning and SUP. Mr. Baruch stated that, should the

Commission wish to recommend approval of this application to the Board of Supervisors, staff recommends that the draft SUP conditions be applied.

Mr. Baruch noted that Mr. Scott Denny from the Virginia Department of Aviation (DOAV) is available to answer questions related to impacts to the Airport.

Mr. Richardson inquired about whether the age restrictions could be enforced or if there were a potential for the development to be open to all age groups.

Mr. Baruch stated that without being able to guarantee the age restriction, the opportunity is there for anyone, regardless of age, to live there. Mr. Baruch further stated that since this is not part of the Master Plan for Williamsburg Landing, there is no guarantee for what would occur if the SUP for the assisted living facility were to lapse. Mr. Baruch stated that the R-5 zoning would remain and the Master Plan would remain. Mr. Baruch stated that staff has made an effort through the Master Plan to ensure independent living facilities in certain areas of the development; however, there is no guarantee of age restriction.

Mr. Richardson inquired if the FAA determination of no hazard for the height of the structure mitigated staff concerns about ingress/egress and noise.

Mr. Baruch stated that staff defers to the FAA to make the determination; however, there are still concerns from the DOAV over development in proximity to the Airport. Mr. Baruch stated that several of the SUP conditions were proposed to mitigate the concerns.

Mr. Paul Holt clarified that there are three levels of review, with the FAA making a determination of no hazard for the structure, the State level of review with the DOAV with their capital investments in the Airport being mindful of potential residential encroachment, and at the local level, the concern is more broadly with consistency with the Comprehensive Plan designation of Airport. Mr. Paul Holt noted that even though conditions are being proposed to mitigate impacts, it still does not address the question of an inconsistency with the Comprehensive Plan.

Mr. Richardson inquired if it is true that age restricted communities are often inconsistent in the types of amenities provided with the Parks and Recreation guidelines.

Mr. Baruch stated that this has been seen in some age restricted areas. Mr. Baruch noted that there are some Parks and Recreation requirements which will be addressed through the Zoning Ordinance requirement for the R-5 district, and others will be addressed through the exception request which will be considered by the Board of Supervisors.

Mr. Paul Holt noted that in other instances when facilities required under the Parks and Recreation Facilities Master Plan have not been feasible or the developer proposed analternative, there was a proffer policy in place to do a cash-in-lieu payment and then those facilities could be provided in other locations. Mr. Paul Holt stated that since the County no longer accepts residential proffers, it is not possible for the applicant to do cash-in-lieu, but there is the opportunity for the applicant to request a waiver or modification from the Board of Supervisors and propose an alternative option. Mr. Paul Holt stated that this is what the applicant is doing.

Mr. Krapf asked Mr. Keith Denny to address any concerns from the DOAV.

Mr. Keith Denny, DOAV, stated that the Williamsburg-Jamestown Airport is a valuable asset in the State aviation system. Mr. Denny stated that he believes the proposed SUP conditions address the DOV concerns. Mr. Denny stated that, with the FAA determination of no hazard, and that there would be no encroachment on ingress/egress, although the DOAV would never endorse residential development adjacent to an airport, they do not object to this development.

Mr. Richardson inquired about the economic success of the Airport.

Mr. Denny stated that he does not have the exact figures; however, the Airport provides an economic impact statement each year and is considered a valuable asset.

Mr. O'Connor inquired if there is room for expansion of the Airport and if so, would the FAA determination still stand.

Mr. Denny stated that the Airport is strictly state and local. Mr. Denny stated that the Airport is not federally obligated and as such takes no federal money. Mr. Denny stated that the FAA involvement is with the instrument approach to the Airport. Mr. Denny stated that once the determination was issued, the FAA does not have further involvement. Mr. Denny stated that expansion of the Airport is not on the horizon with the DOAV. Mr. Denny stated that the facility serves quite well at its current size.

Mr. Schmidt noted that there were several accidents on record for 2016.

Mr. Paul Holt noted that the Airport does have an adopted Master Plan that shows a number of additional facilities; however, timing has not been determined.

Mr. Krapf called for disclosures from the Commission.

Mr. Krapf noted that he spoke with Mr. Will Holt from Kaufman & Canoles.

Mr. Haldeman stated that he spoke with Mr. Will Holt as well.

Mr. Schmidt stated that he spoke with Mr. Will Holt and attended a Community Meeting in Kingspoint. Mr. Schmidt noted that he is a resident of Kingspoint and is on the Kingspoint Club Board. Mr. Schmidt clarified that his property is not in the area that faces the proposed development.

Mr. Wright stated that he spoke with Mr. Tom Tingle regarding the project.

Mr. O'Connor stated that he spoke with Mr. Will Holt as well.

Mr. Richardson started that he also spoke with Mr. Will Holt.

Mr. O'Connor inquired about which roads in Williamsburg Landing and the proposed development are private.

Mr. Baruch stated that Williamsburg Landing Drive is a private street. Mr. Baruch stated that Marclay Road is public; however it is specified on the Master Plan that Marclay Road is not to be used to access the development.

Mr. O'Connor inquired if it would be possible to include an SUP condition limiting the use of the access.

Mr. Baruch stated that staff has worked to address that aspect through the Master Plan by denoting that the access off Marclay Road is not to be used for residential access.

Mr. Paul Holt stated that even if the SUP expires, because the Master Plan is tied to the Rezoning, the Master Plan will remain in place.

Mr. Haldeman commented that on the Master Plan, residential access is solely via Williamsburg Landing Drive with service and emergency access only via Marclay Road. Mr. Haldeman inquired if the SUP expires and the property changes hands would Marclay Road become an access point for residents.

Mr. Baruch stated that the Master Plan, with the notation that the access point on Marclay Road is only for service and emergency access would remain in place even if the SUP expires.

Mr. Paul Holt stated that if a future application proposed to change the use of the Marclay Road access, it would be addressed through a determination of Master Plan consistency.

Mr. Krapf noted that the matter was first heard at the Commission's April meeting and was deferred. Mr. Krapf noted that since so much time elapsed, he would reopen the Public Hearing.

Mr. Will Holt, 4801 Courthouse Street, Kaufman & Canoles PC, provided a presentation to the Commission. Mr. Will Holt stated that Williamsburg Landing was established in 1985 as a life-plan community. Mr. Will Holt further stated that residential use is only one component of a life-plan community which is more health care oriented. Mr. Will Holt noted that the application has undergone numerous reviews including federal, state and local review. Mr. Will Holt further noted that the surrounding communities have been briefed on the project.

Mr. Tom Tingle, President of GuernseyTingle, addressed the Commission on the architectural aspects of the project. Mr. Tingle stated that his project represents to only opportunity for Williamsburg Landing to have a sustainable expansion contiguous to the existing campus. Mr. Tingle noted that the existing facilities includes independent living facilities, assisted living, memory care and skilled nursing. Mr. Tingle noted that expansion to the memory care facility is currently underway as well as an adult day-care facility. Mr. Tingle noted that for the proposed project the total area would be approximately 11 acres developed with four acres in buffers, stormwater management and conservation easements. Mr. Tingle confirmed that the only residential access would be off Williamsburg Landing Drive and that there is an existing service entrance off Marclay Road which would also provide EMS access. Mr. Tingle stated that the architectural guidelines which mirror the existing development are tied to the Master Plan.

Mr. Will Holt stated that while the project is not consistent with the Comprehensive Plan designation, it is consistent with the recommendation of the Comprehensive Plan to promote affordable senior housing options from independent living to continuing care. Mr. Will Holt noted that the fiscal impact assumptions are based on the inability to

guarantee age-restriction for the development through proffers. Mr. Will Holt noted that with age targeting, the development would be fiscally positive. Mr. Will Holt noted that Williamsburg Landing is not a typical developer. Mr. Will Holt stated that each expansion has been brought forward under a legislative application and incorporated in the Williamsburg Landing Master Plan. Mr. Will Holt noted that these earlier applications should speak to the developer's trustworthiness. Mr. Will Holt stated that Williamsburg Landing is willing to provide assurances in any form acceptable to the County. Mr. Will Holt further stated that, while Williamsburg Landing is not able to provide the traditional facilities called for under the Parks and Recreation Master Plan, it does provide a variety of age-appropriate amenities. Mr. Will Holt noted that in regard to concerns over the airport approach overlay, the development does lie outside the approach zone. Mr. Will Holt concluded by noting that the requested zoning is consistent with the existing Williamsburg Landing campus, approval of the application will allow Williamsburg Landing to continue its important mission in the County, Williamsburg Landing is the obvious and sensible user of the site and that Williamsburg Landing can be trusted to fulfill its commitments to the County.

Mr. Schmidt inquired about the additional water draw down for the proposed development.

Mr. Will Holt noted that one of the SUP conditions speaks to water usage for the development.

Mr. Schmidt inquired access by the residents to College Creek and whether the existing access road would be open to them.

Mr. Will Holt stated that Williamsburg Landing would not control that access.

Mr. Tingle stated that the current owner wanted to retain that access. Mr. Tingle further noted that Williamsburg Landing hopes to negotiate a right of first refusal. Mr. Tingle noted that the access road would be realigned under the application; however, the access would be maintained by the owner.

Mr. O'Connor noted that the SUP condition related to JCSA use does not speak to the amount of water draw down.

Mr. Raphael Connor, 114 Overlook Drive, addressed the Commission with concerns about impact of the taller buildings on the view from the Kingspoint Club recreation area. Mr. Connor further noted concerns over noise from the airport. Mr. Connor requested that the Commission deny the application.

Ms. Mary Grogan, 114 Overlook Drive, addressed the Commission with concerns over the potential for accidents. Ms. Grogan further noted concerns about noise complaints from new residents. Ms. Grogan further noted concerns over the impact on the view shed. Ms. Grogan also noted concerns about the impact of more traffic at the intersection of Brookwood and Rt. 199.

Ms. Virginia McLaughlin, 5700 Williamsburg Landing Drive, Chair of the Williamsburg Landing Board of Directors, addressed the Commission in support of the application. Ms. McLaughlin stated that this proposal is vital to continuing the mission of Williamsburg Landing to provide quality life-plan services. Ms. McLaughlin requested that the Commission recommend approval of the application.

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

Mr. Krapf called for discussion by the Commission.

Mr. Richardson inquired if the Height Waiver is part of the Commission's consideration.

Mr. Krapf stated that the Height Waiver would be for Board of Supervisor's determination alone; however, if there were any discussion about the Height Waiver, the Commission's minutes would reflect it.

Mr. Paul Holt noted that the Commission would not vote on the Height Waiver.

Mr. Schmidt inquired about the timeline for the intersection improvement project at Rt. 199 and Brookwood.

Mr. Baruch stated that improvements should be completed in 2018.

Mr. Schmidt inquired about the impact on peak hour traffic.

Mr. Baruch stated that staff analyzed traffic based on senior adult housing which would generate approximately 47 peak hour trips and based on residential traffic for townhomes and apartments which would generate approximately 80 peak hour trips. Mr. Baruch further stated that both are under the 100 peak hour trip trigger.

Mr. Paul Holt noted that even with the proposed improvements the intersection remains at a failing level of service due to existing traffic. Mr. Paul Holt stated that there is nothing proposed in this application to improve the traffic impacts.

Mr. O'Connor inquired if the additional development will accommodate the existing waiting list.

Mr. Will Holt stated that this is a longer term project. Mr. Will Holt stated that it will help with the waiting list but may not completely fill demand.

Mr. Krapf inquired about what type of need the development would fill.

Mr. Paul Gerhardt, Kaufman & Canoles, PC, stated that the development would be primarily independent living facilities. Mr. Gerhardt noted that the mix of housing might vary but it would be focused on independent living.

Mr. Richardson stated that he is inclined to support the application. Mr. Richardson inquired if there were a way to add an age restriction in the SUP condition.

Mr. Max Hlavin, stated that he would not recommend adding the SUP condition since the underlying R-5 zoning would remain. Mr. Hlavin stated that it would be best to address the age restriction through the Master Plan.

Mr. Richardson noted that he felt confident that the purpose of the development would remain for the near-to-long term future.

Mr. Haldeman stated that while the airport designation on the Comprehensive Plan is at odds with the application, he recognized the balancing Comprehensive Plan goal of providing senior housing options. Mr. Haldeman stated that Williamsburg Landing has an outstanding reputation in the County and that he intends to support the application.

Mr. Krapf stated that the application has several major deviations from the Comprehensive Plan; however, it also supports goals of the Comprehensive Plan. Mr. Krapf noted that the property also represents the only option available for expansion adjacent to the existing campus. Mr. Krapf stated that he has concerns about the requirement to alert prospective residents about potential noise from the airport. Mr. Krapf further stated that he has significant concerns about the proximity of the development to the runway and the potential for accidents. Mr. Krapf stated that there is a significant need for senior housing which progresses from independent living to assisted living to skilled nursing. Mr. Krapf stated that there are strong arguments both in favor and against the application. Mr. Krapf stated that it will come down to balancing what is best for the community.

Ms. Felice Pete stated that she has reservations about the height of the proposed buildings. Ms. Pete stated that there is a need for the additional facilities.

Mr. Wright stated that he believes the applications represents the best use for the property. Mr. Wright further stated that the strategic plan also addresses the need for senior living facilities. Mr. Wright stated that trusts the assessment of the Williamsburg Landing Board of Directors to have reviewed the project thoroughly before bringing it forward to the County.

Mr. Wright made a motion to recommend approval of Z-0001-2017, SUP-0001-2017, MP-0001-2017.

Mr. Schmidt stated that Williamsburg Landing has been a good neighbor to the community. Mr. Schmidt echoed concerns about safety, noise and traffic. Mr. Schmidt stated that he attended the balloon test and that it was not visible from Kingspoint or Route 199. Mr. Schmidt stated that he leans toward supporting the application.

On a roll call vote, the Commission voted to recommend approval of Z-0001-2017, SUP-0001-2017, MP-0001-2017, Williamsburg Landing, Marclay Road. (7-0)

The Commission took a ten minute recess.

6. Z-0002-2017/MP-0002-2017. The Parke at Ford's Colony

Ms. Roberta Sulouff, Senior Planner, stated that Ms. Nathalie Croft of Eagle Construction has applied to rezone approximately 45 acres of land from A-1, General Agricultural, to R-4, Residential Planned Community, for the purpose of constructing the Parke at Ford's Colony, a development of 81 single-family homes at a density of 1.88 dwelling units per acre. Ms. Sulouff stated that with this rezoning, the subject property would be added to the adopted Master Plan for Ford's Colony. Ms. Sulouff stated that, for this reason, the Ford's Colony Master Plan must also be amended and the Ford's Colony Home Owner Association (FCHOA) has been included as an applicant to the amendment application. Ms. Sulouff stated that the subject properties are located at 3400 and 3401 Westport, are zoned A-1, and are primarily designated Low-Density Residential by the adopted Comprehensive Plan. Ms. Sulouff stated that while most of

the subject properties are located inside of the PSA, approximately 4 acres of the site are located outside of the primary Service Area(PSA) and are designated Rural Lands by the adopted Comprehensive Plan.

Ms. Sulouff further stated that the County is no longer accepting proffers for residential rezonings and some of the typical impacts associated with residential development could not be mitigated or addressed, including impacts to schools, impacts to public facilities, utilities such as JCSA, the provision of affordable and workforce housing opportunities and the provision of enhanced environmental protections. Ms. Sulouff stated that several administrative policies guiding the evaluation of impacts have also been rescinded by the Board of Supervisors, and could not be included in the scope of staff's consideration of this proposal.

Ms. Sulouff stated that while the applicant could not proffer consistency with several adopted policies or to offset traditionally considered impacts, the application did proactively address areas of concern. Ms. Sulouff stated that the proposed Parke master plan includes a note ensuring consistency with the Board adopted Streetscape Policy, and includes a multi-use path along the Centerville Roadd frontage per the adopted Pedestrian Accommodations Master Plan. Ms. Sulouff noted that the applicant provided natural resource and archaeological studies conducted for the property as part of an earlier development plan. Ms. Sulouff further noted that these studies concluded that no additional preservation work in either area would be necessary and, therefore, the applicant would have no impacts to address even if proffers were still accepted.

Ms. Sulouff stated that while the proposal generates new school children, it does meet the Adequate Public Facilities Test adopted by the Board in June of 1998. Ms. Sulouff stated that although the applicant is unable to proffer design guidelines, architectural elevations or materials, the development would be subject to review by the Ford's Colony Architectural Review Board to ensure design compatibility with existing development in Ford's Colony.

Ms. Sulouff further stated that while the overall Ford's Colony development does not meet the current Development Guidelines found in the recently adopted Parks and Recreation Master Plan, the applicant is proposing a shared-use path connection from the Parke to existing amenities within Ford's Colony, and is providing, through a legal agreement between the two private parties, cash to the FCHOA for recreation improvements as deemed necessary by the residents. Ms. Sulouff stated that, for this reason, the applicant has requested an exception to the policy from the Board of Supervisors. Ms. Sulouff further stated that the applicant has been in discussion with Mr. John Carnifax, Director of Parks and Recreation, who has reviewed this request. Ms. Sulouff stated that Parks and Recreation supports the proposal.

Ms. Sulouff stated that staff finds that several factors specific to the pieces of the site designated Rural Lands and outside of the PSA, such as topography, scale and location of public utilities, make the inclusion of this area, approximately four acres in size, consistent with the adopted Comprehensive Plan.

Ms. Sulouff further stated that, while no action was required by the Planning Commission, the applicant is requesting that the Board of Supervisors permit private streets within the Parke development per Section 24-62 of the Zoning Ordinance.

Ms. Sulouff stated that staff finds the proposal to be compatible with surrounding zoning and development and consistent with the Comprehensive Plan. Ms. Sulouff stated that staff recommends the Planning Commission recommend approval of these applications to the Board of Supervisors.

Mr. Krapf called for disclosures from the Commission.

Mr. Krapf stated that he met with Mr. Vernon Geddy and representatives from Eagle Construction.

Mr. Wright stated that he spoke with Mr. Geddy by telephone.

Mr. Haldeman stated that he met with three representatives from Eagle Construction.

Mr. Schmidt stated that he also met with the representatives from Eagle Construction.

Mr. Krapf opened the Public Hearing.

Mr. Vernon Geddy, Geddy Harris Franck and Hickman, expressed appreciation of the efforts of staff and the FCHOA to bring this application forward.

Ms. Nathalie Croft, Eagle Construction, Land Development Planner, made a presentation in support of the application. Ms. Croft noted that the subject properties were annexed into the Ford's Colony Master Plan in 2005. Ms. Croft stated that even though the properties are already under the Fords Colony umbrella, the current application seeks to make the zoning consistent and to formally amend the Master Plan. Ms. Croft stated that the Parke would consist of 81 single-family homes in an agetargeted community. Ms. Croft stated that these homes would be held to the same guidelines and standards as any other homes in Ford's Colony. Ms. Croft addressed the fiscal impact of the proposed development, noting that based on current actual number of children from Ford's Colony enrolled in Williamsburg-James City County Schools, the Parke would generate a positive fiscal impact of \$81,000. Ms. Croft stated that the parcels are appropriate for this type of development. Ms. Croft further stated that the proposed development is in compliance with the Pedestrian Accommodations Master Plan, the Public Schools Facilities Test, the Streetscape Policy, the Natural Resource Policy, the Archaeological Policy and the Community Character Corridor Policy. Ms. Croft requested that the Commission recommend approval of the application.

Mr. and Mrs. James Kinder, 111 Lexington Drive, inquired about traffic impacts to Williamsburg West.

Mr. Krapf noted that the Public Comment was not generally used as a question and answer forum. Mr. Krapf requested that the applicant address the question.

Mr. Geddy stated that the development would not impact Williamsburg West due to its location.

Mr. Patrick Rowe, 100 Royal St. Georges, addressed the Commission on traffic concerns at the Manchester Gate and Centerville Road. Mr. Rowe also noted lack of parking at the clubhouse facility.

Mr. Tom Hitchens, 350 Thompson Lane, addressed the Commission in opposition to the application. Mr. Hitchens expressed concerns over the change in zoning and consistency with the Comprehensive Plan. Mr. Hitchens further expressed concern over the effect of residential development on the County's budget, infrastructure and natural resources. Mr. Hitchens requested that the Commission recommend denial of the application.

Mr. Richard Levy, 125 Westward Ho, addressed the Commission in opposition to the application. Mr. Levy noted concerns about traffic at the Manchester Gate and the additional impacts on Centerville Road.

Mr. Mark Matthews, 113 Long Point, President of the FCHOA, addressed the Commission in support of the application. Mr. Matthews noted that the FCHOA has hosted several Town Hall meeting regarding the proposed development and Master Plan amendment. Mr. Matthews further noted that the FCHOA has reached out to its members through their newsletter and other media with updates. Mr. Matthews stated that the input from residents centered on ensuring that the development comply with the architectural standards, that the community adhere to all the FCHOA rules and policies, and ensure that the additional units can be absorbed into the facilities infrastructure. Mr. Matthews noted that the increase in units is just 2%. Mr. Matthews noted that the FCHOA is in the process of implementing a new security system at the gates which will allow commercial traffic to enter through other gates. Mr. Matthews further noted that most of the concerns have been addressed through a private legal agreement with the Developer. Mr. Matthews requested that the Commission recommend approval of the application.

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

Mr. Krapf opened the floor for discussion by the Commission.

Mr. Haldeman inquired about the traffic study that was part of the previously approved Ford's Colony proffers. Mr. Haldeman noted that the last update was in 2008.

Ms. Sulouff noted that the traffic study only applied to the original Ford's Colony development and does not apply to the properties subject to this rezoning. Ms. Sulouff stated that no traffic study was required for this application. Ms. Sulouff noted that the proposed development did not trigger the submittal requirements in the Zoning Ordinance and the outstanding proffer obligations do not apply to the properties subject to the rezoning.

Ms. Sulouff further stated that as part of the 1987 proffers and subsequent amendments, there was a requirement to submit a traffic study every five years to assess the need for certain improvements on Centerville Road and Longhill Road. Ms. Sulouff stated that the last traffic study was submitted in 2008 with the rezoning for the Continuing Care Retirement Community (CCRC) which remains an approved part of the Ford's Colony Master Plan.

Mr. Holt stated that the intent of the proffer was to ensure that as all of Ford's Colony reached build out, all of the corresponding traffic improvements were put in place. Mr. Holt further noted that there were various triggers tied to the number of Certificates of Occupancy for dwelling units. Mr. Holt stated that the five-year check in period was established to set a time for when the need for improvements could be reassessed and to

establish a point in time that the County would ensure that all the needed improvements were put in place.

Mr. Haldeman inquired if it had been determined that the need does not yet exist.

Mr. Holt stated that the updated traffic study needs to be done.

Mr. Haldeman noted that the traffic study should have been updated in 2013.

Mr. Holt stated that the Traffic Study is in progress. Mr. Holt noted that one of the challenges is that there are now multiple property owners within Ford's Colony and it has taken time for the various stakeholders to work out the collaboration on the project.

Mr. Haldeman inquired about the other outstanding proffer items.

Mr. Holt stated that the improvements are tied to the number of Certificates of Occupancy and the traffic study allows the County to determine if the timing of the improvements need to be accelerated or if they are not yet warranted.

Mr. O'Connor inquired if development of the Parke was taken into consideration for improvements at Centerville Road.

Mr. Geddy stated that the initial proposal was for a much denser development and that the existing infrastructure was designed with the heavier traffic in mind.

Ms. Croft stated that the existing infrastructure meets or exceeds any improvements that might be warranted.

Mr. Richardson made a motion to recommend approval of Z-0002-2017/MP-0002-2017.

On a roll call vote the Commission voted to recommend approval of Z-0002-2017/MP-0002-2017. The Parke at Ford's Colony. (5-2)

G. PLANNING COMMISSION CONSIDERATIONS

Mr. Krapf noted that each initiating resolution would require a separate motion and vote.

1. Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items -Natural Resource Policy

Mr. Holt stated that the County is endowed with abundant natural resources which include many rare and threatened species. Mr. Holt stated that the Natural Resource Policy adopted by the Board of Supervisors in 1999, provided that in areas where significant natural resources potential exists staff would recommend a condition or proffer for the protection of these areas be added to all SUP and rezoning cases. Mr. Holt stated that in order for staff to move forward with reviewing and revising the Zoning Ordinance to more fully capture the Natural Resource Policy, staff recommends that the Commission adopt the initiating resolution and refer the matter to the Policy Committee.

Mr. Holt stated that for this item and all of the Initiating Resolutions presented for consideration, adoption of the Resolution does not change the existing County Code; it is a procedural action required under State Code so that changes to the Ordinances may be considered.

Mr. Wright inquired if the purpose of initiating consideration of amendments to the Ordinances is to address the issue of the County no longer accepting proffers by incorporating requirements into the Ordinances.

Mr. Holt confirmed.

Mr. Richardson made a motion to adopt the Resolution for Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Natural Resource Policy.

On a roll call vote the Commission voted to adopt the resolution for Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Natural Resource Policy. (7-0)

2. Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items -Streetscape Policy

Mr. Holt stated that the County's Streetscape Policy was adopted by the Board of Supervisors in 1999 as a result of the 1999 Comprehensive Plan recommendations. Mr. Holt stated that the goal of the Policy was to establish or preserve a tree canopy along residential streets. Mr. Holt stated that previously the Policy was addressed through proffers. Mr. Holt stated that staff recommends that the Commission adopt the initiating resolution and refer the matter to the Policy Committee.

Mr. Wright made a motion to adopt the Resolution for Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Streetscape Policy.

On a roll call vote the Commission adopted the Resolution for Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Streetscape Policy. (7-0)

3. Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Bicycles and Pedestrian Accommodations, Traffic Impact Analysis and Transportation Improvements

Mr. Holt stated this items addresses the Pedestrian Accommodations Master Plan, the Regional Bikeways Plan and The Traffic Impact Analysis (TIA) Submittal Requirement Policy. Mr. Holt stated that current policies and submittal requirements represent the desire of the County to ensure that development is responsive to the transportation needs of the community. Mr. Holt stated that Staff uses the adopted policies to evaluate applications and make recommendations on legislative cases. Mr. Holt stated that absent proffers, these policies have limited ability to address transportation impacts created by new residential development. Mr. Holt stated that

staff recommends that the Commission adopt the initiating resolution and refer the matter to the Policy Committee.

Mr. Schmidt made a motion to adopt the Resolution for Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Bicycles and Pedestrian Accommodations, Traffic Impact Analysis and Transportation Improvements.

On a roll call vote the Commission voted to adopt Resolution for Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Bicycles and Pedestrian Accommodations, Traffic Impact Analysis and Transportation Improvements. (7-0)

4. Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items -Archaeological Policy

Mr. Holt stated that Agenda Item G-4 is specific to the Archaeological Policy. Mr. Holt stated that as one of the oldest settlement areas in the United States, James City County has numerous documented and unknown archaeological and historic sites. Mr. Holt stated that the Archaeological Policy was adopted by the Board of Supervisors in 1998 to identify and protect areas where significant archaeological potential exists. Mr. Holt stated that previously the Policy was addressed through proffers and SUP conditions. Mr. Holt stated that staff recommends that the Commission adopt the initiating resolution and refer the matter to the Policy Committee.

Mr. Schmidt made a motion to adopt the Resolution for Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Archaeological Policy.

On a roll call vote the Commission voted to adopt the Resolution for Initiation of Consideration of Amendments to the Zoning and Subdivision Ordinances to Address Formerly Proffered Policies and Impact Mitigation Items - Archaeological Policy. (7-0)

5. Initiation of Consideration of Amendments to the Zoning Ordinance to Permit Short-Term Residential Rentals

Mr. Holt stated that this item addresses the need to consider potential regulations or policy for short-term residential rentals. Mr. Holt stated that to more fully consider the matter, staff recommends that the Commission adopt the initiating resolution and refer the matter to the Policy Committee.

Mr. O'Connor requested that the Policy Committee address the definitions for the various types of short-term rentals and consider setting limits on the number of contracts that can be in place for the property.

Mr. Wright requested that the Policy also look at the number of individuals allowed in a rental property. Mr. Wright also requested that the Policy Committee consider how the regulations would account for Homeowner Association restrictions.

Mr. Haldeman asked for clarification on the request to review the number of individuals allowed to live in a rental property.

Mr. Wright stated that County Code restricts the number of related and unrelated; however, he believes that some rentals are not adhering to the regulations.

Mr. Krapf requested that Ms. Sulouff ensure that the request is noted and brought to the Policy Committee.

Mr. O'Connor made a motion to adopt the Resolution for Initiation of Consideration of Amendments to the Zoning Ordinance to Permit Short-Term Residential Rentals.

On a roll call vote the Commission voted to adopt the Resolution for Initiation of Consideration of Amendments to the Zoning Ordinance to Permit Short-Term Residential Rentals. (7-0)

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - November 2017

Mr. Holt stated that he had nothing in addition to the report provided in the Agenda Packet.

Mr. Wright stated that the Conceptual Plan for Settlers Market which proposes to remove the cobblestones and improve the crosswalks would be very much appreciated by the community. Mr. Wright inquired what the outcome of the Conceptual Plan would be.

Mr. Holt stated that the County took over the surety and will be completing the project since the developer was no longer in business. Mr. Holt stated that the Conceptual Plan is part of the process to develop approved plans so that the project can be put out for bid.

Mr. O'Connor inquired about the status of the Housing Opportunities Policy (HOP).

Mr. Holt stated that upcoming ordinance amendments would play into the development of the next version of the HOP.

Mr. Schmidt inquired if staff has any updates on the state of the Country Road.

Mr. Holt stated that the contractor is still working on the project and that the County holds surety on the project. Mr. Holt noted that the project should be near completion.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Richardson noted that Veterans Day would be observed in November and requested that everyone take the opportunity to express their appreciation to veterans.

Mr. Wright reminded everyone to take the opportunity to vote on Election Day.

Mr. Krapf noted that Mr. Wright would have Board of Supervisors coverage for November.

J. ADJOURNMENT

Mr. Wright made a motion to adjourn.

The meeting was adjourned at approximately 10:17 p.m.

Rich Krapf, Chair

Paul D. Holt, III, Secretary

ITEM SUMMARY

DATE:	12/6/2017
TO:	The Planning Commission
FROM:	Roberta Sulouff, Senior Planner
SUBJECT:	SUP-0011-2017. 3001 Ironbound Road Tourist Home

ATTACHMENTS:

	Description	Туре
D	Staff Report	Staff Report
D	Proposed SUP Conditions	Backup Material
D	Master Plan	Exhibit
D	Location Map	Backup Material
۵	July 13, 2017, Policy Committee Meeting Memorandum and minutes	Backup Material
۵	September 14, 2017, Policy Committee Meeting Memorandum, Matrices and Minutes	Backup Material
۵	Unadopted Minutes from the November 1, 2017 Planning Commission Meeting	Backup Material
D	Site Photos	Backup Material
REVIEWERS:		

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	11/29/2017 - 10:42 AM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 10:42 AM
Publication Management	Burcham, Nan	Approved	11/29/2017 - 10:47 AM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 10:48 AM

SPECIAL USE PERMIT-0011-2017. 3001 Ironbound Road Tourist Home

Staff Report for the December 6, 2017, Planning Commission Public Hearing

SUMMARY FACTS

Applicant:	Telmo Armando Contreras
Land Owner:	Armando Holdings, LLC
Proposal:	To allow for the short-term rental of an entire three-bedroom residential home (Tourist Home)
Location:	3001 Ironbound Road
Tax Map/Parcel No.:	4710100068
Project Acreage:	+/-0.5 acres
Zoning:	R-8, Rural Residential
Comprehensive Plan:	Low-Density Residential
Primary Service Area:	Inside

PUBLIC HEARING DATES

Planning Commission: November 1, 2017, 7:00 p.m. (deferred by the Planning Commission)
Planning Commission: December 6, 2017, 7:00 p.m.
Board of Supervisors: January 9, 2018, 5:00 p.m. (Tentative)

Staff Contact: Roberta Sulouff, Senior Planner

FACTORS FAVORABLE

- 1. With the proposed conditions, staff finds the proposal compatible with surrounding development and consistent with the adopted Comprehensive Plan.
- 2. The subject property is located on a major right-of-way and no traffic impacts are expected.
- 3. The existing mature vegetation and fencing provide adequate screening of the use from adjacent properties.
- 4. The existing driveway is of significant length to provide adequate parking capacity. The minimum required parking for this use is three spaces (one space per rental unit). The existing driveway and gravel parking area provide eight parking spaces.
- 5. The applicant has acknowledged that, should this application be granted, they will obtain the proper licensing and inspections through the County and will be subject to the appropriate use-based taxes.
- 6. Per discussion at the November 1 Planning Commission meeting, a condition has been added mitigate the intensity of the use at the site.

FACTORS UNFAVORABLE

1. With the proposed conditions, staff finds no unfavorable factors.

SUMMARY STAFF RECOMMENDATION

Approval subject to the proposed conditions.

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

Staff Report for the December 6, 2017, Planning Commission Public Hearing

CHANGES SINCE THE NOVEMBER 1, 2017 PLANNING COMMISSION MEETING

A proposed condition has been added which stipulates that the applicant may only rent the property to one rental party per rental period. The condition is intended to limit the intensity of the use at the property, as the tourist home use might otherwise permit such operations as traditional bed and breakfasts or boarding homes.

PROJECT DESCRIPTION

- The proposal is to allow for the short-term rental of the entirety of an existing three-bedroom house as a Tourist Home. The owner will not be present during the time of rentals and the property is not the owner's primary residence. The proposal includes no changes to the size or footprint of the house.
- The Zoning Ordinance defines a Tourist Home as "a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients." While the Zoning Ordinance allows for the rental of up to five rooms in a Tourist Home, the proposed conditions limit the number of bedrooms available for rental to three in order prevent future expansion of the use.

PLANNING AND ZONING HISTORY

• Through an anonymous complaint to the County's Zoning Division, the house was found to be listed illegally on a popular home-sharing site. The applicant subsequently submitted a Conceptual Plan and later this Special Use Permit (SUP) application.

• The agenda packets for the recent Policy Committee meetings where ordinance amendments related to Tourist Homes were discussed are included as Attachment Nos. 3 and 4. Both under current regulations and under draft ordinance amendment language, the current application would be classified as a Tourist Home which would require an SUP. The discussions at the Policy Committee meetings help to inform the draft conditions.

SURROUNDING ZONING AND DEVELOPMENT

- The surrounding zoning of all properties is R-8, Rural Residential. The property is located directly across the street from Coleman Nursery and Farmer's Market (3000 Ironbound Road) and less than a quarter of a mile south of the Williamsburg Unitarian Universalist Church (3051 Ironbound Road).
- The property is not within a subdivision, but shares a side and rear property line with two properties in the Chanco's Grant subdivision.

COMPREHENSIVE PLAN

The property is designated Low-Density Residential on the 2035 Comprehensive Plan Land Use Map, as are all of the surrounding parcels. Appropriate primary uses recommended by the Comprehensive Plan include single-family homes, duplexes and cluster housing. Limited commercial uses may also be considered appropriate, should the proposal meet the following standards:

• *Complements the residential character of the area*: Staff finds that this proposed use would remain consistent with the residential character of the area, as this use does not propose any exterior changes.

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

SPECIAL USE PERMIT-0011-2017. 3001 Ironbound Road Tourist Home

Staff Report for the December 6, 2017, Planning Commission Public Hearing

- *Have traffic, noise, lighting and other impacts similar to surrounding residential uses:* Given the length of the existing driveway and in conjunction with the attached conditions, staff finds the proposal meets this criterion.
- *Generally be located on collector or arterial roads at intersections.* This property is located on, and takes access from, Ironbound Road, which is classified by the Virginia Department of Transportation as a major collector road.
- **Provide adequate screening and buffering to protect the character of nearby residential areas.** Staff finds that existing mature vegetation and fencing provide adequate screening from adjacent properties. Additionally, staff notes that this use inherently retains the same visual character as nearby residences.

PUBLIC IMPACTS

Anticipated impact on public facilities and services: None.

Nearby and surrounding properties: No impacts anticipated.

PROPOSED SUP CONDITIONS

• Draft text is provided as Attachment No. 1.

STAFF RECOMMENDATION

Staff finds the proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan and Zoning Ordinance. Staff recommends the James City County Planning Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

RS/tlc SUP11-17TouristHome

Attachments:

- 1. Proposed SUP Conditions
- 2. Master Plan
- 3. Location Map
- 4. July 13, 2017, Policy Committee Meeting Memorandum and minutes
- 5. September 14, 2017, Policy Committee Meeting Memorandum, Matrices and Minutes
- 6. Unadopted Minutes from the November 1, 2017 Planning Commission Meeting
- 7. Site Photos

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.

SUP-0011-2017, 3001 Ironbound Road Tourist Home

- Master Plan This SUP shall permit a tourist home on property located at 3001 Ironbound Road and further identified as James City County Real Estate Tax Map Parcel No. 4710100068 (the "Property"). The use and layout of the Property shall be generally as shown on the document entitled "JCC SUP-0011-2017: 3001 Ironbound Road Tourist Home" and date stamped October 15, 2017 (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended. This condition does not restrict improvements typical of a residential property as determined by the Director of Planning.
- Commencement The owner shall obtain a business license, a Virginia Department of Transportation Land Use Permit, and an approved building permit license within twelve (12) months from the issuance of the SUP. If evidence of this condition being satisfied is not provided to the Director of Planning within twelve (12) months from the issuance of the SUP, this SUP shall be void.
- 3. *Number of rental room occupants* There shall be no more than three (3) bedrooms available for rent and no more than six (6) rental occupants total at any one time.
- 4. *Signage* No signage related to the use of the tourist home shall be permitted on the Property.
- 5. *Parking* Parking shall be limited to areas shown on the Master Plan. No oversized commercial vehicles, such as but not limited to buses, commercial trucks and trailers, associated with rental occupants of the tourist home shall be allowed to park on the Property.
- 6. *Contracts per Rental Period* The owner shall not conduct simultaneous rentals of the Property under separate contracts.
- 7. *Severance Clause* This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

SUP-0011-2017, 3001 Ironbound Tourist Home Master Plan

Property Information

4710100068 Armando Holdings LLC 3001 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential Comp Plan: Low Density Residential Acres: 0.5

General Notes

- 1. Site is served by public water and sewer.
- 2. Property is not located in a FEMA Floodplain zone.
- 3. Property does not contain Resource Protection Area.
- 4. Property has an existing paved driveway.

5. A minimum of three parking spots shall be provided (one parking spot per bedroom).



Maps Not To Scale

Adjacent Properties

4710100067 Mark Collins 3021 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential

4710400037 Maurice Thomas 2906 Robert Hunt North Williamsburg, VA 23185 R8, Rural Residential

4710100075C David Bauernschmidt 2990 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential

4710400036 Phana Tung 2908 Robert Hunt North Williamsburg, VA 23185 R8, Rural Residential

4710100075E **Kevin Carver** 2986 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential

4710100075 Clockwork Angels LLC 3000 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential

Sheet Index

1. Cover Page

- 2. Master Plan
- 3. Location Map



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James

SUP-0011-2017, 3001 Ironbound Tourist Home







William Bedford



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Settler's Mill Subdivision

250

125

3001 Ironbound Rd. Tourist HomeColeman's Nursery and Farmers MarketWilliamsburg Unitarian Universalists Church5007501,000

Ft
SUP-0011-2017, 3001 Ironbound Tourist Home



Chanco's Grant Subdivision

William Bedford



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Hickory Signpost Rd

Settler's Mill Subdivision

3001 Ironbound Rd. Tourist Home Coleman's Nursery and Farmers Market Williamsburg Unitarian Universalists Church

500

250

125

750

1,000 Ft

A G E N D A JAMES CITY COUNTY POLICY COMMITTEE REGULAR MEETING Building A Large Conference Room 101 Mounts Bay Road, Williamsburg, VA 23185 July 13, 2017 4:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. Minutes Adoption - May 11, 2017 Regular Meeting

D. OLD BUSINESS

E. NEW BUSINESS

- 1. Review and Discussion of the Planning Commission Bylaws as it pertains to Article IV. Outside Meetings with Applicants
- 2. Zoning Ordinance Revisions to Permit Short-Term Residential Vacation Rentals

F. ADJOURNMENT

MEMORANDUM

DATE:	July 13, 2017
TO:	The Policy Committee
FROM:	Roberta Sulouff, Planner Lauren White, Planner
SUBJECT:	Zoning Ordinance Revisions Regarding Short-Term Residential Vacation Rentals

INTRODUCTION

During the course of two recent public hearing cases, members of both the Planning Commission and the Board of Supervisors expressed a desire to address the emerging issue of short-term residential rentals, also known as "homesharing." This sentiment was echoed at the May 23, 2017 Joint Board of Supervisors and Planning Commission Work Session. In the time since the latest public hearing dealing with this subject, staff has received several Conceptual Plan applications from citizens interested in pursuing this use on their properties.

In addition to developments at the local level, Commission and Board members have expressed interest in state legislation regarding short-term vacation rentals. During the 2017 General Assembly Session, the legislature approved SB 1578 (attachment 1) which allows a locality to create a short-term rental registry. This legislation does not "prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental property through general land use and zoning authority."

Staff is proposing to evaluate short-term vacation rentals in a multiple stage process similar to review of Ordinance Amendments proposed during the 2016 Work Plan. In Stage I (the subject of this staff memorandum), staff will identify issues and possible directions for the proposed amendment. Later, in Stage II, staff will provide the Policy Committee with a proposed draft Ordinance for discussion. If needed, staff will draft the final Ordinance, accounting for any additional Policy Committee comments in Stage III.

CURRENT ZONING ORDINANCE LANGUAGE

1. <u>Definitions</u>: Under current Ordinance language, Rental of Rooms and Tourist Home have both been applied, on a case-by-case basis, to the type of short-term residential vacation rental uses that are the subject of this memorandum. The Rental of Rooms use describes the short-term rental of up to three bedrooms within a residence. In certain Zoning Districts, the Rental of One Room is listed as a separate use. Because the Rental of Rooms use is listed in the use tables of several districts but not defined in Section 24-2, interpretations of the Zoning Ordinance have traditionally determined that the homeowner or operator must continue to reside at the residence during the time of rental. While "Bed and Breakfast" is also not explicitly defined in the Ordinance, several traditional "bed and breakfasts" have been permitted under the Rental of Rooms use. Alternatively, Tourist Home is defined as "[a] dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients." This use describes the short-term rental of *some or all* of the rooms of a residential building. In this option, the owner or operator does not need to occupy the dwelling at the time of rental.

These use categories apply only to transient occupancy. The Ordinance does not regulate instances where homes are rented to those who make the structure their primary place of residence (i.e., renting a home

long-term as an alternative to purchasing a home). See attachment 2 for a more comprehensive list of uses related to transient occupancy.

2. <u>Process</u>: In most Residential Zoning Districts, the above uses are either specially permitted, or, in a few cases, not permitted at all (see Table 1 below). In the R-3, Residential Redevelopment District as well as the R-5, Multifamily Residential District, the rental of *one* room is permitted by-right.

Zoning District	Rental of Rooms (Max 3)	Tourist Home
A-1	SUP	SUP
R-1	SUP	Not Permitted
R-2	SUP	SUP
R-3	Rental of One Room - Permitted by Right; Rental of 2-3 Rooms - SUP	SUP
R-4	Permitted by Right	Not Permitted
R-5	Rental of One Room–Permitted by Right; Rental of 2-3 Rooms– SUP	Permitted by Right
R-6	SUP	Not Permitted
R-8	SUP	SUP
PUD	Not Permitted	Not Permitted
MU	Permitted by Right	Not Permitted

Table 1: Current Short-Term Residential Rentals Use Table by Zoning District

During the SUP process, applications for these uses are evaluated for consistency with the adopted Comprehensive Plan. While most recent "homesharing" applications have generally proposed a use accessory to a primary residential use, both of the above uses are currently interpreted as commercial, and thus, are considered Group 2 Recommended Uses in the Land Use Descriptions and Development Standards section of the Comprehensive Plan. Uses in Group 2 are subject to development standards (see below). In both recent cases, staff found that the use of "homesharing" complied with these standards, which state that a use must:

- Complement the residential character of the area;
- Have traffic, noise, lighting and other impacts similar to surrounding residential uses;
- Act as a transitional use between residential and commercial areas or, if located within a residential community, serve to complement the residential character of the area rather than altering its nature;
- Provide adequate screening and buffering to protect the character of nearby residential areas; and
- Be generally intended to support the residential area in which they are located.

DISCUSSION ITEMS

1. <u>Definition</u>: As stated above, the Ordinance does not include a specific use or definition for the emerging category of rentals found on homesharing host websites such as homeaway.com or Airbnb.com. In an effort to develop a more current definition to this use, staff reviewed the definitions for short-term residential rentals in the Zoning Ordinances of several Virginia peer localities, including Williamsburg, Charlottesville, Virginia Beach, York County and Blacksburg as well as as Albemarle County and

Zoning Ordinance Revisions Regarding Short-Term Residential Vacation Rentals July 13, 2017 Page 3

Arlington County. Those definitions are as follows:

- *Williamsburg:* regulates short-term rentals through the Bed and Breakfast use. Bed and Breakfasts are defined as "a detached dwelling in which, for compensation, meals and overnight accommodations are provided for visitors. The detached dwelling shall be occupied by the owner-occupant and/or a full-time live-in manager."
- *Charlottesville*: defines "homestay" as a type of home occupation in which an individual who owns a dwelling and uses it as his or her permanent residence within a dwelling hires out, as lodging: (i) such dwelling, or any portion thereof, or (ii) a lawful accessory dwelling (Sec. 34-1200).
- *Blacksburg*: defines "homestay" as the accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for short-term transient rental purposes in exchange for a charge for the occupancy. Under this definition, the primary use of the homestay unit must remain residential. The definition includes Type A and Type B rentals. Type A rentals require the host to be present during the homestay and no more than two bedrooms of the homestay unit are rented. Type B rentals consist of all other rentals, including ones where more than two bedrooms of the homestay unit are rented or the host is not present during the stay.
- *Arlington County*: Accessory homestay is defined as a home occupation use where an individual who owns a dwelling unit and occupies that dwelling unit as his/her primary residence hires out the dwelling unit or portion thereof, as lodging. Arlington County is in the process of potentially expanding their homestay definition to allow the use in rental units.
- *Albemarle County*: Tourist lodging is defined as a use composed of transient lodging provided within a single-family dwelling having not more than five guest rooms, where the single-family dwelling is actually used as such and the guest rooms are secondary to the single-family use, whether or not the guest rooms are used in conjunction with other portions of the dwelling.
- *Virginia Beach*: The Virginia Beach zoning ordinance does not expressly address the rental of dwellings nor does it differentiate between short-term and long-term rentals. Based on a zoning interpretation, Virginia Beach defines rentals based on the number of days the home is rented. Virginia Beach does not differentiate between rental of a certain number of bedrooms and rental of the whole residence.
- *York County*: Much like James City County, York County has two uses which have been applied to short-term residential rental applications. These uses include "Bed and Breakfast Inn," which is defined as a dwelling in which, for compensation, breakfast and overnight accommodations are provided for transient guests. When the establishment is located in a Residential Zoning District, the owner of the property must live on the premises. York County also provides a definition for "Tourist Home," which is a use subordinate to a private dwelling which provides temporary accommodations to "overnight transient guests" for a fee. York County defines "Transient Occupancy" as lodging on a temporary basis for under 90 days by a visitor whose permanent address is not the lodging unit occupied by the visitor.

Recommendation: Staff recommends creating a new definition for the use of "homestay." Staff recommends treating the homestay use similar to the above models in which the new short-term residential rental use must be secondary to a primary residential use. Staff believes this approach would create a distinction between traditional bed and breakfasts and vacation rental properties and the new style of short-term rentals, which have come before the Planning Commission and Board and can be found on the

Zoning Ordinance Revisions Regarding Short-Term Residential Vacation Rentals July 13, 2017 Page 4

aforementioned websites. In addition to creating this new use, staff will also be reviewing the definitions of related uses as well.

2. <u>Permitting and Standards</u>: Staff reviewed permitting and standards for short-term residential rentals in several peer localities within Virginia and around the country. In many localities, such as York County, Williamsburg and Virginia Beach, short-term rentals are permitted in much the same way that they are currently permitted in James City County. With no formal definition for this burgeoning use, applications are considered under more broad uses, such as tourist homes or bed and breakfasts, and in York County and Williamsburg are subject to a typical legislative permit process, generally. In other localities such as Albemarle County, Charlottesville and Arlington County, the use is permitted by-right in most or all Residential Zoning Districts through an administrative permitting process. In some localities, such as New Kent County, the use is not regulated. In either case, the use is subject to a special set of standards.

When reviewing locality standards, except where otherwise noted, staff focused on the abovementioned localities. Across the localities reviewed, there were several common threads. Many of the concerns identified by the Board and Commission during recent public hearings were addressed in the standards of peer localities, including location of the use in relation to other residential dwellings, presence of the owner at the time of rental, ensuring that the site of use remained residential in character, density of the use within neighborhoods and the number of rooms being rented. For a full list of common standards, please see Attachment No. 3.

RECOMMENDATION

Staff recommends the Policy Committee consider updating the Zoning Ordinance definitions as discussed above. Staff would also like to receive feedback from the Policy Committee on which standards are important for inclusion in a draft policy that can be considered during a review of future SUP applications. Staff looks forward to a discussion with the Policy Committee on these items.

RS/LW/gt ShrtTrmResRentl-mem

Attachments:

- 1. SB 1578 Short-Term Rental of Property; Registration of Persons Offering Property for Rental
- 2. Current Use Definitions Related to Transient Occupancy in James City County
- 3. List of Common Standards for Short-Term Residential Vacation Rentals

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION CHAPTER 741

An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-983, relating to the short-term rental of property. [S 1578]

Approved March 24, 2017

Be it enacted by the General Assembly of Virginia:

§ 15.2-983. Creation of registry for short-term rental of property.

A. As used in this section:

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the locality offered for short-term rental by the operator. A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.

2. No ordinance shall require a person to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee;

(ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments. C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed \$500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental. 2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

D. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et

Attachment 2: Current Use Definitions Related to Transient Occupancy in James City County Zoning Ordinance

- Proposed: Homestay A use clearly secondary to a primary residential use, subject to fitting performance standards. To apply to the short-term rental of rooms in a private home.
- Rental of Rooms Not defined, but permitted by-right and SUP in different districts. Interpreted to require the home-owner to be present at time of rental. Limits number of rooms rented to 1-3 (depending on district). Has been used to permit traditional B&Bs.
- Tourist Homes "A dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients." Does not require homeowner to be present, allows for whole-home rental. Has also been used to permit traditional B&Bs.
- Hotel "A building designed or occupied as the more or less temporary abiding place for more than ten individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites."
- Motel "One or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit."

- *Classification as a home occupation* –Charlottesville and Arlington County amended their zoning ordinance to classify short-term residential rentals as accessory homestays and to include this use in the home occupations zoning code. The accessory homestay use has additional requirements that aim to protect the health, safety, and welfare of the surrounding neighborhood.
- *Secondary use* All of the above localities require the use to be clearly subordinate to the primary residential use of the home.
- *Location* All of the above localities allow the use in all residential zoning districts either through permitting or a legislative process. Williamsburg allows bed and breakfasts only along the city's designated entrance corridors.
- *Number of rooms to be rented* Williamsburg allows for up to four bedrooms to be rented through the legislative Special Exception process and up to six bedrooms through the legislative Special Use Permit process. Albemarle County allows no more than five rooms to be rented at one time.
- *Primary residence* All of the above localities limit the use to units that are used by the owner as his/her primary residence. Due to building code requirements, the owners must live in the unit for a minimum of 180 days per year (about six months) in order to retain the residential characteristic. The verification method varies among the localities but all ordinances state the verification method must be satisfactory to the locality's attorney.
- *Number of guests* Arlington County limits the use of the homestay to one simultaneous rental with one party only to avoid rental of multiple bedrooms to multiple parties. The number of lodgers is capped to the larger of either six lodgers or two lodgers per bedroom. Blacksburg and Charlottesville limit the number of adult guests to six per homestay.
- *Parking* Charlottesville limits the parking in connection to the homestay to the driveway, garage, or available on street parking areas. Williamsburg requires two off street parking spaces for the use plus one off-street parking space for each bedroom rented to visitors. Albemarle County requires additional parking spaces for the use based on the number of guest rooms to be rented.
- Signage All of the above localities prohibit exterior signage to advertise the location of the use.
- *Employees/Operators* As stated above, all of the above localities require the home to be owneroccupied to be eligible for the short-term rental use and state that only the owner can be involved in the use. In addition to the resident, Charlottesville prohibits more than one other person from engaging in the home occupation business on the property. Arlington County does not allow anyone other than the host to be an employee of the homestay. Blacksburg limits the number of homestays a person may register to one.
- *Building code standards* All of the above localities zoning ordinances include requirements for the use to be compliant with all applicable building codes specifically naming items such as safe ingress/egress, smoke detectors, and fire extinguishers. Blacksburg requires the submittal of a floor plan with the permit to verify the layout of the home. Blacksburg also allows for the inspection of a homestay by the building department to address complaints. Albemarle County requires all applicants to submit a floor plan showing the rooms to be rented and requires all units to be inspected by the Fire Marshall and the Building Inspections Division.
- *Host information* All of the above localities require the hose to post his or her contact information in a visible location within the home.

- *Accessory dwelling* Arlington County allows for the use of an accessory structure as a homestay but if used in conjunction with the primary structure only one homestay contract is allowed at a time. Albemarle County allows the use in accessory structures.
- *Limits on use* Arlington County limits the use of the accessory homestay to residential uses only. No commercial meetings, luncheons, banquets, weddings, or parties are allowed.
- *Shared walls and access* Prior to each annual registration, Blacksburg requires written notification to all properties that share a wall or driveway with the homestay of intent to register.
- *Limits to the number of short-term residential rentals*—Williamsburg limits the number of bed and breakfast establishments to a minority of the houses on the specified streets in order to ensure the streets maintain their residential character. The city of Durango, Colorado placed a limit on the number of short-term residential units within a block to alleviate some of the concerns regarding some neighborhoods being utilized entirely for short-term residential rentals.

A. CALL TO ORDER

Mr. Rich Krapf called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present: Mr. Rich Krapf, Acting Chair Mr. Danny Schmidt Mr. Heath Richardson Mr. Jack Haldeman

Absent: Ms. Robin Bledsoe

Staff:
Mr. Paul Holt, Planning Director
Ms. Tammy Rosario, Principal Planner
Ms. Lauren White, Planner
Ms. Roberta Sulouff, Planner
Mr. Tom Leininger, Community Development Assistant
Mr. Maxwell Hlavin, Assistant County Attorney

C. MINUTES

1. Minutes Adoption - May 11, 2017 Regular Meeting

Mr. Jack Haldeman made a motion to Approve the May 11, 2017, meeting minutes.

The motion passed 3-0-1, with Mr. Rich Krapf abstaining, as he was not present at the meeting.

D. OLD BUSINESS

There was no old business.

E. NEW BUSINESS

1. Zoning Ordinance Revisions to Permit Short-Term Residential Vacation Rentals

Ms. Roberta Sulouff stated that during the course of two recent public hearing cases, members of both the Planning Commission (PC) and the Board of Supervisors (BOS)

expressed their desire to address the emerging issue of short-term residential vacation rentals, also known globally as home-sharing. She stated that since the last public hearing, staff have received several Conceptual Plan Applications for this use. She stated that the Ordinance currently addresses several uses such as transient occupancy ranging from more residential in nature to expressly commercial in character. She stated that members of the BOS stated that none of the existing uses directly address the emerging movement of home-sharing that has a residential footprint.

Ms. Sulouff stated that staff is recommending a two-pronged approach of multiple stages. She stated that first, staff is recommending the creation of a new use and definition to address the types of short-term residential rental applications that have been received by staff. She stated that staff recommends creating a new definition for the use homestay.

Ms. Sulouff also stated that staff is seeking the Policy Committee's direction in the pursuit of a new policy and permitting standards to address the new use. She stated that permitting standards, including, but not limited to the ones located in Attachment No. 3, could be used to build a framework or a supplemental policy under which future Special Use Permit (SUP) applications could be reviewed.

Ms. Sulouff stated that staff recommends creating a definition and permitting policy that addresses the residential character of the use while considering compliance and providing clarity to those wishing to pursue the use and those that review future applications for the use. She stated that staff is planning to take the Committee's feedback to further research any concerns and to begin drafting zoning ordinance language to be reviewed in stage two of this process.

Mr. Rich Krapf thanked Ms. Sulouff and asked if the Committee had any questions for staff.

Mr. Jack Haldeman asked how the new Ordinance would differ from the rental of rooms or tourist homes classifications. He stated that he read both of them and that they both apply to the Airbnb concept.

Ms. Sulouff stated that rental of rooms and tourist homes both apply to short-term rentals in different ways. She stated that rental of rooms is not defined in the definition section and it is more of an interpretation typically applied to a bed and breakfast or to situations in which people want to rent rooms above and beyond the family definitions. She stated that home-sharing would address the applications that are coming in, where people own homes and reside in them and want to rent out a room at a transient rate to people for a night. She stated that tourist home is traditionally interpreted as a vacation home rental where it wouldn't require anyone to be there at the time of the rental. She stated that the proposed definition would create a new class and would be clearly secondary to a residential use.

Mr. Haldeman asked if this would replace the current Ordinances or if it would be an addition.

Ms. Sulouff stated that staff is seeking the Committee's direction such as defining rental of rooms, but right now staff is proposing home-share in addition to the other uses.

Mr. Krapf asked how accessory homestay ties into the health, safety and welfare of the

surrounding neighborhood.

Ms. Lauren White stated that the two examples put the homestay use in the home occupation zoning code, then an additional layer is added to the homestay use. She stated that it may include limits such as the number of cars, noise and buffering to make sure the use is secondary to the primary residential use.

Ms. Sulouff stated that in both Charlottesville and Arlington County, with homestay being a home occupation, it becomes an administrative process rather than an SUP process. She stated that staff can explore ways to have the homestay fit in the SUP framework as well.

Mr. Heath Richardson stated that when he looked at the examples, he liked the Blacksburg example where there is a definition of homestay which provides two types of rentals. He stated that Type A defines the number of rooms and Type B has a caveat where the homeowners do not need to be at the residence. Mr. Richardson stated that the Blacksburg example provides more flexibility.

Mr. Danny Schmidt stated that the Blacksburg example also stood out to him. He stated that he initially voted against the two SUPs regarding homestays when he first started on the Planning Commission. Mr. Schmidt stated that the County already has a tourist home definition. He stated that his family has taken advantage of similar situations in other areas across the country. Mr. Schmidt stated that there haven't been many issues with Vacation Rental by Owner (VRBO).

Ms. Sulouff stated that VRBO would still come to the staff as an SUP application in most districts as they are a tourist home. She stated that the complaints received are anonymous.

Ms. Christy Parrish stated that there have been calls stating that houses have been seen on Airbnb websites. She stated that there are places in Kingsmill where these homes are permitted by-right. She stated that there will be times that the homes will show up in the R-2, Residential Zoning District and a letter would be sent out, stating that they are in violation with the Zoning Ordinance without an SUP approval.

Mr. Richardson stated that he noticed during previous BOS meetings that there are some citizens running businesses without an SUP approval and that depending on how homestay is defined, citizens would be able to legally run their business.

Mr. Krapf asked if having someone come in and clean their home or provide housekeeping duties violates the definition under the Arlington County example.

Ms. White stated that it would be allowed because it would be considered typical home maintenance.

Ms. Sulouff stated that Arlington County is trying to prevent someone living out of state, but has an inn-keeper function to allow an agent to act for them.

Mr. Schmidt asked if staff looks at the Airbnb websites.

Ms. Parrish stated that staff would only look up houses in violation if they were brought to staff's attention.

Mr. Schmidt stated he wants to prevent a lot of SUP applications coming in at once.

Mr. Richardson stated that the regulation for the Blacksburg example requires a floorplan.

Ms. White confirmed and stated that some localities require a floorplan and a site plan.

Mr. Richardson asked why staff thought that Blacksburg has that regulation. He asked if it could be that they are a university town or was it in place before or after the popularity of Airbnb.

Ms. White confirmed and stated that it was after the wave of popularity of Airbnb.

Mr. Schmidt asked if that applied to the other examples.

Ms. White confirmed.

Ms. Sulouff stated that there are other localities that have not made changes to their ordinance and there are cities like Williamsburg and Virginia Beach that are still in the developmental process.

Mr. Krapf asked what staff thought about the use of accessory structures for a home-share category.

Ms. Parrish stated that it would be a larger issue because there are limits on a secondary structure.

Mr. Krapf asked if this would only apply to the primary residential structure.

Ms. Parrish confirmed.

Mr. Paul Holt stated that it would complicate things more and put two homes on one property. He stated that it was up to the direction of the Policy Committee, but previous SUP conditions have attempted to ensure a single-family house continues to look like a single-family home.

Ms. Tammy Rosario stated that it is important to consider the additional impacts such as traffic.

Mr. Schmidt stated that he has heard from citizens that the number of cars at a home has a negative impact on the neighborhood.

Ms. Sulouff asked if parking would be an important permitting standard.

Mr. Schmidt confirmed.

Mr. Krapf stated that the A-1 and R-8 Districts are larger properties and the parking limitations could potentially be different. He asked if there should be a distinction in the Ordinance.

Mr. Richardson confirmed.

Mr. Schmidt confirmed. He stated that the tourism economy is important and keeping up with the times is important.

Mr. Haldeman asked if the County would limit the number of rooms, meals, owner presence and number of days.

Ms. Sulouff stated that staff is looking for feedback on those regulations.

Mr. Richardson stated that it is possible to be too restrictive. He stated that if there are two types, the property owner would announce which direction they are going. He stated that one type could be less restrictive. He stated there would be a burden on staff.

Ms. Parrish stated that it would depend on the number of people wanting to do a homestay and the number of complaints that would come in. She stated that she does not anticipate there being an issue, but a policy can be created that is straightforward.

Mr. Holt stated that staff would let the Policy Committee know what can and cannot be enforced. He stated that proper documentation could be provided ahead of time.

Mr. Krapf asked about the possibilities including limiting the number of residences on a street.

Ms. Sulouff stated that it was just an example from another locality. She stated that there was a concern from other localities regarding blocks where there are a lot of homes in one neighborhood renting out their houses. She stated that staff can look further into the other localities if need be.

Mr. Holt stated that there are issues regulating the number of homestays. He stated that Zoning Ordinances could potentially have separation distances between homes. He stated that it would limit the number of homes and it would be easier for staff to regulate.

Mr. Haldeman asked if Homeowners Associations (HOA) play a role.

Mr. Holt confirmed and stated that Zoning Ordinances can't trump covenants and declarations, as in the example of chicken keeping.

Mr. Schmidt stated that the HOA can be the more restrictive process. He stated that Airbnbs are going to keep happening and it is best to work with the homeowners.

Mr. Krapf asked if there would be a registration fee or keep just the business license component.

Mr. Schmidt stated that it is similar to the food truck situation.

Ms. Sulouff stated that creation of a registry would be outside of the Zoning Ordinance; however, the Policy Committee can get the process going. She stated that the homeowners could potentially register with the Commissioner of Revenue (COR), pay the transient occupancy tax, a potential application fee and possibly a registration fee. Mr. Richardson stated that given the nature of the area, this would give the COR a tool for taxation.

Ms. Sulouff asked if there would be compliance with a registry.

Mr. Richardson confirmed.

Mr. Krapf asked if there wasn't a registry how the homestays would be tracked.

Ms. Sulouff stated that staff would keep track similar to the home occupations and the COR would keep track similar to other business licenses.

Mr. Krapf asked if there were any pros and cons for a registry on homestays.

Mr. Maxwell Hlavin stated that most localities are in the same spot in terms of the developmental process. He stated that it could be best to run the process through the COR.

Mr. Krapf asked if there would be a downside.

Mr. Hlavin stated that he does not see one. He stated that it is required to register with the COR to obtain a business license. He stated that this would give staff a mechanism to establish a fine.

Mr. Holt stated that the fine encourages homeowners to comply.

Mr. Schmidt stated that the COR would be a separate track from the process handled by planning staff.

Ms. Sulouff stated that it would be part of the planning process. She stated that staff can say that they can't approve their application without the business license.

Mr. Krapf asked Committee members if they would want a penalty associated with the failure to register their homestay.

Mr. Richardson confirmed.

Mr. Hlavin stated that the fee would not come through the policy process.

Mr. Richardson stated that there can be a reference to the need to register in the Zoning Ordinance.

Mr. Schmidt stated that it would help with the citizens in the County to see a penalty.

Mr. Richardson asked other Committee members if they preferred the Blacksburg example where the number of rooms is defined.

Mr. Haldeman stated that he wouldn't want a lot of rooms to be available to be rented out in a single home. He stated that he would have a concern with the competition with the hotels and the quality of neighborhoods together with the traffic generated. He stated that three to four rooms available to rent would be sufficient. Ms. Rosario asked if the four-bedroom maximum would exclude rental of an entire home.

Mr. Haldeman stated that he would not want to allow rental of the entire home.

Ms. Parrish stated that many Airbnbs are full home rentals.

Mr. Richardson stated that staff could come up with some options where the host is present with limited rooms and then other options with no host present.

Ms. Sulouff asked if there were two types, would there be a difference in the applications.

Mr. Krapf asked the purpose of establishing two types. He asked what the end goal would be for establishing two types.

Mr. Richardson stated that Type A would be a resident that has a couple of rooms to rent out and Type B could be more of a hostel scenario.

Mr. Holt stated that there could be a number of different directions. He stated that there could be a locational pairing going with each type. He stated that the smaller homes with one to two bedrooms for rent are located in R-1 and R-2 Residential Districts. He stated the larger homes, where the homeowner rents out the entire house, could be located in the A-1 Zoning District or possibly located on major roads instead of internal to a subdivision. He stated that the smaller and easier homestays could be handled administratively and that the larger ones could have an SUP.

Ms. White stated that in the case of Blacksburg, the reason they break it down could be because the two different types may have different impacts on a neighborhood. She stated that it is possible to limit the number of days for Type A rentals and the number of days for Type B rentals. She stated that when the applicant fills out an application they state their intent.

Mr. Krapf stated that he liked the idea of having an Ordinance focused around Zoning Districts. He stated that it could be the easiest way to put a matrix together. He stated that it is important to keep in mind the number of vehicles generated.

Ms. Sulouff stated that staff can do some research into other localities and how they handle parking. She stated that some conditions on previous SUPs were limiting the types of vehicles such as campers and RVs.

Ms. Rosario stated that the number of vehicles may correlate with the number of bedrooms available.

Ms. Sulouff stated that previous cases limited the number of cars per rented bedroom.

Ms. Rosario stated that based upon the conversation, the most relevant characteristics to put into the matrix are ownership, number of rooms, parking and the consideration by Zoning District and if there would be an administrative process.

Mr. Holt asked if by ownership she meant whether the owner did or did not live on the

property.

Ms. Rosario confirmed and asked if there were any other items.

Mr. Haldeman asked if guest rooms were secondary to single-family use.

Ms. Sulouff confirmed. She stated that the definition for homestay being proposed would be secondary to the single-family residence, which is the same requirement as the current home occupation application.

Mr. Haldeman asked if the owner had to reside at the time of rental.

Ms. Sulouff stated that it is not necessary for the owner to reside at the time of rental. Ms. Sulouff stated that whether or not the owner is present at the time of the rental could fall in the matrix. She stated that it would be someone's home that they reside in.

Mr. Schmidt stated that owners could rent out their home while they are gone for the weekend.

Mr. Krapf stated that if it were a VRBO, the owner could rent the home during the peak tourist season such as May through October and the owner would not have to live there.

Mr. Haldeman asked if that would be considered a tourist home.

Ms. Sulouff stated that currently that would fall under a tourist home.

Ms. Rosario stated that as the definition becomes finalized, there could be some overlap between the other definitions, necessitating additional definition amendments.

Mr. Krapf asked if there should be a requirement on residency.

Mr. Richardson stated that he would prefer that the definition stay flexible for now. He stated that a couple could rent out their rooms while they were away and it gives the homeowners some flexibility to not be present.

Mr. Krapf stated that there are some general provisions outside of the matrix that would incorporated. He stated that the registry is an example.

Mr. Schmidt stated that one of the concerns from the previous SUP was that people wanted to know who their neighbors are. He stated that he preferred having the homeowner present during the time of the rental.

Mr. Holt stated if someone wanted to operate a tourist home they still could, but for the Airbnb example, there should be someone living there.

Mr. Schmidt agreed and stated that he felt there would be more changeover from tenant to tenant.

Ms. Sulouff stated that the definitions may overlap with each other and that the tourist home and rental of rooms' uses need not go away. She stated that requiring the homeowner to be present does not take away from the ability to rent out their home under another definition.

Mr. Schmidt stated that there will be times where we have VRBO and Airbnb cases.

Ms. Rosario stated that Airbnb rents by room and whole houses as well.

Mr. Holt asked if there was a consensus from the Committee that when staff puts the matrix together, the homeowner needs to be living there.

Mr. Schmidt confirmed.

Mr. Richardson stated that if the homeowner rents out their whole home, they would fall under the tourist home definition.

Mr. Krapf stated that looking under the definition of home-share, the owner is there sharing the home along with the tenants.

Ms. Sulouff stated that the home would be the primary residence and the homeowner would occupy the home at the time of the rental.

Mr. Krapf asked if there were any questions from anyone.

Mr. Hlavin stated that, from a legal standpoint, enforceability is tough because there would need to be proof that the homeowner is there during the time of the rental. He stated that it is a good start to the discussion.

Mr. Holt stated that the homeowner doesn't have to be present at all times, just that the home must be their primary residence.

Ms. Sulouff stated that the homeowner being present is not confirmed.

Mr. Krapf asked what it would be considered if he had a secondary residence to rent out.

Ms. Rosario stated that it would fall under the tourist home definition. She stated that there could be separate processes for homestay and for tourist home.

Ms. Sulouff stated that across the country, localities are dealing with the same conflicts. She stated that people want to know who their neighbors are.

Ms. Parrish stated that it is important to define a primary residence to avoid a home being used for a transient use.

Ms. Sulouff stated that staff is hoping to use the regulations under home occupation to follow for homestay.

Mr. Krapf asked if there were any other topics needed for staff to discuss.

Ms. Sulouff stated that she felt there is enough information for staff to begin.

Ms. Rosario stated that this is the beginning stage where staff can come back to get more clarification and then begin drafting an Ordinance.

Mr. Holt stated that it is important to keep it simple, protecting the neighborhood and to begin small by making sure someone lives there. He additionally stated that parking and the Zoning District can be factored in as well.

Ms. Rosario asked if some applications can be handled administratively and some by SUP.

Mr. Krapf confirmed. He also stated that it can be based on the number of rooms.

Mr. Holt stated that the Zoning District will factor in as well.

Mr. Richardson stated that homestays can be considered by-right in certain Zoning Districts.

Mr. Krapf asked if by-right requires administrative approval.

Ms. Sulouff confirmed. She stated that the by-right can have an administrative process attached to the definition similar to chicken keeping.

Mr. Krapf stated that it is important to keep the process simple. He stated that the next step would be to get something back, such as a matrix, from staff to help move the Policy Committee forward.

2. Review and Discussion of the Planning Commission Bylaws as it pertains to Article IV. Outside Meetings with Applicants

Mr. Holt stated to the Policy Committee that staff wanted to explore any concerns and possibly change anything with respect to the current bylaw.

Mr. Richardson stated that the PC members do a good job of acknowledging when they have conversations with developers. He stated that it is best to avoid times when multiple members meet with a single applicant where minutes are required from the meeting.

Mr. Haldeman stated that he attended a seminar regarding high growth communities where this topic arose.

Mr. Hlavin asked if the seminar was regarding the new proffer legislation.

Mr. Haldeman confirmed.

Mr. Hlavin stated that the Planning Commission and Board is saved from the proffer legislation because BOS members are not taking proffers for residential applications. He stated that proffers are still accepted for commercial applications. He stated that members do not have to worry about having conversations regarding proffers from residential development because the County is not taking them.

Mr. Richardson asked if a developer could offer another benefit for the County.

Mr. Hlavin stated that they could; however, there would be no binding effect with regard

to the rezoning. He stated that a developer could improve a road and then want an area rezoned and the BOS could take that into consideration.

Mr. Krapf stated that two years ago the Outside Meeting with Applicant item was added to the bylaws. He explained that the bylaw stated the purpose of meetings is limited to fact finding and clarifications for all parties. He stated that PC members are encouraged to go with a colleague. He stated that it is also encouraged to include a staff member and possibly have the meeting in Building A. He stated that it is helpful to meet with an applicant and get a better understanding before the public hearing. He stated that the General Assembly legislation only pertains to residential rezoning. He asked what happens if it is a mixed-use rezoning.

Mr. Hlavin stated that he is not worried about members meeting with applicants because proffers are not accepted. He stated that proffers could be accepted on the commercial component of a mixed use rezoning so legal staff would treat any such application with heightened caution.

Mr. Holt stated that if proffers were accepted for residential rezoning, he would advise PC members not to meet with applicants. He stated that there is not a lot of concern right now.

Mr. Hlavin agreed.

Mr. Richardson stated that there are times that applicants will contact him before a public hearing. He stated that the bylaw requires a summary to be provided to all members. He stated that he interpreted the bylaw as requiring him to state during the public meeting that he has met with an applicant.

Mr. Krapf stated that he will always ask for disclosures from members before getting into a public hearing. He stated that guidelines in Article IV are helpful. He stated that it is good to rely on the integrity of individuals and knowing what is appropriate. He stated that if he felt it was helpful to meet with an applicant, he would ask other members to join him.

Mr. Schmidt stated that it has been helpful to him when members send an email out to other members after going on a site visit.

Mr. Krapf stated that he does not see a need to revise the bylaws regarding meeting with applicants.

Mr. Richardson agreed and stated that they were revised in March.

Mr. Hlavin stated that there are also other issues such as conflict of interest issues. He stated that members can't have an interest in a transaction. He stated that members can't receive money for voting a certain way. He stated that there are exceptions. He stated that, in certain circumstances, if there is a personal interest in a transaction, the members can disclose it as long as their impartiality remains.

Mr. Krapf stated that there wasn't any other new business.

F. ADJOURNMENT

Mr. Schmidt made a motion to Adjourn. By verbal vote, the motion passed.

Mr. Krapf adjourned the meeting at approximately 5:15 p.m.

Mr. Rich Krapf, Acting Chair

Mr. Paul Holt, Secretary

A G E N D A JAMES CITY COUNTY POLICY COMMITTEE REGULAR MEETING Building A Large Conference Room 101 Mounts Bay Road, Williamsburg, VA 23185 September 14, 2017 4:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. August 10, 2017 Meeting Minutes

D. OLD BUSINESS

- 1. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II
- 2. Potential Amendments to the R-8, Rural Residential and Cluster Overlay Districts -Stage I

E. NEW BUSINESS

- 1. Adoption of a Revised Policy for Remote Participation in Meetings by Commission Members
- 2. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Cover Memo - Stage I
- 3. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Streetscape Policy - Stage I
- 4. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Bicycle and Pedestrian Accommodations and Transportation Impact Analysis -Stage I
- 5. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Archaeological Policy - Stage I
- 6. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Natural Resource Policy - Stage I

F. ADJOURNMENT

AGENDA ITEM NO. D.1.

ITEM SUMMARY

DATE:	9/14/2017
TO:	The Policy Committee
FROM:	Roberta Sulouff, Planner and Lauren White, Planner
SUBJECT:	Zoning Ordinance Revisions to Permit Short-Term Residential Rentals - Stage II

ATTACHMENTS:

	Description	Туре
D	Staff Memorandum	Staff Report
D	Homestay Use Matrix	Backup Material
D	Existing Use Matrix	Backup Material
a	Narrative Draft Definitions and Special Regulations Language	Backup Material
۵	Draft Administrative Policy Language	Backup Material
۵	City of Arlington Homestay Ordinance Language	Backup Material
a	Town of Blacksburg Homestay Ordinance Language	Backup Material
ם	City of Charlottesville Homestay Ordinance Language	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	9/8/2017 - 2:36 PM
Policy	Holt, Paul	Approved	9/8/2017 - 2:39 PM
Publication Management	Burcham, Nan	Approved	9/8/2017 - 2:41 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 2:41 PM

M E M O R A N D U M

DATE:	September 14, 2017
TO:	The Policy Committee
FROM:	Roberta Sulouff, Planner Lauren White, Planner
SUBJECT:	Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II

HISTORY

The Policy Committee met on July 13, 2017, to discuss initial planning for policies and ordinance amendments to address the emerging topic of short-term residential rentals. At that meeting, the Committee expressed interest in pursuing a hybrid approach to permitting such rentals, similar to the approach taken during the recent amendment process addressing rural event facilities. The hybrid approach would create a system in which short-term residential rental uses would be subject to permitting and performance standards based on the intensity of the given application. At that meeting, the Committee also asked staff to further research specific performance standards and to provide a chart or matrix comparing existing and proposed uses, permitting and performance standards. In response to this direction, staff researched the ordinances of other localities that take a tiered approach to permitting the use or permit the use by-right. Staff used that research and the feedback received at the previous meeting to create the attached matrices (Attachment Nos. 1 and 2) and to create narrative versions of draft ordinance language for the Committee's review.

Staff intends to use feedback from this meeting, as well as further feedback from the offices of the Commissioner of the Revenue and the County Attorney, to create formal draft language for review at a future Policy Committee meeting. Staff also intends to use feedback received at this meeting to bring an initiating resolution forward to the Planning Commission in the near future.

CURRENT ZONING ORDINANCE LANGUAGE

As discussed at the July 13 meeting, short-term rentals in residential settings are currently addressed under two separate uses in the Zoning Ordinance: rental of rooms and tourist home. The attached matrix (Attachment No. 2) details how those uses are permitted throughout all residential districts. The Tourist Home Use has often been applied to situations in which an applicant wishes to rent an entire home, or for rentals where the applicant may not consider the subject property their primary residence and may not intend to remain on premises during the time of rental. While not defined in the Ordinance, the use of rental of rooms has traditionally been applied to both home-sharing applications and applications for traditional bed and breakfasts; both uses involve a higher level of oversight or management of renters than tourist homes. However, the rental of rooms use does not currently delineate between a homeowner in their primary residential dwelling versus a manager of a commercial bed and breakfast. Per further discussions with the Zoning Administrator, the use can also apply to long-term rentals of rooms exceeding the definition of family, not including group homes.

PROPOSED CHANGES TO DEFINITIONS AND USE LISTS

Since the Stage I meeting, staff has drafted the attached narrative versions of potential ordinance language using the July 13 Policy Committee memorandum as base material and incorporating feedback and direction from that meeting in the draft text. In response to that discussion, staff focused specifically on ways to differentiate between denser Zoning Districts and districts which are more rural in character. Likewise, staff

Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II September 14, 2017 Page 2

also focused on delineating the intensity of different uses and the potential for varying levels of intensity within the newly created Homestay Use. Staff also worked to clarify existing uses so as to address issues of potential overlap in application. Staff proposes the following changes to create definitions and amend Use Lists in Residential Districts, as reflected in the attached draft language (Attachment No. 3):

- 1. Changes to Section 24-2, Definitions
 - Create a definition for "homestay"
 - Create a definition for "rental of rooms"
 - Add language to the "tourist home" use to clarify its application
 - Create a definition for "transient"
- 2. Changes to Use Lists of Residential Districts
 - Add "Homestay–1 Room, in accordance with Section 24-50" as a permitted use in the Use Lists of all Residential Zoning Districts, excepting A-1, General Agricultural; R-8, Rural Residential; R-4 Residential Planned Community; and MU, Mixed-Use
 - Add "Homestay, in accordance with Section 24-50" as a permitted use in the Use Lists of the A-1, R-8, R-4 and MU Districts
 - Add "Homestay ≥ 2 Rooms" as a specially permitted use in all Residential Districts, excepting A-1, R-8, R-4 and MU (see above)

PROPOSED CHANGES TO SPECIAL REGULATIONS

Staff proposes adding a new section to Chapter 24, Article II. Special Regulations, Division 1. In General to outline criteria for the permitting and operation of Homestays. This criteria would apply to both by-right applications and would serve to further distinguish the Homestay use from other short-term rental uses as one that is limited in intensity and distinctly residential in character. Staff drafted the following permitting and performance standards based on direction received at the Stage I meeting as well as feedback from the Planning Commission and Board of Supervisors over the course of past public hearing cases pertaining to this use:

- <u>Primary Residence</u>: Applicants must demonstrate the site of the proposed Homestay is their primary residence. Such a regulation would limit operators to one Homestay in the County and also aims to ensure that the site remains primarily residential in use and character.
- <u>Limit on the Number of Nights Rented/Year</u>: Operation of the Homestay is limited to 180 days per a 12month period. Again, this standard aims to limit the intensity of the use and preserve the residential character of the dwelling and neighborhood.
- <u>Limits on the Number of Contracts/Night</u>: Operators may not conduct simultaneous rentals under separate contracts.
- <u>Parking</u>: Requires operators to provide one off-street parking space for each room rented.
- <u>Signage</u>: Prohibits any signage related to the Homestay use.

Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II September 14, 2017 Page 3

- <u>Registration</u>: Specifies that Homestays must register with the Planning Division and Commissioner of the Revenue per §15.2-983 of the Code of Virginia, and imposes a \$500 fine for failing to register.
- <u>Revocation</u>: Permits can be revoked for failure to comply with the registration requirement, permitting process and/or performance standards.

PROPOSED ADMINISTRATIVE POLICY LANGUAGE

At the direction of both the Planning Commission and the Board of Supervisors during previous public hearing processes and at the May 23, 2017 Joint Work Session, staff also proposes the creation of a new Administrative Policy to address Special Use Permit (SUP) applications for the Homestay use. This policy, like other policies addressing the Day Care use, would provide guidance to applicants and to the Planning Commission and Board in their respective reviews of such applications. The SUP process allows for individualized review of applications that may vary greatly in intensity, such as in the proposed number of rooms to be rented, in the size of the lot or in the density of the area surrounding the Homestay. The proposed policy would create a transparent set of expectations for those who wish to apply for the use and would also provide consistent guidance for the review of those applications. Staff mirrored the draft language after conditions of previously approved applications for short-term residential rentals. Staff also considered feedback received from the Planning Commission and Board regarding potential impacts of the use in the writing of the draft policy. Staff has included draft language of the proposed policy as Attachment No. 4 to this memorandum. Should the Policy Committee wish to consider a similar Administrative Policy for the review of tourist homes, staff can provide draft language of that policy at the October Policy Committee meeting.

RECOMMENDATION

Staff is seeking Policy Committee guidance on the proposed changes discussed in this memorandum and on the attached draft ordinance and policy language. Staff is also seeking direction on the inclusion of any additional performance standards, such as those found in the attached sample ordinances from peer localities. Based on feedback from this meeting, staff will revise the draft language and provide final ordinances for review at the next Policy Committee meeting.

RS/LW/gt ZORevShrtTmRental-mem

Attachments:

- 1. Homestay Use Matrix
- 2. Existing Rental Use Matrix
- 3. Narrative Draft Definitions and Special Regulations Language
- 4. Draft Administrative Policy Language
- 5. City of Arlington Homestay Ordinance Language
- 6. Town of Blacksburg Homestay Ordinance Language
- 7. City of Charlottesville Homestay Ordinance Language

Homestay Use Matrix

	Homestay									
Definition	The short term rental of a portion or the entirety of a primary residence that is clearly secondary to the primary residential use. This use is subject to additional homestay permitting requirements.									
Example	Applicant (primary resident) wants to list one bedroom for nightly rental.	Applicant (primary resident) wants to list an entire dwelling unit for nightly rental.								
Zoning Districts:	Administrative Permit (Renewed Annually)	SUP								
A-1	All short term rentals by-right	N/A								
R-1	1 room maximum	>1 room								
R-2	1 room maximum	>1 room								
R-3	1 room maximum	>1 room								
R-4	All short term rentals by-right	N/A								
R-5	1 room maximum	>1 room								
R-6	1 room maximum	>1 room								
R-8	All short-term rentals by right	N/A								
PUD	1 room maximum	>1 room								
MU	1 room maximum	>1 room								
Permitting Requirements:	Administrative Permit (Renewed Annually)	SUP								
Primary Residency ¹	Required	Required								
Limited to one rental contract per night	Required	Required								
Limited to 180 days per year	Required	Required								
Off-Street Parking ²	Required	Required								
Restriction on vehicle type ³	Required	Required								
Limits on type of use (no commercial activities)	Required	Required								
No Signage	Required	Required								
Registry	Required	Required								
Ability to revoke permit	Yes, Administratively	Yes, BOS Action								

¹Primary Residency is defined as the primary location that a person inhabits as evidenced by the address on a government issued I.D. such as a driver's license or passport or other appropriate documentation. The applicant will certify to primary residency through an affidavit at the time of application. Primary residency does not require the owner to be present at the time of the rental.

² Homestays will be required to provide one space per bedroom. No homestay shall provide less than two spaces.

³No recreational vehicles, buses or trailers may be parked on the street or visible from the property in conjunction with the homestay use.

Existing Use Matrix

	Rental	of Rooms	Touris	t Home						
Definition		rental of rooms in a								
		g in circumstances	A dwelling where lodging and lodging and meals are provided to transient occupants for							
		ition of family (refer	compensation. This term shall not apply to							
		<i>"family"</i>). This term	homestays or rental of r							
		to group homes,	include but shall not be	-						
		tays, or the rental of	breakfasts, boarding ho							
	-	ig which meets the	rental of an entire reside							
	definition of family.		a primary residence.							
Example	Applicant wants to		Applicants wants to ren	t the entire home on a						
Livering	bedrooms in a dwe	•		not present at the time of						
	present at the time	-	rental.	for present at the time of						
Zoning Districts:	By-Right	SUP	By-Right	SUP						
A-1	Not Permitted	Permitted	Not Permitted	Permitted						
R-1	Not Permitted	Permitted	Not Permitted	Not Permitted						
R-2	Not Permitted	Permitted	Not Permitted	Permitted						
R-3	1 room maximum	>1 room	Not Permitted	Permitted						
	Not Permitted	Permitted								
R-4	Permitted	Not Permitted	Permitted	Not Permitted						
	Not Permitted	Permitted								
R-5	1 room maximum	>1 room	Permitted	Not Permitted						
	Not Permitted	Permitted	Not Permitted							
R-6	Not Permitted	Permitted	Not Permitted	Not Permitted						
	Not Permitted	Permitted	Not Permitted	Permitted						
PUD	Not Permitted	Not Permitted	Not Permitted	Not Permitted						
		Permitted								
MU	1 room maximum	>1 room	Not Permitted	Permitted						
	Not Permitted	Permitted								
Homestay Permitting										
Requirements:	N I	N I I								
Primary Residency ¹	Not required	Not required	Not required	Not required						
Limited to one rental	Not required	Not required	Not required	Not required						
contract per night		No. 1								
Limited to 180 days per	Not required	Not required	Not required	Not required						
year										
Off-Street Parking ²	One more parking	Subject to SUP	One space per rental	Subject to SUP						
	space than the	conditions	unit plus four parking	Conditions						
	total number of		spaces for every 50							
	rooms to be		rental units plus one							
	rented.		space per five persons							
			to the maximum							
			capacity of each public							
			meeting and/or							
Postriction on vehicle	Not required	Subject to SUD	banquet room.	Subject to SUD						
Restriction on vehicle type ³	Not required	Subject to SUP conditions	Not required	Subject to SUP conditions						
	Not required		Not required							
Limits on type of use (no	Not required	Subject to SUP	Not required	Subject to SUP						
commercial activities)	Not required	conditions	Not required	conditions						
No Signage	Not required	Subject to SUP conditions	Not required	Subject to SUP conditions						
Ability to revelve normality	Nono		Nono							
Ability to revoke permit	None	Yes, BOS Action	None	Yes, BOS Action						

*Proposed changes to current definitions and use table are italicized

**Typical Rental of Rooms and Tourist Home SUP conditions include: limits on the number of vehicles, restrictions on vehicle type and no additional signage.

Narrative Draft Definition and Special Regulations Language

Sec. 24-2. Definitions

Homestay. The incidental and secondary use of a residential dwelling by residents of that dwelling to provide short-term lodging to transient occupants in exchange for a charge for that occupancy. Such accessory or secondary use shall not create a landlord-tenant relationship. The primary use of the homestay unit shall remain residential.

Rental of Rooms. The non-transient rental of rooms in a residential dwelling in circumstances exceeding the definition of family (refer to the definition of "family"). This term shall not apply to group homes, timeshares, homestays, or the rental of rooms in a dwelling which meets the definition of family.

Tourist Home. A dwelling where lodging or lodging and meals are provided to transient occupants for compensation. This term shall not apply to homestays or rental of rooms (refer to the definition of "rental of rooms"). This use may include but shall not be limited to bed & breakfasts, boarding houses, timeshares, and the transient rental of an entire residential home which is not a primary residence.

Transient. A period of less than 30 days, specifically in relation to the lodging of occupants.

Sec. 24-50. Special Regulations—Homestay

The following regulations shall apply to the permitting and operation of homestays.

(a) Administration. The operation of homestays on appropriately zoned properties shall be permitted by administrative permit. This requirement shall not apply to properties where homestay is a specially permitted use; in such cases the issuance of a Special Use Permit by the Board of Supervisors in required prior to operation of the homestay. Written application for a homestay permit shall be made to the planning director or his designee.

Such application shall be on forms provided by the county and shall be accompanied by a \$25 fee and a written affidavit of address, which shall serve as proof of the operator's permanent residence at the property subject to the application.

Any operator of a homestay shall register the homestay with the planning division and the Commissioner of the Revenue. Failure to register the homestay will result in a penalty of \$500 per §15.2-983 of the Code of Virginia.

Upon review and determination that the homestay operation complies with the standards set forth in this section, the planning division shall issue a permit. Any permit that is found in violation or not in compliance with this section may be revoked. The administrative permit shall be valid for a period not to exceed one (1) year from date of issuance, at which time the operator may apply to renew their permit.

- (b) Performance Standards. The following standards and conditions shall apply to the operation of homestays:
 - (1) An approved homestay application will permit a maximum of 180 days of rentals in each calendar year.
 - (2) *A homestay shall not conduct simultaneous rentals under separate contracts.*

- (3) Commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited.
- (4) Homestays shall provide off-street parking of a minimum one space per rooms rented, with a minimum of two total.
- (5) No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the homestay use.
- (6) Signs, advertising, or any other display on the property indicating that the homestay unit is being utilized, in whole or in part, as a homestay are not permitted.

Draft Administrative Policy Language

Purpose:

The purpose of the Homestay Special Use Permit Guidelines is to provide clear guidelines to the application for and review of special use permits allowing homestays in appropriately zoned areas.

Review Criteria:

In addition to demonstrating compliance with all performance standards found in Sec. 24-50 of the James City County Zoning Ordinance, any application for a homestay requiring a special use permit shall demonstrate substantial conformance to the following provisions:

- i. The intensity of the proposed homestay operation, including the number of rooms proposed for rental, the amount of parking permitted, or the number of days of operation per year should complement the residential character of the area; and
- ii. Have traffic, noise, lighting, and other impacts similar to surround residential uses; and
- iii. Generally be located on collector or arterial roads; and
- iv. Provide adequate screening or buffering of guest parking or outdoor common areas.

Permit Conditions:

In consideration of such an application, and given the unique qualities of each proposed site, the Board of Supervisors may require conditions, in addition to the homestay permitting requirements found in Section 24-50, intended to limit the intensity and impacts of the use, including but not limited to the following:

- i. <u>Access:</u> No additional access, other than existing driveways or entries, shall be added to the subject property.
- ii. <u>Occupancy:</u> Occupancy of the homestay, at the time of rental, shall not exceed the total occupancy equal to double-occupancy for each bedroom at the subject property.
- iii. <u>Parking:</u> No on-street parking shall be allowed for this use.
- iv. <u>Homestay Rooms:</u> The Board of Supervisors may require a condition which limits the number of rooms for rent at a subject property.
- v. <u>Length or Timing of Operation</u>: The Board of Supervisors may require a condition which limits the operation of the proposed homestay to certain days of the week or which prohibits single-night rentals.
- vi. <u>Rental Allowance:</u> The Board of Supervisors may require a conditions which further restricts the number of rental nights allowed per 12-month period, beyond those restrictions enumerated in Section 24-50 of the James City County Zoning Ordinance.

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Adopted Zoning Ordinance Amendment: ZOA-2016-13

- Text to be added is shown with <u>underline</u> and text to be deleted is shown with strikethrough.
 Text shown with <u>double-underline</u> is text to be added that was not included in the advertisement; text shown with <u>double-strikethrough</u> is text to be deleted that was not included in the advertisement.
- Text shown in yellow boxes is explanatory only and is not intended to be adopted.

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¹ Article 5. Residential (R) Districts

2 §5.1. Residential (R) Districts Use Tables

3

§5.1.3. Residential (R) districts accessory use table

4 5 6

Accessory uses in residential (R) districts shall include the following uses, activities and structures:

RESIDENTIAL (R) DISTRICTS AC	CESSORY USE	TAI	BLE.						
Use Types	R-20	~	R-10T	R-8	R-6	R-5	R15-30T	R2-7	Use Standards
KEY: P = allowed by-right; U = requires use permit approval; S permitted	5 = requires sit	e pla	an a	ppro	oval;	Bla	nk	cell	= not
Accessory dwellings	Р	Р	Р	Р	Р	Ρ	Ρ	Р	§12.9.2
Commercial vehicle parking	P U	P U	P U	P U	P U	P U	P U	P U	§12.9.4
Crematoriums	U	U	U	U	U	U	U	U	§12.9.6
Family day care homes (six to nine children)	U	U	U	U	U	U	U	U	§12.9.9
Family day care homes (up to five children)	Р	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.9
Family/caregiver suites	Р	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.8
Guest house	P	Р	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.10
Home occupations	P	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.11
Homestay, accessory	P	P	P	P	P	P	P	P	<u>§12.9.12</u>
Mortuaries and funeral homes	U	U	U	U	U	U	U	U	§12.9.14
Swimming pools, private	P	Р	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.17
Telecommunications antennae, building and ground mounted	U	U	U	U	U	U	U	U	
Recreational vehicle or trailer parking	Р	Ρ	Р	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.16
Vehicle maintenance and minor repairs, routine	P	Ρ	Р	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.18
Vehicle, unlicensed and/or uninspected.	P	Р	Ρ	Ρ	Р	Ρ	Ρ	Ρ	§12.9.19
* * *									

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8 Article 6. Multiple-Family (RA) Districts

9 §6.1. Multiple-family (RA) Districts Use Tables

10

11

§6.1.3. Multiple-family (RA) districts accessory use table

12 Accessory uses in residential apartment (RA) districts shall include the following uses, activities 13 and structures:

MULTIPLE-FAMILY (RA) DISTRICTS ACCESSORY USE TABLE

Use Types	RA14-26	RA8-18	RA7-16	RA6-15	Use Standa
KEY: P = allowed by-right; U = requires use permit approval; S = requires site plan approv	al; Blank cell =	not p	ermit	ted	
Commercial vehicle parking	P U	P U	P U	P U	§12.9
Convenience service areas	U	U	U	U	§12.9
Crematoriums	U	U	U	U	§12.9
Family day care homes (six to nine children)	U	U	U	U	§12.9
Family day care homes (up to five children)	P	Р		Ρ	§12.9
Home occupations	P	Ρ	Ρ	Ρ	§12.9.
Homestay, accessory	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>§12.9.</u>
Mortuaries and funeral homes	U	U	U	U	§12.9.
Swimming pools, private	P	Р	Ρ	Ρ	§12.9.
Recreational vehicle or trailer parking	Р	Р	Ρ	Ρ	§12.9.
Telecommunications antennae, building and ground mounted	U	U	U	U	
Vehicle maintenance and minor repairs, routine	P	Р		Ρ	§12.9.
Vehicle, unlicensed and/or uninspected	Р	Р		Р	§12.9.

15

¹⁶ Article 7. Commercial/ Mixed Use (C) Districts

17 §7.1. Commercial/Mixed Use (C) Districts Use Tables

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* * *

19 §7.1.3. Commercial/mixed use (C) districts accessory use table

Accessory uses in commercial/mixed use (C) districts shall include the following uses, activities
 and structures:

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COMMERCIAL/MIX	COMMERCIAL/MIXED USE (C) DISTRICTS ACCESSORY USE TABLE																			
Use Types	RA4.8	R-C	RA-H	RA-H-3.2	C-1-R	C-1	* SV-UM	C-1-0	C-O-1.0	C-0-1.5	C-O-2.5	C-0	C-0-A	C-O ROSSLYN	C-O CRYSTAL CITY	C-2 *	C-TH *	C-3 *	C-R *	Use Standards
KEY: P = allowed by-right; U = requires use	Dern U	nit a	app U	rova U	al; S		equ	lire	s sit	e p	lan	арр	orov	'al;	Blaı	nk d	:ell	= n		ermitted
Crematoriums	S	U	S	S	U	U		U	U	U	U	U	U	U		U		U	U	§12.9.6
Convenience service areas		U	U S	U																§12.9.5
Drive-through windows						U										U		U	U	
Family day care homes (six to nine children)	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	§12.9.9
Family day care homes (up to five children)	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.9
Garage, private parking garage for exclusive use of occupants			Ρ																	
Home occupations	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.11
Homestay, accessory	P	<u>P</u>	P	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	P	P	<u>§12.9.12</u>
Live entertainment and/or dancing						U	U		U	U	U	U	U	U	U	U	U	U	U	§12.9.13
Mortuaries and funeral homes	U	U	U	U	U	U		U	U	U	U	U	U	U		U		U	U	§12.9.14
Outdoor café associated with a restaurant on private property	Ρ			Ρ		Ρ	Ρ		Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	§12.9.15
Outdoor café associated with a restaurant on public right- of-way or easement for public use	U			U		U	U		U	U	U	U	U	U	U	U	U	U	U	§12.9.15
Swimming pools, private	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ		Ρ		Ρ	Ρ	§12.9.17
Recreational vehicle or trailer parking	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ		Ρ		Ρ	Ρ	§12.9.16
Telecommunications antennae, building and ground mounted	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	
Vehicle maintenance, routine	Ρ	Ρ		Ρ	Ρ	Ρ		Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ		Ρ		Ρ	Ρ	§12.9.18
Vehicle, unlicensed and/or inspected	Ρ	Ρ		Ρ	Ρ	Ρ		Ρ	Ρ	Ρ	Ρ	Ρ	Ρ	Ρ		Ρ		Ρ	Ρ	§12.9.19

22

23

24	Article	12. Use Standards
25 26		* * *
27	§12.9.	Accessory Use Standards
28 29		* * *

* * *

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§12.9	9.1	1.	Home occupation
	s cl	ear	pations are permitted in dwelling units subject to R, RA and C district regulations when such ly subordinate or incidental to the principal use of the premises for dwelling purposes and as
A	۸.		me occupations which are conducted as limited by <u>§12.9.11.C</u> subsection §12.9.12.C , below, d which have the general character of the following uses are permitted:
		1.	Accessory homestay, subject to the provisions of this §12.9.11 and §12.9.12.
			* * *
С	2.		me occupation uses shall be subject to the following limitations. All limitations apply together. limitation shall be interpreted as relaxing another limitation.
		1.	Home occupation operators shall apply for and enter into an agreement with the zoning administrator certifying that they will comply with the requirements for a home occupation in the zoning ordinance. The zoning administrator shall approve the agreement only upon finding that the home occupation will comply with the zoning ordinance and that it will be clearly subordinate to the principal use of the premises for dwelling purposes.
		2.	There shall be no evidence on the exterior of the premises or visible from the exterior of the premises that the property is used in any way other than for a dwelling.
		3.	There shall be no signs.
		4.	There shall be no outside display, storage, or sale of merchandise or equipment.
		5.	With the exception of accessory homestay, only one person, at any time, who is not a bona fide resident of the dwelling, may be employed or perform work on the premises. Nonresident employees are prohibited for accessory homestay, provided, however, hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, is allowed. In addition, a disabled resident may employ assistance from one person at a time who is not a resident and whose assistance is limited to overcoming the effect of the disability. A written statement identifying the person who will give the assistance, the kind of assistance that will be given and the time the person will be in the dwelling must be filed in the office of the zoning administrator as to each person permitted to be employed as an assistant to a disabled person before that person may be employed in the dwelling. If the dwelling is an accessory dwelling, persons who are not bona fide residents of the dwelling may not be employed or perform work on the premises except one non-resident employee may be employed or perform work on the premises providing assistance to a disabled resident, as above.
		6.	Instruction of students (including delivery of materials clearly incidental to training) and service to clients or customers shall be limited to 12 persons per day but under no circumstances more than four persons at any one time, <u>except as provided in §12.9.12.A.2</u> below, which shall govern the number of lodgers allowed for accessory homestay.
		7.	With the exception of accessory homestay, the total floor area on any premises to be used for home occupation(s) shall not exceed a figure calculated by taking 25 percent of the total floor area of the principal dwelling on the premises, excluding attached garages provided,
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71	
72	however, that under no circumstances shall more than 10 percent of the total floor area of the principal dwelling be used for specified storage of stock-in-trade.
73	8. The storage of hazardous materials is prohibited.
74 75	9. There shall be no stocks-in-trade displayed or sold on the premises, except for those produced at the premises.
76 77 78 79 80	10. Each application for a home occupation agreement shall be accompanied by a sketch of all existing and proposed new parking spaces. Existing parking spaces, unless illegal, shall be permitted to remain. All new parking spaces shall comply with all applicable requirements in §14.2 and §14.3. No vehicles shall be parked or stored in any other spaces unless they comply with all provisions of the zoning ordinance.
81 82 83 84 85 86 87 88	11. The lot or property on which the home occupation is conducted shall not have any parking space added to it during the time the home occupation is being conducted; nor shall any parking space be used that was not customarily used prior to that time. The application for approval shall show a sketch of the parking spaces customarily in use at the time of application and agree that parking shall not be increased during the period the approval is in effect. During the period the approval is in effect, no motor vehicle shall be parked at any place on the lot or property not represented as a parking space on the sketch attached to the application.
89 90 91	12. No equipment may be used on the premises other than that which is usual for purely domestic or hobby purposes, or what is usual for a small business, professional, or medical office.
92	
92 93	* * *
	<pre>\$12.9.12. Homestay, accessory</pre>
93	
93 94 95 96	§12.9.12. Homestay, accessory Accessory homestay is allowed subject to the home occupation provisions in §12.9.11 and subject to the provisions below. For the purposes of this §12.9.12, the term resident shall mean either the owner or a
93 94 95 96 97	§12.9.12. Homestay, accessory Accessory homestay is allowed subject to the home occupation provisions in §12.9.11 and subject to the provisions below. For the purposes of this §12.9.12, the term resident shall mean either the owner or a tenant.
93 94 95 96 97 98 99	 §12.9.12. Homestay, accessory Accessory homestay is allowed subject to the home occupation provisions in §12.9.11 and subject to the provisions below. For the purposes of this §12.9.12, the term resident shall mean either the owner or a tenant. A. Standards 1. Accessory use. Accessory homestay shall be accessory only to household living use as
93 94 95 96 97 98 99 100 101 102	 §12.9.12. Homestay, accessory Accessory homestay is allowed subject to the home occupation provisions in §12.9.11 and subject to the provisions below. For the purposes of this §12.9.12, the term resident shall mean either the owner or a tenant. A. Standards Accessory use. Accessory homestay shall be accessory only to household living use as defined in §12.2.3.A.1, and shall be allowed only where: (a) The dwelling unit is used by the resident-owner of the dwelling unit as his/her primary residence, which means that he or she resides there for at least 185 days during each
93 94 95 96 97 98 99 100 101 102 103 104 105	 §12.9.12. Homestay, accessory Accessory homestay is allowed subject to the home occupation provisions in §12.9.11 and subject to the provisions below. For the purposes of this §12.9.12, the term resident shall mean either the owner or a tenant. A. Standards Accessory use. Accessory homestay shall be accessory only to household living use as defined in §12.2.3.A.1, and shall be allowed only where: (a) The dwelling unit is used by the resident-owner of the dwelling unit as his/her primary residence, which means that he or she resides there for at least 185 days during each year; and (b) The bedroom(s) rented to overnight lodgers shall be within the main building of the dwelling unit that the resident owner occupies as his/her primary residence and shall not

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110 111		bedrooms in the dwelling, provided, however, under no circumstances shall the number of lodgers exceed that allowed by the Building Code
112		(b) An accessory homestay shall not include simultaneous rentals under separate contracts.
113	Paragra	ph (a) above will be combined with paragraph 2
114 115		3. Accessory homestay shall be allowed in dwelling units that have an accessory dwelling, subject to the following
116 117 118		(a) Either the main dwelling, the accessory dwelling, or both may rented to lodgers by the <u>resident</u> owner , provided, however, simultaneous rental of both the main and accessory dwelling at the same time shall be allowed only when subject to a single contract; and
119		(b) Occupancy in the accessory dwelling is limited to a maximum of two lodgers;
120 121 122		4. An accessory homestay shall have working fire extinguishers, smoke deetectors and, if applicable, carbon monoxide detectors, and all such equipment shall be accessible to all overnight lodgers of the homestay at all times.
123 124		5. Any sleeping room used for an accessory homestay shall have met the requirements for a sleeping room at the time it was created or converted.
125 126 127		6. Commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited pursuant to an accessory homestay permit.
128 129		7. An accessory homestay shall comply with requirements of the applicable version of the Virginia Uniform Statewide Building Code, as determined by the Building Official.
130	В.	Accessory homestay application
131 132		The following shall be filed with the zoning administrator with the application for an accessory homestay permit:
133 134 135		1. Contact information for a responsible party. If the <u>resident owner</u> is not the responsible party who will be available during use of the accessory homestay, then the responsible party shall be identified and must sign the application.
136 137 138 139 140 141		2. Proof of the applicant's ownership of, and permanent residence of, the property that is the subject of the application. Acceptable proof of permanent residence includes: applicant's driver's license or voter registration card or U.S. passport showing the address of the property, or other document(s) which the zoning administrator determines provides equivalent proof of permanent residence by the applicant at the property that is the subject of the application.
142	С.	Accessory homestay permit.
143 144		Use of an accessory homestay shall require an accessory homestay permit issued by the zoning administrator. The <u>resident owner</u> of the accessory homestay shall operate the accessory

145 homestay under all conditions of the accessory homestay permit, and subject to the following:

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146	1.	An accessory homestay permit shall be valid for one years from date of issuance.
147 148	2.	It is the responsibility of the <u>resident-owner</u> to renew the permit upon expiration, by submitting an updated application, as required in §12.9.12.B above.
149 150 151	3.	The accessory homestay permit requires the <u>resident</u> owner, and responsible party if the responsible party is not the <u>resident</u> owner, to agree to abide by all requirements of this zoning ordinance, and all other applicable federal, state and local laws and regulations.
152 153 154 155 156	4.	With his/her signature on an application for accessory homestay, the <u>resident owner</u> authorizes the zoning administrator and his/her designee to enter the dwelling unit upon reasonable advance notice in response to a complaint(s), to verify that the accessory homestay is being operated in accordance with the provisions of this §12.9.12 and the home occupation provisions in §12.9.11, and all conditions of the accessory homestay permit.
157 158 159	5.	An accessory homestay permit may be revoked by the zoning administrator as set forth below; an applicant whose accessory homestay has been revoked pursuant to this paragraph shall not be eligible to receive any new accessory homestay permit for one year:
160 161		(a) In the event that there are three or more violations recorded by the County within a one year period; or
162 163		(b) For failure to comply with the regulations set forth <u>in</u> this <u>\$12.9.11</u> <u>\$12.9.12</u> , the home occupation provisions in <u>\$12.9.10</u> <u>\$12.9.11</u> and any permit conditions; or
164 165 166 167		(c) For refusal to cooperate with the County in a complaint investigation, including allowing the Zoning Administrator or his/her designee to enter the dwelling unit upon reasonable advance notice in accordance with §12.9.12.C.4 above. ***
168	Α	rticle 18. Definitions
169 170		* * *
171	§18.1.	General Terms Defined
172 173 174	•	poses of this zoning ordinance certain terms and words used herein shall be defined and as follows.
175 176 177	Accessory ł	nomestay. See Homestay, accessory. * * *
178 179		pation. An accessory use conducted pursuant to §12.9.11, in or from a residential dwelling or accessory building by person(s) whose principal residence is on the premises. See also.
180 181 182	suc	accessory. A home occupation in which an owner(s) <u>or tenant(s)</u> of a dwelling unit who uses h dwelling unit as his/her primary residence, rents to a lodger, either such dwelling unit, or <i>r</i> portion thereof.
183		* * *

City of Arlington

* * *

ZOA-2016-13 – Adopted January 28, 2017

- Lodger. Any individual who contracts with an owner <u>or tenant(s)</u> of a dwelling unit, for compensation, for
 not more than 30 days within one year. This definition shall not apply to hotel or motel or guest
 room as defined in this zoning ordinance.
- 187

188

189 Responsible party. The owner <u>or tenant</u>, or an individual or business entity designated by the 190 owner <u>or tenant</u>, of a dwelling unit in which an accessory homestay is permitted, who is available 24 191 hours a day, 7 days a week to respond to and resolve issues and complaints that arise during all times in 192 which the dwelling unit is being used for an accessory homestay, so that a reasonably prompt, in-person

- 193 response can be made at the accessory homestay when necessary.
- 194 195

* * *

Town of Blacksburg

ARTICLE VI. - HOMESTAY REGULATIONS

Section 6-601. - Definitions.

As used in this article, unless the context requires a different meaning:

Booking transaction means any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.

Hosting platform means any person or entity that is not a host but facilitates reservations or collects payments for any booking transaction on behalf of a host through an online digital platform.

Guest or transient means a person who occupies a homestay unit.

Homestay means the accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for short term transient rental purposes in exchange for a charge for the occupancy. The primary use of the homestay unit shall remain residential. For each booking transaction, all applicable taxes must be collected and remitted to the town as required by chapter 22 by either the host or the associated hosting platform. Such accessory or secondary use shall not create a landlord/tenant relationship.

Host means the person who is the primary resident of a homestay unit offered for homestay lodging. In determining compliance with these regulations, the host has the burden of demonstrating that the dwelling unit is his or her primary residence.

Primary resident means the owner of the homestay unit who occupies the property as his or her principal place of residence and domicile.

Residential dwelling unit means a residence where one (1) or more persons maintain a household.

Type A rentals means rentals where the host is present during the homestay and no more than two (2) bedrooms of the homestay unit are rented.

Type B rentals means all other rentals, including ones where more than two (2) bedrooms of the homestay unit are rented or the host is not present during the homestay.

(<u>Ord. No. 1807, § 1, 12-13-16</u>)

Section 6-602. - Registration and other requirements.

- (a) No host shall operate a homestay unit or advertise a residential property for homestay use without the host first having registered with the department of planning and building.
- (b) The registration form shall include the following information:
 - (1) The name, telephone number, address, and email address of the host.
 - (2) A reminder about the importance of having appropriate levels of insurance that covers the homestay unit, the host and the guests.
 - (3) If the homestay unit shares a common wall or a common driveway with another property owner, proof of written notification to such neighboring property owner(s) prior to filing the registration application.

- (c) Signs, advertising, or any other display on the property indicating that the homestay unit is being utilized, in whole or in part, as a homestay are not permitted.
- (d) The host shall register with the finance department to collect and remit the town's transient lodging tax as set forth in chapter 22, article V.
- (e) A host may only register and operate one (1) residential dwelling unit as a homestay in the town.
- (f) The registration shall be valid January 1 st (or from whatever date the registration first occurs) through December 31 st of the calendar year, and shall be renewed annually.
- (g) A valid registration will permit a maximum ninety (90) days of type A and type B rentals in each calendar year. Of these ninety (90) days of rentals, no more than thirty (30) days may be type B rentals. On each lodging tax return form filed with the director of finance, the number of type A and type B rentals shall be listed.

(<u>Ord. No. 1807, § 1, 12-13-16</u>)

Section 6-603. - Safety.

- (a) The unit shall have smoke alarms and carbon monoxide detectors meeting current Underwriters Laboratory standards installed as follows:
 - (1) In all sleeping areas.
 - (2) In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.
 - (3) In each story within the sleeping unit, including basements.
- (b) Any sleeping area must have one (1) other adequate method of egress beyond the entrance point.
- (c) As part of the registration process, the host shall certify that the homestay unit meets the requirements of this section. The registration forms shall also provide that, as part of the registration, the host is agreeing to permit inspections of the home (at reasonable times and after notice has been provided) to address complaints. The failure to permit such an inspection is grounds for registration suspension.

(<u>Ord. No. 1807, § 1, 12-13-16</u>)

Section 6-604. - Use regulations.

- (a) No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the homestay use.
- (b) The dates for trash and recycling collection shall be posted prominently in the homestay unit.
- (c) During each stay at the homestay unit, a principal guest shall be designated as the contact person for town officials in the event of safety or behavioral issues at the unit. The host shall provide this information upon request to authorized town officials.
- (d) The host shall not permit occupancy of a homestay unit for a period of less than twenty-four (24) hours.
- (e) The name and telephone number of the host or the host's designee shall be conspicuously posted within the homestay unit. The host shall answer calls twenty-four (24) hours a day, seven (7) days a week for the duration of each short term rental to address any problems associated with the homestay unit.

- (f) The principal guest of a homestay unit shall be at least eighteen (18) years of age.
- (g) The maximum number of adult guests in a homestay unit is limited to six (6).

(<u>Ord. No. 1807, § 1, 12-13-16</u>)

Section 6-605. - Registration suspension or cancellation.

- (a) A registration may be suspended or cancelled for the following reasons:
 - (1) Failure to collect and/or remit the transient occupancy tax.
 - (2) Three (3) or more substantiated complaints (including, but not limited to, parking on grass, noise, excess trash) within a twelve-month period.
 - (3) The failure of any homestay host to maintain his or her principal place of residence or domicile at the dwelling unit used as a limited residential lodging.
 - (b) Before any suspension or cancellation can be effective, a duly designated officer of the town shall give written notice to the homestay host. The notice of suspension or cancellation issued under the provisions of this chapter shall contain:
- (1) A description of the violations constituting the basis of the suspension or cancellation;
 - (2) If applicable, a statement of acts necessary to correct the violation; and
 - (3) A statement that if no request for a hearing is made within ten (10) days from the date of the notice, the registration will be suspended or cancelled;
- (c) The notice shall be given to the host by delivering a copy of the notice in person. If the host cannot be found, such notice shall be sent by:
 - (1) Certified mail or e-mail to the addresses in the registration form; and
 - (2) A copy of the notice shall be posted in a conspicuous place on the premises.
- (d) If requested, a hearing shall be held before a deputy town manager or the deputy manager's designee. It is the burden of the host to demonstrate, by a preponderance of the evidence, why the suspension or cancellation should not go into effect. The decision of the deputy town manager or designee may be appealed to the town council.

(<u>Ord. No. 1807, § 1, 12-13-16</u>)

Section 6-606. - Penalty.

It shall be unlawful to operate a homestay without registering as required by this article, after a registration has been suspended or cancelled or in violation of any other requirement of this article; the penalty shall be a fine of one thousand dollars (\$1,000.00) per occurrence.

(<u>Ord. No. 1807, § 1, 12-13-16</u>)

City of Charlottesville

Sec. 34-1172. - Standards—Home occupations.

A home occupation authorized by a provisional use permit shall be subject to the following regulations:

- (1) A home occupation shall be permitted only where the character of such use is such that it is clearly subordinate and incidental to the principal residential use of a dwelling.
- (2) In addition to the resident of the dwelling, not more than one (1) other individual may be engaged in the activities of the home occupation business on the property at any given time. There must be off-street parking available for this other individual.
- (3) No more than three (3) customers or clients of a home occupation business shall be present on the premises at the same time; for homestays: no more than six (6) adult overnight guests are allowed, per tax map parcel, per day. No customers, clients or employees shall be allowed to visit the property on which a home occupation business is conducted earlier than 8:00 a.m. or later than 9:00 p.m.; these hours of operation shall not apply to a homestay.
- (4) Deliveries of supplies associated with the home occupation business shall occur only between the hours of 8:00 a.m. and 9:00 p.m.
- (5) No mechanical or electrical equipment shall be employed within or on the property, other than machinery or equipment customarily found in a home.
- (6) No outside display of goods, and no outside storage of any equipment or materials used in the home occupation business shall be permitted.
- (7) There shall be no audible noise, or any detectable vibration or odor from activities or equipment of the home occupation beyond the confines of the dwelling, or an accessory building, including transmittal through vertical or horizontal party walls.
- (8) The storage of hazardous waste or materials not otherwise and customarily associated residential occupancy of a dwelling is prohibited.
- (9) There shall be no sales of any goods, other than goods that are accessory to a service delivered on-premises to a customer or client of the home occupation business.
- (10) With the exception of homestays: (i) a home occupation business must be conducted entirely within the dwelling, an accessory building or structure, or both and (ii) not more than 25% of the total floor area of the dwelling shall be used in the conduct of the home occupation business, including storage of stock-in-trade or supplies.
- (11) For pet grooming services, all animals must be kept inside during the provision of services and no animals may be boarded or kept overnight.
- (12) All parking in connection with the home occupation business (including, without limitation, parking of vehicles marked with advertising or signage for the home business) must be in driveway and garage areas on the property, or in available on-street parking areas.
- (13) Homestays may not have any exterior signage. For other home occupation businesses: one (1) exterior sign, of dimensions no greater than two (2) square feet, may be placed on the exterior of the dwelling or an accessory structure to indicate the presence or conduct of the home business: and (i) this sign may not be lighted; and (ii) in all other respects the property from which a home occupation business is to be conducted must be in compliance with the sign regulations set forth within Division 4, section 34-1020, et seq.

- (14) Except for a sign authorized by subparagraph (13) above, there shall be no evidence or indication visible from the exterior of the dwelling that the dwelling or any accessory building is being utilized in whole or in part for any purpose other than residential occupancy.
- (15) Applicants for a provisional use permit authorizing a home occupation shall provide evidence of a city business license (or a statement from the commissioner of revenue that no city business license is required), proof of payment of taxes required by City Code, Chapter 30, if any, and a certificate of occupancy or other written indication from the city's building code official that use of the dwelling or accessory building for the home occupation business is in compliance with all applicable building code regulations.
- (16) In addition to the provisions of subparagraphs (1)—(16), above, the following regulations shall apply to homestays:
 - a. An individual who applies for a provisional use permit to authorize the operation of a homestay shall present proof of:
 - (i) Such individual's ownership of, and permanent residence at, the property that is the subject of the application. Acceptable proof of permanent residence includes: applicant's driver's license, voter registration card or U.S. passport, showing the address of the property, or other document(s) which the zoning administrator determines provide equivalent proof of permanent residence by the applicant at the property that is the subject of the application.
 - (ii) Contact information for a responsible party. If the owner is not the responsible party who will be available during the time of service, then the responsible party must be identified and must sign the application form.
 - b. No food shall be prepared for or served to guests of the homestay by the owner or the owner's agent(s) or contractor(s).
 - c. Every homestay shall have working smoke detectors, carbon monoxide detectors and fire extinguishers, and all such equipment shall be accessible to overnight guests of the homestay at all times. Every homestay shall comply with requirements of the applicable version of the Virginia Uniform Building Code, as determined by the City's Building Code Official.
 - d. By his or her application for a provisional use permit for a homestay, an applicant authorizes city inspectors to enter the subject property, upon reasonable advance written notice to the applicant, at least one (1) time during the calendar year for which the permit is valid, to verify that the homestay is being operated in accordance with the regulations set forth within this section.
 - e. Each provisional use permit for a homestay will be valid from January 1 (or such other date during a calendar year on which such permit is issued) through December 31 of the calendar year in which the permit is issued. During this period of validity, the owner of the homestay must occupy the dwelling as his or her residence for more than one hundred eighty (180) days.
 - f. A provisional use permit for a homestay may be revoked by the zoning administrator (i) in the event that three (3) or more substantiated complaints are received by the city within a calendar year, or (ii) for failure to maintain compliance with any of the regulations set forth within this section. A property owner whose provisional use permit has been revoked pursuant to this paragraph shall not be eligible to receive any new provisional use permit for a homestay, for the remaining portion of the calendar year in which the permit is revoked, and for the entire succeeding calendar year.

- (17) The following are specifically prohibited, and shall not be deemed or construed as activities constituting a home occupation:
 - a. Auto detailing, where more than two (2) vehicles being serviced are present on the property at any given time.
 - b. Barber shops or beauty salons having more than two (2) chairs.
 - c. Funeral home with or without chapel.
 - d. Medical or dental clinic (other than psychiatric or psychological counseling services).
 - e. Motor vehicle sales, repair, equipment installation, and similar activities.
 - f. Nursing homes and adult care facilities.
 - g. Offices or staging facilities for any non-professional service-oriented businesses (for example, maid services, landscaping and lawn maintenance services, construction services, etc.), except where the sole activity on the premises would be telephone order/dispatching functions and there would be no vehicles, equipment, workers, or customers on the premises at any time.
 - h. Repair or testing of machinery, including internal combustion engines.
 - i. Restaurants.
 - j. Retail or wholesale sales, where any goods or merchandise are (i) displayed or otherwise offered or available on-site for sale or purchase, or (ii) delivered to or picked-up by purchasers on-site, including, without limitation: antique shops, sales of firearms, computer sales, and similar activities.
 - k. Schools, nursery schools, and day care facilities.
 - 1. Veterinary clinics and animal kennels.

(9-15-03(3); 9-8-15(2))

M I N U T E S JAMES CITY COUNTY POLICY COMMITTEE REGULAR MEETING Building A Large Conference Room 101 Mounts Bay Road, Williamsburg, VA 23185 September 14, 2017 4:00 PM

A. CALL TO ORDER

Ms. Robin Bledsoe called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present: Robin Bledsoe, Chair Rich Krapf Jack Haldeman Heath Richardson Danny Schmidt

Staff:

Paul Holt, Planning Director Ellen Cook, Principal Planner Tammy Rosario, Principal Planner Christy Parrish, Zoning Administrator Scott Whyte, Senior Planner II Jose Ribeiro, Senior Planner II Lauren White, Planner Roberta Sulouff, Planner Alex Baruch, Planner Tom Leininger, Community Development Assistant Maxwell Hlavin, Assistant County Attorney

C. MINUTES

1. August 10, 2017 Meeting Minutes

Mr. Jack Haldeman made a motion to Approve the August 10, 2017, meeting minutes.

The motion passed 5-0.

D. OLD BUSINESS

1. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II

Ms. Bledsoe opened the discussion.

Ms. Sulouff stated that at the July Policy Committee meeting the Committee directed staff to come up with an approach addressing short-term residential rentals. She stated

that the Committee expressed interest in pursuing a hybrid approach which would create a system in which short-term residential rental uses would be subject to permitting and performance standards based on the intensity of the application. She stated that there are some by-right processes as well as an SUP process. She stated that staff proposes definitions to homestay, rental of rooms and tourist homes. She stated that staff have also included a proposed use list and a matrix which shows what is permitted by-right depending on the zoning district and intensity of the application. Ms. Sulouff stated that staff recommends performance standards. She stated that staff is seeking Policy Committee guidance on the draft language and the performance standards and that staff will make changes to the draft ordinance based on the feedback of the Policy Committee. She asked if there were any questions.

Mr. Richardson asked how the 180-day limit for 12 months was decided.

Ms. White stated that the 180-day mark would help keep the home's primary use as a residential property.

Ms. Sulouff stated that guidance from Building Safety and Permits suggested that 180 days is part of their requirements for a single-family home.

Mr. Schmidt asked if the homestay fees would be equitable and fair to the current bed and breakfast and hotels.

Ms. Sulouff stated that the administrative permit was designed for an application process, low in intensity and residential in character. She stated that the idea was to create a spectrum from mostly residential in use to mostly commercial in use.

Mr. Schmidt asked if there would be an annual reapplication.

Ms. Sulouff stated that this could be a provision. She stated that applicants would have to pay the transient occupancy tax.

Ms. Bledsoe stated that shared economy is happening and there are rentals already available. She stated that her concern would be if it was fair to hotels and paying of taxes. She stated that the General Assembly has given the County the ability to begin a database.

Mr. Haldeman stated that he was still unclear regarding the existing and proposed definitions.

Ms. Sulouff stated she would be able to describe each definition.

Mr. Haldeman asked why there are three different types of short-term rentals.

Ms. Sulouff stated that currently there are two uses: rental of rooms and tourist homes. She stated that under this proposal rental of rooms would be taken out of the transient category. She stated that rental of rooms would only address long-term rentals over and above the family definition. She stated that rental of rooms includes a landlord and tenant relationship. Ms. Sulouff stated that homestays depend on the intensity of the application and require a permanent resident and the renter cannot exceed 180 days a year. She stated that the tourist home does not require a permanent resident at the home. She stated that tourist home allows for commercial entities such as bed and breakfasts.

Mr. Haldeman asked which definition would require an administrative process.

Ms. Sulouff stated that a homestay would be permitted by-right with an administrative permit in all districts for one bedroom. She stated that homestays would be permitted by-right for any number of rooms for R-8, R-4 and A-1 districts.

Mr. Krapf stated that if a homeowner wants to rent out more than one room, depending on the zoning district, an SUP would be required.

Ms. Sulouff confirmed and stated that A-1, R-4 and R-8 do not require an SUP. She stated that for R-4 and MU, the amended ordinance is to remain consistent with the way that short-term rentals are permitted currently.

Mr. Schmidt asked how fire safety was included in the new ordinance.

Ms. Sulouff stated that the issue for fire safety is the ability to enforce it.

Ms. Rosario stated that the best route would be for staff to reconnect with Building Safety and Permits.

Ms. Sulouff stated that some other localities do enforce fire safety and require a yearly inspection. She stated that a complaint from another citizen could also require an inspection.

Mr. Richardson stated that hotels are required to have fire inspections and safety standards.

Ms. Bledsoe stated that sites like Airbnb require inspections; however, other advertising sites may not.

Mr. Schmidt asked if there would be any legal issues with the County if there would be a fire or accident.

Ms. Bledsoe stated that she believes the issues would fall on the homeowner.

Mr. Hlavin concurred that the County would not be accountable.

Mr. Schmidt stated that there could be a way to enforce fines on homestays if applicants do not comply.

Ms. Sulouff stated that the Homeowners Association (HOA) still overrides the policy of the County.

Mr. Richardson stated the policy of the County will help HOAs establish their policy.

 Potential Amendments to the R-8, Rural Residential and Cluster Overlay Districts -Stage I

Ms. Robin Bledsoe opened the discussion.

Mr. Alex Baruch stated that on April 11, 2017, the Board of Supervisors (BOS)

Unapproved Minutes of the November 1, 2017 Planning Commission Meeting

SUP-0011-2017. 3001 Ironbound Road Tourist Home

Ms. Lauren White, Planner stated that Mr. Telmo Armando Contreras has applied for an SUP to allow the operation of a tourist home at 3001 Ironbound Road. Ms. White stated that the property is zoned R-8, Rural Residential and designated Low-Density Residential on the Comprehensive Plan Land Use Map.

Ms. White stated that the proposal will not involve any changes to the size or footprint of the structure.

Ms. White stated that the existing driveway is of sufficient length to provide adequate parking capacity. Ms. White further stated that the existing mature vegetation and fencing provide adequate screening of the use from adjacent properties.

Ms. White stated that under the current ordinances and the draft ordinance amendments, the proposed operation would be classified as a Tourist Home and would require an SUP.

Ms. White stated that staff finds the proposal to be compatible with surrounding development. Ms. White further stated that staff finds the proposal to be consistent with the Comprehensive Plan and the Zoning Ordinance. M.s White stated that staff recommends the Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

Mr. Krapf inquired if this case could be considered under the existing ordinance.

Ms. White stated that under both the existing ordinance and the ordinance amendments being considered by the Policy Committee, the application would be considered a Tourist Home and would require an SUP.

Mr. Krapf requested confirmation that the case before the Commission was to determine if an SUP should be granted for this property under the current regulations.

Ms. White confirmed.

Mr. Krapf inquired if staff anticipated anything coming out of the ordinance amendments that would substantially impact this application.

Ms. White stated that staff did not find anything in the proposed amendments that would impact the application.

Mr. Schmidt stated that, under the proposed amendments, Homestays in R-8 would be by-right.

Ms. White stated that this application falls under the category of Tourist Home which is distinctly different from a Homestay. Ms. White noted that Homestays are considered to be more residential in nature, while a Tourist Home is more commercial.

Mr. O'Connor inquired if the Tourist Home was the rental of the entire home or if individual bedrooms could be rented to separate groups.

Ms. White stated that the entire home would be rented. Ms. White stated that a limiting the number of rental contracts per night was not included as an SUP condition for this application.

Mr. Holt clarified that there would be no limitation on renting the rooms individually, depending on how the applicant is marketing the property.

Mr. O'Connor if there was a requirement for the property to be owner occupied.

Ms. White stated that as a Tourist Home, there was no requirement for the property to be occupied by the owner.

Mr. Krapf called for disclosures from the Commission.

There were no disclosures.

Mr. Krapf opened the Public Hearing.

Mr. Armando Contreras, 116 Holly Hills Drive, representing Armando Holdings, LLC, made a presentation to the Commission in support of the application. Mr. Contreras stated that his intention is to rent the entire house, not individual room.

Mr. Krapf inquire if two separate groups would be allowed to occupy the property at the same time.

Mr. Contreras stated that he did not intend to rent to separate groups.

Mr. Krapf inquired if there had been complaints regarding parties or noise.

Mr. Contreras stated that there had not been any complaints.

Mr. Haldeman inquired if anyone checked on the property while it was being rented.

Mr. Contreras stated that he does not check regularly.

Mr. Maurice Thomas, 2906 Robert Hunt North, stated that there have been some issues with outdoor parties creating excessive noise.

Ms. Marion Lemire, friend of the applicant, stated that the applicant would be responsive to neighbors' concerns about noise and parties. Ms. Lemire stated that neighbors should communicate with the property owner if there is a concern.

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

Mr. Krapf requested that Ms. White elaborate on the definition of Tourist Home.

Ms. White stated that Tourist Home as a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients. Ms. White stated that there is also another category that short-term rentals can fall under which is Rental of Rooms. Ms. White stated that, while the Zoning Ordinance does not define Rental of Rooms, a previous Zoning Administrator's clarified that it means that rooms only, and not the entire property, are rented with a caretaker living on the property. Ms. White further stated that the Tourist Home designation allows a little more flexibility.

Mr. Krapf inquired if the SUP conditions limited the number of rooms that could be rented.

Ms. White stated that the proposed conditions limited the number of rooms to three.

Mr. O'Connor stated that he has concerns about what could occur on the property with a future owner without a condition limiting the number of contracts. Mr. O'Connor stated that he is not in favor of the application as it stands at this time.

Mr. Krapf inquired it would be possible to defer the matter until the ordinance amendments are considered.

Mr. Holt stated that State Code requires that the Commission act on an application within 100 days. Mr. Holt stated that this could potentially give the Commission until its February 2018 meeting. Mr. Holt stated that, based on the results of the upcoming Policy Committee meeting, the ordinance amendments could be considered by the full Planning Commission in December.

Mr. Krapf inquired if there was a precedent for adding conditions limiting the number of separate groups renting the property and noise volume.

Mr. Holt stated that the County's noise ordinance is always in effect. Mr. Holt further stated that if a neighbor is unsuccessful in addressing noise complaints with the property owner, the Police Department does enforce the noise ordinance.

Mr. Holt further stated that the Commission could send the application forward with a recommendation to add conditions regarding a limit on the number of contracts. Mr. Holt further stated that the Commission could defer the application to its December 6, 2017 meeting so that the Commission could review revised SUP conditions or the Commission could recommend approval and direct staff to provide the additional SUP conditions before the Board considers the application.

Mr. Richardson stated that he would not be comfortable with a deferral when potential new regulations could affect the application. Mr. Richardson stated that he would prefer to add a condition limiting the number of contracts. Mr. Richardson inquired if the applicant would be agreeable to that condition.

Mr. Holt stated that staff has not had an opportunity to share language for such condition with the applicant. Mr. Holt stated that a deferral would give staff and the applicant time to discuss the language.

Mr. Richardson stated that under those circumstances, he would not oppose a deferral but would want it to be heard at the next meeting.

Mr. Krapf stated that he would prefer to defer the application to the next meeting so that staff and the applicant can work out satisfactory language and so that the Policy Committee would have an additional meeting to consider if similar regulations should be considered for the ordinance amendments.

Mr. Schmidt commended the applicant for complying with the County's requirements. Mr. Schmidt further stated that he would support a deferral.

Mr. Richardson made a motion to postpone the matter to the December 6, 2017 Planning Commission meeting.

On a roll call vote the Commission voted to postpone the matter to its December 6, 2017 regular meeting. (6-1)





















9/**1/20**17





ITEM SUMMARY

DATE:	12/6/2017
TO:	The Planning Commission
FROM:	W. Scott Whyte, Senior Landscape Planner II
SUBJECT:	SUP-0013-2017. Kensington School

ATTACHMENTS:

	Description	Туре
D	Staff Report	Staff Report
D	Proposed SUP Conditions	Exhibit
D	Location Map	Exhibit
D	Master Plan	Exhibit
D	Building Elevations	Exhibit
D	Applicant Narrative	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	11/29/2017 - 11:18 AM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 11:18 AM
Publication Management	Burcham, Nan	Approved	11/29/2017 - 11:23 AM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 11:26 AM

Staff Report for the December 6, 2017, Planning Commission Public Hearing

SUMMARY FACTS

Applicant:	Ms. Rachel Salmon			
Land Owner:	Hickory Neck Episcopal Church			
Proposal:	A pre-school and child development center to serve up to 76 children with seven employees. Day-care and child-care centers are a specially permitted use on property zoned A-1.			
Location:	8300, 8320, and 8340 Richmond Road			
Tax Map/Parcel No.:	1240100010, 1240100010A, 1240100010B, 1240100010C			
Project Acreage:	+/- 12.58 acres			
Zoning:	A-1, General Agricultural			
Comprehensive Plan:	Low Density Residential			
Primary Service Area:	Inside			
Staff Contact:	W. Scott Whyte, Senior Landscape Planner II			
PUBLIC HEARING	PUBLIC HEARING DATES			
Planning Commission: Board of Supervisors:	December 6, 2017, 7:00 p.m. January 9, 2018, 5:00 p.m. (tentative)			

FACTORS FAVORABLE

- 1. The proposal is generally compatible with surrounding zoning and development.
- 2. With the proposed conditions, staff finds the proposal consistent with the recommendations of the Comprehensive Plan adopted in 2015, "*Toward 2035: Leading the Way*."
- 3. The Economic Development chapter of the Comprehensive Plan encourages the creation of new and retention of existing small businesses (Goal ED 1.2).

FACTORS UNFAVORABLE

With the attached Special Use Permit (SUP) conditions, staff does not find any unfavorable factors.

SUMMARY STAFF RECOMMENDATION

Staff recommends the Planning Commission recommend approval of this SUP application, subject to the attached conditions.

PROJECT DESCRIPTION

The Kensington School was established in 2010 and now serves over 250 families in James City County and surrounding areas from its existing location at 3435 John Tyler Highway. The Kensington School now proposes to expand by adding a second location. The proposal is to establish the second location at 8340 Richmond Road where Hickory Neck Church is located.

Kensington School proposes to serve up to 76 children at this location.

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.

Staff Report for the December 6, 2017, Planning Commission Public Hearing

The age of the children ranges from 6 weeks to 5 years old. The hours of operation are proposed to be 7 a.m.-6 p.m., Monday-Friday. Drop-off hours are 7-9 a.m. and pick-up hours are 4-6 p.m. The drop-off and pick-up schedule is modeled after their current location's schedule, which has been applied for many years.

The total square footage of the proposed modular building is approximately 4,230 square feet. In the narrative the applicant provided, the school proposes to begin operating in the modular building and then, at some point in the future, they would construct and move into an expansion of the church building. Such a move and expansion would be reviewed in a subsequent Special Use Permit amendment.

Currently, 49 parking spaces exist onsite adjacent to the proposed location of the modular building. A day care center that serves 76 children with seven employees would be required to provide one space for every 4 children and one space for each employee for a total of 26 required parking spaces.

The Pedestrian Accommodation Plan calls for a multi-use path to be constructed on this side of Richmond Road. Section 24-35 of the Zoning ordinance requires this path to be provided at the site plan stage and conform to the construction standards of 24-35 (b).

PLANNING AND ZONING HISTORY

The modern worship facility for the church was constructed in 2005, and no current Special Use Permits or Rezonings have been applied to this property.

SURROUNDING ZONING AND DEVELOPMENT

• Surrounding properties to the east, south, and west are zoned A-1,

General Agricultural. Properties to the north are zoned R-2, General Residential.

• Surrounding properties to the north contain single- family residential dwellings and multi-family dwellings. Properties to the south and east are agricultural use. Property to the west across Richmond Road is single family residential dwellings..

COMPREHENSIVE PLAN

- The site is designated by the Comprehensive Plan adopted in 2015, *"Toward 2035: Leading the Way."* as Low Density Residential. Parcels to the south and to the west across Richmond Road are designated General industry.
- Recommended Uses in Low Density Residential includes schools, churches, very limited commercial, single family homes and community orientated facilities Schools are listed as a Group 2 recommended use. Group 2 uses should apply the following standards (staff comments are in italics):
 - *i.* Complement the residential character of the area: *With* schools being a recommended use in low density residential areas, Staff finds the proposed use consistent with Toano's residential character.
 - *ii.* Have traffic, noise, lighting, and other impacts similar to surrounding residential uses: *This project will have moderate daily traffic and there is an existing westbound right turn lane entering the property. All lighting and noise mitigation shall be addressed during plan review. Considering the size of the three parcels, staff finds that there would be no lighting and noise impacts.*

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Staff Report for the December 6, 2017, Planning Commission Public Hearing

- *iii.* Generally be located on collector or arterial roads at intersections: *The property is on an arterial road and close to Anderson's Corner.*
- *iv.* Act as a transition use between residential and commercial areas or, if located within a residential community, serve to complement the residential character of the area rather than altering it: *The school is proposing to operate out of a large church property that is adjacent to but not within a residential area. Staff finds the addition of a modular building should not alter the residential character of the adjacent neighborhood.*
- v. Provide adequate screening and buffering to protect the character of nearby residential areas and generally intended to support the residential area in which they are located: *Screening and buffering shall be analyzed during the plan review process and the provision of quality child-care and pre-school services help support the nearby residential areas.*
- Provision of quality child-care and pre-school services is consistent with Goal Nos. 2.1 and 2.4 in the Population Needs Chapter of the Comprehensive Plan.
- Staff finds that the proposed commercial use of a day-care compatible with the rural character of the Toano area and would support the creation and retention of local small businesses and workforce housing in keeping with the intent of the Economic Development Section of the Comprehensive Plan.
- With the proposed SUP conditions, staff finds that any impacts to the right-of-way or adjacent properties would be mitigated, and that the proposed 4,230 square foot school is consistent with the Comprehensive Plan.

PUBLIC IMPACTS

Anticipated Impact on Public Facilities and Services:

- <u>Environmental</u>. Stormwater management shall utilize the existing BMP located at the rear of the property and/or install a new stormwater facility to treat run off from the proposed 4,230 square foot modular building. At the site plan stage, the Stormwater and Resource Protection division will review the application and offer feedback on the whether the existing BMP is adequate and if additional protections are needed.
- <u>Cultural/Historic</u> In 2005 a Phase I Archaeology report was conducted on the property, but was not fully reviewed by the Department of Historic Resources (DHR) at that time. Once DHR has reviewed the 2005 report, they will indicate whether any further work would need to be done in accordance with proposed Special Use Permit condition # 3.
- <u>Schools/Fire/Utility</u>. With the use of a day-care for children between the ages of 6 weeks and 5 years, no impact on the public school system is expected. This area of the County is served by Fire Station 1 on Forge Road in Toano. The parcel is within the PSA and is served by both public water and sewer.
- <u>Streets</u>. The proposal is expected to generate moderate daily traffic at the two-hour drop-off and pick-up periods each morning and afternoon. Morning drop-off is 7-9 a.m. and afternoon pick-up is 4-6 p.m. The drop-off and pick- up schedule has been used by the applicant for many years at the existing Kensington School location, and according to the applicant, it has worked well. This section of Richmond Road was operating at Level of Service (LOS) A-C as of 2010, and is projected to continue to operate at

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.

Staff Report for the December 6, 2017, Planning Commission Public Hearing

LOS C or better through 2034. VDOT has reviewed the proposal and has requested that a taper- and turn-lane warrant analysis be performed for the front entrance on Richmond Road (Proposed Special Use Permit Condition No. 5).

PROPOSED SUP CONDITIONS

• Proposed conditions are provided in Attachment No. 1.

STAFF RECOMMENDATION

Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

WSW/gt SUP13-17Kensington

Attachments:

- 1. Proposed SUP Conditions
- 2. Location Map
- 3. Master Plan
- 4. Building Elevations
- 5. Applicant Narrative

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.

Draft Conditions for SUP-0010-2017, The Kensington School

- <u>Master Plan:</u> This Special Use Permit (the "SUP") shall be valid for the operation of a day care and child care center (the "School") on properties located at 8300, 8320, and 8340 Richmond Road and further identified as JCC Tax Parcel Numbers 1240100010, 1240100010A, 1240100010B, respectively, and a parcel without an address identified as JCC Tax Parcel Number 1240100010C (together, the "Property"). Development and use of the Property shall be generally in accordance with and bound by the master plan entitled "Master Plan of property located at 8340 Richmond Road" (the "Master Plan") with deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended. The School shall be located in the modular building as shown on the Master Plan.
- 2. <u>Enrollment:</u> Enrollment of the School shall be limited to seventy-six (76) children. On or before July 1 of each year, the School shall provide the Zoning Administrator, or her designee, school enrollment data for the previous school year and projected school enrollment data for the upcoming year. The school enrollment data shall include, at a minimum, the total number of children enrolled, and the number of staff employed.
- 3. <u>Archeological</u>; A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for his review and approval prior to site plan approval. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to preliminary approval within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.
- 4. <u>**BMP Repair and Maintenance:**</u> With any newly proposed impervious cover for this site, the BMP shall be reevaluated. If the evaluation determines that the BMP is inadequate for the expansion, or not functioning properly, proper maintenance, repairs, or upgrades as determined by the Director of Stormwater and Resource Protection may be required and the owner shall enter into a new maintenance agreement with the county.

- 5. <u>**Turnlane and Taper Warrants:**</u> A turnlane and taper warrant analysis shall be provided for the entrance to the Property from Richmond Road. All warranted improvements as approved by the Director of Planning and the Virginia Department of Transportation, shall be shown on the approved site plan, and shall be installed or otherwise guaranteed prior to the issuance of a Certificate of Occupancy.
- 6. <u>Architectual Review:</u> Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Director of Planning or his designee for review and approval. The purpose of this condition is to ensure that the proposed structure on the Property is uniform and compatible in terms of design, scale, materials, and colors with other structures on site, and consistent with the elevation titled "The Kensington School #2 Building Elevations" dated November 15, 2017.
- 7. <u>Exterior Lighting:</u> All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. No light poles shall exceed twenty (20) feet in height unless otherwise approved by the Director of Planning. A lighting plan indicating no glare outside the boundaries of the Property shall be submitted to and approved by the Director of Planning or his designee prior to site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.
- 8. **Dumpsters/HVAC Units:** All new dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing approved by the Director of Planning or his designee prior to final site plan approval.
- 9. <u>Commencement of Use:</u> A permanent Certificate of Occupancy for the School shall be obtained within thirty-six (36) months from the date of approval of this SUP, or this SUP shall be void.
- 10. <u>Severance Clause:</u> This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

SUP-0013-2017 8340 Richmond Road, The Kensington School #2







1	11/24/14	REVISED FROM 3 TO 4 BEDROOM, OWNER, & PER FIRM CHANGE	ABS
Rev.	Date	Description	Revised By



(757) 810–1755 5smallhokies@gmail.com


PLANNING DIVISION

The Kensington School at Hickory Neck Church

Description

OCT 25 2017

The Kensington School preschool and child development center currently operating on John Tyler Highway in James City County is proposing a new school on the grounds of Hickory Neck Church in Toano. The school is being proposed to provide needed child care at the upper end of James City County. Hickory Neck Church is partnering with the Kensington School based on an informal needs study for child care in the upper county recently completed by the Vestry of the church. The proposed school will initially be housed in a modular building with approximate dimensions of 60'x70.5'. After expansion of Hickory Neck Church in the future, the center will move into the expanded space to be concurrent with the church and the modular building removed. The Kensington School will initially provide care for 25-35 children at the site and ranging from infants up to pre-kindergarten aged children. Virginia Department of Social Services regulations limit the occupancy of day care centers based on the usable square footage (76 children for modular building). The school's normal operations are Monday through Friday from 7AM – 6PM.

The Hickory Neck Church campus is ~12.5 acres but is currently split into 4 separate parcels. The largest parcel, consisting of 9.97 acres and located at 8340 Richmond Road, is the site of the new chapel at Hickory Neck Church and will also serve as the site for The Kensington School. The parcel is zoned A1, General Agricultural, which requires a Special Use Permit for Day Care Centers.

Traffic

The Kensington School will utilize the existing entrance to the church off of Richmond Road (US Route 60). Richmond Road is a 4 lane divided highway and a median crossover is at the Hickory Neck Church entrance, which also has a right turn lane and taper. Attached traffic analysis memo from Small Engineering, LLC dated October 23, 2017 indicate that no additional turn lane improvements are necessary.

The Level of Service (LOS) for this segment of Richmond Road is LOS A-C through 2034 based upon data in Appendix D (pp. 65) of *James City County/ Williamsburg/York County Comprehensive Transportation Study* by the Hampton Roads Transportation Planning Organization (HRTPO) (March 2012). The segment between Route 199 and Olde Towne Road is LOS A-C and carries 35,000 VPD in 2034 (Table 8, pp. 28). The segment of Richmond Road along the site frontage carries 15,000 VPD according to 2016 counts from VDOT. The LOS will not be degraded with the addition of 333 trips generated by The Kensington School at maximum capacity.

Utilities

Water and sewer utilities are expected to connect internally to the site to the existing services of Hickory Neck Church. The church is currently served by a duplex grinder pump that connects to the 12" JCSA force main along Richmond Road. The gravity sewer in White Hall was sized to handle the ultimate capacity of the Church and a stub out provided at the property line with the construction of Section 2. The school is expected to generate an average daily flow of approximately 1,140 gpd or approximately 4.75 gpm peak. The existing private water and sewer system has adequate capacity to serve the proposed use. Electrical service will be provided by separate meter to the existing overhead power facilities located within the property and will be disconnected upon expansion of the Church's facilities.

Stormwater

Stormwater management will utilize the existing BMP located at the rear of the church property and/or will install a new SWM facility to treat the runoff from the proposed 4,230 SF modular building. Final design at site plan review will conform to the Virginia Runoff Reduction Method (VRRM) and meet current stormwater regulations.

Historic and Archaeological Study

A Phase I Archaeology study was performed in 2005. The study was provided to JCC and VDHR as part of the site plan submission for the New Worship Facility at Hickory Neck Church (SP-0074-2005). No sites beyond the historic church property were found.

Environmental Inventory

An environmental inventory was provided with the 2005 site plan for the New Worship Facility at Hickory Neck Church (SP-0074-2005).

Conceptual Master Plan

A conceptual plan is included to show the approximate location of the proposed 4,230 SF modular building. The eventual expansion of the new chapel is also approximately shown on the plan as dashed.

Supplemental Information

The proposed modular structure will be located as shown on the attached master plan. Perimeter vegetation as shown will remain to screen the structure from Richmond Road and the adjacent neighborhood of White Hall. Elevations from the modular structure manufacturer are enclosed with this submission to comply with Board of Supervisors policy. Note that the green color of the roof provided with the image of a similar structure is not proposed at the site. The proposed structure is to be a uniform off-white color to match the surrounding buildings.

Small Engineering, LLC

October 23, 2017

Ms. Rachel K. Johnston Salmon The Kensington School 3435 John Tyler Highway Williamsburg, Virginia 23185

RE: Traffic Analysis

The Kensington School at Hickory Neck 8300 Richmond Road, Toano, VA 23168 Project No. 2017-004

Dear Ms. Salmon:

Please let this letter serve as the traffic analysis required with submission of a Special Use Permit (SUP) application with James City County for the above referenced project. The address is the current site of Hickory Neck Episcopal Church and consists of 4 separate parcels comprising approximately 12.5 acres north of Toano, Virginia zoned A1, general agricultural district. It is your intention to operate a day care center for infants up to pre-school age children on the site on weekdays throughout the year. While your initial estimate is to care for 25-35 children at the school, up to 76 children could be cared for at the site based upon Virginia Department of Social Services guidelines. Although houses of worship are permitted by right in A1 zoning, day care centers are permitted only by issuance of an SUP by the James City County Board of Supervisors.

The site is located on US Route 60 - Richmond Road, a 4-lane divided highway with a posted speed of 55 mph. A median crossover is located at the existing entrance to the church. An existing right turn lane for northbound traffic exist with 100 ft of storage and a 100 ft taper. No left turn lane is provided for southbound traffic entering the church property. The latest volume estimates (2016 VDOT) for this segment of roadway indicate that it has an average annual daily traffic (AADT) of 15,000 VPD, a directional factor, D, of 0.577, and a peak hour factor, K, of 0.089. This equate to a peak hour volume, PHV, of 770 VPH (vehicles per hour). For simplicity, this volume is assumed to be the northbound traffic for the turn lane analysis.

For a Day Care Center (ITE, 9th Ed, Land Use 565) serving 76 children on weekdays, traffic generation is as follows:

Scenario	# of Trips	Trips Entering	RT (60%)	LT (40%)
Average Day	333	167	100	67
AM Pk Hour of Adj. St.	61	32	19	13
PM Pk Hour of Adj. St.	62	29	17	12
AM Pk Hour of Generator	62	33	20	12
PM Pk Hour of Generator	64	30	18	12

Ms. Rachel K. Johnston Salmon October 23, 2017

Proj. No. 2017-004 Page 2 of 2

The worst case for vehicles turning into the entrance is 20 right turns and 13 left turns. This is with the assumption that 60% of the traffic comes from the south (towards Toano) and the remaining traffic comes from Anderson's Corner, the intersection of Route 60 and Route 30. Figures 3-27 and 3-3 from the VDOT Road Design Manual Appendix F are used for determining right and left, respectively, turn lane warrants on 4 lane divided highways. Attached are plots of these figures with using the peak hour turns and the peak hour volume of Richmond Road. As shown on the figures, a left turn lane is not warranted and a right turn taper is warranted. Because the existing 100 ft storage and 100 ft taper for right turns is equivalent to a 200' right turn taper at 55 MPH design speed, no improvements are required.

One other calculation was performed to provide an estimate of the maximum number of children that could be served before a left turn lane would be warranted. Right turn lane warrants were not reviewed for a capacity limit as a right turn lane already exists at the entrance and is not the critical characteristic. This "trigger" occupancy ignores other constraints on the site such as square footage, parking, utilities, etc. which could limit the occupancy further. To simplify the calculation, we will assume the volume on Richmond Road is 800 VPH. The warrant for a 4-lane divided highway is approximately 30 left turns. Back calculating from the AM Peak Hour and assuming a more conservative 50/50 split for NBL/SBL entering the site, this equates to 112 total AM peak trips being created by 140 students. This population represents the maximum number of students that could be served before the left turn lane warrants are met.

JULTH OF THE	
Contraction of the second	Respectfully,
AARON B. SMALL	Small Engineering, LLC
Lic. No. 30712	MAN
SSI ONAL ENGLA	Aaron B. Small, P.E. 5smallhokies@gmail.com

Enclosures:

- 1. ITE 9th Ed. Trip Generation Charts for Use 565 Day Care Center
- 2. Fig. 3-27 (RT Lane Warrant) from Appendix F, VDOT RDM
- 3. Fig. 3-3 (LT Lane Warrant) from Appendix F, VDOT RDM

References:

"Land Use: 565 Day Care Center." Trip Generation Manual, Institute of Transportation Engineers (ITE), Washington, D.C., 2012, pp. 1114-1142.

2016 Virginia Department of Transportation Daily Traffic Volume Estimates Including Vehicle Classification Estimates where available Jurisdiction Report 047 for James City County & City of Williamsburg, Virginia Department of Transportation, Traffic Engineering Division, Traffic Monitoring Section in cooperation with U.S. Department of Transportation, Federal Highway Administration, PDF download from http://www.virginiadot.org/info/2016_traffic_data_by_jurisdiction.asp, accessed October 11, 2017, pp. 9.

CAUserst Anron Drophox HNC/2017-004 HNC daycare 2017-10-12 Traffic Memo-abs.docx

Land Use: 565 Day Care Center

Unscription

A day care center is a facility where care for pre-school age children is provided, normally during the daytime hours. Day care facilities generally include classrooms, offices, eating ereas and playgrounds. Some centers also provide after-school care for school-age children.

Additional Data

Pauk hours of the gundrator-

The weaking A.M. and P.M. peak nours of the generator typically coincided with the peak hours of the adjacent street traffic.

Information on approximate buildly variation in day care center traffic is shown in the following table. It should be noted, however, that the information contained in this table is based on a limited sample size. Therefore, caution should be exercised when applying the data. Also, some information provided in the table may conflict with the results obtained by applying the average rate or ingression equations. When this occurs, it is suggested that the results from the average rate or regression equations be used, as they are based on a larger number of studies.

Time	Average	Weekday*	Average	Saturday	Average	Sundays
	Percent of 24-Hour Entering Traffic	Percent of 24-Hour Exiting Traffic	Percent of 24-Hour Entering Traffic	Percent of 24-Hour Exiting Traffic	Percent of 24-Hour Entaring Trailliu	Parcent of 28-Hour Exiting Traffic
6 a.m7 a.m.	1.4	0.8	0,0	0.0	0.0	0.0
7 a.m5 a.m.	15.0	11,8	0.0	0.0	0,0	0.0
15 am-8 a.m.	19.4	16.8	6.0	0.5	4.5	5.0
9 a.m10 p.m.	6.9	7.9	2.0	22	9.1	0.0
10 p.m11 a.m.	3.0	3.0	4.0	4.3	13.6	10.0
11 a.m.=12 p.m.	6.3	4.7	14.0	13.0	4.5	0.0
12.p.m.+1.p.m.	4.0	3.3	2.0	2.2	9,1	10,0
1.p.m.+2.p.m.	24	2.6	16.0	0.7	0.0	10,0
2.p.m3.p.m.	2.4	2.7	18.0	17.4	0.0	10,0
3 p.m4 p.m.	5.9	5.5	2.0	2.2	4.5	10.0
4 p.m5 p.m.	8.4	9.1	4.0	2.2	B.1	0.0
5 p.m6 p.m.	15.0	17.0	12.0	2.2	18.2	15.0
6 p.m7 p.m.	7.8	12.6	4.0	4.2	13.6	5.0
7. p.m8.p.m.	1,0	1.5	0.0	2.2	4.5	5.0
6 p.m. 9 p.m.	0,4	0.5	0.0	4.3	0.0	5.0
9 p.m.~10 p.m.	0,6	0.0	4.0	0.0	9.1	5.0
10 p.m8 a.m.	0.0	0.5	12.0	25.3	0.0	10.0

Siles ranged in size from 3,000 in 08,000 Square Feet Gross Floor Area and from 52 in 310 students

* Source numbers - 308, Southern New Hampshire Planning Commission; based on three studies

* Source numbers - Southern New Hampshire Planning Commission; based on two studies

" Source numbers - Southern New Hampstern Planning Commission; based on two studies:

The siles were surveyed between the mid-1980s and the 2000s throughout the United States.

Source Numbers

169, 208, 216, 253, 335, 336, 337, 355, 418, 423, 536, 550, 562, 583, 633, 734

Average Vehicle Trip Ends vs: 1000 Sq. Foot Gross Floor Area On a: Sunday

Number of Studies: 5 Average 1000 Sg. Feat GFA: 5 Directional Distribution: 50% entering, 50% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rales	Statuant Devlation
5.83	3.00 - 11.89	4.12

Data Plot and Equation

Caution - theo Carolidiy - Sandt Sample Stee



Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area On a: Sunday, Peak Hour of Generator

Number of Studies: 5 Average 1000 Sq. Feet GFA: 5 Directional Distribution: 54% entering, 46% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Pange of Rates	Standard Deviation
1.74	1,00 - 2.45	1.30

Data Plot and Equation

Couldan - Upe Carahully - Small Sample Size



Average Vahiale Trip Ends vs: Students On a: Weekday

Number of Studies: 12 Average Number of Students: 82 Directional Distribution: 50% entering, 50% exting

Trip Generation per Student

Average Raio	Range of Rates	Standard Deviation
4.30	2.50 - 7.05	2.97

Data Plot and Equation



34 This Generation, 9th Estilion • Institute of Transportation Engineers

1134

Day Care Center (565) Average Vehicle Trip Ende vs: Students On a: Weekday, Peak Hour of Adjocent Street Traffic, One Hour Between 7 and 9 a.m. Number of Studies: 71 Average Number of Studies: 67 Directional Distribution: 53% entering, 47% exiting

Trip Generation par Student

Averatie Rata	Fibrigo of Rates	Standard Deviation
0.80	0,39 - 1,78	0.50

Data Plot and Equation



Dis Geseration, 981 Existen + Institute of Transportation Engineers

NUT OF STREET	say var	re Center 65)
	Average Vehicle Trip Ends va: On a:	Students Weekday, Peak Hour of Adjacent Street Tratilo, One Hour Between 4 and 6 p.m.
	Number of Studies: Average Number of Students: Directional Distribution:	

Average Rate	Range of Rinse	Standard Deviation
0.31	0.24 + 1.78	0.94

Data Plot and Equation



1132 No: Generation, Ob Ecklon + Institute of Transportation Engineers

Average Vehicle Trip Ends vs: Students On a: Weekday, A.M. Peak Hour of Generator

Number of Studies: 71 Average Number of Students: 67 Directional Distribution: 53% entering, 47% exiting

Trip Generation per Student

Avonage Rate	Hango of Rales	Standard Deviation
0.01	0,38 1.78	. 0.93

Data Plat and Equation



Min Generation, 9th Erbition + Institute of Transportation Englishers 1137

Average Vehicle Trip Ends vs: Students On at Weekday, P.M. Peak Hour of Generator

Number of Studies: 71 Average Number of Students: 67 Directional Distribution: 47% enturing, 53% exiting

Trip Generation per Student

Average Rate	Ratge of Antes	Standard Deviation
Q.84	0.29 - 1,72	0.98

Data Plot and Equation



filip Gaminidoo, Rhi Edillon + Institute of Transportation Englishme 1123

Average Vehicle Trip Ends vs: Students On a: Saturday

Number of Studies: 5 Average Number of Students: 75

Directional Distribution: 50% entering, 50% exiting

Trip Generation per Student

Average Raba	Range of Rates	Standard Deviation
0.36	0.12 0.06	0.70

Data Plot and Equation

Caution - Use Carelolly - Small Sample Size



This Generation, 9th Echies + Institute of Transportation Engineers 1119

Average Vehicle Trip Ends vs: Students On a: Saturday, Paak Hour of Generator

Number of Studies: 5 Average Number of Students: 75 Directional Distribution: 63% entaning, 37% exiting

Trip Generation per Student

Average Rate	Range of Hales	Standard Deviation
0.11	0.03 - 0.27	0.34

Data Plot and Equation

Coulion - Use Carefully - Email Sample files



1148 In Generation, Ph Edition • Institute of Transportation Engineers

Average Vehikile Trip Ends vs: Studiants On a: Sunday

Number of Studies: 5 Average Number of Students: 75 Directional Distribution: 50% entering, 50% exiting

Trip Generation per Student

Average Rule	Range of Rates	Standard Destation
0.57	0.18 - 0.64	0.45

Data Plot and Equation

Countinn - Use Carefully - Small Stemple Size



This Generation, 9th Edition + Institute of Transponation Englanesis

Average Vehicle Trip Ends vs: Students On a: Sunday, Paak Hour of Generator

Number of Studies: 5 Average Number of Students: 75 Directional Distribution: 54% entering, 46% exiting



1142 This Generation, 9th Edition + Institute of Transpictusion Engineers

Land Use: 566 Cemetery

Description

A camelery is a place for burying the deceased, peopletly including buildings used for fuminal services, a mausoleum and a cremetorium.

Additional Data

The slips were surveyed between the 1970s and the mid-1990s in California.

Source Numbers

214, 392, 430



Warrants for Left Turn Storage Lanes on Four-Lane Highways



Figure 3-3 was derived from Highway Research Report No. 211.

Opposing volume and left turning volume in vehicles per hour (VPH) are used for left turn storage lane warrants on four-lane highways.

For plan detail requirements when curb and/or gutter are used, see VDOT's <u>Road</u> <u>Design Manual</u>, Section 2E-3 on the VDOT web site: <u>http://www.virginiadot.org/business/locdes/rdmanual-index.asp.</u>

Left-turn lanes shall also be established on two-lane highways where traffic volumes are high enough to warrant them.



PHV APPROACH TOTAL, VEHICLES PER HOUR

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

LEGEND

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

Adjustment for Right Turns

If PHV is not known use formula: PHV = ADT x K x D

K = the percent of AADT occurring in the peak hour

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

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

When right turn facilities are warranted, see Figure 3-1 for design criteria. FIGURE 3-27 WARRANTS FOR RIGHT TURN TREATMENT (4-LANE HIGHWAY)

^{*} Rev. 1/15





ITEM SUMMARY

DATE:	12/6/2017
TO:	The Planning Commission
FROM:	Jose Ribeiro, Senior Planner II
SUBJECT:	SUP-0028-2016. Solar Electrical Generation Facility at Norge

ATTACHMENTS:

	Description	Туре
D	Staff Report	Staff Report
D	Attachment 1.Location Map	Exhibit
D	Attachment 2. Master Plan	Exhibit
۵	Attachment 3. Minutes from April 5, 2017 Planning Commission meeting	Minutes
۵	Attachment 4. Resolution for Consistency with Virginia Code Section 15.2-2232	Resolution
۵	Attachment 5. Proposed SUP conditions	Exhibit
۵	Attachment 6. Community Impact Statement (part 1)	Exhibit
D	Attachment 6. Community Impact Statement (part 2)	Exhibit
D	Attachment 6. Community Impact Statement (part 3)	Exhibit
D	Attachment 6. Community Impact Statement (part 4)	Exhibit
D	Attachment 7. Exhibit Showing the Elements of a Ground-Mounted Array of Solar Panel	Exhibit
D	Attachment 8. Buffer Visual Simulations Prepared by Kimley-Horn	Exhibit
٥	Attachment 9. Citizen Comments received during the March 1, 2017, Planning Commission meeting	Exhibit
D	Attachment 10. Economic and Fiscal Report	Exhibit
۵	Attachment 11. Applicant's Response to Comments Received at the Community Meeting	Exhibit
D	Attachment 12. Updates provided by the Applicant on Key Permits and Review	Exhibit

REVIEWERS:

Department

Planning Commission Planning Commission Publication Management Planning Commission

Reviewer

Holt, Paul Holt, Paul Burcham, Nan Holt, Paul Action Approved Approved

Approved

Approved

Date

11/29/2017 - 11:26 AM 11/29/2017 - 11:27 AM 11/29/2017 - 11:29 AM 11/29/2017 - 11:29 AM

SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge

Staff Report for the December 6, 2017, Planning Commission Public Hearing

SUMMARY FACTS

Applicant:	Mr. Drew Gibbons of SunPower Devco, LLC	
Land Owner:	Whisper Ridge, LLC	
Proposal:	To allow the construction and operation of a private solar electrical generation facility.	
Location:	320, 339, 341 and 345 Farmville Lane and parcels identified as "Parcels 1, 2, C, D and I" as shown on a plat recorded in 1975.	FAC 1.
Tax Map/Parcel Nos.:	2320100052A, 2320100052G, 2320100052 and 2320100055	2.
Project Acreage:	The nine parcels total \pm 224 acres	
Zoning:	A-1, General Agricultural (± 215.68 acres) and R-2, General Residential (± 8.34 acres)	3.
Comprehensive Plan:	Low Density Residential	FAC
Primary Service Area:	Inside	1.
Staff Contact:	Jose Ribeiro, Senior Planner II	2.
PUBLIC HEARING DA	ATES	CUN
Planning Commission:	February 1, 2017, 7:00 p.m. (deferred by applicant) March 1, 2017, 7:00 p.m. (deferred by applicant) April 5, 2017, 7:00 p.m.	SUN App that Code

Board of Supervisors: May 9, 2017, 5:00 p.m. (deferred by applicant to June) June 13, 2017, 5:00 p.m. (deferred by applicant to August) August 8, 2017, 5:00 p.m. (deferred by applicant to October) October 10, 2017, 5:00 p.m. (remanded to the Planning Commission)

FACTORS FAVORABLE

- 1. With the proposed Special Use Permit (SUP) conditions, the proposal is compatible with surrounding zoning and development.
- 2. The proposal is consistent with the Comprehensive Plan adopted in 2015, "*Toward 2035: Leading the Way*."
- 3. This type of solar power facility is expected to have very limited impacts (noise, odor or visual).

FACTORS UNFAVORABLE

- 1. Citizens have expressed concerns with this proposal.
- 2. There will be some limited impacts to residential neighborhoods during the project's temporary construction period.

SUMMARY STAFF RECOMMENDATION

Approval, subject to the attached conditions. Staff also recommends that the Planning Commission find this application consistent with the Code of Virginia §15.2-2232.

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

PLANNING COMMISSION RECOMMENDATION

At its April 5, 2017 meeting, the Planning Commission recommended approval of this application by a vote of 5-2, with changes to SUP Condition No. 5, Vehicular Access. The Planning Commission also approved, by a vote of 5-2, a resolution to find the proposal consistent with the Comprehensive Plan (per Section 15.2-2232 of the Code of Virginia).

Staff notes that since additional parcels have been added to this application a new resolution to find the proposal consistent with the Comprehensive Plan is provided for the consideration of the Planning Commission (Attachment No. 4).

<u>Proposed Changes Made Since the October 10 Board of Supervisor's</u> <u>Meeting</u>

Since the Planning Commission recommendation of approval in April, the applicant has requested that the Board of Supervisors defer consideration of this application to allow time to develop ways to further mitigate impacts associated with construction traffic and the feasibility of an alternative access to the site. On October 10, 2017, the Board of Supervisors remanded this application back to the Planning Commission for its consideration at the December 6, 2017 meeting, due to substantive changes proposed by the applicant (i.e., a new access route to the site and additional parcels were included as part of this SUP application). Below is a summary of the changes made to this application since the last Board meeting:

• The applicant is no longer proposing vehicular access to the site via Farmville Lane/Oslo Court but, instead, through Old Church Road (Attachment No. 1). The applicant has indicated that the proposed access route will accommodate all vehicular traffic during and after the construction period and that traffic through Old Church Road is expected to create less impact to the neighborhood than vehicular access through Farmville Lane, as previously proposed. The Virginia Department of Transportation (VDOT) staff has reviewed this application and offers no objections regarding the proposed access route. Staff has updated SUP Condition No. 5. Vehicular Access, in order to reflect the changes proposed by the applicant.

• Further, based on feedback received by citizens, particularly with regard to the increase in traffic on local roads during the construction period, the applicant has proposed to use an off-site parking lot location to accommodate parking for workers during the construction period of the project. According to SunPower, the construction period is typically completed within nine months. However, the peak volume of traffic and the number of construction workers visiting the site occurs between four and five months. During the peak construction period, it is expected that at any one time, there could be 60 to 80 workers on-site. SunPower has indicated that the proposed off-site parking area is expected to accommodate up to 80 vehicles for their workforce during the construction period. From the off-site parking lot location, workers would be transported to the construction site via a shuttle bus, thereby reducing the volume of construction related traffic created by private passenger vehicles. According to SunPower, after the construction period is over, the site will likely receive around four trips per day during normal operation. Staff has created a new SUP condition to address the proposed off-site parking. SUP Condition No. 16 requires the applicant to submit a plan identifying the location of the off-site parking area and number of parking spaces needed. In order to ensure that construction workers' vehicles are not parking on the construction site, the condition limits the number of vehicles that may be parked on-site.

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

PLANNING AND ZONING HISTORY

• The Board of Supervisors denied Case No. Z-0009-1985 on June 10, 1995. The proposal was to rezone property located at 341 Farmville Lane from A-1, General Agricultural, to A-2, Limited Agricultural.

PROJECT DESCRIPTION

Mr. Drew Gibbons of SunPower Devco, LLC, has applied for an SUP to allow the construction and operation of a private electrical solar generation facility on properties located in Norge. Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more is a specially permitted use in both A-1 and R-2 Zoning Districts.

The proposed facility will be located primarily on a parcel of approximately 216 acres with eight adjacent smaller parcels making up the entire area subject to this SUP. The property is currently being used for agricultural purposes and is wooded with wetland systems along its eastern and western boundaries. The proposed vehicular access from the site to Richmond Road is via Old Church Road which runs through Norvalia subdivision (located north of the site). There is an old farmhouse located at the center of the property. Norge Farm Lane is a private access road located within the largest of the parcels which provides access to the site and to the property located to the south (Hidden Acres Farms).

According to the applicant, once the solar electrical generation facility is operational, it will have capacity up to 20 megawatts; or the equivalent to supply \pm 4,000 households per year. This project is designed as a "utility-scale solar power" which means that the scope and size of its operation and output are relatively small and the electricity that it produces is sold to wholesale utility buyers, not enduse consumers.

The major components of the facility (shown and labeled on the Master Plan) are the ground-mounted arrays of photovoltaic (solar) panels. Each array is made of a number of panels and each panel is composed of a number of smaller "cells," which are the primary units that convert solar energy into electricity (Attachment No. 7). The arrays are approximately 13 feet in height (when positioned at the steepest angle), arranged in rows, spaced ± 15 feet to 25 feet apart and mounted on single-axis trackers. Trackers are devices that automatically orient the arrays toward the direction of sun. The Master Plan shows \pm 820 trackers with 82,000 panels in total (100 panels per tracker). However, this number may change should the project move toward a more specific and detailed design stage. In addition to the arrays, the project will include a small enclosed switchgear facility, inverters, transformers, buried electrical conduits, a storage shed and unpaved access roads (shown in orange on the Master Plan). No offsite substations or switching station are proposed as part of this project. Approximately 153 acres of land will be disturbed as part of this proposal.

If this project receives all the required local, state and federal approvals required to operate, it will be the first utility-scale solar power generation facility in James City County. Currently, there are a number of projects similar in size and solar/electric generation capacity in many areas of the Commonwealth, which are either under regulatory review process and/or under construction (e.g., solar facilities in Bedford, Buckingham, King George, King William and New Kent counties) or operational (e.g., solar facilities in Powhatan, Isle of Wight and Accomack counties).

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Summary of Electrical Generation and Distribution

The solar-to-electricity conversion process is made possible by the presence of inverters. Inverters convert direct current (DC) voltage collected in the arrays to alternating current (AC) needed for electricity. The power is then conveyed underground to a medium voltage metal enclosed switchgear which will connect to Dominion Energy's distribution network through an existing electrical trunk line that runs adjacent to the eastern property line. The facility will only generate energy. The distribution of the electricity produced at the site will be the responsibility of Dominion Energy, as they own the overhead utilities. According to the applicant, SunPower's ownership and maintenance of the facility ends at the switchgear.

Summary of Regulatory and Approval Process

In addition to an SUP issued by the County, this project will require an agreement with Dominion Energy to interconnect into the electrical power distribution network. According to the applicant, SunPower submitted an interconnection request to Dominion Energy in March 2016 and expects to execute an interconnection agreement in early 2017. This project also requires issuance of a Renewable Energy "Permit by Rule" by the Virginia Department of Environmental Quality (DEQ). As part of this approval process, SunPower will provide an analysis of impacts to natural resources which will be reviewed by different state agencies, including the Department of Game and Inland Fisheries, the Department of Conservation and Recreation and the Department of Historic Resources (DHR). According to the applicant, SunPower has initiated the "Permit by Rule" process with an initial notice of intent filing and pre-application meeting with DEO. The applicant has provided an update on some of the key federal, state and local permits or reviews required for this project (Attachment No. 12).

Decommissioning Plan

According to the applicant, the land for the project will be leased and the lease term of the land agreement is 35 years (the estimated operational life for this facility). After the project life cycle is over, or should the operation of the facility be terminated prior to its life cycle, SunPower will implement a decommissioning and restoration plan. The purpose of the plan (SUP Condition No. 15) is to ensure proper removal of all associated components of the project and restoration of the site to pre-existing conditions.

SURROUNDING ZONING AND DEVELOPMENT

- Surrounding zoning designations include:
 - a. Properties immediately north and east of this site are zoned R-2 (Kristiansand, Walnut Grove, Norvalia, Norge Court and Farmville Estates subdivisions).
 - b. Property to the south is zoned A-1 and undeveloped. Properties to the west are zoned A-1 and PUD, Planned Unit Development (Oakland and Village at Candle Station subdivisions).

COMPREHENSIVE PLAN

1. The 2035 Comprehensive Plan Land Use Map designates the properties subject to this SUP as Low Density Residential (LDR). Recommended uses in LDR areas include single-family residences, schools, places of public assembly and very limited commercial uses. The Comprehensive Plan does not specifically identify solar power, or utilities in general, in LDR or the other land use designation areas; therefore, staff has reviewed this application under the "very limited commercial uses"

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development standards listed in LDR (with staff's comments in *italics* below):

a. Complement the residential character of the area;

It is expected that the majority of the project's impacts to nearby residential neighborhoods will occur during the construction period of the facility (e.g., traffic, dust and noise). Staff drafted a condition (SUP Condition No. 13 Construction Management and Mitigation Plan) to address these impacts by:

- Limiting all piling driving activity on the site between the hours of 8 a.m. to 6 p.m. (Monday to Friday);
- Limiting clearing and grading on the site between the hours of 7 a.m. to 7 p.m. (Monday to Friday);
- Prohibiting delivery traffic to the site during pickup/drop-off times for surrounding schools; and
- Providing dust mitigation features such as water trucks, mulch or similar methods.

Once the construction period is finalized, the facility is expected to generate very limited impacts to the adjacent residential neighborhoods. A 50-foot vegetative buffer is proposed in order to screen the facility from residential areas, limiting visual impacts and not detracting from the residential character of the area.

b. Have traffic, noise, lighting and other impacts similar to surrounding residences;

Although the footprint of the entire facility encompasses an area of ± 200 acres, its impacts to surrounding properties is expected to be very limited, as the solar arrays are not expected to generate noise, odor or glare from the sun. According to the applicant, "the noise generated by the solar equipment on site (trackers and inverters/transformers) at peak performance during the day will be no louder than a typical refrigerator, and should be inaudible at the property boundary." The panels do not emit odor or glare from the sun as they are not of a reflective nature (SUP Condition No. 20), and they will not raise temperatures in the surrounding area as they absorb the sun's energy and heat, which is converted to electricity. The applicant is required to submit a pollution prevention plan as part of the overall Stormwater Pollution Prevention Plan. Additionally, SUP Condition No. 13 requires the applicant to provide a mitigation plan to address storage, transportation and disposal of any waste and/or hazardous materials. In order to reduce the number of vehicular traffic at Norvalia during the construction period, SUP Condition No. 16 requires provision of an off-site parking area for construction workers and a bus shuttle system to bring workers to and from the site.

c. Generally be located on collector or arterial roads at intersections;

The site will take access via Old Church Road which is neither a collector nor an arterial road. However, staff finds that once the construction period is over, the facility will generate vehicular trips similar to adjacent residential uses.

d. Act as a transitional use between residential and commercial areas or, if located within a residential community, serve to

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complement the residential character of the area rather than altering its nature;

The site for the proposed facility is not located within a single residential community, but rather, next to existing neighborhoods such as Norvalia, Norge Court and Farmville Estates subdivisions and lands designated Rural Lands to the south and west.

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

Due to existing forested area along most of its property lines, the site is well buffered from most adjacent properties. In areas closer to residential lots with less existing buffer, SUP Condition No. 8 specifies that supplemental landscaping shall be provided. The applicant has provided drawings showing how the existing and proposed vegetative buffer will screen the facility (Attachment No. 8).

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

The proposed facility will generate electricity that will be distributed by Dominion Energy to its general customer base rather than servicing one specific area.

On balance, staff finds that this proposal meets the criteria for very limited commercial uses, and based on its limited impacts, staff finds that this proposal is consistent with the Comprehensive Plan.

In November 2016, staff visited a solar electrical generation facility (Woodland Solar Center) located in Isle of Wight County,

Virginia, and found similar conditions on the site (no odor or noise) as described by the applicant.

- 2. Surrounding Comprehensive Plan designations include:
 - a. Properties immediately north and east are designated as Low Density Residential.
 - b. Properties to the south and west are designated as Rural Lands.

FINDING OF CONSISTENCY

Section 15.2-2232 of the Code of Virginia requires that unless a utility facility is shown on the adopted Comprehensive Plan or other master plan for the County, the local planning commission and a governing body shall review the facility to determine whether the location, character and extent of the project is substantial in accords with the adopted Comprehensive Plan. The proposed solar electrical generation facility is not currently shown on the County's adopted Comprehensive Plan and, therefore, requires this additional level of review by the Planning Commission and the Board of Supervisors. For the Commission's consideration, a consistency determination resolution is included as Attachment No. 4.

PUBLIC IMPACTS

- 1. Anticipated Impact on Public Facilities and Services:
 - a. *Streets.* Access to this property from Richmond Road is proposed through Old Church Road in the Norvalia neighborhood. Old Church Road is a 40-foot-wide state maintained right-of-way and it terminates at a cul-de-sac. From that point on, there is an unpaved and unimproved

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access road (located within a 50-foot-wide private right-ofway owned by Whisper Ridge, LLC) which provides vehicular access to adjacent properties in the back of the neighborhood and to the site.

The applicant has indicated that the current configuration and width of the proposed access road is sufficient to accommodate tractor trailer truck deliveries to the site and would likely not require the acquisition of additional land for right-of-way and/or a construction access easement. Additionally, the applicant has indicated that vehicular access through Old Church Road and the private 50-foot right-ofway is likely to create less impacts to residents as fewer residences front on Old Church Road than Farmville Lane. On November 2, 2017, the applicant met with approximately 15 homeowners whose houses abut Old Church Road in Norvalia to discuss the change in vehicular access to the site of the proposed solar facility.

The VDOT staff has reviewed this application and offers no objections regarding the proposed access route. SUP Condition No. 5 requires vehicular access to and from the site through Old Church Road.

Staff notes that the applicant has indicated a willingness to work with staff to best define appropriate construction delivery times in an effort to avoid conflicts with school buses on the surrounding residential streets during peak pick-up and drop-off times. SUP Condition No. 13 requires the applicant to provide a Construction Management Plan which includes limitations to construction delivery times

The applicant will be required to apply for a Construction Entrance Permit off Old Church Road. As part of this process, VDOT will conduct an existing conditions assessment of the roadway and prepare an estimated cost for the removal and restoration of the roadway in the vicinity of the construction entrance area. SunPower will be required to post a Surety Bond to cover the cost of potential repairs to the roadway in and around the construction entrance area. Additionally, SUP Condition No. 4 requires SunPower to submit a Construction Traffic Mitigation Plan for review and approval, identifying all necessary repairs to public roads internal to Norvalia required as a result of any damage from the construction traffic.

Norge Farm Lane is a road located within property at 341 Farmville Lane providing vehicular access to and from the site and to abutting property to the south (Hidden Acres Farm). According to the applicant, SunPower will utilize Norge Farm Lane for vehicular construction access. County records show this road located within an easement; however, upon research, staff found no evidence of a Deed specifying the dimension and the rights of use. The applicant has indicated that Norge Farm Lane will remain open and will continue to provide access to Hidden Acres Farm's property.

b. *Schools/Fire/Utilities.* No impacts anticipated. According to the applicant, the proposed facility will not require water or sewer service during construction or during regular operation. The solar panels will likely require cleaning twice a year and will use a relatively small amount of water which can be transported on the site via truck. As for Fire and other emergency services, SUP Condition No. 12 requires that the applicant prepare and maintain an Emergency Management Plan for the facility.

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.

c. Environmental/Cultural/Historic. This project is located in the Yarmouth Creek watershed. On October 14, 2003, the James City County Board of Supervisors adopted goals and priorities associated with the Yarmouth Creek Watershed Plan. Specific items of the plan which applies to this application include special stormwater criteria and stream restoration sites on both the east and west portions of the project site. Clearing of vegetation and all proposed structures associated with this project, such as the solar arrays, fencing and sheds, will be located outside resource protection areas (RPAs) and areas of 25% slopes near the RPA buffers. At the site plan stages the applicant shall submit a Stormwater Management Plan addressing both water quality and quantity and a comprehensive erosion control and stormwater analysis report. Stormwater and Resource Protection has reviewed this application and recommends approval.

In order to protect the site's prime farmland soils over the life of the facility (\pm 35 years per lease), the applicant will be required to develop a Nutrient Management Plan (SUP Condition No. 3) addressing the establishment and maintenance of different types of vegetative cover to protect the long-term soil health for potential future farming purposes.

The area subject to this SUP is located within a "moderate sensitivity area" as shown on the Archaeological Sensitive Areas map on the Comprehensive Plan. The applicant will comply with the County's Archaeological Policy and submit a Phase I Cultural Resource Investigation for review and approval. Staff notes that as part of the Renewable Energy "Permit by Rule" the applicant will perform historical and archaeological studies on the property which will be reviewed by the DHR.

The Lightfoot and Yarmouth Creek Conservation sites are located within a two-mile radius of the project area. These are areas of high biodiversity significance; resources of concern at these sites include the small whorled pogonia. SUP Condition No. 7 requires the applicant to comply with the County's adopted Natural Resource Policy.

d. *Nearby and Surrounding Properties.* The attached SUP Conditions are proposed to mitigate impacts to nearby and surrounding properties, specifically impacts associated with visual screening and construction activity.

PROPOSED CONDITIONS

• The full text of the proposed conditions is provided in Attachment No. 5.

STAFF RECOMMENDATION

Staff finds the proposal to be compatible with surrounding zoning and development and that it is consistent with the Comprehensive Plan adopted in 2015, "*Toward 2035: Leading the Way.*" Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions. Staff also recommends that the Planning Commission find this application consistent with the Code of Virginia § 15.2-2232.

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.

JR/nb SUP28-16Solar2

Attachments:

- 1. Location Map
- 2. Master Plan
- 3. Minutes from April 5, 2017, Planning Commission meeting
- 4. Resolution for Consistency with Section 15.2-2232
- 5. Proposed SUP conditions
- 6. Community Impact Statement
- 7. Exhibit Showing the Elements of a Ground-Mounted Array of Solar Panel
- 8. Buffer Visual Simulations Prepared by Kimley-Horn
- 9. Citizen Comments During the March 1, 2017, Planning Commission Meeting
- 10. The Economic and Fiscal Contribution that the Norge Solar Project Will Make to James City County
- 11. Applicant's Responses to Comments Received from Community Meeting
- 12. Updates on Key Permits and Reviews

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.

JCC-SUP-0028-2016 Solar Electrical Generation Facility at Norge






M I N U T E S JAMES CITY COUNTY PLANNING COMMISSION REGULAR MEETING County Government Center Board Room 101 Mounts Bay Road, Williamsburg VA 23185 April 5, 2017 7:00 PM

A. CALL TO ORDER

Mr. Rich Krapf called the meeting to order at 7:00 p.m.

B. ROLL CALL

Planning Commissioners Present: Rich Krapf Tim O'Connor Robin Bledsoe John Wright Heath Richardson Jack Haldeman

Remote Participation: Danny Schmidt

Staff Present:

Paul Holt, Director of Community Development and Planning Maxwell Hlavin, Assistant County Attorney Tammy Rosario, Principal Planner Ellen Cook, Principal Planner José Ribeiro, Senior Planner II

Mr. Holt stated that Mr. Danny Schmidt is out of town attending to personal business and has requested to participate remotely from Charlotte Amalie. Mr. Holt stated that pursuant to the Commission's adopted policy and consistent with State Code, members present must consider the request for remote participation by a majority vote.

Mr. Tim O'Connor made a motion to allow Mr. Schmidt to participate remotely.

On a voice vote the Commission voted to allow Mr. Schmidt to participate remotely (6-0).

Mr. Schmidt joined the meeting by telephone.

C. PUBLIC COMMENT

Mr. Krapf opened Public Comment.

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

D. REPORTS OF THE COMMISSION

Mr. Heath Richardson stated that there was no report for the Development Review Committee (DRC) as no meeting was held.

Mr. Krapf stated that the Policy Committee met on March 9, 2017 to begin the process of reviewing Zoning Ordinance amendments to address group homes. Mr. Krapf stated that the amendments are needed to bring the County's Zoning Ordinance into accord with the Code of Virginia and the Federal Fair Housing Act. Mr. Krapf further stated the Committee discussed the definition of family, the definition of group home and zoning districts where group homes would be permitted and specially permitted along with possible performance standards. Mr. Krapf stated that staff will conduct additional research on these items and return to the Committee at a future date.

Mr. Krapf stated that he had promised to report on the Committee assignments for the upcoming year.

Mr. Krapf stated that the Policy Committee would be chaired by Robin Bledsoe and that he, Jack Haldeman, Heath Richardson and Danny Schmidt would also serve on the Policy Committee.

Mr. Krapf stated that the DRC would be chaired by Danny Schmidt and that he, Tim O'Connor and John Wright would also serve on the DRC.

Mr. Krapf stated that the applicant for Case No. Z-0001-2017, SUP-0001-2017, MP-0001-2017. Williamsburg Landing, Marclay Road has requested a deferral. Mr. Krapf stated that, out of consideration for anyone wishing to speak regarding the application, it has been suggested to move that case to first on the Public Hearing Agenda.

Mr. John Wright made a motion to approve the change to the Public Hearing Agenda.

On a voice vote, the Commission voted to move Case No. Z-0001-2017, SUP-0001-2017, MP-0001-2017. Williamsburg Landing, Marclay Road to first on the Public Hearing Agenda (7-0).

E. CONSENT AGENDA

- 1. Minutes Adoption March 1, 2017 Regular Meeting
- 2. SP-0011-2017/S-0004-2017. Stonehouse Tract 3 Parcels A & B

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

On a voice vote, the Commission voted to approve the Consent Agenda (7-0).

F. PUBLIC HEARINGS

 Z-0001-2017, SUP-0001-2017, MP-0001-2017. Williamsburg Landing, Marclay Road Mr. Holt stated that the applicant has requested a one month postponement. Mr. Holt stated that the case has been advertised and that the Public Hearing will need to be opened. Mr. Holt stated that staff concurs with the request and recommends that the Commission defer the application to its May 3, 2017 meeting.

Mr. Krapf opened the Public Hearing.

Ms. Robin Bledsoe made a motion to postpone the matter to the May 3, 2017 meeting.

On a voice vote the Commission voted to postpone Case No. Z-0001-2017, SUP-0001-2017, MP-0001-2017. Williamsburg Landing, Marclay Road to its May 3, 2017 meeting (7-0).

As no one wished to speak at this meeting, Mr. Krapf continued the Public Hearing to May 3, 2017.

2. SUP-0028-2016. Solar Electrical Generation Facility at Norge

Mr. José Ribeiro presented a report to the Commission on the request for a Special Use Permit (SUP) to operate a private electrical solar generation facility on properties located in Norge. Mr. Ribeiro stated that the proposed facility will be located primarily on a parcel of approximately 216 acres with four adjacent smaller parcels making up for the entire area subject to this SUP. Mr. Ribeiro stated that the property is currently being used for agricultural purposes and is wooded with wetland systems along its eastern and western boundaries. Mr. Ribeiro stated that the site has access to Richmond Road via Farmville Lane which runs through Norvalia and Norge Court subdivisions. Mr. Ribeiro stated that surrounding neighborhoods include Kristiansand, Walnut Grove, Farmville Estates, Oakland and the Village at Candle Station.

Mr. Ribeiro stated that the major components of the facility are the ground-mounted arrays of photovoltaic panels that convert solar energy into electricity Mr. Ribeiro stated that the arrays are approximately 13 feet in height when positioned at the steepest angle and are arranged in rows, spaced ± 15 feet to 25 feet apart and mounted on single-axis trackers. Mr. Ribeiro stated that the master plan shows ± 820 trackers with 82,000 panels in total. Mr. Ribeiro stated that in addition to the arrays, the project will include a small enclosed switchgear facility, inverters, transformers, buried electrical conduits, a storage shed and unpaved access roads. No off-site substations or switching station are proposed as part of this project. Mr. Ribeiro stated that once the facility is operational, it will have the ability to generate up to 20 megawatts or the equivalent to supply 4,000 households per year.

Mr. Ribeiro stated that there are few anticipated impacts associated with this type of facility. Mr. Ribeiro noted that most of the impacts would occur during construction and would be associated with vehicles necessary to deliver materials to the site and traffic generated by workers traveling to and from the site. Mr. Ribeiro stated that SUP conditions have been designed to mitigate impacts during the construction period such as limiting the hours of construction activities and requiring the applicant to repair any damages to roads as a result of construction. Mr. Ribeiro further stated that once construction is complete and the facility is operational, the impacts would be limited. Mr. Ribeiro stated that traffic would be limited to approximately four trips per day, noise would be minimal and that the panels do not emit any odor or glare. Mr. Ribeiro stated that SUP

conditions addressing landscaping, fencing and lighting were designed to further mitigate impacts.

Mr. Ribeiro stated that the property is designated Low Density Residential (LDR) on the Comprehensive Plan Land Use Map. Mr. Ribeiro stated that the Comprehensive Plan does not specifically address solar power, or utilities in general, in LDR or the other Land Use Designation areas; therefore, staff has reviewed this application under the "very limited commercial uses" development standards listed in LDR. Mr. Ribeiro further stated that on balance, staff finds that this proposal meets the criteria for very limited commercial uses, and based on its limited impacts staff finds that this proposal is consistent with the Comprehensive Plan.

Mr. Ribeiro stated that Section 15.2-2232 of the Code of Virginia requires that unless a utility facility is shown on the adopted Comprehensive Plan or other Master Plan for the County, the local Planning Commission and a governing body shall review the facility to determine whether the location, character and extent of the project is substantial in accords with the adopted Comprehensive Plan. Mr. Ribeiro stated that the proposed solar electrical generation facility is not currently shown on the County's adopted Comprehensive Plan and, therefore, requires this additional level of review by the Planning Commission and the Board of Supervisors.

Mr. Ribeiro stated that the applicant has reviewed and concurred with all SUP conditions except for Condition No. 5 regarding vehicular access. Mr. Ribeiro stated that the applicant has proposed that vehicular access to and from the facility during the construction period be made via Oslo Court and the 50-foot-wide parcel. Mr. Ribeiro stated that this route would also be used during operation of the facility if larger vehicles are needed. Mr. Ribeiro stated that during operations, access for smaller vehicles will be restricted to Farmville Lane. Mr. Ribeiro stated that staff continues to support vehicular access to and from the facility via Farmville Lane only.

Mr. Ribeiro stated that staff recommends that the Planning Commission recommend approval of the application to the Board of Supervisors subject to the proposed SUP conditions. Mr. Ribeiro further stated that staff recommend that the Planning Commission find the location of the proposed project is in substantial accord with the Comprehensive Plan.

Mr. Krapf opened the floor for questions from the Commission.

Ms. Bledsoe inquired where the applicant stands with acquiring the Interconnection Permit with Dominion Virginia Power, the Renewable Energy Permit by Rule from the Department of Environmental Quality (DEQ) and any right-of-way needed for access.

Mr. Ribeiro stated that he would defer to the applicant on that question.

Mr. Jack Haldeman inquired about the status of the economic report.

Mr. Ribeiro stated that the economic report has not yet been submitted.

Mr. Haldeman inquired about the whether the site would be secured with a fence and locked gate.

Mr. Ribeiro stated that he did not believe that it would.

Mr. Haldeman inquired about the boundary line extinguishment on three properties.

Mr. Ribeiro stated that the boundary line extinguishment would ensure that the project would conform with required setbacks.

Mr. O'Connor inquired about the Planned Unit Development (PUD) reference on the Master Plan.

Mr. Ribeiro stated that it was referring to the Village at Candle Station development which is zoned PUD.

Mr. Krapf inquired if the properties subject to the boundary line extinguishment are owned by the same entity.

Mr. Ribeiro confirmed.

Mr. Schmidt inquired if the applicant's preferred access route would apply when the facility is decommissioned.

Mr. Ribeiro stated that the decommissioning report, when submitted, would clarify the methods and routes to be used.

Mr. Holt stated that under the applicant's proposed condition, those routes can be used during construction and operation for oversized vehicles. Mr. Holt further stated that the Commission could request adding decommissioning to the SUP condition.

Mr. Richardson inquired whether the right-of-way required at the curve on Farmville Lane impacted a property owner.

Mr. Ribeiro stated that he would defer to the applicant.

Mr. Richardson noted, as disclosure, that he had toured the route and project site with the applicant.Mr. Richardson inquired if the existing fence at the curve would need to be removed.

Mr. Ribeiro stated that the fence would need to be removed; however, the property is owned by Whisper Ridge, LLC which is also the owner of the project site.

Mr. Wright inquired if a community meeting was held.

Mr. Ribeiro stated that a community meeting was held by the applicant in November, 2016.

Mr. Krapf called for disclosures from the Commission.

Mr. Krapf stated that he toured the site with the applicant.

Mr. Schmidt stated that he toured the site last week.

Mr. O'Connor stated that he spoke with the applicant by telephone.

Ms. Bledsoe stated that she exchanged email with the applicant.

Mr. Wright stated that he did not meet with the applicant; however, he did visit the site.

Mr. Richardson stated that he visited the site with the applicant.Mr. Haldeman stated that he visited the site with the applicant.

Mr. Krapf noted that the Public Hearing has remained open and called on the applicant to speak.

Mr. Drew Gibbons, SunPower, Lead Developer for East Coast Development, made a presentation to the Commission on the proposed project. Mr. Gibbons stated that the site was selected based on criteria of suitable acreage and topography, proximity to a distribution line, willing landowner partner, significant existing vegetative buffers and being previously farmed land.

Mr. Gibbons stated that an initial consultation has been held with the DEQ for the Virginia DEQ Renewable Energy Permit by Rule. Mr. Gibbons stated that consultations are now being held with the other necessary agencies and should be completed within six months. Mr. Gibbons stated that a Certificate of Public Convenience and Necessity and a Virginia Pollutant Discharge Elimination System (VPDES) Stormwater Management permit will also be necessary.

Mr. Gibbons stated that, once operational, the site would be maintained by up to three regionally-based electrical facility professionals and would generate 2-4 car trips per day. Mr. Gibbons stated that noise from the site would be no more than that of a standard refrigerator and would be inaudible at the property boundary. Mr. Gibbons stated that there will not be any glare from the site as solar panels absorb light. Mr. Gibbons stated that SunPower's facilities are designed to operate for 30 or more years; at end of life the facility will be decommissioned and all components will be removed. Mr. Gibbons further stated that the land would be restored and a Decommissioning Security Bond will be posted.

Mr. Gibbons stated that the main economic benefit of the project would be job creation with approximately 80 construction jobs over a nine-month period with up to three permanent operations positions. Mr. Gibbons noted that the project would place minimal demand on County facilities and services; provide long-term open land preservation; support workforce training programs for solar energy; and provide educational opportunities for schools.

Mr. Gibbons noted that construction will be limited to 7a.m. -7 p.m. and delivery of materials will be scheduled to avoid school bus pick up and drop off times. Mr. Gibbons further stated that the Virginia Department of Transportation (VDOT) has approved both access route options. Mr. Gibbons noted that the route preferred by staff would require removal of fencing and hedges to create an adequate turn radius for large vehicles. Mr. Gibbons noted that the necessary right of way for the turn improvements has not been acquired. Mr. Gibbons further stated that large vehicle access would be needed for construction and decommissioning as well as major maintenance approximately every 10 years.

Mr. Gibbons stated that in response to the question on permits and easements, the Interconnection Agreement with Dominion Virginia Power is imminent. Mr. Gibbons further stated that the Permit by Rule process in underway. Mr. Gibbons stated that they easement for Oslo Court is in place but the easement for Farmville Lane is not.

Mr. Gibbons stated that the Economic Impact Report will be completed for the Board of Supervisors meeting. Mr. Gibbons noted that while the tax revenue will be minimal, greater benefits will be derived from job creation and minimal impacts on County services.

Mr. Gibbons noted that the project would be surrounded by a seven-foot chain link fence for security and safety; however the access road would not be gated.

Mr. Gibbons stated that a Community Meeting, recommended by staff, was held in November. Mr. Gibbons further noted that the meeting was well attended. Mr. Gibbons stated that the main concern expressed was the visual impact of the project. Mr. Gibbons stated that the buffer and screening plan was developed to address those concerns.

Mr. Richardson requested confirmation of whether it would be necessary to remove the fencing on a neighboring property to create the necessary turn radius for larger vehicles.

Mr. Gibbons confirmed that it would be necessary. Mr. Gibbons stated that they have been negotiating to acquire the access. Mr. Gibbons stated that part of the rationale for proposing an alternate access is to avoid impacts on nearby parcels.

Mr. Richardson inquired about the amount of land clearing for the project.

Mr. Gibbons noted that there would be some clearing of trees; however sensitive areas and extreme topography would be avoided.

Ms. Bledsoe inquired about the location of the substation.

Mr. Gibbons stated that the substation would be located close to the Dominion Virginia Power transmission lines. Mr. Gibbons further stated that the specific location is shown on the Master Plan.

Ms. Bledsoe inquired about the height of the panels.

Mr. Gibbons stated that when the panels are raised to their highest point it is approximately 16 feet.

Ms. Bledsoe inquired about the number of similar installations placed adjacent to residential neighborhoods.

Mr. Gibbons stated that SunPower has placed several facilities directly adjacent to residential communities and has worked diligently to minimize the impacts.

Ms. Bledsoe inquired whether the power would go directly to County residents.

Mr. Gibbons stated that the power would be for general distribution at the discretion of Dominion Virginia Power.

Ms. Bledsoe inquired if this is something that that Dominion needs at this time to

maintain business.

Mr. Gibbons stated that Dominion will procure significant amounts of solar power over the next two to four years. Mr. Gibbons stated that solar power is part of Dominion's business plan. Mr. Gibbons further stated that this is an opportunity for James City County to participate in the solar movement.

Mr. Wright asked for confirmation that the Company is SunPower based in California and is a publicly traded company.

Mr. Gibbons confirmed.Mr. Krapf inquired whether the construction workers would have staggered schedules or arrive on site at one time.Mr. Gibbons stated that there would be 60 to 80 construction workers driving personal vehicles to the site. Mr. Gibbons stated that there would be staggered arrivals over an hour in the morning. Mr. Gibbons noted that materials would be delivered on a schedule designed to avoid school bus pick up and drop off times. Mr. Gibbons noted that the traffic generation would be similar to that of a residential development.

Ms. Bledsoe inquired what the hours of operation would be.

Mr. Gibbons stated that for construction, the hours of operation would be 7a.m. to 7 p.m. Mr. Gibbons noted that generally work would end between 3:30 p.m. and 5 p.m.; however, should the work run behind schedule, it is helpful to have the option of working later.

Mr. Benjamin Swenson, 106 Barlows Run, County Resident, addressed the Commission in support of the application. Mr. Swenson stated that it is important to ensure that the County's natural resources are protected by ensuring adequate buffers, mitigation of impacts on the nearby perennial stream and ensuring archaeological sites are conserved.

Ms. Stephanie Weber, 222 Thomas Nelson Drive, Statewide Director for the Chesapeake Climate Action Network, addressed the Commission in support of the application. Ms. Weber noted that Virginia imports approximately 25% of its energy; second only to California. Ms. Weber stated that the project will provide clean energy on with minimal impacts. Ms. Weber noted that in this region, there is a proposed solar home development and that the Williamsburg-James City County Schools is looking at Dominion Virginia Power's Solar Schools program. Ms. Weber stated that solar farms are on the rise in neighboring states as well as certain areas of Virginia. Ms. Weber requested that the Commission support the project.Ms. Josephine Gardner, 731 Autumn Circle, County Resident, addressed the Commission in opposition to the application. Ms. Gardner noted concerns about the impact of taking access for the project through the residential neighborhood.

Mr. Elliott York, 103 Spring Trace Lane, Assistant Manager, Whisper Ridge, LLC, addressed the Commission in support of the application. Mr. York stated that Whisper Ridge, LLC has entered into a long-term agreement with the applicant for use of the property. Mr. York noted that several solar power companies have inquired about the property and that SunPower's offer was accepted based on the reputation of the company. Mr. York stated that this is a winning proposal for all parties including the County and requested that the Commission support the project. Mr. Wayne Nunn, 238 Loch Haven Drive, President of Hidden Acres Farm, Inc., addressed the Commission regarding the application. Mr. Nunn noted concerns about the suitability of using Oslo Court to access the property. Mr. Nunn noted concerns about the future stability of SunPower. Mr. Nunn further noted concerns about the structural stability of the panel arrays. Mr. Nunn stated that he has concerns about the access to his property and the reduction in value of his property.

As no one further wished to speak,

Mr. Krapf closed the Public Hearing.

Mr. Krapf noted that there would need to be one motion regarding compliance with Section 15.2-2232 of the Code of Virginia and one regarding the Commission's recommendation to the Board of Supervisors.

Mr. Richardson inquired if there were sites where it was necessary to stabilize the pole with additional materials and is there a potential that it would be necessary to do so at this site.

Mr. Gibbons stated that the initial soils report indicated that stabilization would not be necessary.

Mr. Richardson inquired about the fencing along Norge Farm Lane.

Mr. Gibbons stated that the fence would only be around the project site only.

Ms. Bledsoe inquired if the land would be restored at decommissioning.

Mr. Gibbons stated that the land would be restored to its current use. Mr. Gibbons stated that the arrays would be completely removed and natural vegetation would be replaced. Mr. Gibbons further stated that there would be a decommissioning bond held by the County. Mr. Gibbons further stated that road repairs would also be bonded.

Ms. Bledsoe inquired about the lifespan of the facility.

Mr. Gibbons stated that facilities have a lifespan of approximately 30 years and that SunPower has an agreement with the landowner for 35 years.

Mr. Krapf inquired if there would be a warranty on the additional tree buffers.

Corey Howell, Kimley-Horn and Associates, stated that one of the SUP conditions requires a landscaping plan to be finalized during the Site Plan phase. Mr. Howell stated that there is generally a maintenance period of one year. Mr. Howell noted that after a year the vegetation should be firmly established.

Mr. Krapf inquired what techniques were used to determine that the turn radius on Farmville Lane is not sufficient.

Mr. Carroll Collins, Kimley-Horn and Associates, stated that a standard simulation program was used to determine what the turn radius needs to be for the anticipated vehicle size.

Mr. Krapf inquired it the simulation determined that the existing conditions would not allow use of that turn.

Mr. Collins confirmed.

Mr. Wright inquired if the entire project site is within the Primary Service Area (PSA).

Mr. Ribeiro confirmed.

Mr. O'Connor inquired about the size of the site.Mr. Ribeiro stated that the larger parcel is approximately 216 acres.

Mr. O'Connor inquired about the minimum lot size.

Mr. Ribeiro stated that the property is zoned A-1, General Agricultural and that the minimum lot size is three acres.

Mr. Ribeiro stated that the LDR designation would allow for smaller lots; however, public benefits would need to be provided.

Mr. O'Connor inquired about the easement across the property to provide access to Hidden Acres Farm.

Mr. Ribeiro stated that staff has been unable to locate a Deed of Easement for Norge Farm Lane if there is an easement and who would hold the easement.

Mr. Schmidt stated that the proposed use would be less of a drain on County services and infrastructure than residential development.

Ms. Bledsoe stated that while she supports solar energy, she has concerns about the outstanding permits and reports. Ms. Bledsoe further stated that she does not believe there will be major fiscal benefits for the County. Ms. Bledsoe stated that she is concerned that there is no clear access point that would not impact the residential neighborhood. Ms. Bledsoe further stated that she believes the hours of operation for construction are excessive. Ms. Bledsoe stated that it is not fair to ask the adjacent neighborhoods to endure the impacts of the project. Ms. Bledsoe stated that the subject property has been considered previously for other types of development which did not move forward due to lack of access. Ms. Bledsoe stated that she will not support the application.

Mr. Wright stated that he supports solar energy as a part of the County's energy resources. Mr. Wright stated that if the project were not adjacent to several residential neighborhoods, he would support the project. Mr. Wright further stated that he has concerns about the project being located within the PSA and potential impacts on future development in the County. Mr. Wright stated that he would support the project if it were sited outside the PSA, not adjacent to residential neighborhoods, had adequate access, and was located on a site with substantial natural buffers; however, under the current parameters, he cannot support the application.

Mr. Haldeman stated that he would prefer that the subject parcel and Hidden Acres Farm remain farmland for all time. Mr. Haldeman stated that it is inevitable that the property will be developed at some point. Mr. Haldeman stated that while he would not necessarily want to live adjacent to a solar farm, the alternative of residential development is even less desirable. Mr. Haldeman stated that he will support the application.

Mr. Richardson stated that this application gives the County a tool to keep the property as pristine as possible well into the future. Mr. Richardson stated that solar farms are a step toward energy independence which outweighs the lack of economic benefit. Mr. Richardson stated that once the construction is complete, the facility will generate no more traffic than an active farm. Mr. Richardson stated that he will support the application.

Mr. O'Connor stated that the purview of the Planning Commission is to determine whether the land use is appropriate. Mr. O'Connor stated that because the property is in the PSA, it could potentially be used for residential development which would generate substantially more traffic and place more burden on County infrastructure and services. Mr. O'Connor noted that the solar farm would ensure that the property would remain undeveloped for the foreseeable future. Mr. O'Connor stated that he will support the application.

Mr. Krapf stated that he will support the application. Mr. Krapf stated that he believes the construction period required for this project will be less of an impact than construction for homes if the property were developed for residential use. Mr. Krapf further stated that a priority for the County is economic uses for rural lands that does not involve residential development. Mr. Krapf stated that he believes the proposal is acceptable and in accord with the Comprehensive Plan. Mr. Krapf stated that he favors the amendment to SUP Condition No. 5 which allows the applicant to access the property from Oslo Court.

A motion to Approve was made by Jack Haldeman, the motion result was Passed. AYES: 5 NAYS: 2 ABSTAIN: 0 ABSENT: 0 Ayes: Haldeman, Krapf, O'Connor, Richardson, Schmidt Nays: Bledsoe, Wright III Mr. Haldeman made a motion to find that the location of the proposed facility is substantially in accord with the Comprehensive Plan.

On a roll call vote, the Planning Commission voted to find that the location of the proposed facility is substantially in accord with the Comprehensive Plan (5-2). (Aye: Haldeman, Schmidt, O'Connor, Richardson, Krapf. Nay: Wright, Bledsoe)

A motion to Approve was made by Tim O'Connor, the motion result was Passed. AYES: 5 NAYS: 2 ABSTAIN: 0 ABSENT: 0 Ayes: Haldeman, Krapf, O'Connor, Richardson, Schmidt Nays: Bledsoe, Wright III Mr. O'Connor made a motion to recommend approval of SUP-0028-2016, Solar Electrical Generation Facility at Norge with the applicant's amendment to SUP Condition No. 5 to allow access through Oslo Court for construction, maintenance and decommissioning.

On a roll call vote, the Planning Commission voted to recommend approval of SUP-0028-2016, Solar Electrical Generation Facility at Norge with the applicant's amendment to Condition No. 5 to allow access through Oslo Court for construction, maintenance and decommissioning (5-2). (Aye: Haldeman, Schmidt, O'Connor, Richardson, Krapf. Nay: Wright, Bledsoe).

3. LU-0002-2014. 8491 Richmond Road (Taylor Farm) Land Use Designation Change

Ms. Ellen Cook, Principal Planner, made a presentation to the Commission on the request to change the Land Use Designation for the property from its current designation of Rural Lands, Low Density Residential and Mixed Use to Economic Opportunity (EO) and to extend the PSA line to incorporate the entire parcel. Ms. Cook stated that this application had initially been submitted in April 2014 as part of the County's Comprehensive Plan review. Ms. Cook stated that as part of the process, the application was reviewed by the Planning Commission Working Group (PCWG) which recommended deferral of this application pending resolution of changes to the County's Groundwater Withdrawal Permit. Ms. Cook stated that the Planning Commission and the Board of Supervisors chose to defer the decision on this case until the issues with the Groundwater Withdrawal Permit were resolved. Ms. Cook stated that in February 2017 the DEO issued a Groundwater Withdrawal Permit to the County for six million gallons per day with additional tiers for up to eight million gallons per day. Ms. Cook stated that the permit appears to adequately account for growth in the County over the next 10 years; however, after that time deficits would become apparent and a long-term solution for water supply will be needed. Ms. Cook stated that at the Board of Supervisors meeting on March 7, 2017, staff recommended denial of the re-designation and expansion of the PSA. Ms. Cook stated that the Board voted to remand the case for consideration of a change of the Land Use Designation to EO and review of specific EO designation description language. Ms. Cook stated that staff recommends that the Planning Commission review and evaluate this case as remanded by the Board of Supervisors, including making recommendations on the change in the Land Use Designation to Economic Opportunity and expansion of the PSA by approximately 141 acres.

Mr. Wright inquired if the EO designation would allow solar facilities.

Ms. Tammy Rosario, Principal Planner, stated that the use had not been fully considered under the EO designation and would require further thought.

Mr. Schmidt inquired how many residential units could potentially be built if the property is designated EO.

Ms. Rosario stated that the EO language in the Comprehensive Plan does not include residential development as a recommended use. Ms. Rosario further stated that the proposed language specific to this property residential uses are not listed as a recommended use. Ms. Rosario stated that residential is not specifically prohibited, it is expected that residential development would be no more than permitted under the designated Zoning District.

Mr. Holt clarified that what is being considered at this time is draft guidance language under the Comprehensive Plan rather than a rezoning. Mr. Holt stated that when a rezoning application comes forward, that guidance language would address the allowable amount of residential development. Mr. Holt stated that in the EO Zoning District, residential uses would require an SUP. Mr. Holt further stated that electrical generation facilities would require an SUP in the EO Zoning District.

Mr. Haldeman inquired if this was the appropriate time to make recommendations on the specific EO language regarding this property.

Ms. Rosario stated that this is an appropriate time to consider language regarding what uses are recommended or not recommended.

Ms. Bledsoe noted that the Board of Supervisors was very clear that they wanted the Planning Commission to provide guidance on the allowable amount of residential development on the property.

Mr. Richardson noted that the current wording incorporates elements from language that had been proposed during the Comprehensive Plan update for a Rural Economic Support designation.

Ms. Rosario confirmed that there are some of the same elements incorporated.

Mr. Krapf called for disclosures from the Commission.

There were no disclosures.

Mr. Krapf opened the Public Hearing.

Mr. Randy Taylor, 7112 Church Lane, Applicant's Representative, addressed the Commission in support of the application. Mr. Taylor stated that the applicant concurs with the proposed EO language and is open to input from the Commission. Mr. Taylor further stated that the PSA line bisects the property; however, on surrounding properties, the PSA follows the property line. Mr. Taylor noted that the major benefit of making the designation change is to limit the potential for residential development on the property and open it up for development that would bring an economic benefit to the County. Mr. Taylor stated that the property has historically been farmed and is currently being farmed; however, it may not be in the future. Mr. Taylor stated that by changing the Comprehensive Plan designation, it will give the County a tool to ensure that eventual development of the parcel is in accord with the County's vision for the future.

Mr. Howard Jones, 111 Heathery, County Resident, addressed the Commission regarding the application. Mr. Jones stated that he owns property adjacent to the Taylor property and does not currently have road access to his property. Mr. Jones stated that he supports the application; however, he would like to see the Comprehensive Plan or the Master Plan for the property reference two stub connections for his property. Mr. Jones noted that VDOT does have a public benefit requirement to ensure that landlocked parcels will have access.

Mr. Krapf requested that Mr. Hlavin confirm and elaborate on the VDOT public benefit requirement for landlocked parcels.

Mr. Hlavin stated that the County could not require access for an adjacent property owner as part of a legislative case; however, the Subdivision Ordinance does provide for ensuring access to adjacent parcels at the development stage. Mr. Hlavin further stated that landowners also have the right to take private action to ensure access which would not involve the County or its land use processes. Mr. Hlavin stated that interconnectivity would be an acceptable policy as part of the Comprehensive Plan; however, at this stage it would not be binding or confer rights.

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

Mr. Krapf noted that with this case there are three items that the Commission must consider: the Comprehensive Plan Land Use designation; the expansion of the PSA; and the draft EO language for the parcel.

Mr. Krapf opened the floor to discussion by the Commission.

Mr. Richardson inquired if the draft Comprehensive Plan language could contain reference to stub connections being required for a future Master Plan.

Mr. Hlavin stated that from a legal standpoint a policy document at the Comprehensive Plan level promoting connectivity is acceptable.

Ms. Rosario stated that there is existing language to serve as a foundation that encourages developers to use best practices for access management to maintain mobility on Route 60. Ms. Rosario further stated that the Transportation section of the Comprehensive Plan does speak to access management and interconnectivity between parcels. Ms. Rosario stated that additional specific language could be added at the Commission's direction.

Mr. O'Connor clarified that the language would be for guidance rather than binding.

Mr. Wright inquired if this would be something that could be addressed between the two property owners at the development stage.

Ms. Rosario stated that there would be an opportunity for the parties to discuss the matter and make a private agreement.

Mr. O'Connor noted that one of the two properties currently designated EO was not in the PSA and inquired about the mechanism to bring the property into the PSA at the time a Master Plan is approved.

Ms. Rosario stated that the Comprehensive Plan states that the intent of the designation is to include parcels with this designation in the PSA, where not already included, pending the outcome of the master planning efforts. Ms. Rosario stated that the language also sets forth options for how the master planning could occur.

Mr. Krapf noted that there was substantial discussion during the Comprehensive Plan update about the designation for that one parcel. Mr. Krapf noted that it was decided at the time to make the inclusion in the PSA contingent on a satisfactory Master Plan.

Mr. Haldeman inquired if the PSA for the parcel subject to this application followed the land use designations for the property with the portions of the property designated Mixed Use and Low Density Residential being inside the PSA and the portion designated Rural Land being outside the PSA.

Ms. Rosario confirmed. Ms. Rosario noted that there are a number of parcels in the

County which are divided by the PSA. Ms. Rosario stated that generally the more intensive designations are within the PSA.

Mr. Wright inquired whether proffers would apply to the property.

Mr. Hlavin stated proffers are not part of a Comprehensive Plan Land Use Designation change. Mr. Hlavin further stated that the County would not accept proffers for the residential component of any future rezoning.

Mr. Hlavin clarified that proffers could be accepted for any commercial development.

Mr. Schmidt inquired how much acreage is outside the PSA.

Ms. Rosario stated that approximately 141 acres are outside the PSA and 45.5 acres are within the PSA.

Mr. Krapf reminded the Commission there were three items for consideration: the Comprehensive Plan Land Use Designation; the expansion of the PSA; and the draft EO language for the parcel.

Mr. Krapf recommended that the Commission consider them in order beginning with the Land Use Designation.

Mr. Richardson made a motion to recommend approval of the Land Use Designation change with the adjusted language proposed by staff.

Mr. O'Connor inquired whether there should be more discussion regarding the proposed language.

Mr. Holt stated that if this motion was approved, then there would be only the PSA component to be determined.

Mr. Krapf inquired if the motion could be to approve the EO designation in principal based on the rough guidelines and discuss modification for specific language separately.

Mr. O'Connor stated that he would like to firm up the language first. Mr. O'Connor commented that the guidance language might affect the determination regarding the PSA component.

Mr. Richardson stated that the proposed language appears to cover all the considerations; however, he would be willing to amend the motion in light of the request for further discussion.

Ms. Bledsoe inquired if it would be necessary to consider the EO designation and inclusion of the Property in the PSA before considering the guidance language. Ms. Bledsoe noted that she believed the intent of the Board of Supervisors was for the Policy Committee to consider the guidance language.

Mr. Holt stated that the Board of Supervisors remanded the matter to the Planning Commission.

Mr. Krapf suggested that the Commission discuss the guidance language.

Mr. Richardson read the draft language for the Toano/Anderson's Corner Area.

Mr. Krapf stated that he would like to amend the proposed language to add language regarding the PSA that is similar to what was done for Hill Pleasant Farm.

Ms. Rosario stated that the language was actually part of the overarching EO description and would apply to all parcels that are designated EO.

Mr. O'Connor stated that he believes the commercial development aspect should not be discouraged as there is a need for some commercial uses to support adjacent neighborhoods.

Mr. Krapf inquired what types of uses would be considered a commercial use.

Ms. Cook stated that the current language is for retail commercial which would include shopping centers and other similar uses.

Mr. Krapf inquired if it would include small business. Ms. Cook confirmed. Mr. Krapf noted that a significant portion of Toano is zoned B-1.

Mr. Krapf stated that he is reluctant to remove the language which focuses on supporting Toano as the commercial center for that part of the County. Mr. Krapf further stated that the language does not preclude commercial activity on the Taylor Farm.

Mr. Haldeman noted that the language proposed for this area of the County during the Comprehensive Plan update focused on retaining the historic and rural character of the area. Mr. Haldeman stated that the Commission should be mindful of this vision. Mr. Haldeman suggested that there should be appropriate restrictions and standards for commercial and light industrial development. Mr. Haldeman further stated that he would like the language to strongly discourage residential development.

Mr. O'Connor noted that the initial vision for EO was to create an environment where people would live close to work or to transportation hubs and become a self-contained community. Mr. O'Connor stated that he would be inclined to retain the small amount of residential development that would be allowed.

Mr. Richardson stated that a small walkable community would be an attractive addition to the Route 60 corridor.

Mr. Haldeman started that more residential development would bring more people to the area which would reduce any benefit to current residents from the jobs created with the EO designation.

Ms. Bledsoe stated that per the Comprehensive Plan, lands designated EO are intended primarily for economic development, increased non-residential tax base and the creation of jobs. Ms. Bledsoe further stated that the lands are intended to be at strategic locations relative to transportation, utilities infrastructure and adjacent uses. Ms. Bledsoe noted that the uses should have a positive fiscal impact, provide quality jobs, enhance community values and support economic stability. Ms. Bledsoe stated that she interprets that guidance to mean less residential and more job creation. Mr. Schmidt stated that based on the potential acreage for residential development and the potential that the residential development could be multi-family, it could be a substantial impact.

Mr. O'Connor inquired if the Commission could amend the language to further restrict residential development.

Ms. Rosario stated that additional limiting language had been applied to the two other properties that received the EO Land Use Designation.

Mr. Krapf noted that by limiting residential components, any development would look more industrialized and not have an appealing streetscape. Mr. Krapf stated that his understanding is that the residential component for this property would be located where the property is not suited for commercial development. Mr. Krapf stated that by limiting residential development it would exclude opportunities for workforce housing and a walkable community.

Mr. Richardson stated that the intent is for the property to be developed by Master Plan which would require County oversight to ensure that the development is compatible with the vision for the area.

Mr. Krapf inquired if Mr. Haldeman would be satisfied with a small amount of residential development.

Mr. Haldeman stated that he would prefer no residential development but was agreeable to some. Mr. Haldeman stated that it could be beneficial to have language tailored specifically to Anderson's Corner; however, it would take the process back a step.

Mr. Richardson stated that many of the details would be addressed when a Master Plan is submitted. Mr. Richardson stated that the Commission would be giving the Board a recommendation on how the property should be treated as a whole and providing them the best tools to consider future development applications.

Mr. Krapf inquired if the guiding language for the EO Land Use Designation and the specific language for Toano/Anderson's Corner was meant to provide standards against which to review future development proposals.

Ms. Rosario stated that staff drew from the Anderson's Corner recommendations when crafting the specific language for the subject parcel. Ms. Rosario stated that this is guiding language to be used when reviewing a master planning and rezoning proposal.

Mr. Krapf inquired if the Commission would be willing to include language stating that "[a]ny residential uses should be subordinate to and in support of the primary economic development uses. In addition the location and amount of any residential uses should be depicted as an integrated element of the larger Master Plan for the area, should be limited to the amount or percentage allowed in the EO Zoning District and should not be developed prior to a significant portion of the primary economic development uses".

Mr. Schmidt stated that he is in in favor of the additional language. Ms. Bledsoe inquired if voting on this item first would then be recommending commercial development outside the PSA.

Mr. Holt stated that it would depend on the vote on the PSA extension.

Mr. Krapf stated that with other properties the EO designation was approved with the intent that the PSA extension would be handled at the time a Master Plan was proposed.

Ms. Rosario clarified that the PSA extension could be done at the time of a Comprehensive Plan update or in conjunction with a rezoning request.

Mr. Krapf inquired if anyone wished to change any of the overarching EO language or any of the language specific to this parcel. Mr. Richardson amended his motion to recommend approval of the EO designation with the additional language limiting residential development.

Mr. O'Connor inquired if the applicant was satisfied with the proposed language.

Mr. Taylor stated that the adjusted verbiage is acceptable. Mr. Taylor noted that his concern was what would happen if the PSA extension was not approved.

Ms. Rosario stated that when the EO Land Use Designation was first considered with the 2009 Comprehensive Plan Update, the language was designed to confirm the intent of bringing the property into the PSA, while ensuring that proper master planning occurred. Ms. Rosario stated that once a Master Plan was approved by the County, the PSA extension would be done as a Comprehensive Plan amendment.

Ms. Bledsoe requested clarification on the timing of the PSA extension. Ms. Rosario stated that the PSA extension would be a Comprehensive Plan amendment but would not necessarily be tied to the timing of a Comprehensive Plan Update.

Mr. Holt clarified that the motion is to recommend approval of the EO Land Use Designation with the language recommended by staff with the additional language stating "[a]ny residential uses should be subordinate to and in support of the primary economic development uses. In addition the location and amount of any residential uses should be depicted as an integrated element of the larger Master Plan for the area, should be limited to the amount or percentage allowed in the EO Zoning District and should not be developed prior to a significant portion of the primary economic development uses."

Mr. Richardson confirmed that the motion is correct.

On a roll call vote the Planning Commission voted to recommend approval of the EO Land Use Designation and the guidance language specific to Toano/Andersons Corner (7-0).

A motion to Approve was made by Heath Richardson, the motion result was Passed. AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0 Ayes: Bledsoe, Haldeman, Krapf, O'Connor, Richardson, Schmidt, Wright III

Mr. Krapf called for discussion on the PSA expansion.

Mr. Richardson asked for clarification on what the Commission would be recommending.

Mr. Krapf stated that the Commission would be making a recommendation on whether or not the entire property should be brought into the PSA as part of this Land Use application.

Mr. Haldeman inquired whether language could be included to the PSA expansion to the approval of a Master Plan.

Mr. Krapf stated that the language is part of the overarching EO language which applies to all parcels.

Mr. Haldeman requested clarification on what the Commission needed to do.

Mr. O'Connor stated that at the last Comprehensive Plan Update, this application requested both a change in the Land Use Designation and an extension of the PSA. Mr. O'Connor further stated that due to the concerns about the DEQ permit, the application had been deferred until those concerns had been resolved.

Mr. Krapf stated that the overarching language recognizes that some parcels may not be incorporated in the PSA and provides a mechanism to bring those parcels into the PSA at the time of an approved Master Plan. Mr. Krapf stated that at this time the Commission should vote on whether the 141 acres should be brought into the PSA.

Ms. Bledsoe made a motion to recommend approval of bringing the 141 acres into the PSA.

Mr. Krapf stated that he would not support the motion in light of the reduced water withdrawal allowance and the ten-year time limit on finding alternative water sources. Mr. Krapf further stated that water is on a first come, first serve basis so that if land newly added to the PSA was ready for development sooner than existing parcels in the PSA. Mr. Krapf stated that he would prefer to tie the PSA expansion to the Master Plan so that the impacts could be determined before the decision is made.

Mr. Richardson stated that the matter would likely have been decided earlier without the DEQ permit concerns. Mr. Richardson stated that the PSA is a good toll to manage growth, but in some cases it can be constrictive to necessary growth. Mr. Richardson stated that he supports bringing the 141 acres into the PSA.

Mr. Krapf noted that by expanding the PSA, it would potentially require expanding County services which will impact the County's budget.

Mr. Haldeman stated that he will not support the expansion of the PSA at this time.

Mr. Wright stated that it is important to note that the potential use will be more commercial than residential. Mr. Wright stated that he believes the water issues can be resolved. Mr. Wright stated that he will support the expansion of the PSA.

Mr. Schmidt stated that his main concern is that there is still no long-term solution to the water supply. Mr. Schmidt stated that he does not support expanding the PSA. Mr. O'Connor stated that he is inclined to support the expansion of the PSA.

Mr. O'Connor stated that County services would be required no matter what type of development occurs. Mr. O'Connor stated that the EO Land Use Designation and expansion of the PSA would allow the property to be marketable and have a Master Plan put in place.

On a roll call vote the Planning Commission voted to recommend approval of the addition of 141 acres into the PSA (4-3). (Aye: Wright, Bledsoe, O'Connor, Richardson. Nay: Haldeman, Schmidt, Krapf.)

A motion to Approve was made by Robin Bledsoe, the motion result was Passed. AYES: 4 NAYS: 3 ABSTAIN: 0 ABSENT: 0 Ayes: Bledsoe, O'Connor, Richardson, Wright III Nays: Haldeman, Krapf, Schmidt

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - April 2017

> Mr. Holt stated that there was nothing more to add other than what was submitted in the Planning Commission packet.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Krapf noted that Mr. O'Connor would have Board of Supervisors coverage for May.

Mr. O'Connor inquired when the Taylor Farm land Use application would be heard by the Board.

Mr. Holt stated that it would be heard in May.

J. ADJOURNMENT

Mr. Wright made a motion to adjourn.

The meeting was adjourned at approximately 10:08 p.m.

Paul D. Holt, III, Secretary

RESOLUTION

VIRGINIA CODE § 15.2-2232 ACTION ON CASE NO. SUP-0028-2016.

SOLAR ELECTRICAL GENERATION FACILITY AT NORGE

- WHEREAS, in accordance with Virginia Code § 15.2-2232, a public utility facility, whether publicly or privately owned, shall not be constructed, established or authorized, unless and until the general location or approximate location, character and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted Comprehensive Plan or part thereof; and
- WHEREAS, Whisper Ridge, LLC (the "Owner") owns properties located at 320, 339, 341 and 345 Farmville Lane, further identified as James City County Real Estate Tax Map Parcel Nos. 2320100052A, 2320100052G, 2320100052 and 2320100055 respectively, and other areas legally described and identified as: All those pieces or parcels of property situate, lying and being in James City County, Virginia, consisting of Parcels 1, 2, C, D, and I, comprising of 0.35 acre, 0.08 acre, 0.08 acre, 0.03 acre and 0.09 acre, respectively, all set as forth and shown on a certain plat of survey made by E. E. Paine, Inc., entitled "Plat of the Property of J. Guy and Christina M. Hughes" dated June 17, 1974, revised September 3, 1975, and recorded in the Office of the Clerk of the Circuit Court for the County of James City, Virginia, on November 24, 1975, in Plat Book 33 at Pages 23 and 24" (collectively, the "Properties"). The Properties are zoned A-1, General Agricultural and R-2, General Residential; and
- WHEREAS, Mr. Drew Gibbons of SunPower Devco, LLC, on behalf of the Owner, has applied for a Special Use Permit to allow for the construction of a solar electrical generation facility on the Properties as shown on a plan titled "Norge Solar Master Plan" dated October 4, 2017; and
- WHEREAS, in accordance with Virginia Code § 15.2-2204 and Section 24-9 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified and a hearing scheduled for Case No. SUP-0028-2016.
- NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby approve the general or approximate location, character and extent of the public utility facility shown in Case No. SUP-0028-2016 as being substantially in accord with the adopted Comprehensive Plan and applicable parts thereof.

Richard Krapf Chair, Planning Commission

ATTEST:

Paul D. Holt, III Secretary

Adopted by the Planning Commission of James City County, Virginia, this 6th day of December, 2017.

SUP28-16Solar2-res

- 1. Master Plan. This Special Use Permit ("SUP") shall be valid for the construction and operation of a photovoltaic solar electrical generation facility with a capacity of up to 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more (the "Facility"). The Facility shall be located at 320, 339, 341, and 345 Farmville Lane, which are identified as James City County Real Estate Tax Map Parcel Nos. 2320100052A, 2320100052G, 2320100052 and 2320100055, respectively, and parcels described as "All those pieces or parcel of property situate, lying and being in James City County, Virginia, consisting of Parcels 1, 2, C, D, and I, comprising of 0.35 acre, 0.08 acre, 0.08 acre, 0.03 acre and 0.09 acre, respectively, all set as forth and shown on a certain plat of survey made by E.E. Paine, Inc., entitled "Plat of the Property of J. Guy and Christina M. Hughes" dated June 17, 1974, revised September 3, 1975, and recorded in the Office of the Clerk of the Circuit Court for the County of James City, Virginia, on November 24, 1975, in Plat Book 33 at Pages 23 and 24" (together, the "Properties"). The Facility shall be in accordance with the "Norge Solar Master Plan" prepared by Kimley-Horn and dated October 4, 2017, (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.
- 2. <u>Boundary Line Extinguishment</u>. Prior to final approval of any site plan, a subdivision plat that extinguishes the lot lines separating properties located at 339, 341 and 345 Farmville Lane shall be recorded.
- 3. Nutrient Management Plan. A nutrient management plan (NMP) shall be prepared by a certified nutrient management planner for all of the area within the defined limits of work (disturbance) for the Properties. The purpose of the NMP is to provide for longterm establishment and maintenance of turf grass, pasture, rangeland or other similar type vegetative cover which preserve the long-term soil health for potential future farming purposes. The NMP shall include measures necessary to manage and limit yearly nutrient application rates in order to best protect the surrounding Resource Protection Areas (RPA) and ravines. The NMP shall have a component which specifically identifies, maintains and protects designated Prime Farmland soil mapping units consistent with the Soil Survey of James City County and the City of Williamsburg Virginia (April 1985) and the County's Comprehensive Plan. The NMP shall be submitted for review and approval by the County's Director of Stormwater and Resource Protection prior to approval of any final site plan for the Facility. Upon approval of the NMP, the Facility operator shall be responsible for ensuring that any nutrient applied in the area within the defined limits of work is in strict accordance with the NMP.
- 4. <u>Construction Traffic Mitigation Plan</u>. A Construction Traffic Mitigation Plan (CTMP), shall be submitted to the Virginia Department of Transportation (VDOT) and the County Director of Planning, or his designee, for review and approval prior to the issuance of a land disturbing permit for the Facility. The CTMP shall identify all existing conditions and provide a plan to address all necessary repairs to public roads internal to the Norvalia subdivision required as a result of damage from construction traffic and provide a timeline for completion of repairs. All road repairs as identified by the approved CTMP as determined by VDOT shall be completed within six months of the Facility commencing operations.

- 6. Archaeology, A Phase I Archaeological Study for the Properties shall be submitted to the Director of Planning for review and approval prior to issuance of a land disturbing permit for the Facility. A treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the Properties and the clearing, grading or construction activities thereon. This condition shall be interpreted in accordance with the County's Archaeological Policy adopted by the County on September 22, 1998.
- 7. <u>Natural Heritage Resource</u>. A natural resource inventory of suitable habitats for S1, S2, S3, G1, G2, or G3 resources on the Properties in the area of the Facility shall be submitted to the Director of Planning for review and approval prior to issuance of a land disturbing permit. If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the Properties where the Facility is located, a Conservation Management Plan (CMP) shall be submitted to and approved by the Director of Planning for the affected area. All inventories and CMPs shall meet the standards of the Virginia Department of Conservation and Recreation's Division of Natural Heritage ("DCR/DNH") for preparing such plans, and shall be conducted under the supervision of a qualified biologist as determined by the DCR/DNH or the United States Fish and Wildlife Service. All approved CMPs shall be incorporated into the plan of development for the Properties, and the clearing, grading, or construction activated thereon, to the maximum extent possible. Upon approval by the Director of Planning, a Mitigation Plan may be submitted for the incorporation of the CMP into the plan of development for the Properties.
- 8. <u>Vegetated Buffer</u>. Prior to final approval of any site plan, the Director of Planning or his designee shall review and approve a landscape plan for the Facility. The landscape plan shall provide a fifty (50) foot vegetated buffer along the perimeter of the

Properties. The perimeter buffer shall be provided by one of the three treatment options listed below:

- In areas of the fifty (50) foot perimeter buffer that are currently comprised of mature forest, as determined by the Director of Planning or his designee, the buffer shall be left undisturbed in its natural state.
- In areas of the fifty (50) foot perimeter buffer that are not completely comprised of mature forest, as determined by the Director of Planning or his designee, supplementation with evergreen shrubs and trees shall be required.
- In areas of the fifty (50) foot perimeter buffer where little or no vegetation exists, as determined by the Director of Planning or his designee, the buffer shall be landscaped to the provisions of Section 24-96 of the Zoning Ordinance for General Landscape Areas except that the required evergreen tree and shrub mixture shall be increased from 35% to at least 50%.
- 9. <u>Lighting</u>. Prior to final approval of any site plan, the Director of Planning, or his designee, shall review and approve a lighting plan for the Facility. Any exterior site or building lighting shall be shielded and directed downward. No glare, defined as 0.1 foot-candle or higher, shall extend outside the boundaries of the Properties. Lights shall be operated by a motion detector or be able to be turned on as needed by the Facility operator and shall not be routinely illuminated at night. All light poles shall not exceed sixteen (16) feet in height from finished grade unless otherwise approved by the Director of Planning prior to final site plan approval.
- 10. <u>Signage</u>. Unless otherwise exempt by Section 24-74 of the Zoning Ordinance, no outdoor signage related to the Facility shall be permitted on the Properties.
- 11. <u>Fencing</u>. Prior to final approval of any site plan, the Director of Planning or his designee shall review and approve a detail of any proposed fencing for the Facility. The fence shall be black, or other neutral color, and shall not exceed a height of eight (8) feet above finished grade. The fence shall not contain barbed wire unless it is required by federal or state regulations.
- 12. <u>Emergency Management Plan</u>. The Facility operator shall prepare and maintain an Emergency Management Plan (EMP) to address situations that may require response from James City County public safety personnel, including, without limitation, fire safety and emergency response personnel. The EMP shall:
 - Be developed in conjunction with and approved by the County Fire Chief and County Police Chief or their designees prior to final approval of any site plan.
 - Provide a mutually agreed upon schedule for the Facility operator to provide information sessions and training for James City County public safety personnel relative to possible emergency response situations at the Facility.
 - Provide pertinent contact numbers for the Facility operator emergency personnel.
 - Provide that all emergency contact information will be posted on access gates.

- 13. <u>Construction Management and Mitigation Plan</u>. Prior to final approval of any site plan, the Facility operator shall provide a Construction Management and Mitigation Plan (CMMP) for review and approval of the Director of Planning or his designee. The CMMP shall include those items listed below:
 - a. Construction Management:
 - Designated parking areas.
 - All piling driving activity on the Properties be limited to the hours of 8 a.m. to 6 p.m., Monday through Friday.
 - Other construction activities, including clearing and grading of the Properties shall be limited to the hours of 7 a.m. to 7 p.m., Monday through Friday.
 - Construction delivery traffic to the Properties shall not be allowed during pick-up/drop-off times for surrounding schools.
 - Storage, transportation and disposal of any waste and/or hazardous materials.
 - b. Construction Mitigation:
 - Dust mitigation, such as water trucks, mulch or similar methods.
 - Smoke and burn mitigation, such as containments or similar methods.
 - Visual and noise mitigation, such as fences, landscaping or similar methods.
- 14. <u>Spill Prevention Control and Countermeasure Plan.</u> Prior to issuance of a land disturbing permit the Facility operator shall submit a Spill Prevention Control and Countermeasure (SPCC) Plan for the Facility to the Director of Stormwater and Resource Protection, or his designee, for review and approval. The SPCC shall outline measures and procedures necessary for the operation of the Facility until decommission.
- 15. Decommissioning and Restoration Plan. Prior to final approval of any site plan, a Decommissioning and Restoration Plan (DRP) shall be submitted to the Director of Planning, or his designee, for review and approval. The DRP shall outline the required steps for removal of above- and below-ground Facility components, disposal of and/or recycle of wastes and materials and the restoration of the Properties to pre-construction conditions. The DRP shall address abandonment of operations and the possible failure of the Facility operator to comply with the decommissioning process and provide an estimated cost associated with the decommissioning and restoration activities. To ensure sufficient funds are available to the County to conduct the DRP should the owner fail to perform its obligation under this condition, a surety shall be posted with James City County in a form acceptable to the County Attorney, in an amount sufficient for the removal and disposal of all the power generating equipment, inverters, fencing, wiring and any other ancillary materials and equipment associated with the Facility.

- 16. <u>Off-Site Parking</u>. Prior to final approval of a site plan, an Off-Site Parking Plan (OPP) shall be submitted to the Director of Planning, or his designee, for review and approval. The off-site parking area shall be used by construction workers who shall be transported to the Properties via a shuttle van and/or bus. The OPP shall conform to all Zoning Ordinance requirements and shall identify elements such as, but not limited to, the number of off-site parking spaces provided and the location of the off-site parking area. In order to reduce the amount of construction related traffic during the construction period at Norvalia neighborhood and to ensure that construction workers are parking their vehicles at the off-site parking area, no more than twenty (20) vehicles may be parked on the construction site at any time, except for trucks, as defined by the Zoning Ordinance, and delivery vehicles. No on-street parking shall be allowed.
- 17. <u>Commencement</u>. The Facility shall be operational within 48 months from the issuance of this SUP, or this SUP shall become void. The Facility operator shall submit a certified letter to the Director of Planning to confirm the operational status of the Facility.
- 18. <u>Height Limitation</u>. With the exception of distribution poles and overhead wiring, as permitted by the Zoning Ordinance, the maximum height of all structures in the Facility, including the photovoltaic solar panel mounts shall not exceed sixteen (16) feet above finished grade.
- 19. <u>Underground Wires</u>. All electrical wiring used in the Facility shall be located underground except where wiring is necessary to connect the Facility to the existing overhead utility line
- 20. <u>Glare</u>. All photovoltaic solar panels shall be made of or coated with anti-reflective materials to prevent glare.
- 21. <u>Severance Clause</u>. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

SUNPOWER®



NORGE SOLAR FACILITY James City County Special Use Permit

December 21, 2016

Special Use Permit

For

Norge Solar Facility 341 Farmville Lane Williamsburg, VA

Prepared By: Kimley-Horn 11815 Fountain Way, Suite 300 Newport News, VA 23606

December 21, 2016 Kimley-Horn Project Number: 017261002

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Section I – Project Description

The Project

SunPower plans to construct and operate a photovoltaic solar electrical generation facility with a capacity up to 20 megawatts (MW) on a site of approximately 223 acres located in James City County, Virginia. When fully constructed the facility will supply approximately 4,000 Virginia households with clean, renewable energy. Upon completion, the project will include the following key components:

- Ground-mounted arrays of photovoltaic panels that are up to approximately 13 feet in height, arranged in rows, spaced approximately 15'-25' apart, and mounted on single-axis trackers;
- An enclosed switchgear facility with interconnection to Dominion's distribution network via generation tie lines and poles;
- Supervisory Control and Data Acquisition Facility Control Systems;
- Inverters, combiners, and transformers;
- Buried electrical conduits;
- Onsite unpaved access roads, consisting of 12-foot-wide interior perimeter access roads and 8to 12-foot-wide interior access paths;
- Wildlife-compatible, chain link security fencing, up to 7 feet in height, located along the site perimeter;
- A 50' minimum existing or planted vegetative buffer to screen project from adjoining properties;
- A prefab container-sized O&M storage shed; and
- A gravel-surfaced access driveway fronting onto Oslo Court

Land for the project will be leased from an existing property owner, which is typical for this type of development and preferred by the landowners. Including extensions, the lease term of the land agreements is 35 years. This structure provides a mutually agreeable set of lease terms and a very stable and steady income for the landowner. A decommissioning plan will be implemented at the end of the project life, and is discussed in more detail below.

The subject property is located at 341 Farmville Lane in Williamsburg, Virginia. Three small parcels are currently zoned General Residential (R2) and one large parcel is currently zoned General Agricultural (A1). According to the James City County Zoning Ordinance, utility uses, to include electrical generation facilities (public or private) may be developed on land zoned R2 and A1 after obtaining a special use permit. On November 11, 2016, the James City County Zoning Administrator found the use proposed based on our conceptual plan (i.e., utility-scale solar farm) consistent with the Zoning Ordinance (i.e. electrical generation facilities).

Based on the proposed layout, approximately 153 acres of land will be disturbed as a part of this project.

SunPower Background

Founded in 1985, SunPower is a U.S.-based company headquartered in San Jose, CA with regional offices across the country. For over 30 years SunPower has been leading global solar innovation. SunPower solar panels consistently deliver more energy and long-term peace of mind with the highest performing solar power systems available. SunPower is the solar energy choice of more homeowners and businesses around the world.

A Proven Track Record

- Diversified global portfolio leading residential, commercial and utility solar energy markets
- Over 2,600 MW of solar power plants deployed globally
- Total solar energy deployed > 7 GW, enough to power over 1 million homes
- Developed and constructed one of the world's largest PV plants (579 MW ac) The Solar Star Projects in Los Angeles and Kern Counties, California, USA
- A 14 GW power plant pipeline attracting the world's most sophisticated utilities, investors and commercial organizations at the forefront of renewable energy

Industry-Leading Technology

- World's highest efficiency solar panels featuring SunPower Maxeon cell technology
- More than 600 patents
- Panel efficiency world record holder (22.4%), with production panels exceeding 20%
- Panel useful life estimated to extend more than 40 years

Enduring Viability

- One of the most vertically integrated companies in the industry, guiding all aspects of the solar value chain from manufacturing to lifetime operations & maintenance
- Cumulative 5-year GAAP revenue of approximately \$12 billion; \$1.5 billion in 2015
- More than 6,000 people employed worldwide
- Publicly traded on the NASDAQ (SPWR) since 2005
- Majority-backed by Total S.A. (approximately 66% ownership), the fourth largest publicly traded, integrated international oil and gas company in the world

Regulatory/Approval Processes

There are three main approvals required for this project:

1. Special Use Permit – James City County

SunPower is requesting approval for a special use permit from James City County for a site that has been carefully selected as suitable for this purpose.

2. Interconnection Agreement – Dominion Virginia Power

The project requires an agreement with Dominion Virginia Power (DVP) to interconnect into the electrical power distribution network. Independent transmission evaluations were conducted prior to selecting the site to confirm that the location was optimal for supplying power to the grid. SunPower submitted an interconnection request to DVP in March 2016 and expects to execute an interconnection agreement in early 2017.

3. Renewable Energy "Permit By Rule" – Commonwealth of Virginia

The Permit by Rule (PBR) review and approval process is administered by the Virginia Department of Environmental Quality (DEQ). In keeping with this process, the Norge Solar Facility will be meeting with the DEQ and the application will undergo review by numerous state agencies, including the Department of Game and Inland Fisheries (DGIF), the Department of Conservation and Recreation (DCR), the Department of Historic Resources (DCR) and Department of Mines Minerals and Energy (DMME) to ensure the project minimizes impacts to protected resources and complies with all requirements of the PBR. The Project has also performed wetlands studies to ensure compliance with US Army Corps of Engineers requirements. A number of environmental, historical/archaeological, and other studies have been or will be performed in support of these primary approvals and are described in more detail below.

Decommissioning Plan

All landowners expect their land will be returned to the pre-existing conditions after the end of the project life. It is of utmost important to SunPower that these leases have decommissioning requirements with financial assurances to ensure that the land is returned to the owners in a responsible manner. The purpose of the Decommissioning Plan is to estimate the costs associated with decommissioning of the project at the end of operations and to ensure proper removal of all associated components of the project and restoration of the site to pre-existing conditions. A Decommissioning and Restoration Plan is included with this submittal.

Benefits to James City County

The project will produce clean, emissions-free electricity to meet anticipated energy demands as well as state and/or federal renewable energy goals or requirements. The project also will help utilities meet state Renewable Portfolio Standards/Renewable Energy Standards.

Local project benefits include the creation of up to 80 jobs during peak construction, providing an economic benefit to the local economy and increasing sales tax revenues for James City County —all the

while, delivering enough clean electricity to power the equivalent of approximately 4,000 homes. One to two permanent jobs will be required to operate the facility after construction and additional contractor services will also be required periodically over the life of the project. SunPower will hold job fairs and conduct outreach to ensure hiring of locally skilled workers. Project development would also increase local business activity during construction and public tax revenue for James City County over the life of the project.

An independent economic consulting firm is conducting an economic impact analysis to access the economic and fiscal contribution that the project will make to James City County. The final report will be included as an addendum to this application once completed.

Section II – Traffic Impacts

The proposed solar power electrical generation facility will add only a negligible amount of additional traffic to the existing adjacent roadway infrastructure as the proposed use is a very low trip generator. The *James City County/Williamsburg/York County Comprehensive Transportation Study*, prepared by the Hampton Roads Transportation Planning Organization (HRTPO) in March of 2012, indicates that the segment of Richmond Road (U.S. Route 60) between Croaker Road (State Route 607) to the west and Lightfoot Road (State Route 646) to the east, experienced between LOS A and C in 2010 during the PM peak hour and is anticipated to experience between LOS A and C in 2034 during the PM peak hour. During operations the proposed solar power project will add a negligible amount of new traffic to the adjacent street network as traffic activity is limited to periodic maintenance vehicle activity during the week and throughout the month. LOS is based on the average delay experienced by all traffic using the intersection during the busiest (peak) 15-minute period. Generally, LOS A through LOS D are considered acceptable in urban areas. Therefore, the proposed project will not adversely impact either existing or anticipated future operational conditions along the Richmond Road corridor.

Although the site is relatively remote and well screened, we plan to keep construction work hours from 7AM to 7 PM to minimize disturbances during early morning and/or evening hours. SunPower estimates 7 – 10 trucks per day for material deliveries during peak construction and an additional 2 – 4 concrete trucks depending if there is any overlapping of activities. Heavy trucks for material deliveries do not operate during the entire construction duration of the project, only at peak times. SunPower estimates around 60 personal vehicles could also make daily trips to the site related to construction labor and management. We will work with JCC to best define appropriate construction delivery times in an effort to avoid conflicts with school buses on the surrounding residential streets during peak pickup and drop off times. Current pick up/drop off times for surrounding schools are below:

	Norge ES	Toano MS	Warhill HS
Pick Up	9:01 AM	6:34 AM	6:44 AM
Drop Off	4:21 PM	2:53 PM	2:49 PM

After construction, during normal operation and maintenance, the site will receive around 4 trips max per day. Normally 1 pick-up truck would visit the site per day but the site could see 2 – 4 more if utility workers are needed for major repair such as replacing an inverter.

Section III – Water and Sewer Impacts

The proposed solar power electrical generation facility will not require water or sewer service during construction or during regular operation.

A relatively small amount of water will be used during construction. Water is typically needed for dust control during construction, but given the wet climate and soils at the site, dust should not be a construction issue. Water will be needed on site for compaction purposes but will be very limited and can be brought on site via truck. SunPower can provide an actual estimate during the site plan permitting phase once we've conducted a geotech study.

Due to the site's location, monthly rainfall is typically expected and cleaning of panels during the operation and maintenance phase will be minimal as the rainfall will naturally remove dust that collects on the panels. SunPower estimates that the panels will require cleaning twice a year at most. Operations and maintenance cleaning systems functioning twice a year will use approximately 13,000 gallons of clean water annually. This relatively small amount of water can be transported on site via truck.

Section IV – Conceptual Stormwater Management Plan

New construction will require an analysis of stormwater quality and quantity per the 2014 Virginia Department of Environmental Quality Regulations and adherence to any other applicable local and state regulations. The project is required to meet Part IIB of the Commonwealth of Virginia's stormwater management requirements and will be considered a redevelopment project.

The existing condition of the 223 acre project site of which approximately 153 acres will be disturbed during construction. Currently, the site has about 1.6 acres of impervious cover including an access road and a small grouping of farm houses. Much of the site has been used as cultivated farm land and is classified as managed turf. In these predevelopment conditions, the runoff curve number for the site is about 70.93, assuming Type C soils.

In proposed conditions, there is about 3.92 acres of impervious cover which include new access roads and equipment pads. The solar panel array functions as a pervious surface, due to the spacing between rows of panels, the angle of the panels and the underlying vegetative surface. The system is relatively low impact and allows stormwater to infiltrate at the same rate, if not faster than in the existing conditions. The ground below the solar panels will be seeded with a low maintenance meadow seed mix. It is important to note that changing the ground cover conditions from cultivated farm land to a meadow reduces the overall runoff from the site, improves the water quality and prevents erosion. The runoff curve number for the proposed development is 74.61, assuming Type C soils.

DRAINAGE AREA SUMMARY								
	TOTAL AREA (AC.)	impervious Area (ac.)	MANAGED TU AREA (AC.)	RF FOREST/ OPEN S AREA (AC.)	PACE C	CN		
Pre Development	153.44	1.60	24.44	127.40	70.93	0.11		
Post Development	153.44	3.92	149.52	0.00	74.61	0.36		

DEQ Virginia Runoff Reduction Method (VRMM) stormwater quality calculations were performed for the site and are presented in Appendix B. The calculations show that converting the farm land to open space provided more than adequate pollutant removal; an extra 34 pound of phosphorous is being removed per year and can be used to help the county meet its TMDL goals. The supporting calculations have been attached to Appendix B.

Section V – Adequate Public Facilities

It was determined through conversations with staff that an adequate public facilities report is not required for this SUP application. The project is not a residential development, and because the proposed solar power electrical generation facility will not provide for any additional population growth and minimal permanent employment positions, the project will not result in additional traffic being added to and/or impacting the adjacent roadways and intersections.

Section VI – Historic and Archeological Study

According to the GIS data provided by the Virginia Department of Historic Resources, the site is not within a historically protected district. Therefore, a Phase 1A Historic and Archeological study is not required. See the attached exhibit in Appendix C. However, as a part of the Renewable Energy "Permit By Rule" through the Commonwealth of Virginia, Applicant will perform historical and archaeological studies and the Department of Historic Resources (DCR) will review the site and surrounding areas to ensure historical and archeological significant areas are not affected from this development.

Section VII – Environmental Inventory

An environmental analysis was performed on site to ensure that the proposed development is feasible and does not provide significant adverse environmental impacts.

Wetlands and Waters

County GIS data and USGS topographic mapping was used to identify the location of surrounding bodies of water. The site is located in the Yarmouth Creek watershed. Wetlands and Waters of the U.S. (WOUS) were delineated in accordance with the methods outlined in the U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0). The
project area consists of agricultural fields within the central portion of the site and wooded areas surrounding the agricultural fields. Unnamed tributaries that flow to Cranstons Pond (which flows to Yarmouth Creek) bound the property to the west, south and east. Forested wetlands systems are associated with these tributaries in areas. A field perenniality determination was conducted using the James City County (JCC) Perennial Stream Protocol Guidance Manual and portions of the tributaries were determined to be perennial. Perennial streams and wetlands which are contiguous and connected by surface flow to these perennial streams were identified as Resource Protection Areas and are subject to a 100-ft Resource Protection Area (RPA) buffer. The dominate tree species in the upland areas consist of beech (Fagus grandifolia), tulip poplar (Liriodendron tulipifera), red maple (Acre rubrum), white oak (Quercus alba), red oak (Quercus falcata), and holly (Ilex opaca). The wetlands occur in low lying ravines and are associated with streams. Common vegetation along the boundary and upper limits of the wetlands included holly (*llex opaca*), sycamore (*Platanus occidentalis*), ironwood (Carpinus caroliniana), highbush blueberry (Vaccinium corymbosum), Christmas fern (Polystichum acrostichoides), and Japanese stiltgrass (Microstegium vimineum). Lizard's tail (Saururus cernuus) was observed adjacent to streams within the wider wetland areas. No isolated wetlands or vernal pool type systems were identified within the delineation limits. Based on the delineation, the RPA buffers and associated wetlands do not conflict with the proposed limits of disturbance. An exhibit depicting the wetlands delineation, the RPA buffer, and the surrounding WOUS can be found in Appendix D.

Threatened and Endanger Species

Kimley-Horn conducted a preliminary review readily available database and agency information regarding potential occurrences of federal and state listed threatened and endangered (T&E) species within the proposed project limits or a 2-mile radius of the proposed project area. The review consisted of obtaining an Official Species list from the US Fish and Wildlife Service (USFWS) Official Species List, reviewing the Department of Game and Inland Fisheries (DGIF) Virginia Fish and Wildlife Information Service (VaFWIS) and Wildlife Environmental Review Map Service (WERMS), and submittal of the project area to the Department of Conservation and Recreation (DCR) Division of Natural Heritage (DNH).

USFWS - The USFWS Official Species List, dated September 19, 2016, documented Small Whorled pogonia (*Istotria medeoloides*) and Northern long-eared Bat (*Myotis septentrionalis*) as potentially occurring within the vicinity of the proposed project.

DGIF – The DGIF VaFWIS and WERMS databases did not identify any known occurrences of federal or state listed threatened or endangered species within the project limits (accessed September 19, 2016, November 2 and 3, 2016). The databases documented one known occurrence of the tri-colored Bat (*Perimyotis subflavus*) within the 2-mile radius of the project area. This species is state listed as endangered. The documented occurrence is located to the south of the proposed project site in the vicinty of Deer Lake to the north of Kolly Pond Road. DGIF's Little Brown Bat (MYLU) and Tri-colored Bat (PESU) Winter Habitat and Roosts Application did not identify hibernaculum within 0.25 mile of the proposed project nor known roost trees within 150 feet of the proposed project (accessed September 19, 2016 and November 3, 2016). DGIF's Northern Long-Eared Bat (NLEB) Winter Habitat and Roost Trees Application was also reviewed to identify winter habitat within 0.25 mile of the proposed project

or known maternity roost trees within 150 feet of the proposed project (accessed September 19, 2016 and November 3, 2016). No known NLEB winter hibernaculum or maternity roost trees were identified within the proposed project area or referenced ranges.

DCR – Based on DCR's comments received on October 18, 2016, natural heritage resources were not depicted within the project area but are located within a 2-mile radius of the proposed project area:

Lightfoot Conservation Site (Site ID 2121) – this site is located ±0.8 mile to the south of the proposed site. This conservation site has been assigned a biodiversity ranking of B3 which represents a site of high significance. The resource of concern at the site is small whorled pogonia (*Isotria medeoloides*, G2/S2/LT/LE). Small whorled pogonia is federally listed as threatened and state listed as endangered. The DCR comments describe small whorled pogonia as a perennial orchid that grows in a variety of woodland habitats but tend to prefer mid-aged woodland habitats on gently north or northeast facing slopes, often within small draws. Threats to this species include direct destruction, habitat loss, and habitat alteration. A habitat assessment for small whorled pogonia (*Isotria medeoloides*) will be performed to identify suitable habitat on the project site. If suitable habitat is identified a survey will be conducted within the survey window.

Yarmouth Creek Conservation Site (G3G4/S3S4/NL/NL) – This site is identified as an Arrow-Arum-Pickerelweed tidal freshwater marsh and has a biodiversity significance ranking of B2, which represents very high significance. These communities occur in low lying marsh with much substrates of varying depths with long periods of tidal flooding. To minimize adverse impacts to this conservation site, the project will have strict adherence to state and local erosion and sediment control/stormwater management laws and regulations.

Floodplain

The Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map depicts the proposed project site as within Zone "X", outside the 0.2% annual chance floodplain. An exhibit has been provided in Appendix D.

Topography and Soils

County GIS was also used to examine the existing topography of the site. The area where the proposed solar power electrical generation facility will be located is relatively flat. However, the slopes increase dramatically (over 25%) at the field delineated RPA buffers, leading to the streams to the east and west of the proposed site location. A topographic exhibit has been attached in Appendix D. According to the USDA soil survey, the site soils are predominately a mix of Craven-Uchee complex, Emporia complex, and Kempsville-Emporia fine sandy loams. These soils are well drained with moderate permeability, and the hazard of erosion is slight. The USDA soils report has been provided in Appendix D.

Section VIII – Perimeter Buffers

The majority of the site is bounded by existing, vegetated RPA-buffered features as shown on the Master Plan. Based upon James City County, State, and Federal environmental regulations, these RPA buffer and steep slope areas will not be cleared or disturbed as part of construction. Therefore, significant

buffers composed of existing plant material will remain present and will provide from approximately 50ft to more than 1,000-ft of buffering from the majority of the surrounding properties as shown on the Master Plan. For areas along the north and northeast sides of the project area where agricultural fields border existing residential properties and limited existing buffer vegetation is present, a planted buffer of 50-ft is proposed as shown conceptually on the Master Plan. For this proposed buffer area, plantings composed predominantly of evergreen plant material are planned so that a continuous screen can be provided. Appendix A – Master Plan and Supplemental Exhibits



Appendix B – Conceptual Stormwater Calculations and Exhibit









DEQ Virginia Runoff Reduction Method Re-Development Compliance Spreadsheet - Version 3.0

BMP Design Specifications List: 2013 Draft Stds & Specs

Site Summary

Total Rainfall (in):	43
Total Disturbed Acreage:	153.44

Site Land Cover Summary

Pre-ReDevelopment Land Cover (acres)

	A soils	B Soils	C Soils	D Soils	Totals	% of Total
Forest/Open (acres)	0.00	0.00	127.40	0.00	127.40	83
Managed Turf (acres)	0.00	0.00	24.44	0.00	24.44	16
Impervious Cover (acres)	0.00	0.00	1.60	0.00	1.60	1
					153.44	100

Post-ReDevelopment Land Cover (acres)

	A soils	B Soils	C Soils	D Soils	Totals	% of Total
Forest/Open (acres)	0.00	0.00	0.00	0.00	0.00	0
Managed Turf (acres)	0.00	0.00	149.52	0.00	149.52	97
Impervious Cover (acres)	0.00	0.00	3.92	0.00	3.92	3
					153.44	100

Site Tv and Land Cover Nutrient Loads

(Post-ReDevelopment & New Impervious)	Post- ReDevelopment	Development (New Impervious)	Adjusted Pre- ReDevelopment
0.24	0.23	0.95	0.08
132,925	124,924	8,001	43,197
83.52	78.49	5.03	27.14
	& New Impervious) 0.24 132,925	& New Impervious) ReDevelopment 0.24 0.23 132,925 124,924 83.52 78.49	& New Impervious) ReDevelopment (New Impervious) 0.24 0.23 0.95 132,925 124,924 8,001 83.52 78.49 5.03

Pre- ReDevelopment TP Load per acre (lb/acre/yr)	Final Post-Development TP Load per acre (lb/acre/yr)	Post-ReDevelopment TP Load per acre (lb/acre/yr)
0.18	0.54	0.52

Baseline TP Load (Ib/yr): 61.9592* *Reduction below new development load limitation not required

Total TP Load Reduction Required (lb/yr)	20.61	16.53	4.08
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	Final Post-Development Load (Post-ReDevelopment & New Impervious)	Pre- ReDevelopment
TN Load (lb/yr)	597.46	195.67

DEQ Virginia Runoff Reduction Method Re-Development Compliance Spreadsheet - Version 3.0

BMP Design Specifications List: 2013 Draft Stds & Specs

Site Summary

Total Rainfall (in):	43
Total Disturbed Acreage:	153.44

Site Land Cover Summary

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Impervious Cover (acres)	0.00	0.00	1.60	0.00	1.60	1
					153.44	100

Post-ReDevelopment Land Cover (acres)

	A soils	B Soils	C Soils	D Soils	Totals	% of Total
Forest/Open (acres)	0.00	0.00	0.00	0.00	0.00	0
Managed Turf (acres)	0.00	0.00	149.52	0.00	149.52	97
Impervious Cover (acres)	0.00	0.00	3.92	0.00	3.92	3
					153.44	100

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Baseline TP Load (Ib/yr): 61.9592* *Reduction below new development load limitation not required

Total TP Load Reduction Required (lb/yr)	20.61	16.53	4.08
--	-------	-------	------

	Final Post-Development Load (Post-ReDevelopment & New Impervious)	Pre- ReDevelopment
TN Load (lb/yr)	597.46	195.67

Site Compliance Summary

Maximum % Reduction Required Below	v 20%
Pre-ReDevelopment Loa	d 20%

* Note: % Reduction will reduce post-development TP load to less than or equal to baseline load of 61.96 lb/yr (0.41 lb/ac/yr) [Required reduction for Post-ReDev. = Post-ReDev TP load - baseline load of 61.9592 lb/yr], baseline load = site area x 0.41 lb/ac/yr

........

Total Runoff Volume Reduction (ft ³)	34,921
Total TP Load Reduction Achieved (lb/yr)	21.92
Total TN Load Reduction Achieved (lb/yr)	156.78
Remaining Post Development TP Load (Ib/yr)	61.60
Remaining TP Load Reduction (Ib/yr) Required	0.00

*Reduction below new development load limitation not required

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Site Compliance Summary

Maximum % Reduction Required Below	v 20%
Pre-ReDevelopment Loa	d 20%

* Note: % Reduction will reduce post-development TP load to less than or equal to baseline load of 61.96 lb/yr (0.41 lb/ac/yr) [Required reduction for Post-ReDev. = Post-ReDev TP load - baseline load of 61.9592 lb/yr], baseline load = site area x 0.41 lb/ac/yr

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Total Runoff Volume Reduction (ft ³)	34,921
Total TP Load Reduction Achieved (lb/yr)	21.92
Total TN Load Reduction Achieved (lb/yr)	156.78
Remaining Post Development TP Load (Ib/yr)	61.60
Remaining TP Load Reduction (Ib/yr) Required	0.00

*Reduction below new development load limitation not required

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Drainage Area Summary

	D.A. A	D.A. B	D.A. C	D.A. D	D.A. E	Total
Forest/Open (acres)	0.00	0.00	0.00	0.00	0.00	0.00
Managed Turf (acres)	149.52	0.00	0.00	0.00	0.00	149.52
Impervious Cover (acres)	3.92	0.00	0.00	0.00	0.00	3.92
Total Area (acres)	153.44	0.00	0.00	0.00	0.00	153.44

Drainage Area Compliance Summary

	D.A. A	D.A. B	D.A. C	D.A. D	D.A. E	Total
TP Load Reduced (lb/yr)	21.92	0.00	0.00	0.00	0.00	21.92
TN Load Reduced (lb/yr)	156.78	0.00	0.00	0.00	0.00	156.78

Drainage Area A Summary

Land Cover Summary

	A Soils	B Soils	C Soils	D Soils	Total	% of Total
Forest/Open (acres)	0.00	0.00	0.00	0.00	0.00	0
Managed Turf (acres)	0.00	0.00	149.52	0.00	149.52	97
Impervious Cover (acres)	0.00	0.00	3.92	0.00	3.92	3
					153.44	

BMP Selections

Practice	Managed Turf Credit Area (acres)	Impervious Cover Credit Area (acres)	BMP Treatment Volume (ft ³)	TP Load from Upstream Practices (lbs)	Untreated TP Load to Practice (Ibs)	TP Removed (lb/yr)	TP Remaining (Ib/yr)	Downstream Treatment to be Employed
9.b. Sheetflow to Conservation Area, C/D Soils (Spec #2)	74.76	2.94	69,841.93	0.00	43.83	21.92	21.92	

Total Impervious Cover Treated (acres)	2.94
Total Turf Area Treated (acres)	74.76
Total TP Load Reduction Achieved in D.A. (Ib/yr)	21.92
Total TN Load Reduction Achieved in D.A. (Ib/yr)	156.78

Runoff Volume and CN Calculations

	1-year storm	2-year storm	10-year storm
Target Rainfall Event (in)	0.00	0.00	0.00

Drainage Areas	RV & CN	Drainage Area A	Drainage Area B	Drainage Area C	Drainage Area D	Drainage Area E
CN		75	0	0	0	0
RR (ft ³)		34,921	0	0	0	0
	RV wo RR (ws-in)	0.00	0.00	0.00	0.00	0.00
1-year return period	RV w RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	CN adjusted	100	0	0	0	0
	RV wo RR (ws-in)	0.00	0.00	0.00	0.00	0.00
2-year return period	RV w RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	CN adjusted	100	0	0	0	0
	RV wo RR (ws-in)	0.00	0.00	0.00	0.00	0.00
10-year return period	RV w RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	CN adjusted	100	0	0	0	0

Appendix C – VCRIS Area Map

Virginia Dept. of Historic Resources

Virginia Cultural Resource Information System

Legend

- Architecture Resources
- Archaeological Resources
- Archaeology Phase 1 Survey
- DHR Easements



Feet Title: Norge Solar DISCLAIMER: Records of the Virg depicted is a cumulative view of fi intended for engineering, legal or

N

0 1200240086004800

1:72,224 / 1"=6,019 Feet

Date: 11/8/2016

DISCLAIMER: Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years from a variety of sources and the representation depicted is a cumulative view of field observations over time and may not reflect current ground conditions. The map is for general information purposes and is not intended for engineering, legal or other site-specific uses. Map may contain errors and is provided "as-is". More information is available in the DHR Archives located at DHR's Richmond office.

Notice if AE sites: Locations of archaeological sites may be sensitive the National Historic Preservation Act (NHPA), and the Archaeological Resources Protection Act (ARPA) and Code of Virginia §2.2-3705.7 (10). Release of precise locations may threaten archaeological sites and historic resources.



Typical ground-mounted arrays of solar panels



Typical elements of an array



KEY MAP





James City County, Virginia

445' OF EXISTING FOREST









































FEBRUARY 28, 2017









FEBRUARY 28, 2017











FEBRUARY 28, 2017





650' EXISTING FOREST





KEY MAP





James City County, Virginia

Address to James City Planning Commission - Public Hearing Concerning Proposed Solar Facility in Norge – March 1, 2017

After living in upper York County for a number of years, my wife and I decided in 1988 to buy our present home in Norge. Two major factors led us to buy this home, one was the nice small neighborhood we encountered and the other being the visual appeal of the farm that our property adjoined. I knew it was historically rich as is most of the area and Norge had that small town feel but we were 8 miles and 5 traffic lights from our work in Williamsburg. There was quite a bit of farm land in the County then, but unfortunately that has changed. Although I still sense some of that small town feel, our area has seen a drastic upturn in expansion resulting in a great loss of this area's charm and rural identification. We are still 8 miles from town however instead of being separated it has become blended together and to get there we must join a road jammed with vehicles and negotiate 22 traffic lights. I still find a lot of that rural feel when I look at the farm from my backyard. Not only has it been planted in crops for better than 350 years it is a pleasant environment for the few deer that have come around, as well as wild turkey, geese and the occasional bald eagle which I've seen in the area of late.

Like most people who have paid off their mortgage I looked forward to enjoying our home and now that I've been retired over 3 years, even more so. Working all those years and paying it off was finally coming to fruition. Then we heard what was being proposed last fall. We never expected anything like the proposed Solar Farm.

As you might have guessed I and all of the neighbors I've talked with are opposed to this project. We are opposed not because it is a solar farm necessarily, but because of what it would do to this particular piece of land and the surrounding community. Solar power is in fact a good way to help offset the uses of fossil fuels in generating power, however something of this magnitude shouldn't even be considered for a farm such as this.

A number of us in the neighborhood attended the meet and greet that Sun Power held at Norge School last fall. I understood already what solar farms did and how they operated in general. At this gathering we were told what would have to be done to make this facility operational. I told one of their representatives that at minimum this facility would be unsightly. I was told a buffer fence with foliage (unsightly in its own right) would be a buffer between the fields and the back of our properties. The fence would block very little as I would be able to see over the fence from my deck onto hundreds of solar panels. I looked on the internet at other solar farms around the country and hardly any were set up this close to residential areas.

The problems getting through this neighborhood with vehicles and equipment to build and maintain this kind of operation would be undesirable. Before a facility like this would go into operation there would be a number of other issues that should be addressed, none of them in my opinion would be pluses.

Some facilities have been known to be fire risks, what would that do in trying to get firefighting equipment back into this area? There are risks of solar glare, not only to homes but to aircraft. We live in a flyover zone for civilian and military aircraft and some pilots have complained vigorously about solar panel glare from large facilities around the country. Some who live in close proximity to these complexes might have electromagnetic hypersensitivity issues and would be detrimental to their health. No one can guarantee that our property values will stay the same or go up by having our properties backed up to this kind of intrusion. And how many trees would have to be cut to accommodate this project? These concerns should be enough by themselves to deny this type of operation from being located on this farm.

What's wrong with this farm staying a farm anyway? It provides the land owner with revenue by leasing it to be put into crops the results of which will feed many and benefits our economy. This farm has artifact evidence of 17th and 18th century occupation on it and the road running through it was once an old connector road from here over to the Chickahominy river area. The existing farm house is one of the last surviving examples of Norwegian house construction in Norge. I remind you Norge was made a community by Scandinavian (mainly Norwegian) settlers at the beginning of the 20th century. Both Union and Confederate armies camped around this area after the battle of Williamsburg in 1862. It is still the beauty of this farmland that is appealing. Are we to diminish our farm lands in James City County again for this kind of construction?

SunPower touts that the construction of this facility will bring jobs and revenue to the area. The jobs will be temporary for the most part and furthermore those who would work at building it won't live here or have their houses setting next to it, even the person who owns the land doesn't live here either so none of them would feel the adverse effects. The revenues, I dare say, will not be as significant as they would make us believe. SunPower as a company has had some difficulties lately, even its stock having going down in the last two years. In various parts of the country power company fees are used to subsidize and/or buy power from Solar Facilities such as the one being proposed. This facility would be forced on us and in a roundabout way could partially be paid for through power company fees could it not? No one can guarantee that any of this will not happen.

I ask you, would you want a home or purchase one that backed up to one of these huge obtrusive facilities? No of you would. Put yourselves in our place and realize what this would do to this area. If there is a desire to build a solar complex then help them find a place that won't intrude on a community located as close to it as ours is proposed to be. Help us keep as much of James City County from being pushed out and paved over as has already been done. I certainly would have misgivings about living in a region that would allow this kind of project to go through. Please help us keep our history, our ambiance and what rural character we have left it has been our identification for centuries. Please, let it stay a farm for all of us.

Thank you very much for the opportunity to speak to you tonight.

The Economic and Fiscal Contribution that THE NORGE SOLAR PROJECT WILL MAKE TO JAMES CITY COUNTY AND VIRGINIA





April 2017

Report prepared by





Dr. Mangum earned his Ph.D. in economics at George Mason University in 1995. He has more than two decades of experience in quantitative analysis and policy development at the federal and state level. Mangum Economic Consulting, LLC is a Richmond, Virginia based firm that specializes in producing objective economic, quantitative, and qualitative analysis in support of strategic decision making. Examples of typical studies include:

Policy Analysis

Identify the intended and, more importantly, unintended consequences of proposed legislation and other policy initiatives.

Economic Impact Assessments and Return on Investment Analyses

Measure the economic contribution that business, education, or other enterprises make to their localities.

Workforce Information

Project the demand for, and supply of, qualified workers.

Cluster Analysis

Use occupation and industry clusters to illuminate regional workforce and industry strengths and identify connections between the two.

Environmental Scanning

Assess the economic, demographic, and other factors likely to affect your enterprise in the future.

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MANGUMECONOMICS.COM



Executive Summary

Introduction

SunPower is a global provider of solar technology and energy services for residential, commercial, and power plant applications. This report assesses the economic and fiscal contribution that the proposed Norge Solar Facility would involve development of up to a 20megawatt photovoltaic solar electrical generation facility on approximately 225 acres of rural property in James City County, about two miles northwest of Lightfoot.

Economic Impact

Our analysis shows that the proposed Norge Solar Facility would make a significant positive economic contribution to James City County and the state of Virginia as a whole, both in terms of the one-time pulse of economic activity that would be generated through its construction, and its on-going annual operation.

As detailed below, construction of the Norge Solar Facility is expected to generate approximately 16 full-time-equivalent jobs, \$889,513 in salaries and wages, and \$2.3 million in overall economic activity within the County. While in its first full year of operation, the Norge Solar Facility is expected to generate approximately 2 full-time-equivalent jobs, \$108,345 in salaries and wages, and \$232,053 in overall economic activity within the County. And over the 35 year life of the Norge Solar Facility, it is expected to generate \$3.8 million in cumulative salaries and wages, and \$8.1 million in cumulative economic activity within the County.

In addition, if we expand the study area to encompass the state of Virginia in its entirety, our analysis indicates that construction of the Norge Solar Facility is expected to generate approximately 89 full-time-equivalent jobs, \$5.2 million in salaries and wages, and \$14.3 million in overall economic activity. While in its first full year of operation, the Norge Solar Facility is also expected to generate approximately 3 full-time-equivalent jobs, \$131,105 in salaries and wages, and \$297,495 in overall economic activity statewide. And over the 35 year life of the Norge Solar Facility, it is expected to generate \$4.6 million in cumulative salaries and wages, and \$10.4 million in cumulative economic activity statewide.



One-Time Economic Impact on James City County From Construction:			
	Employment	Labor Income	Output
Total, Direct, Indirect, and Induced Economic Activity	16	\$889,513	\$2,266,341
Ongoing Economic Impact on James City County From Operations:			
	Employment	Labor Income	Output
Annual Total, Direct, Indirect, and Induced Economic Activity	2	\$108,345	\$232,053

One-Time Economic Impact on the State of Virginia From Construction:			
	Employment	Labor Income	Output
Total, Direct, Indirect, and Induced Economic Activity	89	\$5,190,207	\$14,286,755
Ongoing Economic Impact on the <u>State of Virginia</u> From Operations:			
		Labor	
	Employment	Income	Output
Annual Total, Direct, Indirect, and Induced Economic Activity	Employment 3		Output \$297,495



State and Local Fiscal Impact

Our analysis shows that the proposed Norge Solar Facility would also create significant state and local tax revenue, both through the one-time pulse of economic activity that would be generated through its construction, and as a result of its on-going annual operation. As shown below, construction of the Norge Solar Facility is expected to generate approximately \$68,155 in state and local tax revenue in James City County. While in its first full year of operation, the Norge Solar Facility is expected to generate approximately \$11,833 in state and local tax revenue within James City County, and over its 35 year life it is expected to generate \$415,905 in cumulative state and local tax revenue within James City County.

	Annual State and Local Fiscal Impact	Cumulative State and Local Fiscal Impact over 35 Year Life of Project
One-Time Impact in <u>James City</u> <u>County</u> From Construction	\$68,155	N/A
On-Going Impact in <u>James City</u> <u>County</u> From Annual Operations	\$11,833	\$415,905

Expanding the study area to encompass the state of Virginia as a whole shows that construction of the Norge Solar Facility is expected to generate approximately \$465,714 in state and local tax revenue statewide. While in its first full year of operation, the Norge Solar Facility is expected to generate approximately \$16,226 in state and local tax revenue statewide, and over its 35 year life it is expected to generate \$567,910 in cumulative state and local tax revenue statewide.

	Annual State and Local Fiscal Impact	Cumulative State and Local Fiscal Impact over 35 Year Life of Project
One-Time Impact in <u>Virginia</u> From Construction	\$465,714	N/A
On-Going Impact in <u>Virginia</u> From Annual Operations	\$16,226	\$567,910



Comparison with Current Agricultural and Alternative Residential Use of Property

Comparing the estimated state and local fiscal impact of the proposed Norge Solar Facility on James City County, to the estimated state and local fiscal impact of the project site in its current agricultural use, and to its potential alternative use as a residential development, shows that the proposed Norge Solar Facility would provide: 1) approximately \$9,405 more state and local fiscal impact in its first full year of operation, and approximately \$329,175 in additional state and local fiscal impact over the 35 year life of the project, than the property does in its current agricultural use, and 2) approximately \$274,538 more state and local fiscal impact in its first full year of operation, and approximately \$9.6 million in additional state and local fiscal impact over the 35 year life of the project, than the property would in an alternative residential use.

Comparison between Norge Solar Facility and Current Agricultural Use:		
	First Year State and Local Fiscal Impact	Cumulative State and Local Fiscal Impact over 35 Year Life of Project
Proposed Norge Solar Facility	\$11,883	\$415,905
Current Agricultural Use	\$2,478	\$86,730
NET DIFFERENCE	\$9,405	\$329,175

Comparison between Norge Solar Facility and Alternative Residential Use:

	First Year State and Local Fiscal Impact	Cumulative State and Local Fiscal Impact over 35 Year Life of Project
Proposed Norge Solar Facility	\$11,883	\$415,905
Alternative Residential Use	(\$262,655)	(\$9,192,927)
NET DIFFERENCE	\$274,538	\$9,608,832


Other Considerations

Industrial development prospects with high energy needs are becoming increasingly sensitive to the proportion of their energy requirements that are produced through renewable sources. A good example of this is data centers, a very high-growth, very high-wage industry that provides the technological backbone of the modern economy. As a case in point, in November of 2015 plans were announced to construct the Amazon Solar Farm U.S. East, an 80-megawatt solar facility that will be located on Virginia's Eastern Shore in Accomack County, Virginia. Construction of that facility was made possible as a result of a long-term power purchase agreement with Amazon Web Services, an affiliate of Amazon's cloud computing business. As this example demonstrates, renewable energy is becoming an important asset for localities in promoting technology-driven economic development.

Conclusion

The proposed Norge Solar Facility would make a significant positive economic and fiscal contribution to James City County and the state of Virginia as a whole.

The estimates provided in this report are based on the best information available and all reasonable care has been taken in assessing that information. However, because these estimates attempt to foresee circumstances that have not yet occurred, it is not possible to provide any assurance that they will be representative of actual events. These estimates are intended to provide a general indication of likely future outcomes and should not be construed to represent a precise measure of those outcomes.



Introduction

This report assesses the economic and fiscal contribution that the Norge Solar Facility would make to James City County and the state of Virginia as a whole. The remainder of the report is divided into six sections. The *Norge Solar Facility* section provides a brief description of the project. The *Electricity Production in Virginia* section provides general background information on Virginia's electricity production sector and the role that solar energy could play in that sector. The *Local Economic Profile* section supplies context for the impact analysis to follow, by providing information on the local economy of James City County. In the *Economic and Fiscal Impact* section, we provide an empirical assessment of the economic and fiscal contribution that the Norge Solar Facility would make to James City County and the state of Virginia as a whole. While in the *Other Considerations* section we discuss issues that are not directly addressed in the economic and fiscal impact analysis, such as how the proposed project supports Virginia's stated energy goals and the potential spillover effects for economic development. Finally, in the *Conclusion* section we provide a brief conclusion and summary of our findings.

Norge Solar Facility

The proposed Norge Solar Facility would involve development of up to a 20-megawatt photovoltaic solar facility on approximately 225 acres of rural property in James City County, Virginia. The proposed Norge Solar Facility site would be located about two miles northwest of Lightfoot. This portion of James City County is largely wooded with some agricultural use, but there are residential neighborhoods northwest, northeast, and southeast of the proposed site.

Electricity Production in Virginia

In this section, we provide a backdrop for the proposed Norge Solar Facility by profiling Virginia's electricity production sector and the role that solar energy could play in that sector.

Overall Market

As shown in Figure 1, in 2014 electricity sales in Virginia totaled 112.1 million megawatt hours, ranking the state 10th among the fifty states in terms of electricity consumption. However, only



69 percent of that demand was met by in-state utilities, independent producers, and other sources. As a result, Virginia had to import almost two-fifths of the electricity it consumed from producers in other states. As with all imports, this means that the jobs, wages, and economic output created by that production went to localities in those states, not to localities in Virginia.



<u>Figure 1</u>: Demand and Supply of Electricity in Virginia in 2014 (in millions of megawatt-hours)¹

Sources of Production

Between 2004 and 2014, the total amount of electricity produced in Virginia declined from 78.9 to 77.1 million megawatt-hours, even as the total population of the state increased from 7.5 to 8.3 million. Figure 2 provides a comparison of the energy sources that were used to produce electricity in Virginia in these two years. As these data show, the share of electricity produced using high-emissions energy sources declined over the period. Where coal was the state's largest source of electricity in 2004, accounting for 45.2 percent of production, by 2014 it had fallen to third place, and accounted for only 27.0 percent of production. Similarly, where

¹ Data Source: U.S. Energy Information Administration. In this chart, "net interstate trade" also takes into account losses during transmission and production for direct use. As a result, it does not directly equal the residual of net generation minus total retail sales.



petroleum accounted for 6.5 percent of the state's electricity production in 2004, by 2014 that that proportion had fallen to 1.6 percent.

In contrast, the share of electricity produced using cleaner-burning low-emissions energy sources increased over the period. Where natural gas accounted for only 8.2 percent of Virginia's electricity production in 2004, by 2014 that proportion had more than tripled to 27.1 percent, making natural gas the state's second largest source of electricity. Similarly, where nuclear energy accounted for 35.9 percent of the state's electricity production in 2004, by 2014 that proportion to this trend is wind and solar power, which accounted for zero percent of Virginia's electricity production in both 2004 and 2014.



Figure 2: Electricity Generation in Virginia by Energy Source²

Figure 3 provides similar data for the U.S. as a whole. A quick comparison of Figures 2 and 3 shows similarities, even though the degree of reliance on specific energy sources for electricity production is quite different. Nationally, as in Virginia, the most pronounced trend between

² Data Source: U.S. Energy Information Administration.



2004 and 2014 was that cleaner-burning low-emissions energy sources replaced high-emissions sources over the period. Where coal accounted for almost half of all electricity production nationwide in 2004, by 2014 that proportion had fallen to 38.6 percent. Similarly, where petroleum accounted for 3.1 percent of the country's electricity production in 2004, by 2014 that that proportion had fallen to 0.7 percent. While at the other end of the spectrum, where natural gas accounted for 17.9 percent of electricity production nationally in 2004, by 2014 that figure had grown to 27.5 percent.



Figure 3: Electricity Generation in the U.S. by Energy Source³

One notable difference between the national trends represented in Figure 3 and the Virginia trends represented in Figure 2, however, is in the wind and solar categories. Where nationally the total contribution of these two energy sources to electricity production increased from 0.4 percent in 2004 to 4.8 percent in 2014, in Virginia wind and solar energy did not materially contribute to electricity production in 2004 or 2014.

³ Data Source: U.S. Energy Information Administration.



Impact on the Environment

In discussing the impact of these trends on the environment, it is important to realize that electricity production is the U.S.'s largest source of greenhouse gas emissions. In 2004, electricity production accounted for 39.4 percent of all carbon dioxide emissions from fossil fuel consumption in the U.S., and ten years later in 2014 that figure had only dropped to 37.8 percent.⁴ However, that small change in percentage share masks some very significant changes in absolute emissions. Moreover, those changes in emissions levels were largely attributable to the shifts described above, which is to say that as the industry has transitioned to cleaner-burning energy sources, its greenhouse gas emissions have fallen.

Figure 4 depicts this change for both Virginia and the U.S. nationally. As these data indicate, between 2004 and 2014, as the share of electricity produced in Virginia by coal and petroleum fell from 51.7 to 28.6 percent, carbon dioxide emissions from electricity production fell from 47.3 to 33.3 million metric tons. Similarly, at the national level as the share of electricity produced by coal and petroleum fell from 52.9 to 39.3 percent, carbon dioxide emissions from electricity produced emissions from electricity produced by coal and petroleum fell from 52.9 to 39.3 percent, carbon dioxide emissions from electricity produced emissions from electricity produced by coal and petroleum fell from 52.9 to 39.3 percent, carbon dioxide emissions from electricity production fell from 2,487.0 to 2,160.3 million metric tons.



<u>Figure 4</u>: Carbon Dioxide Emissions from Electricity Production (in millions of metric tons)⁵

⁴ Data Source: U.S. Energy Information Administration.

⁵ Data Source: U.S. Energy Information Administration.



To further promote these shifts, the very first recommendation in Governor McAuliffe's 2014 *Virginia Energy Plan* proposes to "accelerate the development of renewable energy sources in the Commonwealth to ensure a diverse fuel mix," because doing so "will lead to economic prosperity through increased jobs and environmental health through lower harmful emissions."⁶

Local Economic Profile

In this section, we provide context for the economic and fiscal impact assessments to follow by profiling the local economy of James City County.

Total Employment

Figure 5 depicts the trend in total employment in James City County from the second quarter of 2011 to the second quarter of 2016. As these data show, county employment generally trended upward throughout this period. Another notable characteristic of these data is that they tend to exhibit pronounced seasonality, with employment peaking in the third quarter of the year and hitting a trough in the first quarter of the year. As of the second quarter of 2016, county employment stood at 29,780 jobs. This represents a 2,145 job, or 7.8 percent, increase in employment over the period as a whole. To put this number in perspective, over this same period total employment statewide in Virginia increased by 5.9 percent.⁷

To control for seasonality and provide a point of reference, Figure 6 compares the year-overyear change in total employment in James City County to that of the state of Virginia as a whole over the same five-year period. Any point above the zero line in this graph indicates positive year-over-year employment growth, while any point below the zero line indicates a decline in year-over-year employment. As these data indicate, year-over-year employment changes in James City County were volatile over this period, and significantly under-performed the statewide norm throughout much of 2013 and 2015. As of the second quarter of 2016 (the last period for which data are currently available), year-over-year employment growth was 4.7 percent in James City County as compared to 1.7 percent statewide in Virginia.

⁶ Virginia Energy Plan, Virginia Department of Mines, Minerals, and Energy, October 1, 2014.

⁷ Data Source: Virginia Employment Commission.



<u>Figure 5</u>: Total Employment in James City County – Second Quarter of 2011 to Second Quarter of 2016⁸



<u>Figure 6</u>: Year-Over-Year Change in Total Employment – Second Quarter of 2011 to Second Quarter of 2016⁹

⁸ Data Source: Virginia Employment Commission.

⁹ Data Source: Virginia Employment Commission.



Unemployment

Figure 7 illustrates the trend in James City County's unemployment rate over the five-year period from December 2011 through December 2016. As these data show, unemployment rates in James City County were generally a half percentage point below the statewide norm for much of this period. As of December 2016, unemployment stood at 3.5 percent in James City County and 3.8 percent in Virginia.



Figure 7: Unemployment Rate – December 2011 to December 2016¹⁰

Employment and Wages by Major Industry Sector

To provide a better understanding of the underlying factors motivating the total employment trends depicted in Figures 5 and 6, Figures 8 through 10 provide data on employment and wages by major industry sector in James City County.

Figure 8 provides an indication of the distribution of employment across major industry sectors in James City County's economy by ranking each sector by total employment in the second quarter of 2016. As these data indicate, the county's largest employment sector that quarter was *Arts, Entertainment, and Recreation* (4,383 jobs), followed by *Health Care and Social*

¹⁰ Data Source: Virginia Employment Commission and U.S. Bureau of Labor Statistics.



Assistance (4,143 jobs), Retail Trade (3,798 jobs), Accommodation and Food Services (3,663 jobs), and Educational Services (2,206 jobs). Reflecting James City County's proximity to the Williamsburg Historic District and other tourist destinations, the local employment footprint for Arts, Entertainment, and Recreation is 7.4 times as large as one would expect based on the statewide norm, while the local employment footprint for Retail Trade is 1.1 times as large as one would expect, and Accommodation and Food Services 1.3 times as large.

Figure 9 provides a similar ranking for average weekly wages by major industry sector in James City County in the second quarter of 2016. As these data show, the highest paying industry sectors in the county that quarter were *Finance and Insurance* (\$1,425 per week), *Management of Companies and Enterprises* (\$1,341 per week), *Manufacturing* (\$1,279 per week), *Professional, Scientific, and Technical Services* (\$1,236 per week), and *Real Estate* (\$991 per week). By way or reference, the average weekly wage across all industry sectors in James City County that quarter was \$693 per week.

Lastly, Figure 10 details the change in employment between the second quarter of 2015 and the second quarter of 2016 by major industry sector in James City County. Over this period, the largest employment gains occurred in the *Manufacturing* (up 500 jobs), *Accommodation and Food Services* (up 451 jobs), and *Professional, Scientific, and Technical Services* (up 51 jobs) sectors. While at the other end of the spectrum, the largest losses occurred in the *Administrative and Support and Waste Management* (down 61 jobs), *Wholesale Trade* (down 29 jobs), and *Arts, Entertainment, and Recreation* (down 23 jobs) sectors.







¹¹ Data Source: Virginia Employment Commission.





Figure 9: Average Weekly Wages by Major Industry Sector in James City County – 2016:Q2¹²

¹² Data Source: Virginia Employment Commission.





Figure 10: Change in Employment by Major Industry Sector in James City County – 2015:Q2 to 2016:Q2¹³

¹³ Data Source: Virginia Employment Commission.



Economic and Fiscal Impact

In this section, we quantify the economic and fiscal contribution that the Norge Solar Facility would make to James City County and the state of Virginia as a whole. Our analysis separately evaluates the one-time pulse of economic activity that would occur during the construction phase of the project, as well as the annual economic activity that the project would generate during its ongoing operations phase.

<u>Method</u>

To empirically evaluate the likely local and statewide economic impact attributable to the proposed Norge Solar Facility, we employ a regional economic impact model called IMPLAN.¹⁴ The IMPLAN model is one of the most commonly used economic impact simulation models in the U.S., and in Virginia is used by UVA's Weldon Cooper Center, the Virginia Department of Planning and Budget, the Virginia Employment Commission, and other state agencies and research institutes. Like all economic impact models, the IMPLAN model uses economic multipliers to quantify economic impact.

Economic multipliers measure the ripple effects that an expenditure generates as it makes its way through the economy. For example, as when the Norge Solar Facility purchases goods and services – or when facility employees use their salaries and wages to make household purchases – thereby generating income for someone else, which is in turn spent, thereby becoming income for yet someone else, and so on, and so on. Through this process, one dollar in expenditures generates multiple dollars of income. The mathematical relationship between the initial expenditure and the total income generated is the economic multiplier.

One of the primary advantages of the IMPLAN model is that it uses regional and national production and trade flow data to construct <u>region-specific and industry-specific</u> economic multipliers, which are then further adjusted to reflect anticipated actual spending patterns within the <u>specific geographic study area</u> that is being evaluated. As a result, the economic impact estimates produced by IMPLAN are not generic, they reflect as precisely as possible the economic realities of the specific industry, and the specific study area, being evaluated.

¹⁴ IMPLAN v.3 is produced by Minnesota IMPLAN Group, Inc.



In the analysis that follows, these impact estimates are divided into three categories. First round direct impact measures the direct economic contribution of the entity being evaluated (*e.g.*, own employment, wages paid, goods and services purchased, by the Norge Solar Facility). Second round indirect and induced impact measures the economic ripple effects of this direct impact in terms of business to business, and household (employee) to business, transactions. Total impact is simply the sum of the preceding two. These categories of impact are then further defined in terms of employment (the jobs that are created), labor income (the wages and benefits associated with those jobs), economic output (the total amount of economic activity that is created in the economy), and fiscal impact (the state and local tax revenues that are generated by this economic activity).

Construction Phase

In conducting our analysis of the one-time economic and fiscal impact that the proposed Norge Solar Facility would have on James City County and the state of Virginia as a whole during the construction phase of the project, we employ the following assumptions:

- Total design, engineering, and construction costs are estimated to be \$12,750,000 for the Norge Solar Facility.¹⁵
- It is anticipated that approximately 13 percent of design, engineering, and construction expenditures would be with vendors in James City County,¹⁶ and approximately 55 percent would be with vendors within Virginia.¹⁷
- Capital equipment costs are estimated to be \$18,500,000 for the Norge Solar Facility.¹⁸
- It is anticipated that no capital equipment will be purchased from vendors in James City County, and only \$1,850,000 will be purchased from vendors in Virginia.¹⁹

By feeding these assumptions into the IMPLAN model, we obtain the following estimates of one-time economic and fiscal impact.

¹⁵ *Data Source*: SunPower Corporation.

¹⁶ *Data Source*: Based on previous experience with similar projects.

¹⁷ Data Source: SunPower Corporation.

¹⁸ *Data Source*: SunPower Corporation.

¹⁹ Data Source: SunPower Corporation.



James City County

As shown in Table 1A, construction of the proposed Norge Solar Facility would directly provide a one-time pulse of approximately: 1) 11 full-time-equivalent jobs, 2) \$688,066 in labor income, and 3) \$1.7 million in economic output to James City County. Taking into account the economic ripple effects that direct investment would generate, we estimate that the total onetime impact on James City County would be: 1) 16 full-time-equivalent jobs, 2) \$889,513 in labor income, 3) \$2.3 million in economic output, and 4) \$68,155 in state and local tax revenue. Table 1B details the ten industries within James City County that would receive the largest benefit from that economic impact.

<u>Table 1A</u>: One-Time Economic and Fiscal Impact of the Norge Solar Facility on James City County – Construction Phase (2017 Dollars)

Economic Impact:					
	Employment	Labor Income	Output		
First Round Direct Economic Activity	11	\$688,066	\$1,650,000		
Second Round Indirect and Induced Economic Activity	5	\$201,447	\$616,341		
Total, Direct, Indirect, and Induced Economic Activity*	16	\$889,513	\$2,266,341		
Fiscal Impact:					
Direct Payments to James City County by Norge Solar Facility					
Total State and Local Fiscal Impact			\$68,155		

*May not sum due to rounding



Table 1B:Top-Ten Industries Affected by Construction of the Norge Solar Facility on JamesCity County (2017 Dollars)

Industry	Employment	Labor Income	Output
Construction of new power and communication structures	11.4	\$688,066	\$1,650,000
Wholesale trade	0.3	\$16,566	\$57,205
Architectural, engineering, and related services	0.4	\$25,929	\$55,478
Real estate	0.2	\$4,459	\$51,933
Limited-service restaurants	0.2	\$4,665	\$19,621
Retail - Clothing and clothing accessories stores	0.2	\$5,011	\$17,842
Full-service restaurants	0.2	\$6,687	\$12,267
Retail - Nonstore retailers	0.1	\$1,258	\$10,689
Retail - Food and beverage stores	0.2	\$4,421	\$9,912
Retail - Miscellaneous store retailers	0.2	\$4,329	\$6,608

Virginia

As shown in Table 2A, construction of the proposed Norge Solar Facility would directly provide a one-time pulse of approximately: 1) 55 full-time-equivalent jobs, 2) \$3.3 million in labor income, and 3) \$8.9 million in economic output to the state of Virginia as a whole. Taking into account the economic ripple effects that direct investment would generate, we estimate that the total one-time statewide impact on Virginia would be: 1) 89 full-time-equivalent jobs, 2) \$5.2 million in labor income, 3) \$14.3 million in economic output, and 4) \$465,714 in state and local tax revenue. Table 2B details the ten industries within Virginia that would receive the largest benefit from that economic impact.



<u>Table 2A</u>: One-Time Economic and Fiscal Impact of the Norge Solar Facility on Virginia – Construction Phase (2017 Dollars)

Economic Impact:					
	Employment	Labor Income	Output		
First Round Direct Economic Activity	55	\$3,326,995	\$8,925,000		
Second Round Indirect and Induced Economic Activity	35	\$1,863,212	\$5,361,755		
Total, Direct, Indirect, and Induced Economic Activity*	89	\$5,190,207	\$14,286,755		
Fiscal Impact:					
Direct Payments to James City County by Norge Solar Facility					
Total State and Local Fiscal Impact			\$465,714		

*May not sum due to rounding

Table 2B:Top-Ten Industries Affected by Construction of the Norge Solar Facility in Virginia(2017 Dollars)

Industry	Employment	Labor Income	Output
Construction of new power and communication structures	48.1	\$2,732,196	\$6,835,000
Power, distribution, and specialty transformer manufacturing	5.4	\$451,002	\$1,852,457
Wholesale trade	2	\$181,182	\$487,443
Architectural, engineering, and related services	2.6	\$286,535	\$476,897
Real estate	1.3	\$28,636	\$310,670



Table 2B:Top-Ten Industries Affected by Construction of the Norge Solar Facility in Virginia
(2017 Dollars)

Industry	Employment	Labor Income	Output
Hospitals	0.9	\$67,110	\$145,114
Retail - Nonstore retailers	1	\$18,745	\$105,052
Limited-service restaurants	1.2	\$23,419	\$100,759
Retail - General merchandise stores	1.2	\$32,999	\$81,932
Full-service restaurants	1.3	\$30,339	\$61,315

Ongoing Operations Phase

In conducting our analysis of the annual economic and fiscal impact that the proposed Norge Solar Facility would have on James City County and the state of Virginia as a whole during the ongoing operations phase of the projects, we employ the following assumptions:

• The Norge Solar Facility would spend approximately \$125,000 each year on the purchase of goods and services (*i.e.*, primarily for vegetation control and electrical maintenance).²⁰

By feeding these assumptions into the IMPLAN model, we obtain the following estimates of annual economic and fiscal impact.

James City County

As shown in Table 3A, annual operation of the proposed Norge Solar Facility would directly provide approximately: 1) 1 full-time-equivalent job, 2) \$76,226 in labor income, and 3) \$125,000 in economic output to James City County. Taking into account the economic ripple effects that direct impact would generate, we estimate that the total annual impact on James City County would be: 1) 2 full-time-equivalent jobs, 2) \$108,345 million in labor income, 3)

²⁰ Data Source: SunPower Corporation.



\$232,053 in economic output, and 4) \$11,883 in state and local tax revenue.²¹ Table 3B details the ten industries within James City County that would receive the largest benefit from that economic impact.

<u>Table 3A</u>: Total Annual Economic and Fiscal Impact of the Norge Solar Facility on James City County – Operations Phase (2017 Dollars)

Economic Impact:					
	Employment	Labor Income	Output		
First Round Direct Economic Activity	1	\$76,226	\$125,000		
Second Round Indirect and Induced Economic Activity	1	\$32,119	\$107,053		
Total, Direct, Indirect, and Induced Economic Activity*	2	\$108,345	\$232,053		
Fiscal Impact:					
Direct Payments to James City County by Norge Solar Facility					
Total State and Local Fiscal Impact			\$11,883		

*May not sum due to rounding

²¹ Payments to landowners are included in this estimate of economic and fiscal impact. However, it is important to note that the economic output figure presented here only includes facility payments for local services (primarily vegetation control and electrical maintenance) and household expenditures by landowners. It does not include the economic value of the electricity produced by the facility, which would be substantial.



<u>Table 3B</u>: Total Top-Ten Industries Affected by Annual Operation of the Norge Solar Facility in James City County (2017 Dollars)

Industry	Employment	Labor Income	Output
Electronic and precision equipment repair and maintenance	0.5	\$48,668	\$75,111
Landscape and horticultural services	0.9	\$27,794	\$50,300
Real estate	0	\$1,026	\$11,959
Wholesale trade	0	\$1,585	\$5,472
Limited-service restaurants	0	\$1,181	\$4,968
Full-service restaurants	0	\$1,615	\$2 <i>,</i> 962
Management of companies and enterprises	0	\$1,045	\$2,328
Retail - Food and beverage stores	0	\$949	\$2,128
Nursing and community care facilities	0	\$1,088	\$2,048
Offices of physicians	0	\$1,228	\$1,875

Table 3C provides the cumulative economic and fiscal impact of the project over its 35 year life. As these data show, in addition to providing a total of 2 annual full-time-equivalent jobs, the project would generate a cumulative impact of: 1) \$3.8 million in labor income, 2) \$8.1 million in output, and 3) \$415,905 in state and local tax revenue.²²

²² Payments to landowners are included in this estimate of economic and fiscal impact. However, it is important to note that the economic output figure presented here only includes facility payments for local services (primarily vegetation control and electrical maintenance) and household expenditures by landowners. It does not include the economic value of the electricity produced by the facility, which would be substantial.



Table 3C:Cumulative Economic and Fiscal Impact of the Norge Solar Facility on James CityCounty over the 35 Year Life of the Project – Operations Phase (2017 Dollars)

Economic Impact:				
	Employment	Labor Income	Output	
First Round Direct Economic Activity	1	\$2,667,910	\$4,375,000	
Second Round Indirect and Induced Economic Activity	1	\$1,124,165	\$3,746,855	
Total, Direct, Indirect, and Induced Economic Activity*	2	\$3,792,075	\$8,121,855	
Fiscal Impact:				
Direct Payments to James City County by Norge Solar Facility				
Total State and Local Fiscal Impact			\$415,905	

*May not sum due to rounding

Virginia

As shown in Table 4A, annual operation of the proposed Norge Solar Facility would directly provide approximately: 1) 1 full-time-equivalent jobs, 2) \$73,971 in labor income, and 3) \$125,000 in economic output to the state of Virginia as a whole. Taking into account the economic ripple effects that direct impact would generate, we estimate that the total annual statewide impact on Virginia would be: 1) 3 full-time-equivalent jobs, 2) \$131,105 in labor income, 3) \$297,495 in economic output, and 4) \$16,226 in state and local tax revenue.²³ Table 4B details the ten industries within Virginia that would receive the largest benefit from that economic impact.

²³ Payments to landowners are included in this estimate of economic and fiscal impact. However, it is important to note that the economic output figure presented here only includes facility payments for local services (primarily vegetation control and electrical maintenance) and household expenditures by landowners. It does not include the economic value of the electricity produced by the facility, which would be substantial.



<u>Table 4A</u>: Annual Economic and Fiscal Impact of the Norge Solar Facility on Virginia – Operations Phase (2017 Dollars)

Economic Impact:					
	Employment	Labor Income	Output		
First Round Direct Economic Activity	1	\$73,971	\$125,000		
Second Round Indirect and Induced Economic Activity	1	\$57,134	\$172,495		
Total, Direct, Indirect, and Induced Economic Activity*	3	\$131,105	\$297,495		
Fiscal Impact:					
Direct Payments to James City County by Norge Solar Facility					
Total State and Local Fiscal Impact			\$16,226		

*May not sum due to rounding

<u>Table 4B</u>: Top-Ten Industries Affected by Annual Operation of the Norge Solar Facility in Virginia (2017 Dollars)

Industry	Employment	Labor Income	Output
Electronic and precision equipment repair and maintenance	0.6	\$45,646	\$75,176
Landscape and horticultural services	0.8	\$28,626	\$50,345
Real estate	0	\$1,258	\$13,652
Wholesale trade	0	\$3,136	\$8,438



<u>Table 4B</u>: Top-Ten Industries Affected by Annual Operation of the Norge Solar Facility in Virginia (2017 Dollars)

Industry	Employment	Labor Income	Output
Hospitals	0	\$2,980	\$6,443
Limited-service restaurants	0	\$1,065	\$4,581
Full-service restaurants	0	\$1,323	\$2,673
Offices of physicians	0	\$1,699	\$2,524
Retail - General merchandise stores	0	\$980	\$2,433
Employment services	0	\$907	\$1,612

Table 4C provides the cumulative economic and fiscal impact of the project over its 35 year life. As these data show, in addition to providing a total of 3 annual full-time-equivalent jobs, the project would also generate a cumulative impact of: 1) \$4.6 million in labor income, 2) \$10.4 million in output, and 3) \$567,910 in state and local tax revenue.²⁴

²⁴ Payments to landowners are included in this estimate of economic and fiscal impact. However, it is important to note that the economic output figure presented here only includes facility payments for local services (primarily vegetation control and electrical maintenance) and household expenditures by landowners. It does not include the economic value of the electricity produced by the facility, which would be substantial.



<u>Table 4C</u>: Cumulative Economic and Fiscal Impact of the Norge Solar Facility on Virginia over the 35 Year Life of the Project – Operations Phase (2017 Dollars)

Economic Impact:					
	Employment	Labor Income	Output		
First Round Direct Economic Activity	1	\$2,588,985	\$4,375,000		
Second Round Indirect and Induced Economic Activity	1	\$1,999,690	\$6,037,325		
Total, Direct, Indirect, and Induced Economic Activity*	3	\$4,588,675	\$10,412,325		
Fiscal Impact:					
Direct Payments to James City County by Norge Solar Facility					
Total State and Local Fiscal Impact			\$567,910		

*May not sum due to rounding

Current Use

In this portion of the section, we provide a benchmark for the previous estimates of the fiscal contribution that the proposed Norge Solar Facility would make to James City County, by estimating the alternative fiscal contributions that this site makes to the County in its current agricultural use or could make if it were developed as residential property.



Current Agricultural Use

In conducting our analysis of the fiscal impact that the proposed Norge Solar Facility site has on James City County in its current agricultural use, we employ the following assumptions:

- The proposed Norge Solar Facility would be situated on a 225-acre tract of land.
- This property is currently used for agricultural production, however a significant portions is currently timbered.
- Average revenue per acre for Virginia farmland is approximately \$456.10.²⁵

By feeding these assumptions into the IMPLAN model, we obtain the following estimates of fiscal impact. As shown in Table 5:

- In its current agricultural use this property generates approximately \$2,478 in state and local tax revenue annually within James City County.²⁶
- For purposes of comparison, the cumulative fiscal impact of this property in its current agricultural use over the same 35 year project life used in Table 3C would be approximately \$86,730 in state and local tax revenue.²⁷

 ²⁵ Data Source: Estimated based on data from the Virginia Department of Agriculture and Consumer Services.
²⁶ Estimated state and local fiscal impact includes approximately \$1,845 in direct payments to James City County from the Norge Solar Facility property in its current agricultural use. That estimated \$1,845 in direct payments was derived by applying James City County's current real property tax of \$0.84 per \$100 of assessed value to an estimated \$1,000 per acre assessed value for the 225 acre site.

²⁷ Estimated state and local fiscal impact includes approximately \$64,575 in direct payments to James City County from the Norge Solar Facility property in its current agricultural use. That estimated \$64,575 in direct payments was derived by applying James City County's current real property tax of \$0.84 per \$100 of assessed value to an estimated \$1,000 per acre assessed value for the 225 acre site, times 35 years.



Table 5:Estimated Fiscal Impact of the Norge Solar Facility Site on James City County in its
Current Agricultural Use (2017 Dollars)

Annual Fiscal Impact:		
Direct Payments to James City County from Property	\$1,845	
Total State and Local Fiscal Impact	\$2,478	
Cumulative Fiscal Impact Over 35 Years:		
Direct Payments to James City County from Property	\$64,575	
Total State and Local Fiscal Impact	\$86,730	

Alternative Residential Use

A key step in estimating the fiscal impact that the property would have on James City County if it were developed as a residential community is to ascertain the net fiscal impact that households have on the County. To accomplish that task, we rely heavily on data from the Virginia Auditor of Public Accounts on per capita county revenues and expenditures. As shown in Table 6, based on those data, we have determined that the likely annual per capita revenue impact of a new resident in James City County is \$1,525, while the likely annual per capita expenditure impact is \$2,890, making the net annual fiscal impact minus (\$1,365).



Revenue Source	Per Capita Revenue
Real Property Tax ²⁸	\$1,105
Personal Property Tax ²⁹	\$270
Local Sales and Use Tax ³⁰	\$148
Motor Vehicle Registration Tax ³¹	\$2
Total	\$1,525
Expenditure Source	Per Capita Expenditure
Schools ³²	\$1,685
All Other County Services ³³	\$1,205
Total	\$2,890
NET FISCAL IMPACT	(\$1,365)

Table 6: Estimated Net Per Capita Fiscal Impact of James City County Residents

²⁸ Assumes that 250 lots, valued at \$375,000, would generate a total of \$787,500 in annual real property tax, based on James City County's current real property tax rate of \$0.84 per \$100 of assessed value. Further assumes that, consistent with data reported through the U.S. Census Bureau's "2014 American Community Survey," the average family household in James City County is comprised of 2.85 persons, which times 250 lots, yields 713 residents at full build out. The per capita figure is derived by dividing \$787,500 by 713 residents.

²⁹ *Data Source*: Virginia Auditor of Public Accounts, "Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015," amended September 9, 2016.

³⁰ *Data Source*: Virginia Auditor of Public Accounts, "Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015," amended September 9, 2016.

³¹ *Data Source*: Virginia Auditor of Public Accounts, "Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015," amended September 9, 2016.

³² *Data Source*: Virginia Auditor of Public Accounts, "Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015," amended September 9, 2016.

³³ *Data Source*: Virginia Auditor of Public Accounts, "Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015," amended September 9, 2016.



In conducting our analysis of the fiscal impact that the proposed Norge Solar Facility site would have on James City County in an alternative residential use, we employ the following assumptions:

- The proposed Norge Solar Facility would be situated on a 225-acre tract of land.
- This property could be developed to include approximately 250 residential lots which, with home, could sell for approximately \$375,000.³⁴
- The average number of persons per family household in James City County is 2.85 and at full build out the project site would have approximately 713 residents.³⁵
- Average annual family household income in James City County is \$90,964 and total annual household income for the development as a whole would be \$22,741,000.³⁶
- As derived in Table 6, the net fiscal impact of a new James City County resident is minus (\$1,365) and the total net annual fiscal impact for the development as a whole would be minus (\$972,375).³⁷

By feeding these assumptions into the IMPLAN model, we obtain the following estimates of fiscal impact. As shown in Table 7:

- In an alternative residential use the property would generate approximately minus (\$262,655) in state and local tax revenue annually within James City County.³⁸
- For purposes of comparison, the cumulative fiscal impact of this property in an alternative residential use over the same 35 year project life used in Table 3C would be approximately minus (\$9.2 million) in state and local tax revenue.³⁹

³⁸ Estimated state and local fiscal impact includes approximately minus (\$972,375) in net fiscal impact to James City County from the Norge Solar Facility property in an alternative residential use. That estimated minus (\$972,375) in net fiscal impact is derived from calculations presented in Table 6, times 713 residents.

³⁴ *Data Source*: SunPower Corporation.

³⁵ Data Source: U.S. Census Bureau, "2014 American Community Survey." Total residents is derived as 2.85 times 250 lots.

³⁶ Data Source: U.S. Census Bureau, "2014 American Community Survey." Total household income is derived as \$90,964 times 250 households.

³⁷ Total net annual fiscal impact is derived as minus (\$1,365) times 713 residents.

³⁹ Estimated state and local fiscal impact includes approximately minus (\$34.0 million) in direct payments to James City County from the Norge Solar Facility property in an alternative residential use. That estimated minus (\$34.0 million) in net fiscal impact is derived from calculations presented in Table 6, times 713 residents, times 35 years.



Table 7:Estimated Fiscal Impact of the Norge Solar Facility Site on James City County in
Alternative Residential Use (2017 Dollars)

Annual Fiscal Impact:		
Direct Payments to James City County from Property	(\$972,375)	
Total State and Local Fiscal Impact	(\$262,655)	
Cumulative Fiscal Impact Over 35 Years:		
Direct Payments to James City County from Property	(\$34,033,125)	
Total State and Local Fiscal Impact	(\$9,192,927)	

Comparison of the Proposed Norge Solar Facility with Current and Alternative Uses

Comparing the state and local fiscal impact estimates in Table 3A and 3C of the proposed Norge Solar Facility on James City County, to the state and local fiscal impact estimates in Table 5 of the project site in its current agricultural use, and in Table 7 of the project site in an alternative residential use, shows that the proposed Norge Solar Facility would provide:

- <u>Proposed Norge Solar Facility vs. Current Agricultural Use</u>: approximately \$9,405 in additional state and local fiscal impact in its first full year of operation, and 2) approximately \$329,175 in additional state and local fiscal impact over the 35 year life of the project.
- <u>Proposed Norge Solar Facility vs. Alternative Residential Use</u>: approximately \$274,538 in additional state and local fiscal impact in its first full year of operation, and 2) approximately \$9.6 million in additional state and local fiscal impact over the 35 year life of the project.



Table 8:State and Local Fiscal Impact of the Norge Solar Facility Compared to the ProposedProject Sites in their Current Agricultural Use (2017 Dollars)

	First Year State and Local Fiscal Impact	Cumulative State and Local Fiscal Impact over 35 Year Life of Project
Proposed Norge Solar Facility	\$11,883	\$415,905
Current Agricultural Use	\$2,478	\$86,730
NET DIFFERENCE	\$9,405	\$329,175
Proposed Norge Solar Facility	\$11,883	\$415,905
Alternative Residential Use	(\$262,655)	(\$9,192,927)
NET DIFFERENCE	\$274,538	\$9,608,832

Other Considerations

One of the methodological problems associated with conducting economic impact assessments is that not all of the economic effects associated with a given enterprise can easily be captured and quantified in standard simulation models. To compensate for this limitation, in this portion of the section we attempt to at least qualify some of the potential economic effects associated with the proposed Norge Solar Facility that cannot be easily quantified.

State Energy Policy

The Norge Solar Facility would be are entirely consistent with Virginia's stated energy policy objectives as presented in Governor McAuliffe's 2014 *Virginia Energy Plan*.⁴⁰ The very first goal of which is to "accelerate the development of renewable energy sources in the Commonwealth to ensure a diverse fuel mix," because doing so "will lead to economic prosperity through increased jobs and environmental health through lower harmful emissions."

⁴⁰ Virginia Energy Plan, Virginia Department of Mines, Minerals, and Energy, October 1, 2014.



Encouraging Economic Development

Industrial development prospects with high energy needs are becoming increasingly sensitive to the proportion of their energy requirements that are produced through renewable sources. A good example of this is data centers, a very high-growth, very high-wage industry that provides the technological backbone of the modern economy. As a case in point, in November of 2015 plans were announced to construct the Amazon Solar Farm U.S. East, an 80-megawatt solar facility that will be located on Virginia's Eastern Shore in Accomack County, Virginia. Construction of that facility was made possible as a result of a long-term power purchase agreement with Amazon Web Services, an affiliate of Amazon's cloud computing business. As this example demonstrates, renewable energy is becoming an important asset for localities in promoting technology-driven economic development.

The estimates provided in this report are based on the best information available and all reasonable care has been taken in assessing that information. However, because these estimates attempt to foresee circumstances that have not yet occurred, it is not possible to provide any assurance that they will be representative of actual events. These estimates are intended to provide a general indication of likely future outcomes and should not be construed to represent a precise measure of those outcomes.

Norge Solar Facility FAQ

Response to comments received from the Norvalia neighborhood community meeting of 5/3/17. Questions and SunPower responses are provided in the order received. They are numbered to allow for convenient referral to answers to similar questions.

1. Any guarantees our property values won't go down? 2

No data exists to suggest this type of project impacts property values negatively. Once operational, this is a clean, quiet facility, with minimal traffic, and no noise or emissions. In some ways, it will be less intrusive than farming operations (no dust or sedimentation and runoff due to annual cultivation), or other ways the site may be developed (ongoing traffic due to residential development, for example). SunPower will make sure there is a natural (existing or new) vegetation screen between the project and neighboring properties so as not to adversely impact those property's view sheds to the extent practicable. \Box

While the potential impacts of a solar farm on neighboring property values have not been studied in-depth, numerous studies found the impact of wind energy generation on neighboring property values to be negligible. As solar farms have lesser impacts than wind farms (i.e., solar farms do not cast a shadow on neighboring properties, do not cause light flicker, and do not have the same visual impact as wind farms), the impacts on property values caused by solar farms are anticipated to be less than the impacts of wind farms. (Source: NREL

https://www.nrel.gov/tech_deployment/state_local_governments/blog/top-five-large-scale-solar-myths)

Additionally, research from the US Department of Energy's Lawrence Berkley National Laboratory on other forms of renewable energy – namely wind farms - shows no evidence to suggest large scale wind farms adversely affect property values. http://www.awea.org/property-values IThe article and statistics relating to property values cited in the WY Daily article is specifically about large (>100 megawatts) coal and natural gas power plants, which have significantly different and greater visual impacts, air emissions, noise, light pollution, water use and emission characteristics. I

2. What negatives are there from a solar farm operation?

Solar farms reliably produce cost-competitive, emission-free renewable power. They operate quietly, and have no fuel requirements beyond sunlight. SunPower solar farms are designed to minimize land impact. Minimal impact generally results in enhanced natural habitat for native plant species and wildlife alike.

In the view of some, negatives may include the fact that solar plants only generate electricity during the day, requiring storage and/or supplemental energy sources to provide 24/7 power. Also, operations and maintenance on solar plants is minimal, creating just a few jobs during the plant's operational life.

3. Address concerns of electromagnet hypersensitivity and glare of solar panels against aircraft 🛛

Similar to household appliances, solar facilities generate electro-magnetic fields that dissipate with increasing distance and pose no health risk nor concerns to neighboring residents. Solar panels don't cause glare. Rather than reflecting light, solar panels generate electricity by absorbing light. In addition, SunPower solar panels use non-reflective glass. They are FAA and USAF-approved, and have been installed at and near airports and US Air Force bases. Reference:

Dhttps://www.nrel.gov/tech_deployment/state_local_governments/blog/top-fivelarge-scale-solar-myths D

4. Is there a possibility to tap into the power being produced for those that live in the neighborhood being affected?

The Norge Solar facility will produce wholesale power, most likely for a regional electric utility. The project is not a retail electric distributor, and cannot sell power at a retail level to individual customers. VA state law prohibits the project from doing so. Phowever, we encourage homeowners to investigate rooftop solar power systems for their homes. It can be a great way to reduce electricity costs as well as your family's carbon footprint. Information on residential SunPower systems can be found at www.sunpower.com.

5. Would they be paving/improving the roads, curbs, adding sidewalks? 2

Neither VDOT nor the County has seen the need for nor requested such improvements for this project, as it is anticipated that the existing road network is suitable. However, SunPower has made a commitment to repair roads as and if needed, and it is required by Special Condition No.4 to the proposed Special Use Permit. Depending upon the ultimate final access way into the project site approved by the County (via Farmville Lane or via Oslo Court), there may be either localized road widening around the corner of Farmville Lane, or shoulder widening immediately adjacent to our driveway entrance onto Oslo Court, both likely via a gravel surface. Description of the project surface.

6. What is the benefit to the neighborhood? There is little tax revenue, will be an eyesore.

The Norge Solar Facility will bring a number of benefits to James City County and to Virginia. These many benefits include:

Jobs

- Approximately 80 construction jobs will be created over the 6-to 9-month construction timeline.
- The facility will employ 1-3 permanent operational personnel, plus additional contractors for operations and maintenance.

Revenue Generation and Economic Benefits

- The project will be a source of sales tax for both County and Virginia, direct and indirect, both during construction and operations.
- Construction and operation of the project will generate economic development for regional businesses, including engineering and construction, consulting, landscaping, and hospitality firms. This "ripple" economic effect in James City County is estimated at over \$2 million during construction and over \$200,000 annually, and in Virginia at over \$14 million during construction. In
- Additional details on economic impact of the project is quantified in the report entitled *Mangum Economics, "The Economic and Fiscal Contribution That The Norge Solar Project Will Make to James City County and Virginia, April 2017,"* which was submitted to JCC County staff on May 3, 2017, and can be locate here

<provide link>. 🛛

Community Benefits

- The project stimulates economic development in the County with minimal requirements for JCC facilities or services. Although fiscal (tax) contributions to JCC are moderate, the project has significantly less fiscal impact than an alternative of developing the site with residential units, which by one estimate could cost the County close to \$300,000 annually. 🛛
- Although the site would be developed with solar, the project offers a long- term open land preservation strategy for the County as the site could be returned to open agricultural land after decommissioning.
- SunPower will seek to support work force training programs for solar energy and related technical jobs and has already met with Thomas Nelson Community College to explore such cooperative efforts. 🛛
- SunPower seeks to educate the public about solar energy and would work cooperatively with schools and other organizations in this manner. 🛛

Environmental Benefits 🛛

- The project will produce enough clean, efficient, reliable renewable power for up to 4,000 Virginia homes in the region. 🛛
- Construction of the project supports Virginia's renewable energy goals.
- The renewable energy produced will offset annual carbon dioxide emissions approximately equivalent to removing 10,000 cars from Virginia's highways, 270 railcars of coal, or 114 million lbs. of carbon emissions (Source: US EPA).

7. Will there be a zoning change? INo zoning change will be required.

The project will be permitted via a special use permit. 2

8. There was no proper notification of the whole neighborhood.

SunPower voluntarily hosted a public informational session on the project November 17, 2016 at the Norge Elementary School. The session was advertised in the Daily Press and Virginia Gazette, via direct mail invitation to residents adjacent to the project site, and email invitation to various County staff. James City County held a public hearing on the project at the Planning Commission meeting April 5, 2017, which was noticed to
nearby residents as required by JCC regulations. An additional public hearing notice complying with JCC regulations was issued in April 2017 in anticipation of the public hearing to be held at the May 9 Board of Supervisors Meeting. The application and relevant project information has been on display on the James City County website since the time of application in December 2016. In response to further concerns by residents, SunPower voluntarity deferred our Project hearing scheduled for May 9, to provide adequate time to address these issues. SunPower also voluntarily held an additional neighborhood public meeting at the middle school in Toano on June XX, 2017 to hear and respond to neighbor's concerns. This meeting was also noticed in the Daily Press and Virginia Gazette, via direct mail invitation to residents near project site, and email invitation to various County staff. There will be an additional public hearing notice complying with JCC regulations to be issuedin anticipation of the public hearing to be held at the October 10 Board of Supervisors Meeting

9. Access will be controlled 🛛

SunPower will install 7' fencing around the entire project to limit public access. This is required per safety code. We will likely install chain-link fencing given the concerns we've heard from the community about dogs being able to get through ag- style fencing. Access will be maintained and controlled to a neighboring property via Norge Farm Lane. D

10. Concerns of water usage 🛛

The only water needed to operate the proposed project is for washing the panels. SunPower will wash the panels occasionally to optimize performance. SunPower's robotic panel cleaning technology uses approximately 90 percent less water than traditional cleaning methods. DWater use is estimated at approximately 6500 gallons for each washing, up to two times per year, or a total of 13,000 gallons per year. That's the equivalent of less than two tractor trailer (8000gallon) tank trucks, or four smaller tank trucks of water. Water would be delivered via truck from an off-site source. D

11. Shouldn't all the owners of Norvalia be compensated if the new road construction ruins our neighborhood?

There will not be any new road construction in the Norvalia neighborhood. The project will utilize the existing roads. There may be a potential widening of the corner of Farmville Lane if that route is required by the County for large vehicular access, and if SunPower can obtain necessary access easements in this area. SunPower is committed via Special Condition No. 4 to prepare a Construction Traffic Mitigation Plan and obligated to make any necessary road repairs due to potential damage from construction traffic.

12. Are there any subsidies that will be given by the federal government for this project?

There are no direct cash subsidies from the federal government to the project, but there is a federal tax credit that the project would be eligible for. This production tax credit is available to both solar- and wind-powered renewable energy projects.

13. How will the power be stored and transmitted?

Electricity generated by the facility will not be stored. Rather, it will be transmitted to the existing Dominion distribution system in the area. The project will connect to the existing distribution line that currently feeds the house on the site. While Dominion may upgrade this line and its distribution lines running between the site and the Lightfoot substation approximately one mile to the east, those upgrades will be within typical distribution system specifications (e.g., typical distribution system pole heights and conductor configuration) and likely within Dominion's existing right-of-ways and approvals for line construction and maintenance in the area. The project will not connect to the nearby high voltage transmission line to the south of the site.

14. Solar generators create noise and electromagnetic fields. How large are these expected to be?

No noise is generated by the solar panels themselves. There will be approximately 8 inverters located at AC stations throughout the site that will produce a sound level that is similar to a refrigerator. This noise is not expected to be audible (e.g., heard above ambient noise) at the site boundary. Also, none of these sources operate at night during lower ambient noise conditions when the PV facility is completely shut down. See

response to question No. 3 on electromagnetic fields. 2

15. Will Dominion Power have a say?

Dominion will have a say in the project in one and potentially two ways. First, the project is interconnecting to the Dominion distribution system, so the project must comply with all of Dominion's procedural, technical, and commercial requirements and study processes to permit such a connection. Dominion is currently working at SunPower's request to study the interconnection of the project to their system.

Second, if Dominion chooses to either buy the project (and thus be the owner/operator) or buy power from the project (in which case SunPower would build/own/operate), Dominion could have a say in how the project was designed, constructed, or operated, depending upon the exact nature of that arrangement with Dominion. However, at this time, there are no such agreements in place with Dominion.

16. What is the potential impact on the environment and wildlife in the surrounding area?

There will be no significant adverse impacts to the environment or wildlife from construction or operation of this facility. SunPower has evaluated, studied, or documented the numerous RPA buffers, steep slope buffers, prepared a Threatened and Endangered species study/assessment, a Historical and Cultural Resource study, and Architectural study, and is taking steps to ensure stormwater and erosion control accommodation are in compliance with JCC and VDEQ, and DCR standards.

17. Increase in traffic will have a negative impact on the development. We have a large number of daily walkers. Using Farmville Rd. divides the community physically. Is it possible to provide access through a commercial area?

There are no alternative or commercial area routes available to provide access to/from the property to Route 60. For the reasons described below, SunPower feels that access via Farmville Lane to Route 60 is suitable. 🛛

Increased traffic impacts will be limited to the duration of the facility construction.

Thereafter, traffic will be minimal and comprised of only a few vehicular trips (e.g. pickup truck size/style vehicles) daily and thus not impact the development.

SunPower understands there are neighborhood resident concerns regarding site access during construction, and has actively worked to find ways to mitigate these concerns. SunPower, together with County staff, have agreed to conditions tied to the approval of the special use permit in order to mitigate those concerns. One significant new mitigation strategy is to significantly reduce vehicular traffic during construction by procuring an off-site parking lot for the majority of construction workers. From this location, laborers and employees will be transported to the construction site via a shuttle bus. Site foremen, specialty contractors, and vehicles hauling equipment, will not use this service and will travel to/from the project site independently.

Our other proposed mitigation includes several measures such as limiting construction hours to between 7am and 7 pm, scheduling deliveries to avoid school bus pick-up and drop-off time schedules in the neighborhood, and a commitment to repair roads as and if needed. The VDOT has approved our initial application regarding site access, and both the County and VDOT have reviewed our Construction Access and Traffic Management Plan, which can be viewed here provide link>. Other special conditions include requirements to submit Construction Traffic Mitigation Plan to VDOT and County staff for approval, and a Construction Management and Mitigation Plan to County staff for approval. We will also have to obtain a Driveway Entrance permit from VDOT. In the VDOT of the view o

And finally, SunPower will develop in conjunction with JCC public safety personnel an Emergency Management Plan for the project. SunPower believes that with our current proposal and through development of these plans in conjunction with County, VDOT, and emergency management personnel the site can be safely accessed with as minimal disruption to normal neighborhood activities as practicable. Although construction traffic will occur during the anticipated 6 to 9 month construction schedule, the bulk of such traffic will occur during a peak 3-4 month primary construction period. SunPower would also note that once operational, traffic will be extremely limited (a few maintenance vehicle/pickup truck trips a day), and much less that if the site were developed in an alternative way (e.g. residential subdivision).

18. Will the revenue created stay in the community? If so, how many jobs are created and are they short or long term?

Revenue Generation and Economic Benefits 2

• The project will be a source of sales tax for both County and Virginia, direct and indirect, both during construction and operations. 🛙

• Construction and operation of the project will generate economic development for regional businesses, including engineering and construction, consulting, landscaping, and hospitality firms. This "ripple" economic effect in James City County is estimated at over \$2m during construction and over \$200,000 annually, and in Virginia at over \$14m during construction.

• Additional details on economic impact of the project is quantified in the report entitled Mangum Economics, "The Economic and Fiscal Contribution That The Norge Solar Project Will Make to James City County and Virginia", April 2017" which was submitted to JCC County staff on May 3, 2017. 🛛

Jobs 🛛

• Approximately 80 construction jobs will be created over 9-month construction timeline. 🛛

• The facility will employ 1-3 permanent operational personnel, plus additional contractors for operations and maintenance. 🛛

19. Would the electromagnetic field have a negative impact on satellite usage or local equipment in schools?

No. As described in response to Question No. 3 above, equipment in solar facilities generate electro-magnetic fields similar to household appliances within close proximity, which dissipate with increasing distance. Such fields pose no health risk nor concerns to neighboring residents and will not affect satellite reception nor equipment in schools.

20. How is it possible to protect children waiting for school buses from commercial vehicles?

SunPower intends to ensure the safety of neighbors in a number of ways. First, SunPower has committed to providing off-site parking for the majority of construction workers to significantly reduce the anticipated number of vehicular trips along Farmville Lane. SunPower has also committed to schedule large vehicle equipment deliveries to avoid hours when school busses are operating in the neighborhood. Furthermore, SunPower will commit to imposing a 15mph speed limit through the Norvalia neighborhood on all Demployees, contractors, and suppliers to the project. SunPower will also commit to posting safety personnel during high traffic periods. Finally, SunPower is required to submit a Construction Traffic Mitigation Plan to VDOT and James City County for review and approval, which will address both safety issues and road repair commitments. See also response No. 17.

21. Why has there been no notice to potentially affected residents about their proposed plan?

See response to No. 8 above. 2

22. Our property values have just returned to pre-2008 values. Research indicates that other solar farms of this size have in some areas caused real estate values to drop by 5-10%. 🛛

See response to No. 1 above. SunPower is not aware of any such credible research available that indicates such real estate value declines in the vicinity of solar farms. 2

23. Visibility for traffic pulling from Farmville onto Richmond Rd is already poor. It is especially difficult to see traffic coming from Toano. What would be done to make entering and exiting the development safe?

SunPower has evaluated these sight distances as part of the Construction Access and Traffic Management Plan <found here> . To assist in large vehicles turning into and exiting Farmville Lane, SunPower will use a construction traffic flagger during peak construction periods. SunPower anticipates further details to be worked out in conjunction with the County and VDOT when we prepare our final Construction Traffic Mitigation Plan as required by Special Condition No. 4 to our permit approval. See also answer to 17 above. 🛛

24. If the sound of one cell is equivalent to one refrigerator, what would be the sound of 200 refrigerators?

See response to No. 14 above. No noise is generated by a PV panel nor cells comprising that panel. There will be approximately 8 inverters which can generate the low-level noise as indicated in the prior response. However, even with these numbers, the sound of this equipment will be inaudible to neighboring properties.

25. There are about 3 1/2 hours of the day that buses are not driving through the neighborhood (not including early dismissal days). How are you going to ensure the safety of children as they wait for the bus in the dark or walk to and from the bus stop?

SunPower has committed to schedule deliveries to avoid school bus times in the neighborhood. See answers to 17 and 20 above. 🛛

26. This is a residential neighborhood not a business park. What benefit does this neighborhood have by allowing a solar farm in our back yard?

See response No. 6. 2

27. We enjoy the quiet dark nights to star watch. The noise will take over the natural sounds and the lights/glare will inhibit star gazing.

The facility does not operate at night and thus produces no noise. See answer No. 14. Additionally, there will be no lighting onsite.

 I do not feel that there was adequate communication from SunPower or Whisper Ridge, LLC to our community about the increase of traffic for 9 months. Farmville Lane is our only paved entry and exit to the neighborhood.
 See answer No. 8 above regarding notice. See answers No. 17 and 20 on access. 2

29. The traffic increase on Farmville is a large concern because the road is narrow now. If meeting a school bus, I have to move over onto grass. 🛙

School buses are typically 8 to 8.5 feet wide. The standard width for a tractor trailer standard is 8.5 feet. Neighbors can expect passing a trailer on Farmville Rd to be similar to current encounters with school buses.
Also, see answers to Nos. 17 and 20.

30. The people coming through the neighborhood. We have children in middle and high school whose parents aren't waiting with them for the bus. Who are these people who will be coming through?

Yes the same risk is a potential if a residential neighborhood is built back there from unknown construction workers. SunPower will commit to running background checks on all construction employees and contractors.

31. Will we need a light for the increase in traffic to be able to enter Farmville Lane? There are times of day now that I walk my daughter to ballet because getting out of our neighborhood into the flow of traffic takes longer than walking her there. And with an increase of 60 to 80 people in the neighborhood, how difficult will it make it to leave the neighborhood when it's quitting time?

See answer No. 23. 🛛

32. Is this farm turn key? On their site SunPower has two options: Dhttps://us.sunpower.com/utility-scale-solar-powerplants/?ab=headerlvl1%7CPower-Plants One option is turn key. Is this what Whisper Ridge is doing? And if turnkey, what happens if no utility company willing buys the energy from them? Who is responsible is this goes belly up for removing the solar panels so that they do not break down leaking the components used to make them into our groundwater. Solar panels can't be Dtaken to a landfill, they have to be recycled. SunPower will not build this project on a "speculative basis". SunPower will only build the project if either (1) a utility or other wholesale electric company enters into a long term (eg, 15-25+years) contract to purchase the energy produced, or (2) a utility acquires the project (and in that case uses the energy produced for itself or its customers). Hence, the likelihood of insolvency in the example above is extremely remote.

SunPower is responsible for decommission the project at the end of the project's life and returning the site to its pre-construction condition as nearly as practicable. Special condition 15 of our permit requires, prior to construction, submission of a decommissioning plan for review and approval by the County and surety to the County to ensure funds are available for decommissioning in the unlikely event of failure to comply with decommissioning requirements. Decommissioning of the facility will include recycling of components as appropriate and disposal off-site as needed.

SunPower's system is made mostly of silicon, glass, aluminum, & galvanized steel and contains no hazardous materials, and hence has no ability to introduce toxic materials to the site. SunPower even uses lead-free solder in its solar cells. The medium voltage transformers associated with the inverters contain FR3 oil, which is equivalent to a cooking grade biodegradable oil, and poses no environmental threat.

33. SunPower says the P-series panels are mutlicrystalline silicon. Is this CdTe or CIGS solar cells? Or are they using Gallium Arsenide? Silicon needs to be beefed up to take the sun's energy and turn it into energy we can use. https://www.nrel.gov/pv/cadmium-telluride-solar-cells.html 🛙

SunPower's P-series panels do not use CdTe, CIGS or Gallium Arsenide. Analytical testing (including test results for Toxicity Characteristic Leaching Procedure which is used to determine hazardous waste code under RCRA) conducted in 2016 resulted in "PASS" results, meaning the P-Series module did not exceed threshold amounts that would render it a hazardous waste per US Federal requirements.

34. The panels have to be cleaned. On the SunPower site, they show a video of a self cleaning machine. How loud is this? Is it more than a hum? Can we hear one? Do they have inverters ? They mention using 75% less water, but what is

that number exactly? How will this affect the James City County water supply?

SunPower's solar panel cleaning robots produce negligible noise that is not expected to be audible (e.g., heard above ambient noise) at the site boundary. See response No. 10. There will be no impact to the James City County water supply.

35. What happens if this becomes the situation: "Smith Hollow is a quiet ■neighborhood in Edgartown where the ambient sounds include distant traffic and breeze moving through the trees. But this past summer, the installation of a new municipal solar array added a new sound to the mix: incessant humming that all but drowns out the other sounds at some Smith Hollow residences. As soon as the solar project went live, inverters, the part of the system that converts direct current from the sun to alternating current, began emitting noise on sunny days. Neighbors complained, and the town hired an expert to investigate." These investigations take time. This will be extremely inconvenient to those that live closest to the humming. https://vineyardgazette.com/news/2014/09/25/solar-panels-create-noisenuisance-edgartown

See response No. 14. The components that SunPower uses, and those typically used for facilities of this type, will not produce noise that will be audible above background at the project boundary.

SunPower is not aware of this isolated incident cited, but proposes that either the reporting is inaccurate or this particular incident was a result of faulty project design or equipment.

36. I understand that the developer is responsible for repaving/fixing the roads that they use. How will we make sure that they don't pull a stunt as the Pottery did where they added things then "apologized" alter: http://wydaily.com/2012/12/06/local-builder-sues-pottery-for-millions/ "Recently the Pottery was cited by James City County with a zoning violation for the types of external lights used on the property. The Pottery was appealing the violation but withdrew their appeal prior to the last Board of Supervisors

meeting on Nov. 27." 🛛

SunPower is required per Special Condition 4 to submit a Construction Traffic Mitigation Plan to VDOT and James City County for review and approval, which will address road repair commitments, and complete such repairs within 6 months of operations. This requirement is tied to the SUP conditions as well as the application and permit for the Construction Entrance needed to serve the site. As a part of the construction entrance permit being approved by VDOT, an assessment of existing pavement conditions and potential impacts from construction traffic is conducted that will result in the development of a preliminary cost estimate for anticipated repairs. SunPower will be required to post the surety necessary to cover the costs of removal and restoration of the roadway. I

37. What species of sapling is being planted? How long will they take to grow to hide 14 feet tall panels?

An exact evergreen species has not been identified or finalized at this stage of the project. However, the evergreen species selected will meet County code, be consistent with native evergreen species in an around the project area, and grow at a rate such that the panels will be screened/blocked in 5 to 7 years.

All the evergreen trees being planted are a minimum of 8' in height at the time they are to be installed per county code requirements. Assuming the evergreen trees will grow approximately 1 to 1.5 feet a year (which is their normal growth rate) it will take them approximately 5 to 7 years to reach a height of 15'. In that time-frame they will also have reached a diameter to form a dense evergreen hedge.

In addition to this evergreen vegetative screen, SunPower has proposed to install vegetative-look fence screening material over the chain link security fence in areas where this new vegetative screening is proposed. This additional fence screen will soften the appearance of the actual chain link fence and will help obstruct the view of solar farm equipment within the site boundary in these locations. Examples of this type of fence screening can be found here

38. What is James City County getting from this? How much tax money will they

get from Whisper Ridge for the solar power they sell? Is Norge Elementary going to be powered by the farm? Why is this moving so fast with so little information being given to the Norvalia neighbors?

See response No. 26 – Project Benefits. See response No. – Electricity Sales See response No. – timing and notice. ☑

39. A 50 foot barrier of trees is mentioned, but what about the distance from the trees to the panels? Will the property be fenced? Who will be checking the farm daily for breeches to the fence?

Distances between the trees and the panels will vary slightly around the site depending on location from 15 feet to 50 feet. A buffer must be maintained for accessibility and in some cases to minimize "shading" of the panels to the extent possible. ZA 7' chain-link security fence will enclose the site to limit access. SunPower or contract maintenance personnel will be onsite regularly (typically most weekdays) to monitor all site conditions and operations. Z

Additional questions received post 5-17 Neighborhood Meeting

Access: What's possible to re-configure access to the construction site? For example, can easement be obtained through adjacent Norge Elementary School (which also has a stop light) to construct a temporary access road, avoiding the neighborhood altogether? This would also simplify the school begin-end times that the contractor had to avoid. Is there ANY other solution to access the property?

See response No. 17.

Construction crew traffic: Can the 80 construction employees park at Farm Fresh or Food Lion and contractor arrange vans or school busses to/from satellite parking? This would also boost local community through van/bus rental, drivers, restaurants, etc. Shuttle appears to be a strategy used at W&M (W&M Hall parking lot).

In response to concerns raised and this specific suggestion by residents, SunPower will be parking workers off-site and shuttling them onto the project site, significantly reducing the expected traffic impacts to Farmville Lane. See response No. 17.

Short-term/Long-term Benefit: In the long run the solar farm might be a great energy source and a good low-impact neighbor compared to other possible uses. I didn't

completely understand all the slides and implications, but this project seemed to offer relatively little benefit for the local area and nearby residents and therefore the immediacy of the 9-month construction disruption takes on proportionally greater impact.

See response No. X Project Benefits. See response above and No. 17 regarding shuttling workers to reduce traffic impacts.

Where does your project connect to the distribution lines? Will there be new poles that go through the neighborhood or along any existing roadway?

See response No. 13

What type of fencing are you proposing around the project and will that be adequately screened along the frontage where it could be viewed from the neighborhood. It seemed like the fencing was not very attractive at this [Isle of Wight] facility and the landscaping for potential buffering was minimal.

An [8]-foot high chain link security fence will be installed around the perimeter of the site. Where existing vegetation is not sufficient to adequately screen the facility, such as on the northeastern portion of the site in the vicinity of the Norvalia neighborhood, SunPower is proposing: (1) a newly-planted 50' wide evergreen vegetative buffer and also (2) vegetative-look fence screening material over the chain link security fence in areas where this new vegetative screening is proposed. The combination of these two measures is a far superior screening and landscaping plan that that installed at the Isle of Wight facility referenced. (See response No. 37)

Update on Key Permits Required for this Project

Permits	Reviewing Agency	Application Status
Permit-by-Rule (PBR)	Environmental Protection Agency (EPA)	Completed
Wetland Delineation	United States Army Corps of Engineers (USACE) and James City County	Completed
Threatened and Endangered Species	Virginia Department of Environmental Quality (VDEQ) and Virginia Department of Game and Inland Fisheries (DGIF)/ Virginia Department of Conservation and Recreation (DCR)	Completed
Forest Fragmentation Review	DCR	Upcoming
Environmental Site Assessment- Phase 1	EPA	Upcoming
Air Quality Assessment	VDEQ	Upcoming
Area of Potential Effect (PE) and Cultural Resources Survey	Virginia Department of Historic Resources (VDHR)	Upcoming
PBR Package Review and Public Comment Meeting	VDEQ	Upcoming

ITEM SUMMARY

DATE:	12/6/2017
TO:	The Planning Commission
FROM:	Christy H. Parrish, Zoning Administrator
SUBJECT:	ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations

ATTACHMENTS:

	Description	Туре
D	Memorandum	Staff Report
D	Draft Ordinance	Ordinance
٥	Approved Minutes from October 12, 2017, Policy Committee Meeting	Backup Material
٥	Unapproved Minutes from November 9, 2017, Policy Committee Meeting	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	11/29/2017 - 12:25 PM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 12:25 PM
Publication Management	Burcham, Nan	Approved	11/29/2017 - 1:23 PM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 2:34 PM

MEMORANDUM

DATE:December 6, 2017TO:The Planning CommissionFROM:Christy H. Parrish, Zoning AdministratorSUBJECT:Case No. ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area
Regulations

In response to recent guidance from the Federal Emergency Management Agency ("FEMA") Region III and the Department of Conservation and Recreation ("DCR"), staff has identified the need to update the Floodplain Ordinance to address the construction regulations of small accessory structures in the special flood hazard area.

The current regulations only permit the construction of nonresidential structures in the floodplain when the lowest floor of that structure is either elevated or watertight flood-proofed up to the level of two feet above the base flood elevation. All structures that are not used for dwelling purposes are considered nonresidential, which include residential detached garages and sheds.

As a result of the recent FEMA determinations, DCR guidance and model regulations have been recently updated to address wet-proofing construction standards for small accessory structures in the floodplain. If adopted locally, it would provide a lower construction cost option for property owners.

In addition, staff has used this opportunity with consult with DCR to re-review all sections of the Floodplain Area Regulations to ensure compliance with the National Flood Insurance Program ("NFIP"). Staff did receive minor clarifying updates to various sections, but did not receive any large substantive changes.

DRAFT ORDINANCE

Staff has drafted the attached ordinance language revision; however, below is a brief summary of those changes:

Sec. 24-2. Definitions

- Amended *accessory building or structure* definition to be consistent with NFIP regulations.
- Added *dry floodproofing* definition.
- Added *wet floodproofing* definition.

Sec. 24-588. (c) Compliance, liability, abrogation and severability.

• Amended section to ensure records and actions associated with the regulations are kept in perpetuity to ensure compliance with FEMA regulations.

Sec. 24-590. (a) Designation of floodplain districts.

- Amended to update the naming of Flood Insurance Study ("FIS") and Flood Insurance Rate Maps ("FIRMs") to correct titles.
- Deleted unmapped flood-prone areas from this section since these areas cannot be referenced or identified. Application of these regulations to unknown areas may not be enforceable.

Case No. ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations December 6, 2017 Page 2

• Clarified that in areas where no base elevation data is provided, the best available data for the one percent annual chance flood elevation shall be used.

Sec. 24-592. Permits.

• Amended to clarify that all proposed construction and development require a permit and that all applications will be reviewed to ensure the proposal is reasonably safe from flooding.

Sec. 24-595. (2)(5)(7)(9)(10) Regulations for construction.

- Amended section to include optional construction standards for small accessory structures.
- Amended watertight floodproofing references to dry floodproofing.
- Added a clarifying sentence to ensure that regulations for all enclosed spaces below the lowest floor apply to all floodplain districts.
- Clarified that all federal and state permits shall be obtained prior to approval of any development in the special flood hazard area.

Sec. 24-597. (a) Regulations for replacement manufactured homes.

• Amended to clarify that the replacement of manufacture homes shall be elevated in accordance with the construction standards in Sec. 24-595.

Sec. 24-598. Recreational vehicles.

• Amended to clarify that, if applicable, recreational vehicles must meet the requirements for placement, elevation and anchoring for the floodplain district in which they are located.

Sec. 24-603. (13) Variances; factors to be considered.

• Amended to exclude any accessory structure which exceeds 600 square feet from being granted a variance to be wet flood proofed.

RECOMMENDATION

On November 9, 2017, the Policy Committee voted 4-0 to recommend approval of all the proposed changes. Staff recommends the Planning Commission recommend approval of the attached draft ordinance amendments to the Board of Supervisors for consideration at its January 9, 2018 meeting.

CHP/nb Div3-Floodplain-mem

Attachments:

- 1. Draft Ordinance
- 2. Approved Minutes from October 12, 2017, Policy Committee Meeting
- 3. Unapproved Minutes from November 9, 2017, Policy Committee Meeting

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL; SECTION 24-2, DEFINITIONS AND BY AMENDING ARTICLE VI, OVERLAY DISTRICTS; DIVISION 3, FLOODPLAIN AREA REGULATIONS; SECTION 24-588, COMPLIANCE, LIABILITY, ABROGATION AND SEVERABILITY; SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS; SECTION 24-592, PERMITS; SECTION 24-595, REGULATIONS FOR CONSTRUCTION; SECTION 24-597, REGULATIONS FOR REPLACEMENT MANUFACTURED HOMES; SECTION 24-598, RECREATIONAL VEHICLES; AND SECTION 24-603, VARIANCES; FACTORS TO BE CONSIDERED.

BE IT ORDAINED by the Board of Supervisors of the County of James City County, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General; Section 24-2, Definitions and by amending Article VI, Overlay Districts; Division 3, Floodplain Area Regulations; Section 24-588, Compliance, liability, abrogation and severability; Section 24-590, Designation of floodplain districts; Section 24-592, Permits; Section 24-595, Regulations for construction; Section 24-597, Regulations for replacement manufactured homes; Section 24-598, Recreational vehicles; and Section 24-603, Variances; factors to be considered.

This ordinance shall be effective on _____.

Chapter 24. Zoning

Article I. In General

Sec. 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Accessory building or structure. A subordinate building or structure customarily incidental to and located upon the same lot occupied by the main use or building. With the exception of detached accessory apartments, as may be approved by a special use permit, no such accessory building or structure shall be used for housekeeping purposes. Garages or other accessory structures such as carports, porches, decks and stoops attached to the main building shall be considered part of the main building. Accessory buildings and structures located ten feet or less from a main structure shall be considered part of the main structure.") Solely for the purposes of determining side and rear yards. (Refer to the definition of "structure.") Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, an accessory building or structure shall be considered non-residential.

Dry floodproofing - Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, dry floodproofing is a combination of measures that results in a structure, including the attendant utilities and equipment, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

Wet floodproofing - Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, wet floodproofing is a floodproofing method that relies on the use of flood damage-

resistant materials and construction techniques in the areas of a structure that are below the elevation required by this standard by intentionally allowing those areas to flood.

Article VI. Overlay Districts

Division 3. Floodplain Area Regulations

Sec. 24-588. Compliance, liability, abrogation and severability.

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations; including, but not limited to: the Virginia Uniform Statewide Building Code (USBC), the Virginia Industrialized Building Safety Regulations (IBSR), and the Manufactured Home Safety Regulations (MHSR).
- (b) The degree of flood protection sought by the provisions of these regulations is for reasonable regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damage.
- (c) Records of actions associated with administering these regulations shall be kept on file and maintained by the director of community development or his designee *in perpetuity*.
- (d) These regulations shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.
- (e) Any person who fails to comply with any requirement or provision of this article shall be guilty of the appropriate violation and subject to penalties set forth in section 24-22 of this chapter.
- (f) To the extent that the provisions are more restrictive than previous requirements, this ordinance supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict, it shall remain in full force and effect. These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinances, the more restrictive shall govern.
- (g) If any section, subsection, paragraph, sentence, clause, or phrase of this division shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this division. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this division are hereby declared to be severable.

Sec. 24-590. Designation of floodplain districts.

(a) The various floodplain districts shall include areas subject to inundation by waters of the one percent annual chance (100-year) flood. The minimum basis for the delineation of these districts shall be, but not be limited to, the December 16, 2015 flood insurance study and flood insurance rate maps *Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs)* prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Agency (FIA) and subsequent revisions or amendments thereto₂, since other flood prone areas exist in James City County which are not shown

on the floodplain maps. To determine these areas, *In areas with no base flood elevation provided by the FIRM/FIS, the best available data* for the one percent annual chance (100-year) flood elevations and floodways from federal, state and local sources may *shall* be used when available. Where the specific one percent annual chance (100-year) flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the director of community development or his designee in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee.

Where flood elevations are provided by the FIA *FEMA*, these elevations shall not be changed except with FEMA approval. Local sources of flood-prone area data include, but are not limited to, the Mill Creek-Lake Powell Watershed Study, GKY and Associates, 1988 report, locally approved watershed management plans and comprehensive drainage studies.

When base flood elevations have increased or decreased resulting from physical changes affecting flooding conditions, technical or scientific data shall be submitted to FEMA no later than six months after the date such information becomes available. Such submission is necessary so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirement will be based upon current data.

- (b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain must be kept free of encroachment in order that the one percent annual chance (100-year) flood be conveyed without increasing the water surface areas included in this district.
- (c) The flood-fringe district shall be that area of the one percent annual chance (100-year) flood not included in the floodway district. The basis for the outmost boundary of the district shall be the one percent annual chance (100-year) elevations minimally shown as Zones AE and AO on the maps accompanying the flood insurance study.
- (d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a one percent annual chance (100-year) flood boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study. Consider other available data such as presented in subsection (a) of this section as the basis for elevating residential structures to or above base flood level, and for floodproofing or elevating nonresidential structures to or above base flood level.
- (e) Coastal A zones shall be those areas as defined by the Virginia Uniform Statewide Building Code that are subject to wave heights between 1.5 feet and 3 feet and identified on the FIRM as AE areas that are seaward of the Limit of Moderate Wave Action (LiMWA) line.
- (f) Coastal high-hazard area districts shall be those portions of land within the coastal floodplain subject to inundations by high velocity waters and wave action greater than three feet. Such areas are minimally shown as Zones V and VE.

Ordinance to Amend and Reordain Chapter 24. Zoning Page 4

Sec. 24-592. Permits.

A permit is required for all proposed construction and other developments, including the placement of manufactured homes, within the floodway or any floodplain district. An application for subdivision, site plan, rezoning, building permit, special use permit, Virginia Erosion and Sediment Control Program/Virginia Stormwater Management Program permit, wetlands permit or other local development permit shall be considered an application for development under these regulations. The applicant shall be informed of the provisions of this article as they may apply to the property and no permit shall be issued until the applicant has complied with such provisions. *Applications will be reviewed to ensure the proposed construction or other developments will be reasonably safe from flooding*.

Sec. 24-595. Regulations for construction.

- a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the one percent annual chance (100-year) flood shall not be permitted unless the project is in conformance with the following requirements:
 - (1) All construction shall use methods that minimize flood damage and which are in accordance with the Virginia Uniform Statewide Building Code. Structures shall be constructed with materials and equipment resistant to flood damage and shall be anchored to prevent floatation, collapse, or lateral movement.
 - (2) The finished elevation of the lowest floor, including the basement or cellar of any building, shall have at least two feet freeboard above the one percent annual chance (100-year) flood elevation. For nonresidential structures, *excluding accessory structures which conform to 24-595(a)(9)*, watertight *dry* floodproofing up to the level of two feet freeboard in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein.
 - (3) Utility and sanitary facilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation.
 - (4) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway or any floodplain district unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee. Hydrologic and hydraulic analyses shall not be required for properties affected only by coastal (tidal) flooding.
 - (5) All new construction and substantial improved structures in Zone AO shall meet the following requirements:
 - a. The lowest floor, including basements, shall be at or above the highest adjacent grade and two feet above the FIRM's depth number.
 - b. Nonresidential structures may use watertight dry floodproofing in accordance with the Virginia Uniform Statewide Building Code in lieu of the finished grade requirement described herein.
 - c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

- (6) All new construction and substantial improvements in Zones V, VE, and Coastal A shall meet the following requirements:
 - a. The structure shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least two feet above the base flood level. The pile of column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to effects of wind and water loads acting simultaneously on all building components. A registered design professional engineer or architect shall develop and seal the structural design, specifications and plans for the construction, and shall certify the design and methods of construction.
 - b. The space below the lowest floor shall be either free of obstruction or constructed with nonsupporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall collapse from water loads that are less than that which would occur during the base flood.
 - c. New construction shall be landward of reach of mean high tide.
 - d. Fill for structural support and alterations of sand dunes are prohibited.
- (7) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access or storage, have permanent openings designed to allow the exit of floodwaters in accordance with the Virginia Statewide Building Code and Federal Code 44CRF Section 60.3 approved by the director of building safety and permits. *This requirement applies to all floodplain districts, including Zones V, VE, and Coastal A.*
- (8) Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate from a registered professional engineer or architect, as appropriate, to the director of building safety and permits.
- (9) Accessory structures shall comply with elevation or dry floodproofing requirements in section 24-595 (a)(2) or shall conform to the following standards:
 - a) Not located in a floodway;
 - b) Not be used for human habitation;
 - c) Be limited to no more than 600 square feet in total floor area;
 - *d)* Be usable only for parking of vehicles or limited storage;
 - *e)* Be constructed with flood damage-resistant material to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;
 - f) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
 - g) Be anchored to prevent flotation;
 - *h)* All utilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be elevated or floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;
 - i) Shall be provided with flood openings which shall meet the following criteria:

- 1. There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls;
- 2. The total net area of all flood openings shall be at least one square inch for each square foot of enclosed area (non-engineered flood opening), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by ICC Evaluation Service, Inc.;
- 3. The bottom of each flood opening shall be one foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening;
- 4. Any louvers, screens or other covers for the flood opening shall allow the automatic flow of floodwaters into and out of the enclosed area.
- *j)* Such accessory structure shall not be used to store any hazardous material as listed in section 24-593 (a)(4).
- (910) All other federal and state permits shall be obtained by the applicant before a building permit can be issued the development will be permitted under this Chapter.
- (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of building safety and permits.

Sec. 24-597. Regulations for replacement manufactured homes.

- (a) Replacement manufactured homes shall be elevated on a permanent foundation so that the lowest floor has two feet freeboard above the level of the one percent annual chance (100-year) flood elevation *in accordance with the construction standards identified in section 24-595.*
- (b) In floodplain areas, replacement manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in either of the following arrangements:
 - (1) Over-the-top ties at each corner plus one frame tie at the middle of each side; or
 - (2) Frame ties at each corner plus no less than five evenly spaced additional frame ties per side.
- (c) All ties to the ground shall be able to carry a force of 4,800 pounds.

Sec. 24-598. Recreational vehicles.

Recreational vehicles placed on sites must either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet requirements for placement, elevation and anchoring requirements for manufactured homes *for the floodplain district in which the recreational vehicle is located*.

Sec. 24-603. Variances; factors to be considered.

(a) *Factors in passing upon applications for variance.* In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any floodway district that will cause any increase in the one (1%) percent annual chance (100-year) flood elevation.
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
- (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (13) No variance shall be granted for any accessory structure to be wet floodproofed if that structure exceeds 600 square feet.
- (1314) Such other factors which are relevant to the purposes of this section.
- (b) Referral to qualified persons or agencies for technical assistance. The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.
- (c) *Factors considered in variance application review*. In reviewing all variance applications, the board of zoning appeals shall consider the following factors:
 - (1) Increases in flood heights;
 - (2) Additional threats to public safety;
 - (3) Extraordinary public expense;
 - (4) Creation of nuisances;
 - (5) Fraud or victimization of the public; and
 - (6) Conflicts with local laws or ordinances.

Ordinance to Amend and Reordain Chapter 24. Zoning Page 8

- (d) *Issuance*. Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.
- (e) *Notification of increased risk.* The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one percent annual chance (100-year) flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.
- (f) *Records of variance actions*. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Secs. 24-604-24-613. Reserved.

	Chairman, Boar	rd of Sup	ervisors	
ATTEST:		VOTE	S	
		AYE	NAY	ABSTAIN
	MCGLENNON			
Bryan J. Hill Clerk to the Board	— LARSON ICENHOUR			
	SADLER			
	HIPPLE			

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January,

2018.

Div3-Floodplain-ord

A. CALL TO ORDER

Mr. Jack Haldeman called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present: Jack Haldeman, Chair Rich Krapf Heath Richardson Danny Schmidt

Staff: Tammy Rosario, Principal Planner Christy Parrish, Zoning Administrator Tom Leininger, Community Development Assistant Darryl Cook, Assistant Director of Stormwater and Resource Protection, Floodplain Manager

C. MINUTES

1. September 14, 2017 Meeting Minutes

Mr. Rich Krapf made a motion to Approve the September 14, 2017, meeting minutes.

The motion passed 4-0.

D. OLD BUSINESS

There was no old business.

E. NEW BUSINESS

1. Consideration of Amendments to the Zoning Ordinance, Division 3. Floodplain Area Regulations

Mr. Jack Haldeman opened the discussion.

Ms. Christy Parrish stated that staff identified the need to update the floodplain ordinance to allow accessory structures to be wet-proofed when located in a special flood hazard area, specifically structures such as sheds and garages on residentially zoned properties. She stated that all accessory structures are considered non-residential according to the Federal Emergency Management Agency (FEMA). She stated that all non-residential structures currently would have to be watertight flood-proofed or elevated. She stated that staff has been working with the Department of Conservation and Recreation (DCR) and looked at their guidance to allow structures of 600 square feet or less to have wet-proof construction options. Ms. Parrish stated that are two options in DCR's model ordinance. She stated that the first option is to not permit the structures in a flood zone, and option two would be to permit them with adherence to specific standards. She stated that staff recommends option two to provide flexibility to homeowners. She stated that staff also is working with DCR to confirm that the current floodplain ordinance is in compliance with the National Flood Insurance Program (NFIP). Ms. Parrish stated that DCR has updated their model ordinance, but it is under review by the Attorney General's Office. Ms. Parrish asked if there were any questions.

Mr. Heath Richardson asked how far along other localities were with their own revisions to the floodplain ordinance.

Ms. Parrish stated that Norfolk has included the new revisions. She stated that she can review the floodplain ordinance of York County, Hampton and Newport News. She stated that the new ordinance would not affect the County Community Rating System (CRS) rating. She stated that the new ordinance would allow a garage to have flood openings below the base flood elevation (BFE).

Mr. Rich Krapf asked what the difference was between a floodplain and a floodway.

Ms. Parrish stated that the channel that goes through the floodplain is the floodway. She stated that structures are not allowed in the floodway. She stated that Powhatan Creek has a designated floodway.

Mr. Krapf asked if the current structures in the floodplain would be grandfathered in.

Ms. Parrish confirmed. She stated that if the structure were to be improved or modified, then it would be required to be elevated.

Mr. Krapf asked if there was a dollar threshold.

Ms. Parrish stated that the amount is 50% of the market value of the structure. She stated that if a citizen wanted to do an addition less than 50% of the value, only the new section would need to be compliant.

Mr. Danny Schmidt asked how uninsured small structures would be affected.

Ms. Parrish stated that the structures would still need to follow the same construction guidelines. She stated that the proposed ordinance would allow for some flexibility with the wet-proofing construction option. She stated that the structures would have the appropriate flood vents to allow water in and out of the structure. She stated that any structure over 600 square feet would need to be elevated or dry flood proofed. She stated that no variance could be given to wet-proof a structure over 600 square feet.

Mr. Jack Haldeman asked what would result if the County did not have a compliant ordinance. He asked if the insurance premiums would be affected as well.

Ms. Parrish confirmed and stated that the County could be suspended from the program, which would eliminate federally-backed insurance for the residents living in the floodplain.

Mr. Schmidt asked about the resident building a new garage in the floodplain.

Ms. Parrish stated that the structure is a 600-square-foot garage. She stated that staff spoke with DCR regarding the structure not having a first floor because it is not livable. She noted that DCR stated that all structures have a first floor.

Mr. Haldeman asked when the changes requested by DCR would be brought to the Policy Committee.

Ms. Parrish stated that staff will present the changes at the November Policy meeting.

Mr. Krapf asked how specific the ordinance is regarding the flood vents.

Ms. Parrish stated that the flood openings must be approved and certified.

Mr. Richardson stated that he is supportive of option two.

Ms. Parrish stated that staff will have all items for the November Policy meeting.

Mr. Haldeman asked if there were any other questions.

Mr. Haldeman closed the discussion.

F. ADJOURNMENT

Mr. Krapf made a motion to Adjourn. The motion passed unanimously.

Mr. Haldeman adjourned the meeting at approximately 4:20 p.m.

Mr Jack Haldeman, Chair

Mr. Paul Holt, Secretary

A. CALL TO ORDER

Mr. Jack Haldeman called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present: Jack Haldeman, Chair Rich Krapf Heath Richardson Danny Schmidt

Absent: Felice Pete

Staff:

Tammy Rosario, Principal Planner Christy Parrish, Zoning Administrator Roberta Sulouff, Senior Planner Lauren White, Planner Tom Leininger, Community Development Assistant Max Hlavin, Assistant County Attorney Darryl Cook, Assistant Director of Stormwater and Resource Protection, Floodplain Manager

C. MINUTES

1. October 12, 2017 Meeting Minutes

Mr. Rich Krapf made a motion to Approve the October 12, 2017, meeting minutes.

The motion passed 4-0.

D. OLD BUSINESS

1. Case No. ZO-0001-2017. Proposed Amendments to the Zoning Ordinance, Division 3. Floodplain Area Regulations – Stage III

Mr. Jack Haldeman opened the discussion.

Ms. Christy Parrish stated that the purpose of the Zoning Ordinance amendment was to add a separate construction standard for small accessory structures being located in the floodplain. She stated that staff has also received feedback from the Department of Conservation and Recreation (DCR) which she would review item by item.

Ms. Parrish stated that the first page of the ordinance defines an accessory building or structure as non-residential. Ms. Parrish stated that the next change is in Section 24-588 where Item C states that staff will keep all of the records in perpetuity. She stated that the change would be in compliance with DCR. Ms. Parrish stated that the next change is in Section 24-590. She stated that flood-prone areas not defined by a study are not enforceable; therefore, it was recommended by DCR to remove the reference from the ordinance. She stated that the Federal Insurance Agency (FIA) was changed to Federal Emergency Management Agency (FEMA).

Mr. Haldeman asked how the changes would affect the insurance rates of the County.

Ms. Parrish stated that the recommendations were from DCR and they would not have any impact on the insurance rates.

Ms. Parrish continued summarizing the ordinance changes. She stated that the next change to the ordinance is in Section 24-592. She stated the language clarifies that a permit is required for all proposed construction and other developments, including the placement of manufactured homes, within the floodway or any floodplain district. Ms. Parrish stated that the next ordinance change is in Section 24-595 (2) and the information did not change from the previous meeting regarding floodproofing standards. She stated that the ordinance change in Section 24-595 (7) stated that requirement applies to all floodplain zones. Ms. Parrish stated that Section 24-595 (5) states that nonresidential structures may use dry floodproofing instead of watertight floodproofing.

Mr. Heath Richardson asked what the reasoning was behind adding the text regarding an application being reviewed to ensure that the proposed construction would be reasonably safe.

Ms. Parrish stated that the purpose is to make sure any new construction or any addition would not impact the floodplain. She stated that for Section 24-595 (9) accessory structures shall comply with specific elevation or floodproofing requirements in Section 24-595 (2) or conform to the standards in Section 24-595 (9). She stated that the Planning Director recommended that an accessory structure should not be used to store hazardous material as listed in Section 24-593. She stated that hazardous material could cause damage. She stated that all other federal and state permits shall be obtained along with a building permit. Ms. Parrish stated that Section 24-597 clarifies the regulations for replacing a manufactured home. She stated that the permanent foundation shall be elevated in accordance with the construction standards identified in Section 24-595. She stated that in Section 24-598 staff added a phrase stating that the anchoring and elevation would depend on the floodplain it is located in. She stated that in Section 24-603 (13) no variance shall be granted for any accessory structure to be wet floodproofed if that structure exceeds 600 square feet.

Ms. Parrish stated that DCR has reviewed the amended ordinance twice. She stated that the County is scheduled to be audited in 2018, and these revisions are expected to put the County in a good position for the audit.

Mr. Richardson asked what the timeline would be going forward.

Ms. Parrish stated that the advertisement for the December Planning Commission (PC) is currently being worked on and then the ordinance would proceed to the Board of Supervisors (BOS) in January.

Mr. Danny Schmidt asked if the DCR was involved in recommending the two-foot freeboard.

Ms. Parrish stated that DCR does not suggest freeboard recommendations. She stated that freeboard is a higher standard and that the County requires two feet.

Mr. Haldeman asked for a motion to recommend the ordinance changes to the PC.

Mr. Richardson made a motion.

Motion passed 4-0 by voice vote.

2. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals - Stage III

Ms. Roberta Sulouff presented a graphic to the Policy Committee.

Mr. Rich Krapf asked if an Airbnb is considered a homestay.

Ms. Sulouff stated that an Airbnb is a medium to rent a home. She stated that someone would use Airbnb to rent the room out.

Mr. Krapf stated that a person could reserve a tourist home or short-term rental through Airbnb and that it depends on the intensity of the dwelling.

Ms. Sulouff confirmed. She stated that the proposed amendments would only have two types of short-term rentals. She stated that those are homestays and tourist homes.

Mr. Haldeman asked where rental of rooms fall in these definitions.

Ms. Sulouff stated that rental of rooms would be long-term rentals exceeding the family definition.

Mr. Richardson asked if a tourist home can be a primary residence.

Ms. Sulouff confirmed.

Mr. Haldeman asked what the definition of transient would be.

Ms. Lauren White stated that the transient definition is located in the Commissioner of Revenue section of the ordinance in Chapter 20.

Ms. Sulouff stated that the intent is to include the definition in the zoning ordinance.

Ms. Sulouff stated that during the September meeting the Policy Committee had suggested feedback on the proposed draft language to address short-term rentals. She stated that staff has prepared more formal draft language. She stated that the language is similar to what was presented in September. She stated that the updated definitions draw a more clear distinction for tourist homes being more commercial and homestay being residential. Ms. Sulouff stated that previously, the rental of rooms had been interpreted to include both. She stated that the updated use-list for all residential zoning districts is also included. She stated that homestays of one room are permitted in all residential zoning districts. Ms. Sulouff stated that homestays with two rooms or more are more intense and require a Special-Use Permit (SUP) in all but a few zoning districts. She stated that a tourist home requires an SUP in most zoning districts. She stated that the new ordinance for tourist homes in addition to homestays package includes a guidance policy. She stated that staff recommends the more intense tourist home to be geographically constrained. She stated that they should be located on collector or arterial roads. She stated that staff would like the Policy Committee's feedback regarding the tourist home policy concerns raised during recent public hearings for tourist homes. She stated that the proposed definitions and performance standards are intended to create a logically consistent and predictable framework for short-term rentals. She stated that staff is seeking

Policy Committee feedback on the proposed changes. She stated that staff would include this feedback in future draft language to the PC at the December PC meeting.

Mr. Krapf stated that the homestay limits the number of separate contracts. He asked if tourist home can have the same limitations. Mr. Krapf stated that a home with five rooms could have five separate contracts. He stated that a tourist home does not require the owner to be onsite. He stated that his concern is with the potential for disruption. He asked if it would be worth adding the contract restriction to tourist home.

Ms. Sulouff stated that each tourist home case could have that limitation with the SUP process. She stated that staff would advise putting the limitations in the policy language because the tourist home use includes bed and breakfasts and boarding homes, and not just private homes. She stated that those specific business models rely on the separate contracts. She stated that most recent cases could have included a single contract per night restriction.

Mr. Richardson expressed concern regarding the equity of local hotels and the unfair competition. He asked how tourist homes with multiple contracts would be handled.

Ms. Sulouff stated that restricting the contracts for tourist homes overall would impact applicants for bed and breakfasts as bed and breakfast fall under the tourist home use. She stated that if such a restriction was added, a new definition would be needed to differentiate bed and breakfast. She stated that as the PC and BOS see individual cases there will be individual conditions applied. She stated that for the most recent tourist home there could be specific guidelines.

Mr. Schmidt asked if a condition limiting contracts per night could be applied to the most recent tourist home case.

Ms. Sulouff stated that the PC asked staff to add such a condition. She stated that when the case is presented to the PC in December, there will be an added condition.

Mr. Haldeman stated that he liked the idea of applicants providing their contact information to neighbors.

Mr. Schmidt agreed. He asked if there was a mechanism to make sure applicants notify neighbors.

Ms. Sulouff stated that a possible idea is similar to the adjacent property letters for site plans. She stated that when a site plan comes in, applicants are required to submit a sample letter and a list of addresses. She stated that the application could have that attachment.

Mr. Haldeman stated he thought that it would help neighbors feel more comfortable living near a tourist home.

Mr. Richardson asked if other municipalities use an adjacent property notification method.

Ms. Lauren White stated that Blacksburg requires neighbors to be notified if a wall is being shared such as townhome.

Ms. Sulouff stated that Roanoke publishes all of their registered transient listings on their website. She stated that staff has not explored the feasibility of that method yet for James City County. She stated that in that example consumers can check to see if the person they rent from went through the proper procedures.

Mr. Richardson stated that he was in favor of a website-based registry for public access.

Mr. Krapf stated that this method would help the applicant and reduce the extra work of sending out letters.

Ms. Tammy Rosario stated that the application can state that the contact information would be disclosed on the website.

Mr. Max Hlavin stated that the registry could be published.

Mr. Haldeman stated that the Policy Committee was in favor of the registry system being published.

Mr. Krapf asked if the condition restricting the number of contracts was due to the proximity to other residential homes.

Ms. Sulouff stated that the condition restricting the number of contracts is a performance standard for homestay. She stated that the intention of the condition to limit the intensity of the use.

Mr. Schmidt asked what would happen if there were any disputes between neighbors.

Mr. Krapf stated that it would be a homeowner issue and not so much a County issue.

Mr. Richardson asked what other definitions were needed besides transient. He asked if Chapter 20 would be referenced in the policy.

Ms. Sulouff stated that the homestay and rental of rooms' definitions were created. She stated that tourist home was amended and the materials show the original with a strike-through. She stated that the intent was to provide further clarification of the distinctions between the uses.

Ms. White stated that, according to Chapter 20, the definition of transient means any individual or group of same individuals who, for a period of fewer than 30 consecutive days, either at his own expense, or at the expense of another, obtains lodging at any hotel as defined herein. She stated that hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, travel campground or tourist camps, or other lodging place within the County offering lodging, as defined herein, for compensation, to any transient as defined herein.

Ms. Sulouff stated that the definition presented in the previous meeting modified the definition of transient from Chapter 20 to create less confusion.

Mr. Richardson stated that the Policy Committee is comfortable with the definition as found in September's meeting materials.

Ms. Sulouff stated that the transient definition was presented last month. She stated that the definition of transient is a period of less than 30 days and specifically relating to the lodging of occupants. She stated that staff defines transient as a period of time.

Mr. Haldeman stated that if there were not any other questions or discussion then a motion would need to be made to move the draft ordinance to the PC on December 6.

Mr. Richardson made a motion to move to the PC.

Motion passed 4-0 by voice vote.

Ms. Sulouff stated that there was one member of the public attending the meeting.

Mr. Krapf stated that the Policy Committee would listen to comments made from the public.

Ms. Patricia Spayd, 3550 Cedar Branch, stated that she opens her home up for people to stay with her for a couple of nights. She stated that she is a widow and a disabled veteran and has lived in the County for eight years. She has had good experiences with having people stay with her. She stated that women tend to stay with her because they feel safe. She stated that she would be in favor of the language as proposed.

Mr. Richardson asked if they expect any pushback from Homeowners Associations (HOA).

Ms. Sulouff stated that she has not received any feedback from HOA's.

Mr. Richardson stated that, like chicken keeping, he sees HOA's becoming more restrictive on homestays.

Ms. Sulouff stated that the County can't force an HOA to allow homestays.

Ms. Parrish stated that the chicken keeping application states that the County cannot supersede the HOA. She stated that the new application could have similar text.

E. NEW BUSINESS

There was no new business.

F. ADJOURNMENT

Mr. Richardson made a motion to Adjourn. The motion passed unanimously.

Mr. Haldeman adjourned the meeting at approximately 4:45 p.m.

Mr Jack Haldeman, Chair

Mr. Paul Holt, Secretary

ITEM SUMMARY

DATE:	12/6/2017
TO:	The Planning Commission
FROM:	Roberta Sulouff, Senior Planner
SUBJECT:	ZO-0002-2017. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals

ATTACHMENTS:

	Description	Туре
D	Staff Memorandum	Staff Report
D	Draft Zoning Ordinance Language	Backup Material
۵	Draft Homestay Special Use Permit Guidance Policy	Backup Material
٥	Draft Tourist Home Special Use Permit Guidance Policy	Backup Material
D	Draft Registry Ordinance Language	Exhibit
۵	Minutes from the November 9, 2017 Policy Committee Meeting	Minutes
۵	Minutes from the September 14, 2017 Policy Committee Meeting	Backup Material
۵	Minutes from the July 13, 2017 Policy Committee Meeting	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	11/29/2017 - 2:50 PM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 2:50 PM
Publication Management	Burcham, Nan	Approved	11/29/2017 - 3:33 PM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 3:34 PM

MEMORANDUM

DATE:	December 6, 2017
TO:	The Planning Commission
FROM:	Roberta Sulouff, Senior Planner
SUBJECT:	Case No. ZO-0002-2017. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals

INTRODUCTION

During the course of two public hearing cases, members of both the Planning Commission and the Board of Supervisors expressed a desire for a policy addressing the emerging issue of short-term residential rentals, also known as "homesharing." This sentiment was echoed at the May 23, 2017, Joint Board of Supervisors and Planning Commission Work Session and again at the Planning Commission's November 1, 2017 meeting, at which the Commission formally initiated the consideration of Zoning Ordinance amendments to permit short-term residential rentals in residentially zoned areas. In addition to public hearing cases for this use, staff has also received several public inquiries and conceptual plan applications from citizens interested in pursuing this use on their properties.

In addition to developments at the local level, Commission and Board members have expressed interest in state legislation regarding short-term vacation rentals. During the 2017 General Assembly Session, the legislature approved SB 1578 which allows a locality to create a short-term rental registry. This legislation does not "prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental property through general land use and zoning authority."

On July 13, 2017, the Policy Committee met to discuss initial planning for policies and ordinance amendments to address the emerging topic of short-term residential rentals (Stage I). At that meeting, the Committee expressed interest in pursuing a hybrid approach to permitting such rentals, similar to the approach taken during the recent amendment process addressing rural event facilities, wherein certain aspects of the use would be permitted by-right and others would require the issuance of a Special Use Permit (SUP). The Committee directed staff to research and develop draft Zoning Ordinance language to define and develop a permitting process for short-term residential rentals. Staff met with the Committee again at its September 16, 2017, (Stage II) and November 9, 2017, (Stage III) meetings to receive feedback on draft ordinance and policy language. Staff incorporated feedback from these meetings, as well as feedback from the Commissioner of the Revenue and the County Attorney, into the language in the attached policies and amended ordinances.

DRAFT ORDINANCE LANGUAGE

Draft ordinances and policies are included as Attachment Nos. 1-14 and accomplish the following:

- In Section 24-2 (In General, Definitions):
 - Creates definitions for "homestay," "rental of rooms" and "transient"
 - Adds language to the existing definition of "tourist home" to more clearly differentiate its application from uses falling under the newly proposed "homestay" definition as well as to provide examples of potential uses.
Case No. ZO-0002-2017. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals December 6, 2017 Page 2

- In Section 24-7 (In General, Administrative Fees):
 - Institutes a \$25 fee for the review of administrative homestay applications.
- In Special Regulations:
 - Creates a permitting process for by-right homestay applications, including the following provisions:
 - A requirement to provide an affidavit for proof of primary residence at the subject property.
 - A requirement to release tax information to the Planning Division regarding the homestay use at the property for the purpose of verifying the number of days of rentals per year, compliance with the registry requirement and the number of rental contracts per night.
 - Creates performance standards for the operation of by-right homestay uses, including the following standards:
 - Restricts operation of the homestay use to 180 days per calendar year and limits the rental to one contract party per night.
 - Prohibits the use of the homestay as an event space (for gatherings such as commercial meetings, banquets, parties, weddings and charitable fundraisers).
 - Establishes parking requirements and prohibits on-street parking of commercial and/or oversized vehicles in conjunction with the homestay.
 - Prohibits signage related to the homestay use.
- In Section 24, Division V (Districts):
 - Adds "Homestay, to a maximum of one room, in accordance with Section 24-50" as a permitted use in the R-1, R-2, R-3, R-5, R-6, Planned Unit Development and Mixed Use districts.
 - Adds "Homestay, greater than one room and/or exceeding 180 days of rentals per year" as a specially permitted use in the R-1, R-2, R-3, R-5, R-6, Planned Unit Development and Mixed Use Districts.
 - Adds "Homestay, in accordance with Section 24-50" with no room number restrictions, to the A-1, R-4 and R-8 Districts.
 - Includes changes to uses throughout the Use Lists to ensure consistency in the intensity of permitted uses and avoid any unintended loopholes in the application of the uses:
 - Removes room number specifications for the "Rental of Rooms" use, which is no longer a short-term use and is now regulated by the number and relationship of people in a dwelling rather than rooms.
 - Makes "Rental of Rooms" a specially permitted use in the R-3, R-4, R-5 and Mixed Use Districts.
 - Removes "Tourist Home" from the R-5 Use List; tourist homes are proposed to be a higherintensity use, more commercial in nature, and staff finds that such a use is inconsistent with the character of multi-family housing in situations where neighbors may be sharing walls.
- Introduces a new administrative policy for guidance in the review of legislative homestay applications, as well as a separate policy to provide guidance in the review of tourist home application. The policies differ in an attempt to draw a distinction between the homestay use as residential in character and the tourist home use as more commercial in nature. For example, through the guidelines, staff intends the more intense use of tourist home to be more geographically constrained than the homestay use. Several potential SUP conditions are also written and included with this distinction in mind.

Case No. ZO-0002-2017. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals December 6, 2017 Page 3

CHANGES SINCE THE NOVEMBER 9, 2017 (STAGE III) POLICY COMMITTEE MEETING

- A definition for 'transient' has been included in the attached draft ordinance language.
- Upon further editing and discussion, staff has become aware that previous draft language did not explicitly address homestay applicants who may wish to exceed the 180 rental day threshold established in the performance standards of Section 24-50(b). Without explicitly addressing this circumstance, the proposed ordinance may be ambiguous: such an application could either be interpreted to fall under the tourist home definition or interpreted as not permitted. Upon further guidance from the County Attorney, staff has added the option to exceed 180 rental days per year as a specially permitted use in all residential districts. Likewise, the administrative policy guidance document for homestays has also been updated to accommodate the possibility of an SUP application for a homestay exceeding 180 days of rentals per year.
- Upon feedback from the County Attorney, the requirement of a \$25.00 fee for the administrative review of homestay applications has been moved from Special Regulations (Section 24-50) to Section 24-7 (In General, Administrative Fees).
- Other non-substantive, grammatical and punctuation changes have been made through the draft language.
- Separately, staff has been working with the County Attorney's office and Commissioner of the Revenue on a draft registry ordinance for consideration by the Board of Supervisors. A copy of this draft ordinance is included for the Planning Commission's information, rather than consideration, as it will ultimately not be located in the Zoning Ordinance.

RECOMMENDATION

Staff recommends the Planning Commission recommend approval of the attached administrative policies and amendments to the Zoning Ordinance to the Board of Supervisors.

RS/nb ZO-02-17STResRntls-mem

Attachments:

- 1. Draft Zoning Ordinance Language
- 2. Draft Homestay Special Use Permit Guidance Policy
- 3. Draft Tourist Home Special Use Permit Guidance Policy
- 4. Draft Registry Ordinance Language—for informational purposes only
- 5. Minutes from the November 9, 2017, Policy Committee Meeting
- 6. Minutes from the September 14, 2017, Policy Committee Meeting
- 7. Minutes from the July 13, 2017, Policy Committee Meeting

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-2, DEFINITIONS; AND SECTION 24-7, ADMINISTRATIVE FEES; AND BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION I, IN GENERAL, BY ADDING SECTION 24-50, HOMESTAYS; AND BY AMENDING ARTICLE V, DISTRICTS, BY AMENDING DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-212, USE LIST; DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-232, USE LIST; DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-252, USE LIST; DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273.2, USE LIST; DIVISION 5, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, SECTION 24-281, USE LIST; DIVISION 6, MULTIFAMILY DISTRICT, R-6, SECTION 24-305, USE LIST; DIVISION 7, LOW DENSITY RESIDENTIAL DISTRICT, R-6, SECTION 24-305, USE LIST; DIVISION 7, LOW DENSITY RESIDENTIAL DISTRICT, R-6, SECTION 24-328, PERMITTED USES AND SECTION 24-329, USES PERMITTED BY SPECIAL USE PERMIT ONLY; DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-348, USE LIST; DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICT, PUD, SECTION 24-493, USE LIST; AND DIVISION 15, MIXED USE, MU, SECTION 24-518, USE LIST.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-2, Definitions; and Section 24-7, Administrative fees; and by amending Article II, Special Regulations, Division I, In General, by adding Section 24-50, Homestays; and by amending Article V, Districts, by amending Division 2, General Agricultural District, A-1, Section 24-212, Use List; Division 3, Limited Residential District, R-1, Section 24-232, Use List; Division 4, General Residential District, R-2, Section 24-252, Use List; Division 4, General Residential District, R-2, Section 24-252, Use List; Division 5, Residential Planned Community District, R-4, Section 24-281, Use List; Division 6, Multifamily Residential District, R-5, Section 24-305, Use List; Division 7, Low Density Residential District, R-6, Section 24-328, Permitted Uses and Section 24-329, Uses Permitted by Special Use Permit Only; Division 8, Rural Residential District, R-8, Section 24-348, Use list; Division 14, Planned Unit Development District, PUD, Section 24-493, Use list; and Division 15, Mixed Use, MU, Section 24-518, Use list.

Chapter 24. Zoning

Article I. In General

Sec. 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Η

Homestay. The incidental and secondary use of a residential dwelling, in part or in whole, by residents of that dwelling to provide short-term lodging to transient occupants in exchange for compensation for that occupancy. Such accessory or secondary use shall not create a landlord-tenant relationship. The primary use of the dwelling shall remain residential. This term shall not apply to bed and breakfasts, boarding houses, timeshares, and the transient rental of an entire residential home which is not a primary residence. Ordinance to Amend and Reordain Chapter 24. Zoning Page 2

R

Rental of rooms. The non-transient rental of rooms in a residential dwelling in circumstances exceeding the definition of family (refer to the definition of "family"). This term shall not apply to group homes, timeshares, homestays or the rental of rooms in a dwelling which meets the definition of family.

Т

Tourist Home. A dwelling where lodging or lodging and meals are provided to transient occupants for compensation for up to five rooms which are open to transients. This term shall not apply to homestays or rental of rooms (refer to the definition of "rental of rooms"). This use may include but shall not be limited to the transient rental of an entire residential dwelling which is not a primary residence, bed and breakfasts, and boarding houses.

Transient. A period of less than 30 consecutive days, specifically in relation to the lodging of occupants.

Sec. 24-7. Administrative fees.

(a) Fees shall be charged at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. The following fees shall be charged and collected at the time of application:

<u>Procedure</u> <u>Fee</u>

(13) Homestay, administrative review, \$25.00.

Article II. Special Regulations

Division I. In General

Sec. 24-50. Homestays.

The following regulations shall apply to the permitting and operation of homestays within certain districts of the county.

(a) Administration. The operation of homestays on appropriately zoned properties shall be permitted by administrative permit. The requirements of section 24-50(a) and (c) shall not apply to properties where homestay is a specially permitted use; in such cases the issuance of a special use permit by the board of supervisors is required prior to operation of the homestay. Written application for a homestay permit shall be made to the Director of Planning or his designee.

Such application shall be on forms provided by the county and shall be accompanied by the following:

- 1. a fee in accordance with Sec. 24-7;
- 2. a written affidavit certifying the applicant's address of primary residence; and

3. written authorization for the release of tax records to the planning division for the purpose of ensuring compliance with section 24-50(b).

The written affidavit of address shall serve as proof of the operator's permanent residence at the property subject to the application.

- (b) Any operator of a homestay shall register the homestay with the commissioner of the revenue in accordance with Sec. 12-81.
- (c) Performance standards. The following standards and conditions shall apply to the operation of homestays:
 - (1) An approved homestay application will permit a maximum of 180 days of rentals in each calendar year.
 - (2) A homestay shall not conduct simultaneous rentals under separate contracts.
 - (3) Commercial events, including but not limited to luncheons, banquets, parties, weddings, meetings, charitable fund-raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited.
 - (4) Homestays shall provide a minimum of two off-street parking spaces, with an additional one offstreet parking space per room rented.
 - (5) No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the homestay use.
 - (6) Signs, advertising, or any other display on the property indicating that the homestay unit is being utilized, in whole or in part, as a homestay are not permitted.
 - Upon review and determination that the homestay operation complies with the standards set forth in this section, the Planning Division shall issue a permit. Any permit that is found in violation or not in compliance with this section may be revoked. The administrative permit shall be valid for a period not to exceed one (1) year from date of issuance, at which time the operator may apply to renew their permit in accordance with section 24-50(a).

Article V. Districts

Division 2. General Agricultural District, A-1

Sec. 24-212. Use list.

Use Category	Use List	Permitted	Specially Permitted
		Uses	Uses
Residential Uses	Homestay, in accordance with section 24-	Р	
	50.		
	Homestay, exceeding 180 days of rentals		SUP
	per year.		
Commercial	Rental of rooms to a maximum of three		SUP
Uses	rooms .		
	Tourist homes.		SUP

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Division 3. Limited Residential District, R-1

Section 24-232. Use list.

In the Limited Residential District, R-1, structures to be erected or land to be used, shall be for the following uses:

Use Category	Use List	Permitted	Specially
		Uses	Permitted Uses
Residential	Homestay, to a maximum of one room, in	Р	
Uses	accordance with section 24-50		
	Homestay, greater than one room and/or		SUP
	exceeding 180 days of rentals per year		
Commercial	Rental of rooms to a maximum of three rooms		SUP
Uses			

Division 4. General Residential District, R-2

Section 24-252. Use list.

In the General Residential District, R-2, structures to be erected or land to be used, shall be for the following uses:

Use	Use List	Permitted	Specially
Category		Uses	Permitted
			Uses
Residential	Homestay, to a maximum of one room, in accordance with	Р	
Uses	section 24-50		
	Homestay, greater than one room and/or exceeding 180 days of rentals per year		SUP
Commercial	Rental of rooms to a maximum of three rooms		SUP
Uses			
	Tourist homes		SUP

Division 4.1. Residential Redevelopment District, R-3

Section 24-273.2. Use list.

In the Residential Redevelopment District, R-3, structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted	Specially
		Uses	Permitted Uses
Residential	Homestay, to a maximum of one room, in	Р	
Uses	accordance with section 24-50		
	Homestay, greater than one room and/or		SUP
	exceeding 180 days of rentals per year		
Commercial	Rental of one room	P	
Uses			

Rental of two or three rooms to a maximum of	SUP
three rooms Rental of rooms	
Tourist homes	SUP

Division 5. Residential Redevelopment District, R -4

Section 24-281. Use list.

In the residential planned community district, R-4, structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted	Specially Permitted
		Uses	Uses
Residential	Homestay, in accordance with section 24-50	Р	
Uses			
	Homestay, exceeding 180 days of rentals per		SUP
	year		
Commercial	Hotels, resort hotels, motels, tourist homes and	Р	
Uses	convention centers		
	Rental of rooms to a maximum of three rooms	P	SUP

Division 6. Multifamily District, R -5

Section 24-305. Use list.

In the Multifamily Residential District, R-5, structures to be erected or land to be used shall be for the following uses:

Use	Use List	Permitted	Specially Permitted
Category		Uses	Uses
Residential	Homestay, to a maximum of one room, in	Р	
Uses	accordance with section 24-50		
	Homestay, greater than one room and/or		SUP
	exceeding 180 rentals per year		
Commercial	Rental of one room Rental of rooms	<u>₽</u>	SUP
Uses			
	Rental of two or three rooms to a maximum of		SUP
	three rooms		
	Tourist homes	P	

Division 7. Low-Density Residential District, R-6

Section 24-328. Permitted uses.

In the Low-Density Residential, R-6, structures to be erected or land to be used shall be for the following uses:

Homestay, to a maximum of one room, in accordance with section 24-50.

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Section 24-329. Uses permitted by special use permit only.

In the Low-Density Residential, R-6, buildings to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Homestay, greater than one and/or exceeding 180 days of rentals per year.

Rental of rooms to a maximum of three rooms.

Division 8. Rural Residential District, R-8

Section 24-348. Use List.

In the Rural Residential District, R-8, structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted	Specially Permitted
		Uses	Uses
Residential	Homestays, in accordance with section 24-	Р	
Uses	50.		
	Homestays, exceeding 180 days of rentals		SUP
	per year.		
Commercial	Rental of rooms to a maximum of three		SUP
Uses	rooms .		
	Tourist homes.		SUP

Division 14. Planned Unit Development Districts, PUD

Sec. 24-493. Use list.

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted	Specially
		Uses	Permitted Uses
Residential	Homestay, to a maximum of one room, in	Р	
Uses	accordance with Sec. 24-50		
	Homestay, greater than one room and/or		SUP
	exceeding 180 days of rentals per year		
Commercial	Hotels, resort hotels, motels, tourist homes and	Р	
Uses	convention centers		
	Rental of rooms to a maximum of three rooms		SUP

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Division 15. Mixed Use, MU

Section 24-518. Use list.

In the mixed use districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted	Specially
		Uses	Permitted Uses
Residential	Homestay, to a maximum of one room, in	Р	
Uses	accordance with section 24-50		
	Homestay, greater than one room and/or		SUP
	exceeding 180 days of rentals per year		
Commercial	Hotels, motels, tourist homes and convention	Р	
Uses	centers		
	Rental of more than three rooms in a single-		SUP
	family dwelling unit Rental of Rooms		
	Rental of rooms to a maximum of three rooms	P	

ZO-02-17STResRntls-ord

Draft Homestay Special Use Permit Guidelines Policy

Purpose:

The purpose of the Homestay Special Use Permit Guidelines is to provide clear guidelines to the application for and review of special use permits allowing homestays in appropriately zoned areas.

Review Criteria:

In addition to demonstrating compliance with all performance standards found in Sec. 24-50(c)(2-6) of the James City County Zoning Ordinance, any application for a homestay requiring a special use permit shall demonstrate substantial conformance to the following provisions:

- i. The intensity of the proposed homestay operation, including the number of rooms proposed for rental, the amount of parking permitted, or the number of days of operation per year should complement the residential character of the area; and
- ii. Have traffic, noise, lighting, and other impacts similar to surrounding residential uses; and
- iii. Generally be located on collector or arterial roads, or, if within a platted subdivision, be located on a lot whose size, shape, or location within the subdivision limits impacts on adjacent residential properties; and
- iv. Provide adequate screening or buffering of guest parking or outdoor common areas.

Permit Conditions:

In consideration of such an application and given the unique qualities of each proposed site, the Board of Supervisors may require conditions, in addition to the homestay permitting requirements found in Section 24-50(c)(2-6), intended to limit the intensity and impacts of the use. These may include, but may not be limited to the following, as applicable:

- i. <u>Access:</u> No additional access, other than existing driveways or entries, shall be added to the subject property.
- ii. <u>Occupancy:</u> Occupancy of the homestay, at the time of rental, shall not exceed the total occupancy equal to double-occupancy for each bedroom at the subject property.
- iii. <u>Parking:</u> No on-street parking shall be allowed for this use.
- iv. <u>Homestay Rooms:</u> The Board of Supervisors may require a condition which limits the number of rooms for rent at a subject property.
- v. <u>Length or Timing of Operation:</u> The Board of Supervisors may require a condition which limits the operation of the proposed homestay to certain days of the week or which prohibits single-night rentals.
- vi. <u>Rental Allowance:</u> The Board of Supervisors may require a conditions which further restricts the number of rental nights allowed per 12-month period, beyond those restrictions enumerated in Section 24-50 of the James City County Zoning Ordinance.
- vii. <u>Enhanced Landscaping</u>: Conditions ensuring enhanced landscaping at the site to address issues of screening.

Draft Tourist Home Special Use Permit Guidelines

Purpose:

The purpose of the Tourist Home Special Use Permit Guidelines is to provide clear guidelines to the application for and review of special use permits allowing tourist homes in appropriately zoned areas.

Review Criteria:

While often occurring in residential areas and primarily operating in residential structures, the use of Tourist home is commercial in nature, does not presume a residential primary use of the home, and can include such uses as traditional bed and breakfasts or the short-term rental of entire homes by owners not residing at the property. As such, the impacts from this use may differ from other short-term residential rentals, such as homestays, which require that the primary use of the home remain residential. Any application for a tourist home requiring a special use permit shall demonstrate substantial conformance to the following provisions:

- i. The intensity of the proposed tourist home operation including the amount of parking permitted or the number of days of operation per year, should complement the residential character of the area; and
- ii. Have traffic, noise, lighting, and other impacts similar to surrounding residential uses; and
- iii. Generally be located on collector or arterial roads; and
- iv. Provide adequate screening or buffering of guest parking or outdoor common areas.

Permit Conditions:

In consideration of such an application, and given the unique qualities of each proposed site, the Board of Supervisors may require conditions intended to limit the intensity and impacts of the use. These may include, but may not be limited to the following, as applicable:

- i. <u>Access:</u> No additional access, other than existing driveways or entries, shall be added to the subject property.
- ii. <u>Occupancy:</u> Occupancy of the tourist home, at the time of rental, shall not exceed the total occupancy equal to double-occupancy for each bedroom at the subject property.
- iii. <u>Parking</u>: No on-street parking shall be allowed for this use. No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the tourist home use.
- iv. <u>Prohibition Against Signage:</u> Restriction on signage or advertising indicating the tourist home use at the site.
- v. <u>Enhanced Landscaping</u>: Conditions ensuring enhanced landscaping at the site to address issues of screening.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 12, LICENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINA, BY AMENDING ARTICLE II, SPECIFIC BUSINESSES AND ACTIVITIES, BY ADDING SECTION 12-81, SHORT-TERM RENTAL OF PROPERTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 12, Licenses, is hereby amended and reordained by amending Article II, Specific Businesses and Activities, by adding Section 12-81, Short-term rental of property.

Chapter 12.

Article II. Specific Businesses and Activities.

Section 12-81. Short-term rental of property.

- (a) Definitions. As used in this section:
 - (1) "Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.
 - (2) "Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.
- (b) Registry. Prior to obtaining a license, as required in Section 12-5, the Operator shall annually provide to the assessing official the complete name of the Operator and the address of each property in the county offered for Short-term rental by the Operator.
- (c) Prohibition of Offer. Unless and until an Operator registers such property, the Operator shall not offer such property for short-term rental. The assessing official may prohibit an Operator from offering a specific property for short-term rental if:
 - (1) There are repeated violations of this section as it relates to a specific property; or
 - (2) Upon multiple violations on more than three occasions of applicable state and local laws, ordinances and regulations, as they relate to the short-term rental of the property.

(d) Exemptions.

- (1) No Operator shall be required to register if such Operator is:
 - a. licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee;
 - b. registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.);
 - *c. licensed or registered with the Department of Health, related to the provision of room or space for lodging; or*
 - d. licensed or registered with the county, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

(2) Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Action (§ 55-508 et seq.).

A. CALL TO ORDER

Mr. Jack Haldeman called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present: Jack Haldeman, Chair Rich Krapf Heath Richardson Danny Schmidt

Absent: Felice Pete

Staff:

Tammy Rosario, Principal Planner Christy Parrish, Zoning Administrator Roberta Sulouff, Senior Planner Lauren White, Planner Tom Leininger, Community Development Assistant Max Hlavin, Assistant County Attorney Darryl Cook, Assistant Director of Stormwater and Resource Protection, Floodplain Manager

C. MINUTES

1. October 12, 2017 Meeting Minutes

Mr. Rich Krapf made a motion to Approve the October 12, 2017, meeting minutes.

The motion passed 4-0.

D. OLD BUSINESS

1. Case No. ZO-0001-2017. Proposed Amendments to the Zoning Ordinance, Division 3. Floodplain Area Regulations – Stage III

Mr. Jack Haldeman opened the discussion.

Ms. Christy Parrish stated that the purpose of the Zoning Ordinance amendment was to add a separate construction standard for small accessory structures being located in the floodplain. She stated that staff has also received feedback from the Department of Conservation and Recreation (DCR) which she would review item by item.

Ms. Parrish stated that the first page of the ordinance defines an accessory building or structure as non-residential. Ms. Parrish stated that the next change is in Section 24-588 where Item C states that staff will keep all of the records in perpetuity. She stated that the change would be in compliance with DCR. Ms. Parrish stated that the next change is in Section 24-590. She stated that flood-prone areas not defined by a study are not enforceable; therefore, it was recommended by DCR to remove the reference from the ordinance. She stated that the Federal Insurance Agency (FIA) was changed to Federal Emergency Management Agency (FEMA).

Mr. Haldeman asked how the changes would affect the insurance rates of the County.

Ms. Parrish stated that the recommendations were from DCR and they would not have any impact on the insurance rates.

Ms. Parrish continued summarizing the ordinance changes. She stated that the next change to the ordinance is in Section 24-592. She stated the language clarifies that a permit is required for all proposed construction and other developments, including the placement of manufactured homes, within the floodway or any floodplain district. Ms. Parrish stated that the next ordinance change is in Section 24-595 (2) and the information did not change from the previous meeting regarding floodproofing standards. She stated that the ordinance change in Section 24-595 (7) stated that requirement applies to all floodplain zones. Ms. Parrish stated that Section 24-595 (5) states that nonresidential structures may use dry floodproofing instead of watertight floodproofing.

Mr. Heath Richardson asked what the reasoning was behind adding the text regarding an application being reviewed to ensure that the proposed construction would be reasonably safe.

Ms. Parrish stated that the purpose is to make sure any new construction or any addition would not impact the floodplain. She stated that for Section 24-595 (9) accessory structures shall comply with specific elevation or floodproofing requirements in Section 24-595 (2) or conform to the standards in Section 24-595 (9). She stated that the Planning Director recommended that an accessory structure should not be used to store hazardous material as listed in Section 24-593. She stated that hazardous material could cause damage. She stated that all other federal and state permits shall be obtained along with a building permit. Ms. Parrish stated that Section 24-597 clarifies the regulations for replacing a manufactured home. She stated that the permanent foundation shall be elevated in accordance with the construction standards identified in Section 24-595. She stated that in Section 24-598 staff added a phrase stating that the anchoring and elevation would depend on the floodplain it is located in. She stated that in Section 24-603 (13) no variance shall be granted for any accessory structure to be wet floodproofed if that structure exceeds 600 square feet.

Ms. Parrish stated that DCR has reviewed the amended ordinance twice. She stated that the County is scheduled to be audited in 2018, and these revisions are expected to put the County in a good position for the audit.

Mr. Richardson asked what the timeline would be going forward.

Ms. Parrish stated that the advertisement for the December Planning Commission (PC) is currently being worked on and then the ordinance would proceed to the Board of Supervisors (BOS) in January.

Mr. Danny Schmidt asked if the DCR was involved in recommending the two-foot freeboard.

Ms. Parrish stated that DCR does not suggest freeboard recommendations. She stated that freeboard is a higher standard and that the County requires two feet.

Mr. Haldeman asked for a motion to recommend the ordinance changes to the PC.

Mr. Richardson made a motion.

Motion passed 4-0 by voice vote.

2. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals - Stage III

Ms. Roberta Sulouff presented a graphic to the Policy Committee.

Mr. Rich Krapf asked if an Airbnb is considered a homestay.

Ms. Sulouff stated that an Airbnb is a medium to rent a home. She stated that someone would use Airbnb to rent the room out.

Mr. Krapf stated that a person could reserve a tourist home or short-term rental through Airbnb and that it depends on the intensity of the dwelling.

Ms. Sulouff confirmed. She stated that the proposed amendments would only have two types of short-term rentals. She stated that those are homestays and tourist homes.

Mr. Haldeman asked where rental of rooms fall in these definitions.

Ms. Sulouff stated that rental of rooms would be long-term rentals exceeding the family definition.

Mr. Richardson asked if a tourist home can be a primary residence.

Ms. Sulouff confirmed.

Mr. Haldeman asked what the definition of transient would be.

Ms. Lauren White stated that the transient definition is located in the Commissioner of Revenue section of the ordinance in Chapter 20.

Ms. Sulouff stated that the intent is to include the definition in the zoning ordinance.

Ms. Sulouff stated that during the September meeting the Policy Committee had suggested feedback on the proposed draft language to address short-term rentals. She stated that staff has prepared more formal draft language. She stated that the language is similar to what was presented in September. She stated that the updated definitions draw a more clear distinction for tourist homes being more commercial and homestay being residential. Ms. Sulouff stated that previously, the rental of rooms had been interpreted to include both. She stated that the updated use-list for all residential zoning districts is also included. She stated that homestays of one room are permitted in all residential zoning districts. Ms. Sulouff stated that homestays with two rooms or more are more intense and require a Special-Use Permit (SUP) in all but a few zoning districts. She stated that a tourist home requires an SUP in most zoning districts. She stated that the new ordinance for tourist homes in addition to homestays package includes a guidance policy. She stated that staff recommends the more intense tourist home to be geographically constrained. She stated that they should be located on collector or arterial roads. She stated that staff would like the Policy Committee's feedback regarding the tourist home policy concerns raised during recent public hearings for tourist homes. She stated that the proposed definitions and performance standards are intended to create a logically consistent and predictable framework for short-term rentals. She stated that staff is seeking

Policy Committee feedback on the proposed changes. She stated that staff would include this feedback in future draft language to the PC at the December PC meeting.

Mr. Krapf stated that the homestay limits the number of separate contracts. He asked if tourist home can have the same limitations. Mr. Krapf stated that a home with five rooms could have five separate contracts. He stated that a tourist home does not require the owner to be onsite. He stated that his concern is with the potential for disruption. He asked if it would be worth adding the contract restriction to tourist home.

Ms. Sulouff stated that each tourist home case could have that limitation with the SUP process. She stated that staff would advise putting the limitations in the policy language because the tourist home use includes bed and breakfasts and boarding homes, and not just private homes. She stated that those specific business models rely on the separate contracts. She stated that most recent cases could have included a single contract per night restriction.

Mr. Richardson expressed concern regarding the equity of local hotels and the unfair competition. He asked how tourist homes with multiple contracts would be handled.

Ms. Sulouff stated that restricting the contracts for tourist homes overall would impact applicants for bed and breakfasts as bed and breakfast fall under the tourist home use. She stated that if such a restriction was added, a new definition would be needed to differentiate bed and breakfast. She stated that as the PC and BOS see individual cases there will be individual conditions applied. She stated that for the most recent tourist home there could be specific guidelines.

Mr. Schmidt asked if a condition limiting contracts per night could be applied to the most recent tourist home case.

Ms. Sulouff stated that the PC asked staff to add such a condition. She stated that when the case is presented to the PC in December, there will be an added condition.

Mr. Haldeman stated that he liked the idea of applicants providing their contact information to neighbors.

Mr. Schmidt agreed. He asked if there was a mechanism to make sure applicants notify neighbors.

Ms. Sulouff stated that a possible idea is similar to the adjacent property letters for site plans. She stated that when a site plan comes in, applicants are required to submit a sample letter and a list of addresses. She stated that the application could have that attachment.

Mr. Haldeman stated he thought that it would help neighbors feel more comfortable living near a tourist home.

Mr. Richardson asked if other municipalities use an adjacent property notification method.

Ms. Lauren White stated that Blacksburg requires neighbors to be notified if a wall is being shared such as townhome.

Ms. Sulouff stated that Roanoke publishes all of their registered transient listings on their website. She stated that staff has not explored the feasibility of that method yet for James City County. She stated that in that example consumers can check to see if the person they rent from went through the proper procedures.

Mr. Richardson stated that he was in favor of a website-based registry for public access.

Mr. Krapf stated that this method would help the applicant and reduce the extra work of sending out letters.

Ms. Tammy Rosario stated that the application can state that the contact information would be disclosed on the website.

Mr. Max Hlavin stated that the registry could be published.

Mr. Haldeman stated that the Policy Committee was in favor of the registry system being published.

Mr. Krapf asked if the condition restricting the number of contracts was due to the proximity to other residential homes.

Ms. Sulouff stated that the condition restricting the number of contracts is a performance standard for homestay. She stated that the intention of the condition to limit the intensity of the use.

Mr. Schmidt asked what would happen if there were any disputes between neighbors.

Mr. Krapf stated that it would be a homeowner issue and not so much a County issue.

Mr. Richardson asked what other definitions were needed besides transient. He asked if Chapter 20 would be referenced in the policy.

Ms. Sulouff stated that the homestay and rental of rooms' definitions were created. She stated that tourist home was amended and the materials show the original with a strike-through. She stated that the intent was to provide further clarification of the distinctions between the uses.

Ms. White stated that, according to Chapter 20, the definition of transient means any individual or group of same individuals who, for a period of fewer than 30 consecutive days, either at his own expense, or at the expense of another, obtains lodging at any hotel as defined herein. She stated that hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, travel campground or tourist camps, or other lodging place within the County offering lodging, as defined herein, for compensation, to any transient as defined herein.

Ms. Sulouff stated that the definition presented in the previous meeting modified the definition of transient from Chapter 20 to create less confusion.

Mr. Richardson stated that the Policy Committee is comfortable with the definition as found in September's meeting materials.

Ms. Sulouff stated that the transient definition was presented last month. She stated that the definition of transient is a period of less than 30 days and specifically relating to the lodging of occupants. She stated that staff defines transient as a period of time.

Mr. Haldeman stated that if there were not any other questions or discussion then a motion would need to be made to move the draft ordinance to the PC on December 6.

Mr. Richardson made a motion to move to the PC.

Motion passed 4-0 by voice vote.

Ms. Sulouff stated that there was one member of the public attending the meeting.

Mr. Krapf stated that the Policy Committee would listen to comments made from the public.

Ms. Patricia Spayd, 3550 Cedar Branch, stated that she opens her home up for people to stay with her for a couple of nights. She stated that she is a widow and a disabled veteran and has lived in the County for eight years. She has had good experiences with having people stay with her. She stated that women tend to stay with her because they feel safe. She stated that she would be in favor of the language as proposed.

Mr. Richardson asked if they expect any pushback from Homeowners Associations (HOA).

Ms. Sulouff stated that she has not received any feedback from HOA's.

Mr. Richardson stated that, like chicken keeping, he sees HOA's becoming more restrictive on homestays.

Ms. Sulouff stated that the County can't force an HOA to allow homestays.

Ms. Parrish stated that the chicken keeping application states that the County cannot supersede the HOA. She stated that the new application could have similar text.

E. NEW BUSINESS

There was no new business.

F. ADJOURNMENT

Mr. Richardson made a motion to Adjourn. The motion passed unanimously.

Mr. Haldeman adjourned the meeting at approximately 4:45 p.m.

Mr Jack Haldeman, Chair

Mr. Paul Holt, Secretary

M I N U T E S JAMES CITY COUNTY POLICY COMMITTEE REGULAR MEETING Building A Large Conference Room 101 Mounts Bay Road, Williamsburg, VA 23185 September 14, 2017 4:00 PM

Zoning Ordinance Revision to Permit Short-Term Residential Rentals

Ms. Bledsoe opened the discussion.

Ms. Sulouff stated that at the July Policy Committee meeting the Committee directed staff to come up with an approach addressing short-term residential rentals. She stated that the Committee expressed interest in pursuing a hybrid approach which would create a system in which short-term residential rental uses would be subject to permitting and performance standards based on the intensity of the application. She stated that there are some by-right processes as well as an SUP process. She stated that staff proposes definitions to homestay, rental of rooms and tourist homes. She stated that staff have also included a proposed use list and a matrix which shows what is permitted by-right depending on the zoning district and intensity of the application. Ms. Sulouff stated that staff recommends performance standards. She stated that staff is seeking Policy Committee guidance on the draft language and the performance standards and that staff will make changes to the draft ordinance based on the feedback of the Policy Committee. She asked if there were any questions.

Mr. Richardson asked how the 180-day limit for 12 months was decided.

Ms. White stated that the 180-day mark would help keep the home's primary use as a residential property.

Ms. Sulouff stated that guidance from Building Safety and Permits suggested that 180 days is part of their requirements for a single-family home.

Mr. Schmidt asked if the homestay fees would be equitable and fair to the current bed and breakfast and hotels.

Ms. Sulouff stated that the administrative permit was designed for an application process, low in intensity and residential in character. She stated that the idea was to create a spectrum from mostly residential in use to mostly commercial in use.

Mr. Schmidt asked if there would be an annual reapplication.

Ms. Sulouff stated that this could be a provision. She stated that applicants would have to pay the transient occupancy tax.

Ms. Bledsoe stated that shared economy is happening and there are rentals already available. She stated that her concern would be if it was fair to hotels and paying of taxes. She stated that the General Assembly has given the County the ability to begin a database.

Mr. Haldeman stated that he was still unclear regarding the existing and proposed

definitions.

Ms. Sulouff stated she would be able to describe each definition.

Mr. Haldeman asked why there are three different types of short-term rentals.

Ms. Sulouff stated that currently there are two uses: rental of rooms and tourist homes. She stated that under this proposal rental of rooms would be taken out of the transient category. She stated that rental of rooms would only address long-term rentals over and above the family definition. She stated that rental of rooms includes a landlord and tenant relationship. Ms. Sulouff stated that homestays depend on the intensity of the application and require a permanent resident and the renter cannot exceed 180 days a year. She stated that the tourist home does not require a permanent resident at the home. She stated that tourist home allows for commercial entities such as bed and breakfasts.

Mr. Haldeman asked which definition would require an administrative process.

Ms. Sulouff stated that a homestay would be permitted by-right with an administrative permit in all districts for one bedroom. She stated that homestays would be permitted by-right for any number of rooms for R-8, R-4 and A-1 districts.

Mr. Krapf stated that if a homeowner wants to rent out more than one room, depending on the zoning district, an SUP would be required.

Ms. Sulouff confirmed and stated that A-1, R-4 and R-8 do not require an SUP. She stated that for R-4 and MU, the amended ordinance is to remain consistent with the way that short-term rentals are permitted currently.

Mr. Schmidt asked how fire safety was included in the new ordinance.

Ms. Sulouff stated that the issue for fire safety is the ability to enforce it.

Ms. Rosario stated that the best route would be for staff to reconnect with Building Safety and Permits.

Ms. Sulouff stated that some other localities do enforce fire safety and require a yearly inspection. She stated that a complaint from another citizen could also require an inspection.

Mr. Richardson stated that hotels are required to have fire inspections and safety standards.

Ms. Bledsoe stated that sites like Airbnb require inspections; however, other advertising sites may not.

Mr. Schmidt asked if there would be any legal issues with the County if there would be a fire or accident.

Ms. Bledsoe stated that she believes the issues would fall on the homeowner.

Mr. Hlavin concurred that the County would not be accountable.

Mr. Schmidt stated that there could be a way to enforce fines on homestays if applicants do not comply.

Ms. Sulouff stated that the Homeowners Association (HOA) still overrides the policy of the County.

Mr. Richardson stated the policy of the County will help HOAs establish their policy.

A. CALL TO ORDER

Mr. Rich Krapf called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present: Mr. Rich Krapf, Acting Chair Mr. Danny Schmidt Mr. Heath Richardson Mr. Jack Haldeman

Absent: Ms. Robin Bledsoe

Staff:
Mr. Paul Holt, Planning Director
Ms. Tammy Rosario, Principal Planner
Ms. Lauren White, Planner
Ms. Roberta Sulouff, Planner
Mr. Tom Leininger, Community Development Assistant
Mr. Maxwell Hlavin, Assistant County Attorney

C. MINUTES

1. Minutes Adoption - May 11, 2017 Regular Meeting

Mr. Jack Haldeman made a motion to Approve the May 11, 2017, meeting minutes.

The motion passed 3-0-1, with Mr. Rich Krapf abstaining, as he was not present at the meeting.

D. OLD BUSINESS

There was no old business.

E. NEW BUSINESS

1. Zoning Ordinance Revisions to Permit Short-Term Residential Vacation Rentals

Ms. Roberta Sulouff stated that during the course of two recent public hearing cases, members of both the Planning Commission (PC) and the Board of Supervisors (BOS)

expressed their desire to address the emerging issue of short-term residential vacation rentals, also known globally as home-sharing. She stated that since the last public hearing, staff have received several Conceptual Plan Applications for this use. She stated that the Ordinance currently addresses several uses such as transient occupancy ranging from more residential in nature to expressly commercial in character. She stated that members of the BOS stated that none of the existing uses directly address the emerging movement of home-sharing that has a residential footprint.

Ms. Sulouff stated that staff is recommending a two-pronged approach of multiple stages. She stated that first, staff is recommending the creation of a new use and definition to address the types of short-term residential rental applications that have been received by staff. She stated that staff recommends creating a new definition for the use homestay.

Ms. Sulouff also stated that staff is seeking the Policy Committee's direction in the pursuit of a new policy and permitting standards to address the new use. She stated that permitting standards, including, but not limited to the ones located in Attachment No. 3, could be used to build a framework or a supplemental policy under which future Special Use Permit (SUP) applications could be reviewed.

Ms. Sulouff stated that staff recommends creating a definition and permitting policy that addresses the residential character of the use while considering compliance and providing clarity to those wishing to pursue the use and those that review future applications for the use. She stated that staff is planning to take the Committee's feedback to further research any concerns and to begin drafting zoning ordinance language to be reviewed in stage two of this process.

Mr. Rich Krapf thanked Ms. Sulouff and asked if the Committee had any questions for staff.

Mr. Jack Haldeman asked how the new Ordinance would differ from the rental of rooms or tourist homes classifications. He stated that he read both of them and that they both apply to the Airbnb concept.

Ms. Sulouff stated that rental of rooms and tourist homes both apply to short-term rentals in different ways. She stated that rental of rooms is not defined in the definition section and it is more of an interpretation typically applied to a bed and breakfast or to situations in which people want to rent rooms above and beyond the family definitions. She stated that home-sharing would address the applications that are coming in, where people own homes and reside in them and want to rent out a room at a transient rate to people for a night. She stated that tourist home is traditionally interpreted as a vacation home rental where it wouldn't require anyone to be there at the time of the rental. She stated that the proposed definition would create a new class and would be clearly secondary to a residential use.

Mr. Haldeman asked if this would replace the current Ordinances or if it would be an addition.

Ms. Sulouff stated that staff is seeking the Committee's direction such as defining rental of rooms, but right now staff is proposing home-share in addition to the other uses.

Mr. Krapf asked how accessory homestay ties into the health, safety and welfare of the

surrounding neighborhood.

Ms. Lauren White stated that the two examples put the homestay use in the home occupation zoning code, then an additional layer is added to the homestay use. She stated that it may include limits such as the number of cars, noise and buffering to make sure the use is secondary to the primary residential use.

Ms. Sulouff stated that in both Charlottesville and Arlington County, with homestay being a home occupation, it becomes an administrative process rather than an SUP process. She stated that staff can explore ways to have the homestay fit in the SUP framework as well.

Mr. Heath Richardson stated that when he looked at the examples, he liked the Blacksburg example where there is a definition of homestay which provides two types of rentals. He stated that Type A defines the number of rooms and Type B has a caveat where the homeowners do not need to be at the residence. Mr. Richardson stated that the Blacksburg example provides more flexibility.

Mr. Danny Schmidt stated that the Blacksburg example also stood out to him. He stated that he initially voted against the two SUPs regarding homestays when he first started on the Planning Commission. Mr. Schmidt stated that the County already has a tourist home definition. He stated that his family has taken advantage of similar situations in other areas across the country. Mr. Schmidt stated that there haven't been many issues with Vacation Rental by Owner (VRBO).

Ms. Sulouff stated that VRBO would still come to the staff as an SUP application in most districts as they are a tourist home. She stated that the complaints received are anonymous.

Ms. Christy Parrish stated that there have been calls stating that houses have been seen on Airbnb websites. She stated that there are places in Kingsmill where these homes are permitted by-right. She stated that there will be times that the homes will show up in the R-2, Residential Zoning District and a letter would be sent out, stating that they are in violation with the Zoning Ordinance without an SUP approval.

Mr. Richardson stated that he noticed during previous BOS meetings that there are some citizens running businesses without an SUP approval and that depending on how homestay is defined, citizens would be able to legally run their business.

Mr. Krapf asked if having someone come in and clean their home or provide housekeeping duties violates the definition under the Arlington County example.

Ms. White stated that it would be allowed because it would be considered typical home maintenance.

Ms. Sulouff stated that Arlington County is trying to prevent someone living out of state, but has an inn-keeper function to allow an agent to act for them.

Mr. Schmidt asked if staff looks at the Airbnb websites.

Ms. Parrish stated that staff would only look up houses in violation if they were brought to staff's attention.

Mr. Schmidt stated he wants to prevent a lot of SUP applications coming in at once.

Mr. Richardson stated that the regulation for the Blacksburg example requires a floorplan.

Ms. White confirmed and stated that some localities require a floorplan and a site plan.

Mr. Richardson asked why staff thought that Blacksburg has that regulation. He asked if it could be that they are a university town or was it in place before or after the popularity of Airbnb.

Ms. White confirmed and stated that it was after the wave of popularity of Airbnb.

Mr. Schmidt asked if that applied to the other examples.

Ms. White confirmed.

Ms. Sulouff stated that there are other localities that have not made changes to their ordinance and there are cities like Williamsburg and Virginia Beach that are still in the developmental process.

Mr. Krapf asked what staff thought about the use of accessory structures for a home-share category.

Ms. Parrish stated that it would be a larger issue because there are limits on a secondary structure.

Mr. Krapf asked if this would only apply to the primary residential structure.

Ms. Parrish confirmed.

Mr. Paul Holt stated that it would complicate things more and put two homes on one property. He stated that it was up to the direction of the Policy Committee, but previous SUP conditions have attempted to ensure a single-family house continues to look like a single-family home.

Ms. Tammy Rosario stated that it is important to consider the additional impacts such as traffic.

Mr. Schmidt stated that he has heard from citizens that the number of cars at a home has a negative impact on the neighborhood.

Ms. Sulouff asked if parking would be an important permitting standard.

Mr. Schmidt confirmed.

Mr. Krapf stated that the A-1 and R-8 Districts are larger properties and the parking limitations could potentially be different. He asked if there should be a distinction in the Ordinance.

Mr. Richardson confirmed.

Mr. Schmidt confirmed. He stated that the tourism economy is important and keeping up with the times is important.

Mr. Haldeman asked if the County would limit the number of rooms, meals, owner presence and number of days.

Ms. Sulouff stated that staff is looking for feedback on those regulations.

Mr. Richardson stated that it is possible to be too restrictive. He stated that if there are two types, the property owner would announce which direction they are going. He stated that one type could be less restrictive. He stated there would be a burden on staff.

Ms. Parrish stated that it would depend on the number of people wanting to do a homestay and the number of complaints that would come in. She stated that she does not anticipate there being an issue, but a policy can be created that is straightforward.

Mr. Holt stated that staff would let the Policy Committee know what can and cannot be enforced. He stated that proper documentation could be provided ahead of time.

Mr. Krapf asked about the possibilities including limiting the number of residences on a street.

Ms. Sulouff stated that it was just an example from another locality. She stated that there was a concern from other localities regarding blocks where there are a lot of homes in one neighborhood renting out their houses. She stated that staff can look further into the other localities if need be.

Mr. Holt stated that there are issues regulating the number of homestays. He stated that Zoning Ordinances could potentially have separation distances between homes. He stated that it would limit the number of homes and it would be easier for staff to regulate.

Mr. Haldeman asked if Homeowners Associations (HOA) play a role.

Mr. Holt confirmed and stated that Zoning Ordinances can't trump covenants and declarations, as in the example of chicken keeping.

Mr. Schmidt stated that the HOA can be the more restrictive process. He stated that Airbnbs are going to keep happening and it is best to work with the homeowners.

Mr. Krapf asked if there would be a registration fee or keep just the business license component.

Mr. Schmidt stated that it is similar to the food truck situation.

Ms. Sulouff stated that creation of a registry would be outside of the Zoning Ordinance; however, the Policy Committee can get the process going. She stated that the homeowners could potentially register with the Commissioner of Revenue (COR), pay the transient occupancy tax, a potential application fee and possibly a registration fee. Mr. Richardson stated that given the nature of the area, this would give the COR a tool for taxation.

Ms. Sulouff asked if there would be compliance with a registry.

Mr. Richardson confirmed.

Mr. Krapf asked if there wasn't a registry how the homestays would be tracked.

Ms. Sulouff stated that staff would keep track similar to the home occupations and the COR would keep track similar to other business licenses.

Mr. Krapf asked if there were any pros and cons for a registry on homestays.

Mr. Maxwell Hlavin stated that most localities are in the same spot in terms of the developmental process. He stated that it could be best to run the process through the COR.

Mr. Krapf asked if there would be a downside.

Mr. Hlavin stated that he does not see one. He stated that it is required to register with the COR to obtain a business license. He stated that this would give staff a mechanism to establish a fine.

Mr. Holt stated that the fine encourages homeowners to comply.

Mr. Schmidt stated that the COR would be a separate track from the process handled by planning staff.

Ms. Sulouff stated that it would be part of the planning process. She stated that staff can say that they can't approve their application without the business license.

Mr. Krapf asked Committee members if they would want a penalty associated with the failure to register their homestay.

Mr. Richardson confirmed.

Mr. Hlavin stated that the fee would not come through the policy process.

Mr. Richardson stated that there can be a reference to the need to register in the Zoning Ordinance.

Mr. Schmidt stated that it would help with the citizens in the County to see a penalty.

Mr. Richardson asked other Committee members if they preferred the Blacksburg example where the number of rooms is defined.

Mr. Haldeman stated that he wouldn't want a lot of rooms to be available to be rented out in a single home. He stated that he would have a concern with the competition with the hotels and the quality of neighborhoods together with the traffic generated. He stated that three to four rooms available to rent would be sufficient. Ms. Rosario asked if the four-bedroom maximum would exclude rental of an entire home.

Mr. Haldeman stated that he would not want to allow rental of the entire home.

Ms. Parrish stated that many Airbnbs are full home rentals.

Mr. Richardson stated that staff could come up with some options where the host is present with limited rooms and then other options with no host present.

Ms. Sulouff asked if there were two types, would there be a difference in the applications.

Mr. Krapf asked the purpose of establishing two types. He asked what the end goal would be for establishing two types.

Mr. Richardson stated that Type A would be a resident that has a couple of rooms to rent out and Type B could be more of a hostel scenario.

Mr. Holt stated that there could be a number of different directions. He stated that there could be a locational pairing going with each type. He stated that the smaller homes with one to two bedrooms for rent are located in R-1 and R-2 Residential Districts. He stated the larger homes, where the homeowner rents out the entire house, could be located in the A-1 Zoning District or possibly located on major roads instead of internal to a subdivision. He stated that the smaller and easier homestays could be handled administratively and that the larger ones could have an SUP.

Ms. White stated that in the case of Blacksburg, the reason they break it down could be because the two different types may have different impacts on a neighborhood. She stated that it is possible to limit the number of days for Type A rentals and the number of days for Type B rentals. She stated that when the applicant fills out an application they state their intent.

Mr. Krapf stated that he liked the idea of having an Ordinance focused around Zoning Districts. He stated that it could be the easiest way to put a matrix together. He stated that it is important to keep in mind the number of vehicles generated.

Ms. Sulouff stated that staff can do some research into other localities and how they handle parking. She stated that some conditions on previous SUPs were limiting the types of vehicles such as campers and RVs.

Ms. Rosario stated that the number of vehicles may correlate with the number of bedrooms available.

Ms. Sulouff stated that previous cases limited the number of cars per rented bedroom.

Ms. Rosario stated that based upon the conversation, the most relevant characteristics to put into the matrix are ownership, number of rooms, parking and the consideration by Zoning District and if there would be an administrative process.

Mr. Holt asked if by ownership she meant whether the owner did or did not live on the

property.

Ms. Rosario confirmed and asked if there were any other items.

Mr. Haldeman asked if guest rooms were secondary to single-family use.

Ms. Sulouff confirmed. She stated that the definition for homestay being proposed would be secondary to the single-family residence, which is the same requirement as the current home occupation application.

Mr. Haldeman asked if the owner had to reside at the time of rental.

Ms. Sulouff stated that it is not necessary for the owner to reside at the time of rental. Ms. Sulouff stated that whether or not the owner is present at the time of the rental could fall in the matrix. She stated that it would be someone's home that they reside in.

Mr. Schmidt stated that owners could rent out their home while they are gone for the weekend.

Mr. Krapf stated that if it were a VRBO, the owner could rent the home during the peak tourist season such as May through October and the owner would not have to live there.

Mr. Haldeman asked if that would be considered a tourist home.

Ms. Sulouff stated that currently that would fall under a tourist home.

Ms. Rosario stated that as the definition becomes finalized, there could be some overlap between the other definitions, necessitating additional definition amendments.

Mr. Krapf asked if there should be a requirement on residency.

Mr. Richardson stated that he would prefer that the definition stay flexible for now. He stated that a couple could rent out their rooms while they were away and it gives the homeowners some flexibility to not be present.

Mr. Krapf stated that there are some general provisions outside of the matrix that would incorporated. He stated that the registry is an example.

Mr. Schmidt stated that one of the concerns from the previous SUP was that people wanted to know who their neighbors are. He stated that he preferred having the homeowner present during the time of the rental.

Mr. Holt stated if someone wanted to operate a tourist home they still could, but for the Airbnb example, there should be someone living there.

Mr. Schmidt agreed and stated that he felt there would be more changeover from tenant to tenant.

Ms. Sulouff stated that the definitions may overlap with each other and that the tourist home and rental of rooms' uses need not go away. She stated that requiring the homeowner to be present does not take away from the ability to rent out their home under another definition.

Mr. Schmidt stated that there will be times where we have VRBO and Airbnb cases.

Ms. Rosario stated that Airbnb rents by room and whole houses as well.

Mr. Holt asked if there was a consensus from the Committee that when staff puts the matrix together, the homeowner needs to be living there.

Mr. Schmidt confirmed.

Mr. Richardson stated that if the homeowner rents out their whole home, they would fall under the tourist home definition.

Mr. Krapf stated that looking under the definition of home-share, the owner is there sharing the home along with the tenants.

Ms. Sulouff stated that the home would be the primary residence and the homeowner would occupy the home at the time of the rental.

Mr. Krapf asked if there were any questions from anyone.

Mr. Hlavin stated that, from a legal standpoint, enforceability is tough because there would need to be proof that the homeowner is there during the time of the rental. He stated that it is a good start to the discussion.

Mr. Holt stated that the homeowner doesn't have to be present at all times, just that the home must be their primary residence.

Ms. Sulouff stated that the homeowner being present is not confirmed.

Mr. Krapf asked what it would be considered if he had a secondary residence to rent out.

Ms. Rosario stated that it would fall under the tourist home definition. She stated that there could be separate processes for homestay and for tourist home.

Ms. Sulouff stated that across the country, localities are dealing with the same conflicts. She stated that people want to know who their neighbors are.

Ms. Parrish stated that it is important to define a primary residence to avoid a home being used for a transient use.

Ms. Sulouff stated that staff is hoping to use the regulations under home occupation to follow for homestay.

Mr. Krapf asked if there were any other topics needed for staff to discuss.

Ms. Sulouff stated that she felt there is enough information for staff to begin.

Ms. Rosario stated that this is the beginning stage where staff can come back to get more clarification and then begin drafting an Ordinance.

Mr. Holt stated that it is important to keep it simple, protecting the neighborhood and to begin small by making sure someone lives there. He additionally stated that parking and the Zoning District can be factored in as well.

Ms. Rosario asked if some applications can be handled administratively and some by SUP.

Mr. Krapf confirmed. He also stated that it can be based on the number of rooms.

Mr. Holt stated that the Zoning District will factor in as well.

Mr. Richardson stated that homestays can be considered by-right in certain Zoning Districts.

Mr. Krapf asked if by-right requires administrative approval.

Ms. Sulouff confirmed. She stated that the by-right can have an administrative process attached to the definition similar to chicken keeping.

Mr. Krapf stated that it is important to keep the process simple. He stated that the next step would be to get something back, such as a matrix, from staff to help move the Policy Committee forward.

2. Review and Discussion of the Planning Commission Bylaws as it pertains to Article IV. Outside Meetings with Applicants

Mr. Holt stated to the Policy Committee that staff wanted to explore any concerns and possibly change anything with respect to the current bylaw.

Mr. Richardson stated that the PC members do a good job of acknowledging when they have conversations with developers. He stated that it is best to avoid times when multiple members meet with a single applicant where minutes are required from the meeting.

Mr. Haldeman stated that he attended a seminar regarding high growth communities where this topic arose.

Mr. Hlavin asked if the seminar was regarding the new proffer legislation.

Mr. Haldeman confirmed.

Mr. Hlavin stated that the Planning Commission and Board is saved from the proffer legislation because BOS members are not taking proffers for residential applications. He stated that proffers are still accepted for commercial applications. He stated that members do not have to worry about having conversations regarding proffers from residential development because the County is not taking them.

Mr. Richardson asked if a developer could offer another benefit for the County.

Mr. Hlavin stated that they could; however, there would be no binding effect with regard

to the rezoning. He stated that a developer could improve a road and then want an area rezoned and the BOS could take that into consideration.

Mr. Krapf stated that two years ago the Outside Meeting with Applicant item was added to the bylaws. He explained that the bylaw stated the purpose of meetings is limited to fact finding and clarifications for all parties. He stated that PC members are encouraged to go with a colleague. He stated that it is also encouraged to include a staff member and possibly have the meeting in Building A. He stated that it is helpful to meet with an applicant and get a better understanding before the public hearing. He stated that the General Assembly legislation only pertains to residential rezoning. He asked what happens if it is a mixed-use rezoning.

Mr. Hlavin stated that he is not worried about members meeting with applicants because proffers are not accepted. He stated that proffers could be accepted on the commercial component of a mixed use rezoning so legal staff would treat any such application with heightened caution.

Mr. Holt stated that if proffers were accepted for residential rezoning, he would advise PC members not to meet with applicants. He stated that there is not a lot of concern right now.

Mr. Hlavin agreed.

Mr. Richardson stated that there are times that applicants will contact him before a public hearing. He stated that the bylaw requires a summary to be provided to all members. He stated that he interpreted the bylaw as requiring him to state during the public meeting that he has met with an applicant.

Mr. Krapf stated that he will always ask for disclosures from members before getting into a public hearing. He stated that guidelines in Article IV are helpful. He stated that it is good to rely on the integrity of individuals and knowing what is appropriate. He stated that if he felt it was helpful to meet with an applicant, he would ask other members to join him.

Mr. Schmidt stated that it has been helpful to him when members send an email out to other members after going on a site visit.

Mr. Krapf stated that he does not see a need to revise the bylaws regarding meeting with applicants.

Mr. Richardson agreed and stated that they were revised in March.

Mr. Hlavin stated that there are also other issues such as conflict of interest issues. He stated that members can't have an interest in a transaction. He stated that members can't receive money for voting a certain way. He stated that there are exceptions. He stated that, in certain circumstances, if there is a personal interest in a transaction, the members can disclose it as long as their impartiality remains.

Mr. Krapf stated that there wasn't any other new business.

F. ADJOURNMENT

Mr. Schmidt made a motion to Adjourn. By verbal vote, the motion passed.

Mr. Krapf adjourned the meeting at approximately 5:15 p.m.

Mr. Rich Krapf, Acting Chair

Mr. Paul Holt, Secretary

ITEM SUMMARY

DATE:	12/6/2017
TO:	The Planning Commission
FROM:	Savannah Pietrowski, Senior Planner
SUBJECT:	Z-0004-2017. Powhatan Terrace Proffer Amendment

ATTACHMENTS:

	Description	Туре
D	Memorandum	Staff Report
D	Location Map	Backup Material
۵	Narrative accompanying proffer amendment application	Backup Material
ם	Draft Proposed Proffers, dated November 28, 2017	Backup Material
D	Z-0007-2008/MP-0005-2007/SUP- 0020-2007, Powhatan Terrace Staff Report	Backup Material
۵	Adopted Proffers, dated February 13, 2008	Backup Material
D	Adopted Master Plan	Backup Material
D	Adopted Building Elevations	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	11/29/2017 - 12:28 PM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 12:28 PM
Publication Management	Burcham, Nan	Approved	11/29/2017 - 1:20 PM
Planning Commission	Holt, Paul	Approved	11/29/2017 - 2:34 PM

MEMORANDUM

DATE:December 6, 2017TO:The Planning CommissionFROM:Savannah Pietrowski, Senior PlannerSUBJECT:Case No. Z-0004-2017. Powhatan Terrace Proffer Amendment

On March 25, 2008, the Board of Supervisors rezoned approximately 16.5 acres of land located at 1676 and 1678 Jamestown Road from LB, Limited Business, and R-2, General Residential, to R-2, General Residential, with proffers, and with a Special Use Permit for a Cluster Overlay. Powhatan Terrace was approved for the construction of six 2-story buildings containing a total of 36 townhouse units at a gross density of 2.18 units per acre. The site is currently undeveloped.

Ms. Brandie Weiler of Housing Partnerships, Inc. has submitted a request to amend Condition No. 1 of the adopted Proffers, dated February 13, 2008, made by Investment Properties of Virginia, LLC and Associated Developers, Inc. (Attachment No. 3) to allow rental units within the development. Housing Partnerships, Inc. is requesting this amendment in order to develop Powhatan Terrace as an affordable rental community. There are no other proposed changes to the master plan or other proffered conditions.

The proposed amendment would change Condition No. 1 to read: "The property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 36 residential townhouse dwelling units on the Property. All residential units on the Property shall be offered for sale **or rental** by the developer thereof."

Section 15.2-2302 of the Code of Virginia (1950), as amended, allows the Board of Supervisors to waive the requirements for a public hearing where such amendments do not affect conditions of use or density. This application does not affect conditions of use or density. As such, the County Attorney's office consulted the Board of Supervisors, and the Board voiced no objection to the applicant's request to consider amending these proffers as a consideration item.

Staff Recommendation:

Staff finds that the requested proffer amendment would be consistent with the recommendations of the Comprehensive Plan adopted in 2015, *"Toward 2035: Leading the Way,"* and the 2035 Strategic Plan regarding affordable housing. Staff also finds that the requested Proffer amendment would not negatively impact surrounding development. Staff therefore recommends that the Planning Commission recommend approval of the proposed Proffer amendment to the Board of Supervisors.

SP/nb Z04-17PowhatanTer-mem

Attachments:

- 1. Location Map
- 2. Narrative accompanying proffer amendment application
- 3. Draft Proposed, Proffers dated November 28, 2017
- 4. Z-0007-2008/MP-0005-2007/SUP-0020-2007, Powhatan Terrace Staff Report
- 5. Adopted Proffers, dated February 13, 2008
- 6. Adopted Master Plan
- 7. Adopted Building Elevations
Z-0004-2017, Powhatan Terrace Proffer Amendment







Housing Partnerships, Inc. Powhatan Terrace Background Information

November 27, 2017

Housing Partnerships was founded in 1985 with a mission to provide Historic Triangle families with access to safe, warm, and dry homes. Today, this non-profit agency is still thriving and continues to serve our neighbors in need. Our mission is to repair or replace substandard housing in the City of Williamsburg, James City County and York County. Our unique strength is the formation of true partnerships between communities, volunteers and our neighbors in need to achieve safe and secure housing for area families. Since its founding, Housing Partnerships has rehabilitated 2,360 homes, built 46 new homes, recruited over 30,000 volunteers and has given 183,000 volunteer hours to our neighbors in need.

Since Housing Partnerships began its work in 1985, we have seen a dramatic increase in the need for affordable housing in the Historic Triangle. When working with homeowners who are at or below the area median income level we have seen first-hand the difficulty that community members face in maintaining their homes. These community members and their families face difficult financial choices, and unfortunately home repair is often traded off to continue affording other necessities. When these repairs are not completed, homes decline and eventually become irreparable and unsafe. In many situations such as this, the only option for homeowners is to attempt to sell the parcel of land and find an affordable unit in better condition.

As many come to find, there is a lack of affordable housing in the area, especially quality affordable housing in good condition. Housing Partnerships sees this lack not only through the homeowners we serve, but also through the daily phone calls we receive from those community members whom our projects do not currently serve. Nearly every day we encounter calls inquiring about how to find affordable housing or homes for sale in the Historic Triangle. These calls come from people of all types of backgrounds, including facility workers at The College of William and Mary, first responders, shift workers at local distribution centers, educators, and many more. The need for affordable housing touches every corner of our community, but especially our low- to median-income households.

We, Housing Partnerships, understand the value of affordable housing for the families we serve and see it as part of our mission to address this need. Through the "Powhatan Terrace" project, we can begin to provide affordable housing to cost-burdened families facing financial challenges, and many more. Additionally, having this type of housing will allow community members who may not be able to own a home for various reasons to include elderly, young families, etc. the ability to rent at an affordable rate without the burden of having to choose paying a mortgage versus paying for food, medicine, etc. Housing Partnerships, through this project, is committed to providing quality affordable housing for our community.

Board of Directors

Curtis Baker, Chairman John H. Kniest, Vice Chairman Andrew M. Franck, Secretary Marc B. Sharp, Treasurer Michael Merz Miriam C. Saguto Michele Mixner DeWitt Scott Grafton Jeff Brittle Melton G. Spruill Mike Nice Colin L. Owens, Jr. William G. Kellam Thomas G. Tingle Stephen A. Romeo

Executive Director Brandie V. Weiler As a 501 (c)(3) non-profit organization, Housing Partnerships has the ability to develop Powhatan Terrace through the use of creative tax credits, resulting in a project where 100% of the townhomes can be offered at a cost below (and some well below) market rates, responding directly to the need for affordable housing in our community.

Our current planned mix of units, which is subject to change depending on the specific requirements of the tax credit program, is to build (18) two-bedroom units and (18) three-bedroom units. These units would have a fair market rental rate of \$1,150 per month and \$1,601 per month, respectively. We would rent these units at a range of \$486 to \$803 per month for a two-bedroom unit, and a range of \$562 to \$929 per month for a three-bedroom unit. These living units would be marketed to residents making an annual income of \$20,450 to \$30,675 (for single individual income) and an annual income of \$29,200 to \$43,800 (for a family of four).

While this potential project has numerous issues to resolve before it becomes reality (property transfer, financing, tax credit approvals, permitting, etc.) the Housing Partnership Board of Directors is seeking a simple amendment to the proffered conditions, which will allow the project to qualify for the necessary tax credits that make this project achievable.

Parcel Nos: 4730100036, 4730100037, 4730100039

Prepared by: Andrew M. Franck (VSB #48293) Geddy, Harris, Franck & Hickman, LLP 1177 Jamestown Road Williamsburg, Virginia 23185

Return to: James City County Attorney 101-C Mounts Bay Road Williamsburg, Virginia 23185

FIRST AMENDMENT TO PROFFERS

THIS FIRST AMENDMENT TO PROFFERS is made this 28th day of November, 2017 by JTR PROPERTIES LLC, a Virginia limited liability company (together with its successors and assigns, the "Owner"), to be indexed as "Grantor." JAMES CITY COUNTY, a political subdivision of the Commonwealth of Virginia, to be indexed as "Grantee."

RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia (the "Property"), now zoned R2 - General Residential, and subject to Proffers dated February 13, 2008, which Proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 080020381 (the "Existing Proffers"). The Property is more particularly described in the Existing Proffers.

B. Owner desires to amend Condition 1 of the Existing Proffers as set forth below.
All capitalized terms used herein not otherwise defined shall have the definition set forth in the Existing Proffers.

AMENDMENTS TO CONDITIONS

1. The last sentence of Condition 1 (<u>Master Plan</u>) of the Existing Proffers is hereby amended to read as follows: "All residential dwelling units on the Property shall be offered for sale or rental by the developer thereof." 2. Except as specifically amended herein, the Existing Proffers remain unchanged and in full force and effect.

WITNESS the following signature and seal.

JTR PROPERTIES LLC Erlerz he lluh (SEAL) By: Title:



COMMONWEALTH OF VIRGINIA CITY COUNTY OF Willionsburg____, to-wit: The foregoing instrument was acknowledged this 28th day of November, 2017, bySterling M. as <u>OWNEY</u> of JTR Properties LLC. Nichols My commission expires: 13119 Registration No.: 7639488

REZONING-0007-2007. Powhatan Terrace MASTER PLAN-0005-2007. Powhatan Terrace SPECIAL USE PERMIT-0020-2007. Powhatan Terrace Staff Report for the March 25, 2008, Board of Supervisors Public Hearing

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.

PUBLIC HEARINGS Planning Commission: Board of Supervisors:	Building F Board Room; County Government Complex October 3, 2007, 7:00 p.m. (3-3 vote) November 13, 2007, 7:00 p.m. (indefinitely deferred by applicant) February 12, 2008, 7:00 p.m. (deferred by applicant) February 26, 2008, 7:00 p.m. (deferred by the Board of Supervisors) March 25, 2008, 7:00 p.m.
SUMMARY FACTS Applicant:	Mr. Vernon Geddy, III, on behalf of Associated Developers, Inc.
Land Owner:	Investment Properties of Virginia, LLC
Proposal:	The applicant has proposed to rezone three parcels of land to R-2, General Residential, with a Cluster Overlay and to construct six 2-story buildings containing a total of 36 townhouse units at a gross density of 2.18 dwelling units per acre.
Location:	1676 and 1678 Jamestown Road and 180 Red Oak Landing
Tax Map/Parcel Nos.:	(47-3) (1-36), (47-3) (1-37), and (47-3) (1-39)
Parcel Size:	16.5 acres
Existing Zoning:	LB, Limited Business (4.7 acres) and R-2, General Residential (11.8 acres)
Proposed Zoning:	R-2, General Residential, with a Cluster Overlay
Comprehensive Plan:	Low-Density Residential and Conservation Area
Primary Service Area:	Inside

STAFF RECOMMENDATION

Staff believes this proposal will not negatively impact the surrounding properties. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.18 dwelling units per acre. In staff's opinion, the public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, removal of underground storage tanks, off-site stream restoration money, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archaeology Policy, implementation of the County's Natural Resource Policy, and implementation of the County's

Streetscape Guidelines. Based on this information, staff recommends that the Board of Supervisors approve this application with the acceptance of the voluntary proffers.

Staff Contact: Matthew J. Smolnik Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission made a motion for approval, which resulted in a 3-3 vote at their October 3, 2007, meeting. A second vote resulted in a 6-0 decision to send this application to the Board of Supervisors with no recommendation, but with the following suggestions: 1) Correct the building type to "C" on the Master Plan; 2) Amend Proffer No. 17 to remove the existing underground storage tanks prior to the issuance of a final Certificate of Occupancy for any units developed on the property; and 3) Include more affordable housing units, as opposed to below market value units.

Proposed Changes Made Since Planning Commission Meeting

1. The building type "C" is now correctly depicted on the Master Plan.

2. Proffer No. 17 has been amended to state the existing underground storage tanks will be removed prior to the issuance of any building permit for any structures on the property.

Proposed Changes Made Since February 25, 2008, Board of Supervisors Meeting

1. The applicant has proffered \$300 for each dwelling on the property for off-site stream restoration in the Powhatan Creek Watershed.

2. Proffer No. 19 has been amended to state that the restricted units must be occupied by the owner or a family member of the owner. Short-term rental by the owner shall be permitted if the owner dies or is transferred out of the area.

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy.

Cash Proffer Summary (See staff report narrative and attached proffers for further details)		
Use	Amount	
Water	\$844 per residential unit	
CIP projects (including schools)	\$1,000 per residential unit	
Schools only	\$4,870 per residential unit	
Off-site stream restoration	\$300 per residential unit	
Total Amount (2007 dollars) \$252,504		
Total Per Lot \$7,014		

PROJECT DESCRIPTION

Mr. Vernon Geddy, III, has applied on behalf of Associated Developers, Inc. to rezone approximately 16.5 acres located at 1676 and 1678 Jamestown Road and 180 Red Oak Landing from LB, Limited Business, and R-2, General Residential, to R-2, General Residential with a Cluster Overlay, with proffers. If approved, the developer will redevelop the property with six 2-story buildings containing a total of 36 townhouse units for sale. There are three properties being consolidated for the proposed rezoning. The two parcels nearest

Jamestown Road are currently zoned LB, Limited Business, and are currently vacant. The parcel furthest from Jamestown Road is currently zoned R-2, General Residential, and is currently undeveloped. The Comprehensive Plan defines gross density as the number of units divided by the total number of acres, which equates to 2.18 units per acre. This figure of 2.18 is used to compare the density of this development against the low-density residential standards of the Comprehensive Plan.

The Master Plan will bind the developer to the following key features of the development: total number of dwelling units; type of dwelling units, type and location of recreational amenities, open space, and LID sites. If the five buildings associated with this proposal contain a floor area that exceeds 30,000 square feet, the site plan will require development review committee review.

PUBLIC IMPACTS

Archaeology

The County archaeological policy is proffered.

<u>Environmental</u>

Watershed: Powhatan Creek

Proffers:

- The applicant has proffered a Turf Management Program to be implemented in the proposed development. The Homeowners Association (HOA) will be authorized to develop, implement, and enforce the program, which will apply to both any private lawns and common areas under HOA control and may be enforced by either the County or the HOA.
- Development of a stormwater management plan is proffered with the use of low-impact development techniques utilized where feasible, in accordance with the Powhatan Creek Watershed Management (PCWM) Plan.
- The applicant has proffered to conduct a survey for rare, threatened, and endangered species on the property prior to any land disturbing activity.
- The applicant has proffered to remove the existing underground storage tanks on the property in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.
- Each residential unit is proffered to be certified under the EarthCraft House Virginia certification process.
- The applicant has proffered \$300 for each residential dwelling unit to be used for off-site stream restoration in the Powhatan Creek Watershed.

Staff Comments: Proposed revisions as indicated in the current Community Impact Statement (dated September 18, 2007), the revised proffers, and revised master plan/concept drawings collectively have resulted in the Environmental Division having no further comment on the rezoning application in its current format. Staff believes that the applicant has met the intention of the Powhatan Creck Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations and adequately protects perennial and intermittent streams on the property. Staff has noted minor changes that can be addressed during the site plan development stage. Wetlands permits and Chesapeake Bay exceptions may be necessary for this project depending on the design.

<u>Fiscal</u>

The applicant has indicated but not guaranteed (with the exception of three units) that the anticipated average sales price will be \$275,000 for the 33 of the 36 townhouse units for this development. Adjusting for the average sales price of the units and the school expenditures on a per student basis, results in a positive revenue flow to the County of \$314 per unit per year.

Proffers:

- A cash contribution of \$844 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- A cash contribution of \$1,000 for each dwelling unit on the property shall be made to James City County to be used for CIP projects.

Staff Comments: Financial and Management Services has reviewed the Fiscal Impact Statement and concurs with the conclusion that, at build-out, the project would either break even or generate a modest positive fiscal impact.

Housing

The applicant has indicated that the anticipated average sales price will be \$275,000 for the 33 of the 36 townhouse units for this development.

Proffers:

• The applicant has proffered a minimum of three units shall be reserved and offered for sale at a sales price at or below \$195,000.

Staff Comments: Staff would prefer that the restricted units be offered for sale as affordable units as defined by the County by lowering the maximum sales price of these units.

Public Utilities

Proffers:

- A cash contribution of \$844 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- Appropriate water conservation measures will be developed and submitted to the JCSA for review and approval prior to any site plan approval.

Staff Comments: This site is served by public water and sewer. A preliminary water model will be completed and submitted to JCSA prior to or with the site plan for their approval.

School Facilities

Proffer:

• Total contributions of \$4,870 per residential unit are proffered to the County for each residential unit developed on the property.

Staff Comments: According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through the rezoning, special use permit or other development processes (1) evaluation of the adequacy of facility space and needed services when considering increasing development intensities and (2) encouraging the equitable participation by the developer in the provision of needed services. With respect to item (1), the Board of Supervisors has adopted the adequate public school facilities policy. With respect to item (2), the County has identified methods for calculating cash proffer amounts for schools, recreation and water supply facilities.

Powhatan Terrace is located within the Rawls Byrd Elementary School, Berkeley Middle School, and Lafayette High School districts. Under the proposed Master Plan, 36 units are proposed. Per the adequate public school facilities policy all special use permit or rezoning applications should meet the policy for adequate public school facilities. The policy adopted by the Board uses the design capacity of a school, while the Williamsburg-James City County schools recognize the effective capacity as the means of determining student capacities. With respect to the policy, the following information is offered by the applicant:

School Design Capacity	Effective Capacity	2005 Enrollment	Projected Students Generated	Enrollment + Projected Students
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Rawls Byrd Elementary	638	524	850	2.6	853
Berkeley Middle	725	816	890	1.5	892
Lafayette High	1,250	1,230	1,702	1.9	1,704

Based on the information provided by the applicant, both design and effective capacities are exceeded at Rawls Byrd Elementary School, Berkeley Middle School, and Lafayette High School. Although the design capacity of all three schools are clearly exceeded, the policy states that if physical improvements have been programmed through the County CIP then the application will meet the policy guidelines. A new middle school is scheduled to open in 2009; therefore staff believes this proposal meets the policy guidelines for the middle school level. Matoaka Elementary School and Warhill High School opened in September 2007and staff believes that with the opening of the eighth elementary school and third high school, this proposal meets the policy guidelines for the high school level.

Staff contacted the Williamsburg-James City County School district to obtain updated student enrollment figures for the three schools that would serve Powhatan Terrace. As of September 18, 2007, the student enrollment for the three schools was: Rawls Byrd Elementary – 469 students, Berkeley Middle School – 827 students, and Lafayette High School – 1,272 students.

Parks and Recreation

Proffer:

• The applicant has proffered to provide the recreational areas shown on the Master Plan along with other recreational facilities, if necessary, that meet the standards in the County's Recreational Master Plan. In lieu of such recreational facilities, the applicant has proffered to make cash contributions to the County in an amount determined pursuant to the County's Recreational Master Plan. All cash contributions for this proffer shall be used by the County for recreational capital improvements.

Staff Comments: The master plan indicates a passive recreational area, a 0.5 acre park, a mulch trail, and a 2,500-square-foot playground.

Transportation

A traffic impact study was not required because the proposed project would not generate more than 100 peak hour trips. According to the trip generation rates, the proposed townhouse units will generate approximately 16 AM peak hour vehicle trips, approximately 19 PM peak hour vehicle trips and approximately 211 daily trips.

2005 Traffic Counts: Approximately 9,297 vehicles per day in this area of Jamestown Road.

2026 Volume Projected: 10,000 vehicles per day on a two-lane road.

Road Improvements: A left-turn lane and right-turn taper will likely be required on Route 31 based on existing volumes and anticipated site trip generation.

Proffers:

• There will be one entrance into the property to and from Jamestown Road. The applicant has proffered a northbound left-turn lane with a taper and transition and a southbound right-turn taper at the entrance to the property. The turn lanes will be constructed in accordance with VDOT standards and shall be completed prior to the issuance any certificates of occupancy.

VDOT Comments: VDOT agreed on the technical merits of the study and the general conclusions after reviewing the Master Plan and the traffic impact analysis. Their preliminary analysis indicates that warrants for a left-turn lane will be marginal based on existing PM peak hour volumes on Jamestown Road. However, due to periodic heavy opposing volumes from the ferry operations to the north, VDOT recommends that a northbound left-turn lane at the site entrance be constructed. VDOT also recommends that all improvements at the site entrance shall incorporate the existing shoulder bike lane.

Staff Comments: Staff concurs with VDOT. Staff notes, however, that the new turn lane will have impacts on the appearance of Jamestown Road. Jamestown Road currently has sufficient capacity to accommodate the development west of Neck O'Land Road, with volumes ranging from 7,072 to 10,100

vehicles per day. However the section east of Neck O'Land Road is in the "watch" category due to projected volumes above the road's capacity. The Comprehensive Plan states that "Residential or commercial developments that add significant traffic along this corridor beyond that currently planned is strongly discouraged" in recognition that more intensive development will negatively impact all of Jamestown Road. Despite the site's LB and R-2 zoning, it was deliberately designated for low-density residential use in the Comprehensive Plan due to traffic concerns on Jamestown Road. Staff believes that the intent of the Comprehensive Plan is to encourage developments that have less of a traffic impact than those uses permitted by existing zoning and more akin to the uses supported by the Low Density Residential land use description. Staff believes that one of the public benefits of this proposal will be the lessened volume of traffic created on Jamestown Road compared to the volume of traffic that may be generated by other potential uses on the property. Powhatan Terrace is predicted to produce 211 daily trips on Jamestown Road. By comparison, a by-right development consisting of 9,999 square feet of retail space and 11 single-family dwelling units is predicted to produce up to 549 daily trips on Jamestown Road. If the property was designed to accommodate the maximum Comprehensive Plan density of four dwelling units per acre, the site could generate up to 616 trips per day.

COMPREHENSIVE PLAN

Land Use Map

Designation	Low Density Residential (Page 120): Examples of acceptable land uses within the Low Density Residential designation include single-family homes, duplexes, cluster housing, recreation areas,
	schools, churches, community-oriented public facilities, and very limited commercial
	establishments.
	Conservation Area (Page 129): Examples of preferred land uses within the Conservation Area designation include fish and game preserves, parks and other open space that complement the natural environment.
	Staff Comment: The Comprehensive Plan identifies the land across from the Grace Covenant Baptist Church as an area which has inconsistencies between their Zoning and Land Use Map designations. These parcels include the site (partially zoned LB, Limited Business) and TK Oriental
	(zoned LB, Limited Business). The zoning was determined prior to or without recognition of the County's Land Use Map. Unlike the zoning for these parcels, the Comprehensive Plan designation for these parcels was deliberate after considerable analysis. It recognizes adjacent land uses, traffic conditions, zoning and a variety of other considerations. Given the traffic concerns and the fact that this area is predominantly residential in character, the low density residential designation is
	appropriate for this area and should remain unchanged.
Development Standards	General Land Use Standard #1 (Page 134): To permit new development only where such developments are compatible with the character of adjoining uses and where the impact of such new developments can be adequately addressed.
	General Land Use Standard #4 (Page 134): To ensure protection of sensitive resources areas such as watersheds, historic, and archaeological resources, through the use of better site design, buffers and screening.
	General Land Use Standard #7 (Page 134): Require underground utilities in new developments.
	<i>Residential Land Use Standard #1 (Page 137):</i> Ensure that gross housing densities are compatible with the local environment, the scale and capacities of public services, facilities and utilities available or planned, and the character of development in the vicinity.
	Residential Land Use Standard #6 (Page 137): Locate residential development on internal roads as both an aesthetic and safety measure.
	Staff Comment: The Powhatan Terrace project is compatible in size and scale to the neighboring Raleigh Square and provides a transitional area between moderate density residential development and the commercial development of TK Oriental. The front six acres of Raleigh Square has a density of 8.2 dwelling units per acre and contains 47 two-story attached units and two single-family detached dwellings. Appropriate environmental and Community Character Corridor buffers have been provided with this application. All new utilities will be placed underground. The 11.8 acres
	currently zoned R-2, General Residential, and the 4.7 acres currently zoned LB, Limited Business

	are both designated Low Density Residential on the Comprehensive Plan due to traffic concerns along this section of Jamestown Road.
Goals, Strategies and Actions	Strategy #2 (Page138): Ensure development is compatible in scale, size, and location to surrounding existing and planned development.
	Strategy #3 (Page 138): Ensure that all land uses are located at appropriate sites in the Primary Service Area.
	Strategy #6 (Page 138): Promote the use of land consistent with the capacity of existing and planned public facilities and services.
	Action #1 (Page 139): Provide for low-density and moderate density residential development in appropriate locations inside the Primary Service Area.
	Staff Comment: The Powhatan Terrace project is compatible in size and scale to the neighboring Raleigh Square and provides a transitional area between moderate density residential development and commercial development. The Powhatan Terrace property is located inside the PSA. The 11.8 acres currently zoned R-2, General Residential, and the 4.7 acres currently zoned LB, Limited Business, are both designated Low Density Residential on the Comprehensive Plan due to traffic
	concerns along this section of Jamestown Road.

Parks and Recreation

Goals,	Strategy #9 (Page 39): Encourage new developments to proffer neighborhood and park facilities and
Strategies and Actions	trails as outlined in the Parks and Recreation Master Plan.
	Action #4 (Page 39): New development should dedicate right-of-way and provide sidewalks, bikeways, and greenway trails for both transportation and recreational purposes.
	Staff Comment: The master plan indicates a passive recreational area, a 0.5 acre park, a mulch trail and a 2,500-square-foot playground, which is consistent with the Parks and Recreation Master Plan.

Environment

Environment	
General	Natural Resources Protection and Management, Powhatan Watershed Management Plan (Page 47) and Action #18 (Page 67): To fully implement the watershed protection and restoration goals and priorities identified in the Powhatan Creek Watershed Management Plan re-adopted by the Board of Supervisors on October 10, 2006.
	Staff Comment: Staff believes that the applicant has met the intention of the Powhatan Creek
	Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations and adequately protects perennial and intermittent streams on the property.
Goals, Strategies and Actions	Strategy #1 (Page 65): Utilize existing techniques and develop new regulations and non-regulatory techniques to preserve the County's environmental quality.
	Strategy # 2 (Page 65): Assure that new development minimizes adverse impacts on the natural and built environment.
	Action # 5 (Page 65): Encourage the use of Better Site Design, Low Impact Development, and Best Management Practices (BMPs) to mitigate adverse environmental impacts by reducing the rate of increase of impervious cover.
	Action # 18 (Page 67): Fully implement the watershed protection and restoration goals and priorities identified in the Powhatan Creek Watershed Management Plan re-adopted by the Board of Supervisors on October 10, 2006.
	Action #23 (Page 67): Encourage residential and commercial water conservation.
	Staff Comment: Appropriate wetland buffers have been provided and there are several LID sites shown
	on the binding Master Plan. Staff believes that the applicant has met the intention of the Powhatan

Creek	Watershed Management Plan, believes that the proposal provides unusual environmental
	on through several potential LID locations and adequately protects perennial and intermittent
streams	on the property. Water conservation standards have been proffered by the applicant.

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General	Roadway Components of County Transportation Planning, Jamestown Road (Page 76): Although traffic volume projections warrant the widening portions of Jamestown Road to a divided
	four-lane, the Comprehensive Plan recommends that this road be maintained as a two-lane facility. Residential or commercial development that adds significant traffic along this corridor beyond that currently planned is strongly discouraged.
	Staff Comment: The current proposal will produce an estimated 211 daily trips on Jamestown Road. This estimate is less than what may be produced with a by-right commercial development in conjunction with residential development on this property.
Goals, strategies and actions	Goal #2 (Page 80): Ensure that the transportation system supports a land use pattern that is consistent with the Comprehensive Plan.
	Strategy #5 (Page 80): Support the provision of sidewalks and bikeways in appropriate areas.
	Action #5 (Page 81): Encourage land use densities, intensities, and development patterns that recognize the capacities, roadway functional classification, and scenic corridor designations of existing and proposed roads.
	Action #15 (Page 82): Encourage the design of roads that allow automobiles, public transit, pedestrians, and bicyclists to coexist safely on roads and streets in residential and commercial areas
	Staff Comment: The Comprehensive Plan suggests that the Powhatan Terrace property be developed in accordance with the Low Density Residential standards due to traffic concerns along
	Jamestown Road. The bike lane along Jamestown Road will be worked into the design of any required road improvements to Jamestown Road and sidewalks will be constructed along the interior roads and along the Jamestown Road frontage.

Community Character

General	Community Character Corridors (Page 84): The Comprehensive Plan designates Jamestown Road as a Community Character Corridor, which are roads that promote the rural, natural or historic character of the County. The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of the area and believes these roads warrant a high level of protection. This section of Jamestown Road is considered a Suburban Community Character Corridor. The objective of this type of Community Character Corridor is to ensure that the County retains a unique character and does not become simply another example of standard development. The predominant visual character of the Suburban Community Character Corridor should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. Development in Suburban Community Character Corridors should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general and an emphasis on
	built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. Development in Suburban Community Character Corridors should not replicate standardized designs commonly found in other communities, but rather reflect
	Staff Comment: Staff believes the Master Plan and proffers for Powhatan Terrace will adequately protect the Suburban Community Character of Jamestown Road. A 150-foot wide Community Character Corridor buffers enhanced with berms and landscaping has been proffered. Mature trees within the buffer are to be preserved and a streetscape package has been proffered to provide street trees. All new utilities will be placed underground and parking will be located behind the buildings, away from Jamestown Road. The turn lane and taper at the new entrance will widen the pavement along this section of Jamestown Road expanding the scale of the roadway from its current

	appearance.
Goals,	Strategy # 2 (Page 95): Ensure that development is compatible in scale, size, and location to
Strategies and actions	surrounding existing and planned development.
	Strategy #3 (Page 95): Ensure that development along Community Character Corridors and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt networks, and establishes entrance corridors that enhance the experience of residents and visitors.
	Strategy #6 (Page 95): Ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery, and scenic views.
	Action #8 (Page 96): Continue to require or encourage the planting of street/curb side streets.
	Action #11 (Page 96): Continue to require underground utilities in all new developments.
	Action #24b (Page 97): Maintain the small town, rural, and natural character by encouraging new developments to employ site and building design techniques that reduce their visual presence and scale. Design techniques include berms, buffers, landscaping and low visibility parking locations.
	Staff Comment: The Powhatan Terrace project is compatible in size and scale to the neighboring
	Raleigh Square and provides a transitional area between moderate density residential development
	and commercial development. A 150-foot wide Community Character Corridor buffers enhanced
	with berms and landscaping has been proffered. Mature trees within the buffer are to be preserved
	and a streetscape package has been proffered to provide street trees. All new utilities will be placed
	underground and parking will be located behind the buildings, away from Jamestown Road.

Comprehensive Plan Staff Comments

According to the 2003 Comprehensive Plan, low-density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development and the degree to which the development is consistent with the Comprehensive Plan. The Comprehensive Plan states, "In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community... Depending on the extent of the benefits, developments up to four units per acre will be considered for a special use permit". The R-1, Limited Residential, R-2, General Residential, and the Residential Cluster Development Overlay districts of the Zoning Ordinance specially permit developments with densities greater than one dwelling unit per acre. They are also the only zoning districts that specifically mention the benefits that must be provided in order to achieve densities up to four units per acre.

Staff believes that the proposed master plan with a gross density of 2.18 dwelling units per acre offers sufficient public benefits, such as lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archaeology Policy, implementation of the County's Natural Resource Policy, and implementation of the County's Streetscape Guidelines to warrant a density greater than one unit per acre. The project will also remove the underground storage tanks on-site.

While the Comprehensive Plan uses gross acreage to calculate density, the applicant has also provided density calculations for this project with the removal of the land designated as Conservation Area on the Comprehensive Plan. There are 6.3 acres of land designated as Conservation Area, which when removed, leads to a density of 3.53 dwelling units per acre. It should be noted that this density calculation was requested of staff for comparison purposes only.

In accordance with Section 24-549(a) of the Zoning Ordinance, the Board of Supervisors may grant a SUP for residential cluster developments of more than two units per acre, but no more than three units per acre if the developer provides the following *with staff comments in bold italics*:

1. Implementation of the County's Streetscape Guidelines, which has been proffered for Powhatan Terrace.

2. Implementation of the County's Archaeological Policy, which has been proffered for Powhatan Terrace.

3. Provision of sidewalks along one side of all internal streets, which has been proffered for Powhatan Terrace.

4. Provision of recreation facilities in accordance with the County's Parks and Recreation Guidelines, which has been proffered for Powhatan Terrace.

5. Implementation of the County's Natural Resource Policy, which has been proffered for Powhatan Terrace. Additionally, the Department of Conservation and Recreation has searched its Biotics Data System for occurrences of natural resources on the property associated with this application. Due to the scope of the activities and the distances to the resources, the Department of Conservation and Recreation does not anticipate that Powhatan Terrace will adversely impact known natural heritage resources in the project area.

6. Provision of pedestrian and/or bicycle trails; which have been proffered for Powhatan Terrace.

7. Construction of curb and gutter design on all streets within the development; which has been proffered for Powhatan Terrace. This requirement may be waived or modified by the Planning Commission along those segments of road, including the entrance road, where structures are not planned.

In summary, staff believes Powhatan Terrace meets the criteria of the Cluster Overlay District to achieve the requested densities.

RECOMMENDATION

Staff believes this proposal will not negatively impact the surrounding properties. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.18 dwelling units per acre. In staff's opinion, the public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, removal of underground storage tanks, off-site stream restoration money, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archaeology Policy, implementation of the County's

Natural Resource Policy, and implementation of the County's Streetscape Guidelines. Based on this information, staff recommends that the Board of Supervisors approved this application with the acceptance of the voluntary proffers.

Matthew J. Smolnik

CONCUR:

MJS/nb PwhTerr_032508

ATTACHMENTS:

- 1. Approved Planning Commission Minutes from October 3, 2007 (submitted with the February 25, 2008, Board packet)
- 2. Location Map
- 3. Master Plan dated June 1, 2007 (under separate cover)
- 4. Community Impact Statement dated September 18, 2007 (submitted with the February 25, 2008, Board packet)
- 5. Letter from Michael & Kensett Teller dated October 1, 2007 (submitted with the February 25, 2008, Board packet)
- 6. Email from Lakewood Homeowners Association dated October 3, 2007 (submitted with the February 25, 2008, Board packet)
- 7. Letter from Friends of Powhatan Creek date stamped October 3, 2007 (submitted with the February 25, 2008, Board packet)
- 8. Email from Sarah Kadec representing James City County Concerned Citizens; Coalition dated October 3, 2007 (submitted with the February 25, 2008, Board packet)
- 9. Letter from Andrew Burge and Bronwen Watts date stamped October 3, 2007 (submitted with the February 25, 2008, Board packet)
- 10. Email from John and Kathy Hornung to John McGlennon dated November 1, 2007 (submitted with the February 25, 2008, Board packet)
- 11. Proffers (dated February 13, 2008)

12. Resolution

080 020381

COPY

PROFFERS

THESE PROFFERS are made this 13th day of February, 2008 by INVESTMENT PROPERTIES OF VIRGINIA, LLC (together with its successors and assigns, the "Owner") and ASSOCIATED DEVELOPERS, INC., a Virginia corporation ("Buyer").

RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 1676 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100036, the second with an address of 1678 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100037, and the third with an address of 180 Red Oak Landing Road, Williamsburg, Virginia and being Tax Parcel 4730100039, being more particularly described on Exhibit A attached hereto (together, the "Property"). A portion of the Property is now zoned L-B and a portion is now zoned R-2.

B. Buyer has contracted to purchase the Property conditioned upon the rezoning of the Property.

C. Owner and Buyer have applied to rezone the Property from L-B and R-2 to R-2, , with proffers, and for a Special Use Permit to permit a residential cluster development of up to 36 townhouse units.

D. Buyer has submitted to the County a master plan entitled "Master Plan for Rezoning of Powhatan Terrace" prepared by AES Consulting Engineers dated June 1, 2007 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

/ 15 PLEASE RETURN TO: COUNTY ATTORNEY JCC - BLDG, C

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NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

<u>CONDITION</u>

1. <u>Master Plan</u>. The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 36 residential townhouse dwelling units on the Property. All residential dwelling units on the Property shall be offered for sale by the developer thereof.

2. Owners Association. There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all unit owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, shall require each initial purchaser of a unit to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the unit (but no less than \$100.00) and shall require that the association (i) assess all members for the maintenance of all properties owned or

maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

3. <u>Water Conservation</u>. (a) Water conservation standards shall be submitted to the James City Service Authority ("JCSA") as a part of the site plan or subdivision submittal for development on the Property and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by JCSA prior to final subdivision or site plan approval.

(b) If the Owner desires to have outdoor watering it shall provide water for irrigation utilizing surface water collection from the surface water pond that is shown on the Master Plan or from rain barrels and shall not use JCSA water for irrigation purposes. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundment.

4. <u>Cash Contributions for Community Impacts</u>. For each dwelling unit on the Property the one time cash contributions set forth in this Section 4 shall be made.

(a) A contribution of \$844.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the

physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated by the physical development and operation of the Property.

..

(b) A contribution of \$4,870.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds solely for school use.

(c) A contribution of \$1,000.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the Property, including, without limitation, for emergency services equipment replacement and supply, off-site road improvements, library uses, and public use sites.

(d) A contribution of \$300.00 for each dwelling unit on the Property shall be made to the County for off-site stream restoration in the Powhatan Creek watershed.

(e) The contributions described above, unless otherwise specified, shall be payable for each dwelling unit on the Property at or prior to the final approval of the site plan or subdivision plat for such unit. In the event dwelling units, such as townhouse units, require both a site plan and subdivision plat, the contributions described above shall be payable for each such dwelling unit shall be paid at the time of final subdivision plat approval.

(f) The per unit contribution(s) paid pursuant to this Section shall be adjusted annually beginning January 1, 2009 to reflect any increase or decrease for the preceding year in the

Marshall and Swift Building Costs Index (the "Index"). In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) and (b) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the Index, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

5. Jamestown Road Buffer. There shall be a minimum 150 foot buffer along the Jamestown Road frontage of the Property generally as shown on the Master Plan. The buffer shall be exclusive of any lots or units. The entrance as shown generally on the Master Plan, landscaping and berms, the trails, sidewalks and bike lanes as shown generally on the Master Plan, and with the approval of the Development Review Committee, utilities, lighting, entrance features and signs shall be permitted in the buffer. Dead, diseased and dying trees or shrubbery, and invasive or poisonous plants may be removed from the buffer area. A combination of preservation of existing trees, enhanced landscaping (defined as 125% of County Zoning Ordinance ("Ordinance") plant size requirements) and berms shall be provided within the buffer in accordance with a landscaping plan approved by the Director of Planning which shall, when

the landscaping has reached maturity, screen the adjacent units from the direct view of vehicles traveling on Jamestown Road. The perimeter buffers between the sides/backs of buildings and the adjacent properties shall contain enhanced landscaping (defined as 125% of Ordinance size requirements) in accordance with a landscaping plan approved by the Director of Planning. The buffers shall be planted or the planting bonded in an amount and form approved by the County Attorney prior to the County being obligated to issue building permits for dwelling units located on the Property.

6. Entrances/Turn Lanes. There shall be one entrance into the Property to and from Jamestown Road as generally shown on the Master Plan. A northbound left turn lane with a taper and transition and an southbound right turn taper on Jamestown Road shall be constructed at the entrance to the Property. The turn lane and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation standards and shall be completed prior to the issuance of the first certificate of occupancy.

7. <u>Recreation</u>. Owner shall provide the park, playground and passive recreational area shown on the Master Plan before the County is obligated to grant certificates of occupancy for more than 18 dwelling units on the Property. Owner shall install a mulch trail generally in the location shown on the Master Plan with the design and exact location of the mulch trails subject to the approval of the Director of Planning. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Director of Planning.

8. <u>Private Drives</u>. All entrance roads, interior roads, driveways, lanes or drive aisles connecting the parking areas on the Property shall be private and shall be constructed in

accordance with applicable County private street standards. Private roads shall be maintained by the Association. Owner shall deposit into a maintenance reserve fund to be managed by the Association an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a public street of the same length as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

9. Environmental Protections. (a) Owner shall submit to the County a stormwater management plan for the Property consistent with the Conceptual Stormwater Management Plan prepared by AES Consulting Engineers dated June 1, 2007 ("Stormwater Plan") and included in the Master Plan set submitted herewith and on file with the County, including facilities and measures necessary to meet the County's 10 point stormwater management system requirements and the special stormwater criteria applicable in the Powhatan Creek watershed ("SSC") and, in addition, including features and measures over and above those necessary to meet the 10 point and SSC requirements, which shall include, without limitation, bio-retention basins, provision of as-built drawings for the entire stormwater system, enhanced slope stabilization on all cut and fill slope, enhanced outlet protection on BMP outfall, porous pavement, rain barrels and dry swales subject to the criteria and conditions set forth on the Stormwater Plan. The stormwater plan shall be approved by the Environmental Director or his designee prior to the submission of any development plans for the Property. The stormwater management plan may be revised and/or updated during the development of the Property based on on-site conditions discovered in the field with the prior written approval of the Environmental Director or his designee. The

approved stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

(b) The owner of the Property shall cause a survey to be conducted of the Property for rare, threatened and endangered species prior to any land disturbing activity on the Property. The location of any rare, threatened and endangered species located on the Property shall be shown on all subdivision or other development plans of the Property. Before any land disturbing activity is allowed in the vicinity of any rare, threatened and endangered species identified, if any, on the Property, a conservation plan shall be prepared by the owner of the Property in accordance with state and federal laws applicable to the Property at the time of development of the conservation plan and said conservation plan shall be submitted for information purposes to the Director of Planning and shall be incorporated into the development plans for the Property and implemented in the development of the Property.

10. Archaeology. A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan

shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase 1, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

11. Architectural Review. Prior to the County being obligated to grant final development plan approval for any of the buildings shown on any development plan for any portion of the Property, there shall be prepared and submitted to the Director of Planning for approval architectural and landscaping plans, including architectural elevations, for the Director of Planning to review and approve for general consistency with the architectural styles depicted in the architectural renderings prepared by Guernsey Tingle Architects submitted with the rezoning application. The Director of Planning shall review and either approve or provide written comments settings forth changes necessary to obtain approval within 45 days of the date of submission of the plans in question. Final plans and completed buildings shall be consistent with the approved conceptual plans as determined by the Director of Planning.

12. <u>Preservation of Specimen Trees</u>. Owner shall submit a tree survey of the Property with the site plan for development of the Property and shall use its best efforts to preserve trees within the Jamestown Road buffer identified on the survey as specimen trees to be preserved. If

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any of the specimen trees die prior to issuance of certificates of occupancy for all units on the Property, the dead tree shall be replaced with a new tree with at least a two and one-half inch caliper.

13. <u>Green Building: EarthCraft House Certification</u>. Each residential unit shall be certified under the EarthCraft House Virginia certification process and a copy of the certification shall be provided to the Director of Planning.

14. <u>Streetscape Guidelines</u>. The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the site plan approval process. Streetscape improvements shall be either (i) installed within six months of the issuance of any certificate of occupancy for any residential units in adjacent structures or (ii) bonded in form and amount satisfactory to the County Attorney prior to the issuance of any certificate of occupancy for any residential units in adjacent structures.

15. <u>Nutrient Management Plan</u>. The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the "Plans") for all common areas within the Property and each individual lot shown on each subdivision plat of the Property. The Plans shall be submitted to the County's Environmental Director for his review and approval prior to the issuance of the building permits for more than 50% of the units

shown on the subdivision plat. Upon approval, the Owner so long as it controls the Association and thereafter the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants.

16. <u>Sidewalks</u>. There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan. Owner shall install a sidewalk along the Jamestown Road frontage of the Property.

17. <u>Underground Storage Tanks</u>. The existing underground storage tanks on the Property shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of any building permit for structures on the Property.

18. <u>Curb and Gutter</u>. Streets within the Property shall be constructed with curb and gutter provided, however, that this requirement may be waived or modified along those segments of street, including entrance roads, where structures are not planned.

19. Price Restricted Units. A minimum of three of the units shall be reserved and offered for sale at a sales price to buyer at or below \$195,000 subject to adjustment as set forth herein ("Restricted Units"). The maximum price set forth herein shall be adjusted annually, or January 1st of each year, by increasing such prices by the cumulative rate of inflation as measured by the Index annual average change for the period from January 1, 2009 until January 1 of the year in question. The Director of Planning shall be provided with a copy of the

settlement statement for each sale of a Restricted Unit. The Governing Documents shall include a provision, approved by the County Attorney, providing that the Restricted Units must be occupied by the owner thereof or a family member of the owner. Short term rentals of these Restricted Unit by the owner thereof shall be permitted if the owner dies or is transferred out of the area and in similar situations.

WITNESS the following signature.

IES OF VIRGINIA, LLC IN By Title:

STATE OF VIRGINIA AT LARGE CITY/COUNTY OF W/illiamsburg to-wit:

My commission expires:

Registration No.: 284

The foregoing instrument was acknowledged this <u>17 tu</u>day of <u>March</u>, 2008, by <u>michaele</u> as <u>Manager</u> of Investment Properties of Virginia, LLC.

Ce. NOTARY PUBLIC



LΠ ALEMANNIA

STATE OF VIRGINIA AT LARGE CITY/COUNTY OF Williausbury , to-wit:

The foregoing instrument was acknowledged this 14 day of , 2008, by benny students Mer esident _ of Associated Developers, Inc.

NOTARY PUBLIC My commission expires: 2-28-20 4 Registration No.: 183223 NOTAR) PUBLIC EG. #183223 MY COMMISSION FXPIRES Inisio,

EXHIBIT A

PARCEL ONE

All that certain piece or parcel of land, with the buildings and improvements thereon, consisting of 10.00 acres, more or less, situate in Jamestown District, James City County, Virginia, bounded and described as follows: Beginning at an iron stake on the southerly side of the road leading from the Main and Ambler's Farms to Powell's Mill crossing Route 31 to Jamestown on the dividing line between the land hereby conveyed and that of Robinson; thence in a westerly direction along said road the distance of 400 feet to another iron stake; thence said lot extends back in a southerly direction between parallel lines the distance of 1050 feet, more or less, to iron stakes marking its corners; and being a portion of a tract of land containing 140.62 acres as shown by survey and plat recorded in James City Plat Book 2, page 19, and is a portion of the same property of which T. T. Nixon died seized and possessed, intestate; the said tract having been conveyed to him by J. N. Richardson by deed from Henry O. Wright and wife, dated April 15, 1929, and recorded in James City Deed Book 24, page 531; the undivided one-half interest of the said Richardson having been conveyed to the said T. T. Nixon by deed dated June 5, 1930, and recorded in James City Deed Book 25, pages 514-5.

PARCEL TWO

All that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate in Jamestown Magisterial District, James City County, Virginia, lying on the southerly side of the 10.00+/- acre parcel of Nixon, consisting of 6.082 acres, more or less, and described as follows: commencing at an iron stake 1,050 feet from the road leading from Ambler's and the Main Farm to Five Forks and Powell's Mill Road running thence a distance of 200 feet more or less in a southerly direction in a straight line to the low water mark of Powhatan Creek; thence in a westerly direction along the low water mark of Powhatan Creek as it meanders a distance of 400 feet more or less to a point; thence in a northerly direction in a straight line a distance of 200 feet more or less to an iron stake, the corner to the property hereby conveyed and other lands of Nixon; thence in an easterly direction along the line of the property hereby conveyed and other lands of Nixon a distance of 400 feet, more or less, to an iron stake corner to the property hereby conveyed and other lands of Nixon, being the point of departure. Said property is bounded on the northerly side of other lands of Nixon; on the southerly side by Powhatan Creek; on the easterly side by the lands of Robinson; and on the westerly side by the remaining lands of Hess N. Hart and Harry Hart, her husband, Mary B. Norman and J. D. Norman, her husband, Dorothy N. Waltrip and G. K. Waltrip, her husband. Said property is a portion of the track of land containing 140.62 acres as shown by survey and plat recorded in James City Plat Book 2, page 19, and is a portion of the same property of which T. T. Nixon died seized and possessed intestate; the said tract having been conveyed to him and J. N. Richardson by deed from Henry O. Wright and wife, dated April 15, 1929, and recorded in James City County Deed Book 24, page 531, the undivided one-half interest of said Richardson having been conveyed to the said T. T. Nixon by deed dated June 5, 1930, and recorded in James City County Deed Book 25, page 514.

PARCEL THREE

ALL that certain lot, piece or parcel of land situate, lying and being in Jamestown District, James City County, Virginia, as shown on that certain plat entitled, "E. T. Nixon, Plat of Survey, Containing .43 Acres, Two Miles Southeast of Williamsburg, James City County, Virginia" dated February 8, 1960 made by R. B. Cartwright, Cartified Land Surveyor, and recorded April 1, 1960 in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City in Deed Book 74, page 100; and being more particularly described as follows: Beginning at an angle iron down a private lane leading South from State Route #31; thence South 69° 30' East 116.28 feet to an angle iron; thence South 20° 00' West 162.28 feet to an angle iron; thence North 69° 30' West 116.28 feet to an angle iron, the point of beginning.

VIRGINIA: CITY OF W This document was at at <u>3:53</u> <u>4</u> Section 58.1-801, 58. STATE TAX	TILLIAMSBURG & COU imitted to record on	NTY OF JAMES CITY
STESTE: BETSY B. WO BY Retay	Woabride	\$Clerk



Master Plan for Rezoning FOR Powhatan Terrace

General Notes for Rezoning

Rezoning 4.7 acres of LB to R2 with proffers and Special Use Permit to allow a residential cluster development.

Parcel Numbers and Owners: 2.

> Parcel ID# 4730100036 Investment Properties of Virginia, LLC PO Box 150 Barhamsville, VA 230110150

Parcel ID# 4730100037 Investment Properties of Virginia, LLC PO Box 150 Barhamsville, VA 230110150

Parcel ID# 4730100039 Investment Properties of Virginia, LLC PO Box 150 Barhamsville, VA 230110150

Parcel Numbers and Property Addresses: З.

> Parcel ID#: 4730100036 1676 Jamestown Road Williamsburg, VA 231853111

> Parcel ID#: 4730100037 1678 Jamestown Road Williamsburg, VA 231853111

0.4 acres

10.0 acres

Parcel ID#: 4730100039 180 Red Oak Landing Road Williamsburg, VA 231853111

6.1 acres

- Total area: 16.5 acres.
- Existing zoning: 5.

LB: 4.7 acres R2: 11.8 acres

- Topographic information is based on 5 foot contour intervals provided by James City 6. County GIS information.
- Sheet 2, Environmental Inventory, indicates 25% slopes, soil inventory, wetlands, 100 7. year floodplain, the approximate location of Resource Protection Areas (RPA) and associated buffers, and perennial stream determinations. For further information on the Environmental Inventory, refer to the Community Impact Statement.
- This project is located in the Tidal Mainstem of the Powhatan Creek Watershed in 8. James City County for which a watershed management plan was developed. To observe recommendations of this plan, a combination of structural best management practices, preservation of natural open space, and the use of special stormwater criteria are employed to: prevent further degradation of Powhatan Creek, enhance groundwater recharge usually lost from land development, and to help preserve some of the natural hydrology of the site.
- Curb and gutter streets are proposed. Except where ditch sections can increase 9. infiltration opportunities.

All streets within the development will be private per applicable VDOT standards. 10.

James City County, Virginia



SHEET NUMBER

VICINITY MAP (APPROX. SCALE: 1" = 2000')

DATE: 6/1/07

AES PROJECT # 9462-02





5248 Olde Towne Road, Suite 1 Williamsburg, Virginia 23188 (757) 253-0040 Fax (757) 220-8994

MP-0005 2007 2-0007 2007 5010.0020 2007

WAR 2008

INDEX OF SHEETS

DESCRIPTION

COVER SHEET ENVIRONMENTAL INVENTORY MASTER PLAN CONCEPTUAL STORMWATER MANAGEMENT PLAN

	-			+
	3	3/17/08	REVISED PER COUNTY COMMENTS	ĴSP
	2	2/01/08	REVISED PER COUNTY COMMENTS AND CITIZENS' INPUT	JSP
	1	9/18/07	REVISED PER COUNTY COMMENTS	JSP
APPROVAL DATE	No.	DATE	REVISION / COMMENT / NOTE	BY



	-			
_				
3	3/17/08	REVISED PER COUNTY COMMENTS	MRA	JSP
2	2/01/08	REVISED PER COUNTY COMMENTS AND CITIZENS' INPUT	MRA	JSP
1	9/18/07	REVISED PER COUNTY COMMENTS	SJR	JSP
0.	DATE	REVISION / COMMENT / NOTE	REVISED BY	reviewed By

AREA	ACRES	% OF OVERALL PROPERTY
ΞA	16.5	100%
CTED		
GREATER,	0.4	2.4%
TO FLOODING	5.7	34.5%
E AREA	10.4	63.1%

DEVELOPABLE AREA		LAND USE)	
DESCRIBED AREA	ACRES	% OF NET DEVELOPABLE	% OF OVERALL PROPERTY
ROADS AND PARKING AREA (EXCLUSIVE OF LOTS)	0.9	8.7%	5.5%
AREA IN TOWNHOME LOTS	1.8	17.3%	10.9%
STORM WATER MANAGEMENT FACILITY	0.4	3.8%	2.4%
SUBTOTAL	3.1	29.8%	18.8%
DEVELOPABLE OPEN SPACE WITHIN REQUIRED PERIMETER BUFFERS	2.5	24.0%	15.2%
DEVELOPABLE OPEN SPACE NOT PART OF ANY REQUIRED YARD	2.6	25.0%	15.8%
DEVELOPABLE OPEN SPACE WITHIN 100' RPA BUFFER	2.2	21.2%	13.3%
NONDEVELOPABLE OPEN SPACE	6.1	N/A	13.3%
TOTAL OPEN SPACE	13.4	N/A	81.2%

۰.	• .	۰,	۲	WETLANDS	
				100-YEAR	FLOODPL

BUILDINGS	

AND RECREATION MA
REQUIR
0.22 AC
0.122 PLAY
0.094 MILES
0.047 CC
0.012 SOFTBA (420 S.F. ASSUMING 3







11/28/2017 - 1:42 PM

11/28/2017 - 4:27 PM

ITEM SUMMARY

DATE:	12/6/2017
TO:	The Planning Commission
FROM:	Paul D. Holt, III, Director of Community Development and Planning
SUBJECT:	Planning Director's Report - December 2017

ATTACHMENTS:

Publication Management

Planning Commission

		Description		Туре	
D		Memo		Cover M	lemo
D		Spreadsheet listing received	new applications	Exhibit	
REVIEWERS:					
Department	Reviewe	r	Action		Date
Planning Commission	Holt, Pa	al	Approved		11/28/2017 - 11:50 AM
Planning Commission	Holt, Pa	al	Approved		11/28/2017 - 11:50 AM

Burcham, Nan

Holt, Paul

Approved

Approved

PLANNING DIRECTOR'S REPORT December 2017

This report summarizes the status of selected Department of Community Development activities during the past month.

• Planning

- Monthly Case Report: For a list of all cases received in the last month, please see the attached documents.
- Board Action Results:
 - o November 14, 2017
 - SUP-0010-2017, The Kensington School Withdrawn by Applicant

• Building Safety & Permits

- BS&P subject matter experts are deeply involved in testing the new permitting and inspections software.
- Scott Shuler provided our inspectors detailed and comprehensive training on grinder pump installations. He reviewed the JCSA construction details and provided great insight into common installation errors.

Neighborhood Development

The Workforce Housing Task Force begins their work in January 2018 by analyzing current housing data, programs and policies. They will then make recommendations to the Board of Supervisors on strategies to address affordable and workforce housing challenges.

Workforce Housing Task Force meetings are open to the public and your expertise, input and support is needed.

Visit jamescitycountyva.gov/3504 for more information and to sign up for updates

- Zoning
 - Congratulations to Louis Pancotti on passing the Virginia Association of Zoning Officials examinations and earning the title of Certified Zoning Administrator!
 - Zoning staff has been working with Wetlands Watch to calculate existing open space within the special flood hazard areas designated by FEMA. This coordinated effort is anticipated to improve the County's classification with FEMA's Community Rating System which recognizes and encourages community floodplain management activities that exceed the minimum standards. Staff would like to recognize and thank Kim Hazelwood, IRM for her efforts in this project. Kim continues to provide exceptional service though her GIS knowledge and expertise and plays a vital role in this project.

	New Cases for December 2017								
Case Type	Case Number	Case Title	Address	Description	Planner	District			
	C-0079-2017	3150 Jolly Pond Road Minor Subdivision	3150 JOLLY POND ROAD	Subdivision potential for up 4 by-right residential lots.	Savannah Pietrowski	02-Powhatan			
				Conceptual plan for Improvements to the site, including repair of the existing house, conversion of garage into 1-					
	C-0080-2017	Jolly's Mill Pond	2756 JOLLY POND ROAD	bedroom unit, and addition of accessory structures and primitive cabins (no running water). Proposal includes a	Roberta Sulouff	02-Powhatan			
				commercial aspect for the potential short-term rental of the cabins.					
				Project is located in a special flood hazard area identified on the FEMA Flood Insurance Rate Map 51095C0113D					
Conceptual Plan	C-0081-2017	Floodplain Review - VDOT Project 0005-018-225145786/Route 5/Barrett's Ferry Slope Repair	N/A	effective on December 16, 2015. Project was reviewed to ensure compliance with the James City County Zoning	Christy Parrish	03-Berkeley			
				Ordnance Floodplain Overlay District.					
	C-0082-2017 I-64 Segment II, UPC 106665, Soundwall Plans Courtesy Review N/A		N/A	Soundwall plans in preparation for landscape plan submittal for I-64 Segment II project (to be submitted Dec. 2017).	Scott Whyte	N/A			
	C-0083-2017	Mini-Storage Facility, School House Lane/Rochambeau Drive	101 SCHOOL HOUSE LANE	Proposed multi-building mini-storage facility on the parcel housing Williamsburg Christian Academy.	Roberta Sulouff	01-Stonehouse			
	C-0084-2017	Central Park at Ford's Colony	4616 CENTERVILLE RD	Affordable housing units ranging from 800 to 1400 SF.	Jose Ribeiro	02-Powhatan			
Height Waiver	HW-0004-2017	7 Oakland Pointe 7581 RICHMOND ROAD Height waiver request for up to 40' above grade to accommodate proposed 3-story affordable apartment units.		Jose Ribeiro	01-Stonehouse				
	SUP-0012-2017	Wendy's - Toano	9131 BARHAMSVILLE RD	Construction of 3,324 SF Wendy's restaurant, which requires an SUP due to anticipated peak hour vehicle trips	Roberta Sulouff	01-Stonehouse			
Special Use Permit	SUP-0013-2017	Kensington School, 8340 Richmond Road	8340 RICHMOND ROAD	Alternative proposed location for second facility.	Scott Whyte	01-Stonehouse			
	SUP-0014-2017	Yard Works SUP Amendment	20 MARCLAY ROAD	SUP amendment to reflect current Yard Works operation.	Savannah Pietrowski	05-Roberts			
	SP-0111-2017	Woodland Farms Phase II Stream Restoration Project	4896 RIVERVIEW ROAD	Amend previously approved site plan for the remediation of BMP 1.3	Scott Whyte	01-Stonehouse			
	SP-0112-2017	Settlement at Powhatan Creek Phase 1, BMP 1.3 Remediation Plan	N/A	Restoration project to restore 2,385 linear feet of stream to create a channel with a stable pattern, profile, and dimensions, as well as stabilize active eroding banks and create aquatic habitat.	Savannah Pietrowski	03-Berkeley			
	SP-0113-2017	Warhill High School Band Director Stand Stairs	4615 OPPORTUNITY WAY	Addition of staircase to existing outdoor band director stand.	Jose Ribeiro	02-Powhatan			
Site Plan	SP-0114-2017	The Promenade at John Tyler SP Amend.	5304 JOHN TYLER HGWY	Amendments to the parking for Promenade.	Savannah Pietrowski	03-Berkeley			
	SP-0115-2017	4338 Centerville Sprint Antenna SP Amend	4338 CENTERVILLE RD	Remove 3 existing panel antennas and replace with 3 new tri-brand antennas. Add 3 hybriflex cables and 6 remote radio heads with 3 notch filters.	Alex Baruch	02-Powhatan			
	SP-0116-2017	Norge Food Lion Dumpster Enclosure	7537 RICHMOND ROAD	Addition of a dumpster enclosure adjacent to the loading dock.	Tom Leininger	01-Stonehouse			
	SP-0117-2017	O'Reilly Auto Parts Store	7512 RICHMOND ROAD	Site plan to construct an 7,453 SF O'Reilly Auto Parts Store.	Scott Whyte	01-Stonehouse			
Rezoning	Z-0003-2017	Oakland Pointe	7581 RICHMOND ROAD	Rezoning request from A-1 to R-5 for 126 affordable apartment units.	Jose Ribeiro	01-Stonehouse			
Rezoning	Z-0004-2017	Powhatan Terrace Proffer Amendment	1678 JAMESTOWN ROAD	Proffer amendment request to allow rental of units, in addition to sale.	Savannah Pietrowski	03-Berkeley			
Zonig Ordinance Amendments	ZO-0001-2017	Article VI, Division 3 – Floodplain Area Regulations	N/A	To incorporate construction regulations of small accessory structures in the special flood hazard area and other changes necessary to achieve compliance with the National Flood Insurance Program regulations	Christy Parrish	N/A			