

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
May 3, 2023
6:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. PUBLIC COMMENT

D. REPORTS OF THE COMMISSION

E. CONSENT AGENDA

1. Minutes of the April 5, 2023, Regular Meeting
2. Development Review Committee Action Item: C-23-0013. 3150 Jolly Pond Road Subdivision Shared Driveway Exception Request

F. PUBLIC HEARINGS

1. SUP-23-0003. 2884 Chickahominy Road Tourist Home
2. SUP-23-0009. 2868 Lake Powell Road Tourist Home
3. SUP-23-0010. 2884 Lake Powell Road Tourist Home

G. PLANNING COMMISSION CONSIDERATIONS

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - May 2023

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

J. ADJOURNMENT

ITEM SUMMARY

DATE: 5/3/2023
TO: The Planning Commission
FROM: Paul D. Holt, III, Secretary
SUBJECT: Minutes of the April 5, 2023, Regular Meeting

ATTACHMENTS:

	Description	Type
☐	Minutes of the April 5, 2023, Regular Meeting	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	4/24/2023 - 3:26 PM
Planning Commission	Holt, Paul	Approved	4/24/2023 - 3:26 PM
Publication Management	Pobiak, Amanda	Approved	4/24/2023 - 3:36 PM
Planning Commission	Holt, Paul	Approved	4/24/2023 - 4:00 PM

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, Va 23185
April 5, 2023
6:00 PM

A. CALL TO ORDER

Mr. Polster called the Meeting to order at 6 p.m.

B. ROLL CALL

Planning Commissioners Present:

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

Planning Commissioners Absent:

Rob Rose
Stephen Rodgers

Staff Present:

Paul Holt, Director of Community Development and Planning
Christy Parrish, Zoning Administrator
José Ribeiro, Senior Planner
John Risinger, Senior Planner
Suzanne Yeats, Planner
Ben Loppacker, Planner

C. PUBLIC COMMENT

Mr. Polster opened Public Comment.

Ms. Vivian Herbert, 141 Wareham's Point, addressed the Commission regarding development in Kingsmill.

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

D. REPORTS OF THE COMMISSION

Ms. Null stated that the Development Review Committee (DRC) met at approximately 4 p.m. on March 29, 2023, to consider two Subdivision Exception Requests.

Ms. Null stated that the Committee considered C-23-0019, a subdivision exception request for a parcel located at 3426 North Riverside Drive. Ms. Null stated that Section 19-17 of the James City County Subdivision Ordinance requires all lots to have an on-site sewage disposal system. Ms. Null further stated that this exception request would allow a three-lot subdivision that has all three septic systems located on one of the lots.

Ms. Null stated that the Committee and the applicant discussed the site layout, the characteristics of the property and the location of the septic tanks. Ms. Null stated that the Committee's concern resided in whether the parcel owners would properly take care of the

septic tanks and whether off-site septic systems could create conflicts between property owners. Ms. Null stated that the Committee also discussed the distance of the septic tank from the homes, how the type of soil located on some of the property would prevent the location of conventional septic systems, and whether there were other options that would allow the applicant to meet the requirements for the location of the septic systems within their own parcels, such as different lot configurations or the use of alternative septic systems.

Ms. Null stated that Mr. Polster made a motion to recommend approval of the exception with the condition that the Virginia Department of Health approve the septic system design. Ms. Null stated that the motion did not pass by a vote of 1-2-1.

Ms. Null stated that the Committee also discussed C-23-0013, a proposed shared driveway exception request for an approved five-lot subdivision at 3148, 3158, 3140, 3120, and 3154 Jolly Pond Road. Ms. Null stated that the proposal seeks to permit direct access to Jolly Pond Road through existing frontage by removing the existing shared 25-foot ingress/egress easement and any notes prohibiting access to Jolly Pond Road for each lot.

Ms. Null stated that the Committee and the applicant team discussed the site layout and traffic flow to the properties. Ms. Null stated that the Committee concluded there was not enough information to determine a vote. Ms. Null stated that Mr. Polster made a motion to defer the matter to April 19, 2023. Ms. Null stated that the Committee voted to defer the matter to its April 19, 2023, meeting with a vote of 4-0.

Mr. Haldeman stated that the Policy Committee met on March 9, 2023, to consider potential amendments to the Zoning Ordinance for the Use List in the R-4, Residential Planned Community, LB, Limited Business, B-1, General Business, M-1, Limited Business/Industrial, PUD, Planned Unit Development, MU, Mixed Use, and EO, Economic Opportunity Districts to require that Vape/ Smoke Shops and Vape/ Smoke Lounges obtain a Special Use Permit (SUP).

Mr. Haldeman stated that staff reviewed the location of schools within the specified Zoning Districts as well as related Ordinances from other localities.

Mr. Haldeman stated that staff presented changes to definitions that would exclude Vape/Smoke Shops and Vape/Smoke Lounges from the definition of retail shops and to include them as separate definitions.

Mr. Haldeman stated that the Policy Committee added hookah pipes and water pipes to the definition.

Mr. Haldeman stated that the Policy Committee unanimously found that the draft changes meet the letter and spirit of the Initiating Resolution and recommended that the Planning Commission recommend approval of the Ordinance amendments to the Board of Supervisors.

Mr. Haldeman stated that the Policy Committee further recommended adding a three-year renewal requirement to the SUP so that if an owner is convicted of a violation of state or federal law concerning sales of these products to minors the SUP will be revoked. Mr. Haldeman further stated that the Policy Committee recommended that the Director of Planning contact officials in York County to express concerns about the availability of smoke/vape products and cannabis close to Williamsburg-James City County Schools.

E. CONSENT AGENDA

1. Minutes of the March 1, 2023, Regular Meeting

Mr. Haldeman made a motion to approve the Minutes.

On a voice vote, the Commission voted to approve the Minutes of the March 1, 2023, Regular Meeting. (4-0-1, with Mr. Krapf abstaining)

2. Minutes of the March 20, 2023, Meeting

Mr. Haldeman made a motion to approve the Minutes.

On a voice vote, the Commission voted to approve the Minutes of the March 20, 2023, Meeting. (5-0)

3. Development Review Committee Action Item: C-23-0019. 3426 N. Riverside Drive Subdivision Exception Request

A motion to Deny was made by Jack Haldeman, the motion result was Passed.

AYES: 3 NAYS: 2 ABSTAIN: 0 ABSENT: 2

Ayes: Haldeman, Krapf, Null

Nays: O'Connor, Polster

Absent: Rodgers, Rose

Mr. Haldeman requested to discuss C-23-0019. 3426 N. Riverside Drive Subdivision Exception Request.

Mr. Haldeman inquired about the recommendation to deny the request.

Mr. Thomas Wysong, Senior Planner, stated that whenever there is a Subdivision Exception Request, staff reviews the application against criteria established in the Subdivision Ordinance which include: strict adherence to the Ordinance will cause substantial injustice or hardship, and the facts upon which the request is based are unique to the property among others. Mr. Wysong further stated that if the request does not meet the criteria, staff will recommend denial.

Mr. O'Connor inquired if a family subdivision must remain in the family or if a lot can be deeded or sold to someone outside the family.

Mr. Holt stated that under the Family Subdivision regulations, the property must stay in the family for three years from the date of approval; after three years a parcel may be sold to someone outside the family.

Mr. Krapf inquired if the property owners have considered alternate options which would allow the septic system to be contained on each individual parcel.

Mr. Wysong stated that he would defer to the applicant.

Mr. Chase Grogg, Landtech Resources, Inc. 205 Bulifants Boulevard, stated that the lots could handle an on-site alternative system and that the intent of the project is not cost savings, but rather to make use of where the soil on the third lot is appropriate for a traditional system. Mr. Grogg further stated that a permanent easement would be placed over the lot to ensure future use of the septic system for the other two lots.

Mr. O'Connor inquired if there were three separate septic fields and three separate back up septic fields and who would ultimately be responsible if the septic systems failed.

Mr. Grogg stated that there would be three separate primary drainfields and three reserve drainfields. Mr. Grogg further noted that the County does track maintenance on the septic systems and can take action if they are not maintained.

Mr. O'Connor inquired how conflict over access to the septic systems would be mitigated.

Mr. Grogg stated that there is a legal ingress/egress easement that allows access to the parcel in perpetuity. Mr. Grogg further stated that the easements for the septic system would be done in the same manner and would cover not only the drainfields but also the pump and force main.

Mr. O'Connor stated that his concern is whether there is a requirement incorporated in the documentation for the property owners to maintain the septic system so that the owner of the parcel that the septic system is on is not responsible for maintenance of all the septic systems.

Mr. Grogg stated that the document has not yet been created, so the language to require each property owner to maintain the drain field serving that property. Mr. Grogg further stated that it is in the interest of each property owner to ensure that the drain field is maintained.

Mr. O'Connor stated that he would want to see a document that outlines the responsibilities of each property owner regarding the maintenance of the septic system.

Mr. Grogg stated that those requirements could be incorporated.

Mr. Haldeman inquired if the feed for the two parcels to the drainfield crosses wetlands.

Mr. Grogg confirmed. Mr. Grogg stated that the wetlands were not within a Resource Protection Area (RPA). Mr. Grogg noted that the lines would run under existing disturbed area so there would not be additional impact to the wetlands.

Mr. Polster stated that the individual property owners would be responsible for maintenance of the septic system for their property. Mr. Polster stated that since the County now has a mechanism to track maintenance of septic systems and has options to enforce the maintenance requirements.

Ms. Null stated that she was concerned about the limitations on the use of the property that would contain the drainage systems.

Mr. Grogg noted that the area for the drainfields is small and there is still a substantial amount of room on the lot for most residential uses.

Ms. Null noted that there are options for each parcel to have an alternative system.

Mr. Grogg stated that while each property could have an alternative system, the preference is to have a traditional system which uses better soil.

Mr. Haldeman made a motion to deny the exception.

On a roll call vote, the Commission voted to deny Development Review Committee Action Item: C-23-0019. 3426 N. Riverside Drive Subdivision Exception Request. (3-2)

F. PUBLIC HEARINGS

1. SUP-23-0004. Chickahominy Riverfront Park Master Plan Amendment

A motion to Approve was made by Tim O'Connor, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

A motion to Approve w/ Conditions was made by Rich Krapf, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

Ms. Suzanne Yeats, Planner, stated that Mr. Alister Perkinson, Parks Administrator, James City County Parks & Recreation, has submitted a request to amend SUP-0014-2009 to formally update the adopted Master Plan for Chickahominy Riverfront Park Board dated September 2020. Ms. Yeats stated that furthermore, this SUP application includes an updated Master Plan for Chickahominy Riverfront Park, dated January 2023.

Ms. Yeats stated that the subject property is located at 1350 John Tyler Highway, zoned Public Lands, designated as Community Character Conservation, Open Space, or Recreation on the 2045 Comprehensive Plan, and located outside the Primary Service Area (PSA).

Ms. Yeats stated that by formally amending this SUP and adopting the revised Master Plan, staff finds the proposed conditions will mitigate impacts to surrounding properties and development. Ms. Yeats stated that staff finds that this proposal is compatible with surrounding zoning and development and is generally consistent with the 2045 Comprehensive Plan and Zoning Ordinance. Ms. Yeats stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Mr. Haldeman inquired if there would be a facility for launching kayaks.

Ms. Yeats stated that there would be two.

Mr. Haldeman inquired about the parcel set aside for a water treatment facility.

Mr. John Carnifax, Director of Parks & Recreation, stated that there are no immediate plans for the County to provide water; however, the site has been identified to comply with the Department of Environmental Quality requirements in the event it is needed in the future.

Mr. Polster opened the Public Hearing.

Mr. Chris Henderson, 101 Keystone, addressed the Commission with suggestions on the application.

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

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

Ms. Null inquired about the camping spaces being removed.

Mr. Carnifax stated that no campsites are being removed; however, some have been relocated to other areas in the park. Mr. Carnifax stated that some campsites will be improved and become glamping sites. Mr. Carnifax further stated, in response to the public comments, that consideration has been given to adding dry stack storage; however, finding a location within the park where the visual impacts can be mitigated has been an issue.

Mr. Haldeman inquired about the surface for the proposed parking area.

Mr. Carnifax stated that it would be a gravel surface.

Mr. Polster noted that during the Capital Improvements Program review, the Policy Committee recommended that projects should be combined where feasible to achieve cost savings. Mr. Polster further noted that during the DRC review, it was recommended that the bike trail be rerouted where it comes off the Judith Stewart Dresser Memorial Bridge to go into the park and come out at the park exit to improve safety.

Mr. Krapf made a motion to recommend approval of the application with the proposed conditions.

Mr. Holt noted that the Commission would need to make a finding regarding Comprehensive Plan consistency in each of the Park SUP cases.

Mr. O'Connor made a motion to find the facilities consistent with the Comprehensive Plan.

On a roll call vote, the Commission voted to find the public facilities consistent with the Comprehensive Plan. (5-0)

On a roll call vote, the Commission voted to recommend approval of SUP-23-0004. Chickahominy Riverfront Park Master Plan Amendment. (5-0)

2. SUP-23-0005. Jamestown Beach Event Park Master Plan Amendment

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

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

A motion to Approve was made by Rich Krapf, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

Mr. Ben Loppacker, Planner, stated that Mr. Alister Perkinson, Parks Administrator, James City County Parks & Recreation, has submitted a request to amend SUP-0010-2015 to formally update the Jamestown Beach Event Park's Board adopted Master Plan, dated September 2020.

Mr. Loppacker stated that the subject property is located at 2205 Jamestown Road, zoned PL, Public Lands, classified as Community Character Conservation, Open Space, or Recreation on the 2045 Comprehensive Plan, and located inside the PSA.

Mr. Loppacker stated that by formally amending the SUP and adopting the revised Master Plan, staff finds the proposed conditions will mitigate impacts to surrounding properties and development. Mr. Loppacker further stated that staff finds that this proposal is compatible with surrounding zoning and development and is generally consistent with the 2045 Comprehensive Plan and Zoning Ordinance. Mr. Loppacker stated that to date, there have been no citizen comments regarding this case. Mr. Loppacker stated that taking all factors favorable into account, staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Mr. Polster opened the Public Hearing.

Mr. Chris Henderson, 101 Keystone, addressed the Commission with suggestions on the application.

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

Mr. Krapf made a motion to find the facilities consistent with the Comprehensive Plan.

On a roll call vote, the Commission voted to find the public facilities consistent with the Comprehensive Plan. (5-0)

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

On a roll call vote, the Commission voted to recommend approval SUP-23-0005. Jamestown Beach Event Park Master Plan Amendment. (5-0)

3. SUP-23-0006. Upper County Park Master Plan Amendment

Absent: Rodgers, Rose

A motion to Approve w/ Conditions was made by Rich Krapf, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

Mr. Ben Loppacker, Planner, stated that Mr. Alister Perkinson, Parks Administrator, James City County Parks and Recreation, has submitted a request to amend SUP-0029-1994 to formally update the adopted Master Plan for Upper County Park.

Mr. Loppacker stated that the subject property is located at 180 Leisure Road, zoned PL, Public Lands, classified as Community Character Conservation, Open Space, or Recreation on the 2045 Comprehensive Plan, and located outside the PSA.

Mr. Loppacker stated that in formally amending this SUP and adopting a revised Master Plan, staff finds the proposed conditions will mitigate impacts to surrounding properties and development. Mr. Loppacker further stated that staff finds that this proposal is compatible with surrounding zoning and development and is generally consistent with the 2045 Comprehensive Plan and Zoning Ordinance. Mr. Loppacker stated that to date, there have been no citizen comments regarding this case. Mr. Loppacker stated that taking all factors favorable into account, staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Mr. Polster opened the Public Hearing.

Mr. Chris Henderson, 101 Keystone, addressed the Commission with suggestions on the application.

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

Mr. Haldeman made a motion to find the facilities consistent with the Comprehensive Plan.

On a roll call vote, the Commission voted to the public facilities consistent with the Comprehensive Plan. (5-0)

Mr. Krapf made a motion to recommend approval of the application with the proposed conditions.

On a roll call vote, the Commission voted to recommend approval of SUP-23-0006. Upper County Park Master Plan Amendment. (5-0)

4. SUP-23-0007. Warhill Sports Complex Master Plan Amendment

A motion to Approve was made by Rich Krapf, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

A motion to Approve w/ Conditions was made by Rich Krapf, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

Ms. Suzanne Yeats, Planner, stated that Mr. Alister Perkinson, James City County Parks & Recreation, has submitted a request to amend SUP-0014-2016, and MP-0002-2016, for the Warhill Sports Complex to formally adopt the Warhill Sports Complex Master Plan, dated September 2021, which was previously approved by the Board of Supervisors at its meeting on January 25, 2022.

Ms. Yeats stated that the subject properties are located at 4900 Stadium Trail, 5700 Warhill Trail, and 5720 Warhill Trail, zoned PL, Public Lands, classified as Community Character Conservation, Open Space, or Recreation on the 2045 Comprehensive Plan, and located inside the PSA.

Ms. Yeats stated that staff finds the proposed conditions will mitigate impacts to surrounding properties and development. Ms. Yeats further stated that staff finds that this proposal is compatible with surrounding zoning and development and is generally consistent with the 2045 Comprehensive Plan and Zoning Ordinance. Ms. Yeats stated that to date, the feedback received from citizens included one phone call, one drop in, and two emails seeking clarification of the proposed changes. Ms. Yeats stated that taking all factors favorable into account, staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions.

Mr. Polster opened the Public Hearing.

Mr. Chris Henderson, 101 Keystone, addressed the Commission with suggestions on the application.

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

Mr. Krapf made a motion to find the facilities consistent with the Comprehensive Plan.

On a roll call vote, the Commission voted to find the public facilities consistent with the Comprehensive Plan. (5-0)

Mr. Krapf made a motion to recommend approval of the application with the proposed conditions.

On a roll call vote, the Commission voted to recommend approval SUP-23-0007. Warhill Sports Complex Master Plan Amendment. (5-0)

5. ORD-22-0004. Amendments to the Zoning Ordinance Regarding Community Recreation Facilities in Residential Districts

A motion to Deny was made by Jack Haldeman, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

Mr. José Ribeiro, Senior Planner, stated that at its meeting on April 12, 2022, the Board of Supervisors adopted an Initiating Resolution to consider amendments to the James City County Zoning Ordinance regarding community recreation facilities. Mr. Ribeiro stated that currently, the County's Zoning Ordinance defines recreation facilities and further classifies them as being either "commercial" or "community."

Mr. Ribeiro stated that staff understands that at least one neighborhood's community recreation facility is being used by group and team sports not affiliated with the neighborhood. Mr. Ribeiro further stated that such additional group and team sport use does bring with it the potential for impacts such as increased vehicular traffic, noise, lighting, and a duration of use not commonly found with typical neighborhood facilities.

Mr. Ribeiro stated that the purpose of this Ordinance amendment would be to classify community recreation facilities with recurring use by outside entities as a specially permitted use, allowing public input, analysis, and mitigation of impacts, as determined.

Mr. Ribeiro stated that at its meeting on December 8, 2022, the Policy Committee discussed the proposed amendment and requested address several questions including how widespread the problem is, how many complaints have been received, and if homeowners associations (HOA) are handling these issues.

Mr. Ribeiro stated that at its meeting on February 9, 2023, the Policy Committee reviewed and discussed the information provided by staff and found that, overall, the issue was a very infrequent problem and would require substantial staff oversight; and that there are perhaps easier ways to handle issues involving community recreation facilities. Mr. Ribeiro stated that the Policy Committee recommended by a vote of 4-0 that the Planning Commission not recommend adoption of this Ordinance amendment unless the problem becomes more frequent.

Mr. Polster opened the Public Hearing.

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

Mr. Haldeman stated that the Policy Committee was not eager to create yet another Ordinance to be enforced. Mr. Haldeman stated that many of the concerns can be addressed through existing Ordinances for noise, parking, etc.

Mr. O'Connor noted that there was only one complaint submitted and that this would be a wide sweeping measure to address a small issue. Mr. O'Connor stated that requiring an SUP for public use of community recreation facilities would be a bit of an overreach into the operations of an HOA.

Mr. Haldeman noted that existing facilities would be able to continue as nonconforming uses and, therefore, an Ordinance amendment would not address concerns related to these facilities.

Mr. Haldeman made a motion to not recommend approval of the Ordinance amendment.

On a roll call vote, the Commission voted to not recommend approval of ORD-22-0004. Amendments to the Zoning Ordinance Regarding Community Recreation Facilities in Residential Districts. (5-0)

6. ORD-23-0001. Amendments to the Zoning Ordinance Regarding Vape and Smoke Shops

A motion to Approve was made by Rich Krapf, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 2

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

Absent: Rodgers, Rose

Ms. Christy Parrish, Zoning Administrator, stated that on January 24, 2023, the Board of Supervisors adopted an Initiating Resolution to consider possible amendments to the James City County Zoning Ordinance to require vape and smoke shops to obtain an SUP.

Ms. Parrish stated that staff has received numerous calls from citizens regarding vape and smoke shops in the County. Ms. Parrish stated that, specifically, citizens have voiced concerns over the location of these shops in close proximity to schools and the Toano Commercial Historic District. Ms. Parrish further stated that staff has received complaints of noncompliant

lights on the exterior of windows or buildings and of individuals smoking outside the retail store near other places of business. Ms. Parrish noted that staff is aware of nine existing retail shops in the County.

Ms. Parrish stated that staff understands that the purpose of the Initiating Resolution and this Ordinance amendment is to define and classify vape and smoke shops as a standalone specially permitted use and ensure all associated or accessory uses are addressed.

Ms. Parrish stated that uses listed in each Zoning District are either permitted by-right or permitted by an SUP. Ms. Parrish stated that the current Ordinance generally permits vape and smoke shops under the retail and service stores use category which includes tobacco and pipes stores.

Ms. Parrish stated that retail sales of tobacco and pipes are permitted by-right in the R-4, Residential Planned Community, LB, Limited Business, B-1, General Business, M-1, Limited Business/Industrial, PUD, Planned Unit Development, MU, Mixed Use, and EO, Economic Opportunity Districts.

Ms. Parrish stated that should the Ordinance be amended to specially permit vape and smoke shops, the existing stores will become nonconforming. Ms. Parrish further stated that Section 24-629 of the Zoning Ordinance states that “a nonconforming use may continue as it existed when it became nonconforming provided however, if any nonconforming use is discontinued for a period of two years, it shall lose its nonconforming status....”

Ms. Parrish stated that the City of Williamsburg amended its Zoning Ordinance in January 2023 to require vape and smoke shops obtain an SUP in various commercial districts. Ms. Parrish stated that staff surveyed several other localities and found that most permit vape and smoke shops as a general retail use.

Ms. Parrish stated that staff presented materials at the March 9, 2023, meeting of the Policy Committee and recommended the following changes to the Ordinance to address this directive:

- Add new definitions for vape/smoke shops and vape/smoke lounges within Section 24-2, Definitions.
- Amend the existing “retail stores and shop” definition to exclude vape/smoke shops and vape/smoke lounges within Section 24-2, Definitions.
- Remove “tobacco and pipe” from the retail and service stores use category in the R-4, LB, B-1, M-1, PUD, MU, and EO Districts.
- Add vape/smoke shop and vape/smoke lounge as a specially permitted use in the R-4, LB, B-1, M-1, PUD, MU, and EO Districts.

Ms. Parrish stated that the Policy Committee voted to recommend approval of the proposed changes to the Planning Commission with a few minor additions. Ms. Parrish further stated that the Policy Committee also discussed that they would favor including a compliance review condition to any future SUP requests similar to short-term rentals to address any noncompliant activity.

Ms. Parrish stated that staff recommends that the Planning Commission recommend approval of the Ordinance to the Board of Supervisors.

Mr. Polster inquired about language for SUP conditions.

Ms. Parrish stated that the SUP conditions would be drafted for each SUP application.

Mr. Polster opened the Public Hearing.

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

Mr. Krapf made a motion to recommend approval of the Ordinance amendment.

On a roll call vote, the Commission voted to recommend approval of ORD-23-0001. Amendments to the Zoning Ordinance Regarding Vape and Smoke Shops. (5-0)

7. ORD-22-0003. Amendments for Calculation of Residential Development Density

A motion to Approve w/ Conditions was made by Jack Haldeman, the motion result was Failed.

AYES: 2 NAYS: 3 ABSTAIN: 0 ABSENT: 2

Ayes: Haldeman, Polster

Nays: Krapf, Null, O'Connor

Absent: Rodgers, Rose

A motion to Deny was made by Tim O'Connor, the motion result was Passed.

AYES: 3 NAYS: 2 ABSTAIN: 0 ABSENT: 2

Ayes: Krapf, Null, O'Connor

Nays: Haldeman, Polster

Absent: Rodgers, Rose

Mr. John Risinger, Senior Planner, stated that at the March 8, 2022, Board of Supervisors meeting, a request was made to consider amending how residential density is calculated with a direction to explore using a net acreage calculation. Mr. Risinger stated that the Initiating Resolution was adopted by the Board of Supervisors at its April 12, 2022, meeting. Mr. Risinger further stated that at its January 24, 2023, Business Meeting, the Board of Supervisors provided further guidance that the intent of the Initiating Resolution is to avoid pockets of high-density residential development and to reduce impacts to the environment. Mr. Risinger stated that the Policy Committee considered this ordinance amendment at its January 12, 2023, and February 23, 2023, meetings.

Mr. Risinger stated that currently, the EO, Economic Opportunity District utilizes a net acreage approach while the R-1, Limited Residential, R-2, General Residential, R-3, Residential Redevelopment, R-4, Residential Planned Community, R-5, Multifamily Residential, PUD, Planned Unit Development, and MU, Mixed Use Districts along with the Residential Cluster Development Overlay District utilize a stepped approach to calculate density. Mr. Mr. Risinger stated that the stepped approach allows properties with lower percentages of non-developable areas to calculate density using the total area of the parcel while properties with higher percentages of non-developable areas calculate density with the developable area plus a certain percentage of the total parcel area. Mr. Risinger stated that the Zoning Ordinance currently defines developable areas as being the total area of the parcel minus the non-developable areas which are defined as areas in the RPA, areas within floodplains designated as having a 1% annual chance storm event and areas with steep slopes. Mr. Risinger stated that the A-1, General Agricultural, R-6, Low-Density Residential and R-8, Rural Residential Districts do not currently have density requirements except for cluster subdivisions in the A-1 District.

Mr. Risinger stated that policy guidance from the Comprehensive Plan includes the recommended density ranges for the land use designations, recognizing that residential growth should be directed to occur inside the PSA where it results in more efficiency for public services, goals for providing opportunities for affordable housing, and having a consistent character and compatibility between adjacent developments. Mr. Risinger stated that the net density approach could potentially reduce the residential capacity in the PSA, reducing the efficiency of public services, increase growth pressure on areas outside the PSA, and reduce opportunities for affordable housing. Mr. Risinger stated that the net density approach could; however, result in adjacent developments having a consistent intensity of development if they are in the same Zoning District.

Mr. Risinger stated that to meet the direction of the Initiating Resolution, staff has prepared draft Ordinance language which would implement a net acreage approach in all of the Zoning Districts referenced. Mr. Risinger further stated that the draft Ordinance language adds a definition for “net density” to Section 24-2 to state that “net density is calculated by dividing the number of dwelling units by the developable area of the parcel.” Mr. Risinger stated that the draft language includes revisions to each Zoning District to reference the definition of net density as necessary and remove sections and language pertaining to the current density calculation methods.

Mr. Risinger stated that the A-1 and R-8 Districts have historically controlled development intensity with the minimum lot sizes established for the districts. Mr. Risinger stated that the draft Ordinance language includes adding new sections which would apply net density for major subdivisions as well as updating the A-1 cluster configuration subdivision section to specify net density. Mr. Risinger stated that the Rural Lands designation in the Comprehensive Plan recommends a density of one unit per 20 acres but does not specify that it should be based on net acreage. Mr. Risinger stated that previous Ordinance revisions made the minimum lot sizes in these Zoning Districts consistent with the Rural Lands designation in the Comprehensive Plan and implementing a density section could result in lot sizes that are considerably larger than 20 acres. Mr. Risinger stated that staff finds that the minimum lot size provisions currently in place adequately ensures that the character of residential development in the A-1 and R-8 Zoning Districts is compatible with the Rural Lands designation and does not recommend revising these Zoning Districts to implement the net density calculation.

Mr. Risinger stated that the R-6 Zoning District also does not currently have a density requirement and instead requires lots to be a minimum of one acre in size. Mr. Risinger stated that the draft language includes adding a new section to this Zoning District which applies a net density calculation for major subdivisions. Mr. Risinger stated that all land zoned R-6 is part of existing platted subdivisions which are mostly built out and the Zoning District is not envisioned for future development and instead remains in place to govern the existing subdivisions. Mr. Risinger stated that staff finds that no substantial benefit would be received from implementing net density in this district and does not recommend revising it.

Mr. Risinger stated that the R-1, R-2, R-3, R-4, R-5, and PUD Zoning Districts along with the Residential Cluster Development Overlay District districts currently utilize the stepped approach for calculating density. Mr. Risinger stated that to implement net density, the draft Ordinance includes deleting language pertaining to the stepped approach and referencing net density within the use lists and density sections where necessary in each of the districts. Mr. Risinger further stated that the Low-Density Residential (LDR) and Moderate-Density Residential (MDR) Comprehensive Plan designations have recommended densities based on gross acreage meaning that a gross acreage calculation would be most consistent with the designations. Mr. Risinger stated that a net density approach would likely result in adjacent developments having a more even intensity of development. Staff finds that the current stepped approach serves as a compromise between these considerations.

Mr. Risinger stated that the MU District currently utilizes the stepped approach. Mr. Risinger further stated that the draft Ordinance deletes the language pertaining to the stepped approach and references the net density definition. Mr. Risinger stated that the EO District currently utilizes net density; however, updating the district to reference the proposed net density definition would make it more consistent with the other districts should they be revised to use net density. Mr. Risinger stated that the Mixed Use (MU) and Economic Opportunity (EO) - Mooretown Road/Hill Pleasant Farm Area Comprehensive Plan designations have recommended densities based on net acreage. Mr. Risinger stated that staff finds that using net density in the MU and EO districts would be consistent with the Comprehensive Plan and recommends revising these districts.

Mr. Risinger stated that at its February 23, 2023, meeting, the Policy Committee recommended approval of the draft language for the R-1, R-2, R-3, R-4, R-5, PUD, MU, and EO Districts. Mr. Risinger stated that the Policy Committee did not recommend approval of the draft language for the A-1, R-8, and R-6 Districts.

Mr. Risinger stated that should the Planning Commission recommend utilizing the net density approach for one or more of the districts discussed, draft ordinance language has been provided for consideration.

Mr. Krapf requested that staff provide a brief summary of the stepped approach to calculating density.

Mr. Risinger stated that the stepped approach is based on a table, where if a parcel has between 0 and 20% undevelopable acreage, the entire lot acreage can be used to calculate density. Mr. Risinger further stated that if the parcel has above 20% undevelopable area, the stepped approach allows a certain percentage of that undevelopable area to be counted toward the developable area.

Mr. Krapf inquired if the stepped approach gives the developer more area to count toward the density calculations.

Mr. Risinger confirmed.

Mr. Krapf inquired if most residential districts used the stepped approach.

Mr. Risinger confirmed.

Mr. Krapf inquired whether the net density approach could have unintended consequences such as discouraging applications for conservation easements.

Mr. Holt stated that this is a more complicated question with a number of factors that go into making that calculation. Mr. Holt further stated that this is not a calculation that County staff is involved in. Mr. Holt stated that the calculation starts with independent appraisers and works its way through a number of other professions. Mr. Holt stated that some of the factors considered are whether the development is by-right or requires legislative approval. Mr. Holt stated that if the highest and best use can only be granted through legislative approval, the appraiser does not assume that the legislative approval will be given and therefore, they do not factor that use into the valuation. Mr. Holt stated that because of the intricacies in such calculations, Planning staff would not necessarily be comfortable in giving a definitive answer.

Mr. Krapf stated that it appears that lower density might affect the value of a conservation easement; however, the effect is not fully known until such a time as a conservation easement is proposed.

Mr. Holt noted that the valuation would also depend on the type of easement, the quality of the easement, and the value of the easement to the recipient.

Mr. O'Connor noted that if parcel was less developable, with fewer lots created, then the value of the lots that cannot be developed is lost.

Mr. Holt stated that development potential is certainly a factor; however, there is a value to the resources that are being preserved such as environmentally sensitive areas, natural heritage, or archeologically significant locations.

Mr. Polster opened the Public Hearing.

Ms. Kimberly Magee, 248 William Barksdale, addressed the Commission regarding the Ordinance amendment and was generally supportive of lower density.

Ms. Juanita Crawford addressed the Commission regarding the Ordinance amendment with questions regarding the impact of the Ordinance amendment.

Mr. Chris Henderson, 101 Keystone, addressed the Commission with concerns about the unintended impacts of the Ordinance amendment.

Mr. Jay Everson, 6923 Chancery Lane, addressed the Commission regarding the Ordinance amendment.

Mr. Hunter Taylor, 999 Jolly Pond Road, addressed the Commission regarding potential impacts of the Ordinance amendment.

Ms. Vivian Herbert, 141 Wareham's Point, addressed the Commission regarding the Ordinance amendment.

Mr. Stephen Zabinski, 5133 Ginger Court, addressed the Commission regarding the Ordinance amendment.

Mr. Gary Moore, 158 Forest Heights Road, addressed the Commission with concerns over the impacts of the Ordinance amendment.

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

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

Mr. Krapf stated that two of the important elements in the 2045 Comprehensive Plan are restricting growth in Rural Lands and driving growth to be within the PSA where utilities and infrastructure are in place, where infill development is needed, and where existing vacant structures could be creatively repurposed for workforce housing. Mr. Krapf stated that by increasing the minimum lot size in the A-1 and the R-8 Zoning Districts, the density has effectively been reduced along with the growth pressure on Rural Lands. Mr. Krapf further stated that by shifting to net density in the residentially zoned districts, it could have the unintended consequence of putting demand back on Rural Lands. Mr. Krapf further stated that he believes that the County needs to consider reinstating the Housing Opportunities Policy to encourage workforce housing. Mr. Krapf stated that the County has not put all the tools in place to address critical issues. Mr. Krapf stated that he believes that using stepped density in residential areas is a good compromise between using gross density and net density. Mr. Krapf further stated that driving all the density calculations to net density would be a disservice to landowners and people in need of workforce housing. Mr. Krapf stated that he is not inclined to support the Ordinance amendment.

Mr. Haldeman stated that he does intend to support the Ordinance amendment. Mr. Haldeman stated that the purpose of the Ordinance amendment is to reduce the amount of credit a property owner receives for the non-developable portion of a parcel. Mr. Haldeman stated that this would essentially reduce the number of homes that could be built. Mr. Haldeman stated that he does understand that this will drive up the housing costs and reduce affordable housing; however, that could be mitigated by reinstating the Housing Opportunities Policy and instituting density bonus points. Mr. Haldeman stated that density bonus points are already included in the Comprehensive Plan and the Zoning Ordinance for developments that incorporate affordable housing. Mr. Haldeman stated the factors that lead him to support the Ordinance amendments include protecting the community character, protecting the natural environment, and protecting the County's rural character. Mr. Haldeman stated that citizen feedback during the Comprehensive Plan update indicate that there is too much residential development. Mr. Haldeman stated that this Ordinance amendment would address those concerns as well as reduce the demands on infrastructure, water supply, schools, roadways, and public services. Mr. Haldeman noted that the cost of public services for residential development is greater than the tax revenue received. Mr. Haldeman stated that he believes the Ordinance amendment to be crucial to preserving the character and natural resources of the County.

Mr. O'Connor stated that he does not support this Ordinance amendment. Mr. O'Connor further stated that he did not support the change in lot size in rural lands. Mr. O'Connor stated that he does recognize the importance of preserving environmentally sensitive areas. Mr. O'Connor further stated that a large percentage of citizen feedback during the Comprehensive Plan update ranked providing affordable housing for the County's workforce as very important. Mr. O'Connor noted that as part of the quality of life, citizens indicated that many of the requested improvements included pedestrian and bicycle accommodations, internet service, library improvements, and public water. Mr. O'Connor stated that some of the policy guidance in the Comprehensive Plan includes providing a more compact development pattern that can support multimodal transportation options and provide more transportation options; foster more housing choices, and increase affordability for the County's workforce, seniors, and those suffering from homelessness; increase accessibility to education and job training services; foster the development of complete communities by locating new housing near transit services, shopping areas and community facilities; provide more housing options for the local workforce and individuals entering new lifestyle periods; create complete communities with walkable environments and a mix of residential and commercial uses that 21st century businesses and employees desire; include new retail and office space as part of mixed use communities rather than as stand-alone business centers; reduce commuting times by locating by locating homes, businesses, and supportive uses in closer proximity within the PSA; encourage local job development to create higher paying jobs in the County; create a better jobs to housing balance and reduce the need for cross commuting to job locations in the County or in other localities, and reduce in coming commuting for workers who cannot afford to live in the County. Mr. O'Connor stated that there is much in the Comprehensive Plan that is not supported by reducing density inside the PSA. Mr. O'Connor stated that if the concern is reducing development in rural lands there are already tools to prevent that. Mr. O'Connor noted that development that is done smartly is not necessarily detrimental. Mr. O'Connor stated that absent a Housing Opportunities Policy and a Clustering Ordinance, reducing density will not allow for the crucial workforce housing.

Mr. Polster stated that the recently adopted Comprehensive Plan focused on what the County would look like in 2045. Mr. Polster stated that the issue of growth came up. Mr. Polster stated that the current population in the County is around 79,000. Mr. Polster stated that the projection for 2045 put the population at 120,000. Mr. Polster stated that the projection was based on the current zoning. Mr. Polster stated that in setting Goals, Strategies, And Actions, the Commission was careful to limit growth in Rural Lands and encourage growth inside the PSA where services are already available. Mr. Polster stated that based on available land, the Upper County is where all the growth would have taken place; however, the infrastructure is not in place to handle the traffic impacts, the demand for public utilities, and the need for public services. Mr. Polster stated that one of the things the Commission grappled with was what the density should be for the Upper County. Mr. Polster stated that there was some interest in placing Mixed Use in the Upper County which would be high density. Mr. Polster stated that ultimately the Commission settled on limited residential development which means one house per acre. Mr. Polster further stated that there is nothing to stop a landowner to seek a rezoning. Mr. Polster stated that at gross density, that would mean that on a 220-acre parcel, around 220 homes could be built. Mr. Polster further stated that if the parcel were rezoned to MU, and credit were given for the non-developable area, 549 lots could be created. Mr. Polster stated that this is a far cry from what the Commission intended to limit where growth takes place. Mr. Polster stated that the growth has historically been an issue in the County over the last 20 or 30 years. Mr. Polster stated that in those years the County has allowed development within the RPA if it was platted by 2012. Mr. Polster further stated that over the last several years, the Chesapeake Bay Board has approved around 30 parcels for development that are 100% in the RPA. Mr. Polster stated that this is an environmental issue. Mr. Polster further stated that most of the County's watersheds are critically endangered, particularly those like the Powhatan Creek watershed which is located in the heart of the PSA. Mr. Polster stated that credits should not be given for steep slopes and RPA and development should be calculated with net density. Mr. Polster stated that a reason that the County does not have an affordable housing policy is because the development community was able to have legislation passed that did not allow localities to require proffers and therefore the County cannot require affordable housing when considering a legislative case for development. Mr. Polster stated that, however, the Ordinance for each residential district provides that developers can voluntarily offer benefits to the County such as affordable housing or enhanced buffering for greenspace and receive a density bonus. Mr. Polster stated that the impacts on a property owner are based on the amount of the property that is not considered developable. Mr. Polster noted that, absent an affordable housing policy, this is the best hope to provide incentives for a developer to give back a bit to the County. Mr. Polster stated that he intends to support the Ordinance amendment.

Mr. O'Connor noted that the current owners of larger parcels are the ones who have been good stewards of their property and are now bearing the brunt of the decisions made by previous Planning Commissions and Boards of Supervisors. Mr. O'Connor stated that if the developable acreage is reduced, the County most likely cannot provide enough incentives to create affordable housing. Mr. O'Connor noted that the cost of building materials continues to rise and already limits the potential for affordable housing.

Mr. Polster stated that he believes there are other opportunities to achieve affordable housing, including partnerships with state and federal government. Mr. Polster noted that there are currently one or two such projects underway in the County.

Mr. Krapf stated that the stepped approach does provide a reasonable compromise between gross and net density. Mr. Krapf expressed appreciation to the citizens who attended and participated in the meeting. Mr. Krapf further encouraged citizens to participate in the various public hearings and provide feedback on projects and legislation that affect the future of the County.

Mr. Haldeman offered a summary of the recommendations of the Policy Committee.

- Density in the A-1 and R-8 Zoning Districts relies on lot size to determine density, and the Policy Committee recommended that no change be made to this method.
- The R-6 Zoning District also relies on lot size, to determine density, and the Policy Committee recommended that no change be made to this method.
- The R-1, R-2, R-3, R-4, R-5, PUD, and Residential Cluster Development Overlay Zoning Districts all currently use the stepped approach, and the Policy Committee recommended that these districts use the net density approach to calculate density.
- The MU Zoning District currently uses the stepped approach and the Policy Committee that the calculations be changed to net density.
- The EO Zoning District currently base density on developable area, effectively a net density calculation and no changes are recommended.

Mr. Polster called for a motion on the Ordinance Amendment

Mr. Polster requested advice on how a motion should be framed.

Mr. Holt stated that the draft Ordinance did not incorporate the Policy Committee recommendations and proposes using net density across all Zoning Districts.

Mr. Holt stated that a motion could be made to recommend approval of the draft ordinance as presented. Mr. Holt further stated that a motion could be made to do amend some districts and not others.

Mr. Haldeman made a motion to recommend that the density calculations for residential districts be changed consistent with the recommendations made by the Policy Committee at its February 23, 2023, meeting.

Mr. O'Connor inquired about which Ordinance would be advertised and forwarded to the Board of Supervisors.

Mr. Holt stated that the ad would remain the same as the one for the Planning Commission Public Hearing.

Mr. Krapf inquired about the difference between the items included in the motion and the draft Ordinance provided in the Agenda Packet.

Mr. Haldeman stated that as drafted, the Ordinance changes the A-1, R-8, R-6 Zoning Districts to net density.

Mr. Krapf noted that he believed this was more grammatical than functional because of the parcel size for the R-6 Zoning District.

Mr. Holt stated that he was not certain that was necessarily the case for every parcel in the R-6 Zoning District.

Mr. O'Connor stated that he is concerned about effect of the net density approach on the value of a parcel in the A-1 Zoning District.

Mr. Polster asked for clarification on whether the change to net density was advertised for all Zoning Districts.

Mr. Holt stated that the change to net density was advertised for all Zoning Districts and the same ad will be used for the Board of Supervisors. Mr. Holt further stated that the draft Ordinance will go forward to the Board of Supervisors as it is currently presented, along with a recommendation for any changes recommended by the Planning Commission.

Mr. Polster stated that the Planning Commission has the ability to recommend changes to the draft Ordinance.

Mr. Haldeman stated that his intent is to recommend that the Board of Supervisors change the draft Ordinance language to be consistent with the recommendations of the Policy Committee.

Mr. O'Connor requested clarification on whether the draft Ordinance will go to the Board of Supervisors as it stands or if it will be rewritten to incorporate the changes recommended by the Planning Commission.

Mr. Holt stated that the draft language will go forward to the Board of Supervisors as currently written.

Mr. Holt requested that Mr. Haldeman recapture the Policy Committee recommendations as part of his motions.

Mr. Haldeman stated that the A-1 and R-8 Zoning Districts relies on lot size to determine density, and the Policy Committee recommended that no change be made to this method; the R-6 Zoning District also relies on lot size, to determine density, and the Policy Committee recommended that no change be made to this method; the R-1, R-2, R-3, R-4, R-5, PUD, and Residential Cluster Development Overlay Zoning Districts all currently use the stepped approach, and the Policy Committee recommended that these districts use the net density approach to calculate density; the MU Zoning District currently uses the stepped approach and the Policy Committee that the calculations be changed to net density; the EO Zoning District currently base density on developable area, effectively a net density calculation and no changes are recommended by the Policy Committee. Mr. Haldeman stated that this is added to his motion as clarification.

Mr. O'Connor inquired if the motion could be amended to not recommend approval of the Ordinance as written and to recommend that the Ordinance language be amended to incorporate the Policy Committee recommendations as elaborated.

Mr. Haldeman stated that this was the intent of his motion.

Mr. Holt stated that under Mr. Haldeman's motion, the method of calculating density for the A-1, R-8, R-6, and EO Zoning Districts would not be changed from the way it is currently calculated; within the R-1, R-2, R-3, R-4, R-5, PUD, Residential Cluster Development Overlay, and MU Zoning Districts, the method of calculating density would be changed to net density.

Mr. Polster made some clarifications for the citizens attending the meeting.

Mr. O'Connor noted that the Board of Supervisors will make the final determination on the final language in the Ordinance.

On a roll call vote, the motion did not pass. (2-3)

Mr. O'Connor made a motion to recommend denial of the changes proposed in the draft Ordinance.

On a roll call vote, the Commission voted to recommend denial of the changes proposed in the draft Ordinance. (3-2)

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for Planning Commission Consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - April 2023

Mr. Holt stated that he did not have anything to add to what was provided in the Agenda Packet.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

There were no Planning Commission requests or items for discussion.

J. ADJOURNMENT

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 8:30 p.m.

Paul D. Holt, III, Secretary

Frank Polster, Chair

ITEM SUMMARY

DATE: 5/3/2023

TO: The Planning Commission

FROM: Thomas Wysong, Senior Planner

SUBJECT: Development Review Committee Action Item: C-23-0013. 3150 Jolly Pond Road Subdivision Shared Driveway Exception Request

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

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

[LINK](#) to the DRC Staff Report and Exhibits.

On April 19, 2023, the DRC voted to recommend approval of the request with the condition that the exception request match the new exhibit provided by a vote of 4-0.

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	3/29/2023 - 9:57 AM
Planning Commission	Holt, Paul	Approved	3/29/2023 - 9:57 AM
Publication Management	Daniel, Martha	Approved	3/29/2023 - 10:00 AM
Planning Commission	Holt, Paul	Approved	3/29/2023 - 10:05 AM

ITEM SUMMARY

DATE: 5/3/2023

TO: The Planning Commission

FROM: Terry Costello, Senior Planner

SUBJECT: SUP-23-0003. 2884 Chickahominy Road Tourist Home

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	Proposed Conditions	Backup Material
☐	Location Map	Exhibit
☐	General Location Map	Exhibit
☐	Master Plan	Exhibit
☐	Applicant Narrative	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	4/24/2023 - 8:04 AM
Planning Commission	Holt, Paul	Approved	4/24/2023 - 8:05 AM
Publication Management	Daniel, Martha	Approved	4/24/2023 - 8:48 AM
Planning Commission	Holt, Paul	Approved	4/24/2023 - 8:52 AM

**SPECIAL USE PERMIT-23-0003. 2884 Chickahominy Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

SUMMARY FACTS

Applicant: Mr. James Carter of Hunter Law Firm

Landowners: Mr. Mario A. Medina and Ms. Gloria E. Suarez

Proposal: To allow for a tourist home rental of an entire four-bedroom home.

Location: 2884 Chickahominy Road

Tax Map/Parcel No.: 2230100007

Property Acreage: ± 5.05 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

Staff Contact: Terry Costello, Senior Planner

PUBLIC HEARING DATES

Planning Commission: May 3, 2023, 6:00 p.m.

Board of Supervisors: June 13, 2023, 5:00 p.m.

FACTORS FAVORABLE

1. There is adequate off-street parking.
2. The applicant has acknowledged that should this application be approved; he will obtain the proper licensing and inspections through the County and will be subject to appropriate use-based taxes.
3. Lot sizes in the A-1, General Agricultural District, are larger than in other more densely populated residential areas. The size of the lot, the location from Chickahominy Road (over 700 feet), and the existing vegetation provide screening and buffering to most adjacent properties.
4. Impacts: See Impact Analysis on Pages 3-4.

FACTORS UNFAVORABLE

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

SUMMARY STAFF RECOMMENDATION

Per the Impact Analysis noted below, staff finds the proposed use will not negatively impact surrounding property or development nor is it expected to negatively impact Level of Service (LOS) for roads or other public services. While staff believes that this location is generally considered appropriate for this use, staff finds the proposal not fully consistent with the Comprehensive Plan recommendations for short-term rentals. Staff, therefore, cannot recommend approval of

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-23-0003. 2884 Chickahominy Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

this application. Should the Planning Commission recommend approval of this application, staff has included proposed conditions for consideration (Attachment No. 1).

PROJECT DESCRIPTION

Mr. James Carter of Hunter Law Firm has applied for a Special Use Permit (SUP) to allow for a short-term rental of an existing four-bedroom house as a tourist home. The proposal includes no changes to the size or footprint of the house.

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

The property has an existing driveway that takes access from Chickahominy Road. There is an existing parking area that is sufficient to accommodate guests. The four-bedroom home is on public water and a private sewer system. In previous tourist home applications, staff calculated the number of occupants to be two people per bedroom. Therefore, proposed Condition No. 3 states that the maximum number of occupants per contract, including children, is eight.

PLANNING AND ZONING HISTORY

- There have been no legislative cases associated with the residence that was built in 2018.

- Information was discovered that the Property was being listed as a short-term rental. A letter was sent to the owner in December 2022. The owner has since changed the listing to a 30-day minimum rental and has applied for an SUP to operate a tourist home (short-term rental).

SURROUNDING ZONING AND DEVELOPMENT

- The property is not located within any major or minor subdivision.
- The properties surrounding this parcel to the south, east, and west are all zoned R-8, Rural Agricultural. The property to the north is Little Creek Reservoir and is zoned Public Lands.

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**SPECIAL USE PERMIT-23-0003. 2884 Chickahominy Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The proposal is not anticipated to generate traffic exceeding a typical residential use. - The subject property is located on a local road. However, staff believes that the road is adequate for this use.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Per the Adopted Regional Bikeways Map, Chickahominy Road is shown as a shared roadway and per the Pedestrian Accommodation’s Master Plan, this area is shown as a sidewalk. There are no changes to the existing footprint of the building and bicycle and pedestrian accommodations are not required per Section 24-35(c)(2) of the Zoning Ordinance.
<u>Public Safety</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Fire Station 1 on Forge Road serves this area of the County and is approximately 2.5 miles from the proposed tourist home. - Staff finds this project does not generate impacts that require mitigation to the County’s Fire Department facilities or services.
<u>Public Schools</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - N/A since no residential dwelling units are proposed.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - N/A since no residential dwelling units are proposed.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Staff finds this project does not generate impacts that require mitigation.
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The property is served by public water and a private septic system. - The proposal does not generate impacts that require mitigation to groundwater or drinking water resources.

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**SPECIAL USE PERMIT-23-0003. 2884 Chickahominy Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

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

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

**SPECIAL USE PERMIT-23-0003. 2884 Chickahominy Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

2045 COMPREHENSIVE PLAN

The site is designated Rural Lands on the 2045 Comprehensive Plan Land Use Map. All surrounding properties to the south, east, and west are designated Rural Lands. The reservoir property to the north is designated Reservoir and Community Character Conservation, Open Space or Recreation.

Per the adopted Comprehensive Plan, appropriate primary uses includes traditional agricultural and forestal activities, but also innovative agriculture, horticulture, silviculture, specialty or niche farming, commercial and noncommercial equine opportunities, agri-tourism, rural-based public or commercial recreation, rural-support businesses, and certain public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. Staff finds this use to generally fit within these categories as nearby lodging options which could support agri-tourism and eco-tourism uses in Rural Lands.

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

Per the Impact Analysis noted above, staff finds the proposed use will not negatively impact surrounding property or development nor is it expected to negatively impact LOS for roads or other public services.

Specific to short-term rentals, the adopted Comprehensive Plan states that, if located within a residential context, short-term rentals should serve to complement the residential character of the area rather than altering its nature. Therefore, while every location can be considered

uniquely, short-term rentals are most appropriately located subject to the following development standards:

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

This property is designated Rural Lands on the adopted 2045 Comprehensive Plan Land Use Map.

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

This parcel is not located within an existing platted subdivision.

- Be located on a major road.

Chickahominy Road is a minor collector road up until the intersection with Cranston's Mill Pond Road, and is classified as a local road beyond that. Local and minor collector roads are not considered major roads.

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

The owners of the property currently live in Danville, Virginia. The caretaker for the property, Ms. Jessica Dellenbach, resides at 2584 Little Creek Dam Road, which is less than a mile from this property.

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

**SPECIAL USE PERMIT-23-0003. 2884 Chickahominy Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

STAFF RECOMMENDATION

Per the Impact Analysis noted above, staff finds the proposed use will not negatively impact surrounding property or development nor is it expected to negatively impact LOS for roads or other public services. While staff believes that this location may be considered appropriate for this use, staff finds the proposal not fully consistent with the Comprehensive Plan recommendations for short-term rentals. Staff, therefore, cannot recommend approval of this application. Should the Planning Commission recommend approval of this application, staff has included proposed conditions for consideration (Attachment No. 1).

TC/ap
SUP23-3_2884ChkRdTH

Attachments:

1. Proposed Conditions
2. Location Map
3. General Location Map
4. Master Plan
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.

Conditions:

1. Master Plan. This SUP shall permit a tourist home on property located at 2884 Chickahominy Road and further identified as James City County Real Estate Tax Map Parcel No. 2230100007 (the "Property"). The use and layout of the Property shall be generally as shown on the document entitled "JCC SUP-23-0003, 2884 Chickahominy Road Tourist Home" and date stamped April 12, 2023 (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended. This condition does not restrict improvements typical of a residential property as determined by the Director of Planning.
2. Commencement. Evidence of a business license and updated Certificate of Occupancy shall be provided to the Director of Planning within twelve (12) months from the issuance of the SUP, or this SUP shall automatically be void.
3. Number of Rental Room Occupants. There shall be no more than four (4) bedrooms available for rent to visitors and no more than eight (8) rental occupants total at any one time.
4. Contracts per Rental Period. There shall not, during any period of time, be simultaneous rentals of the Property under separate contracts.
5. Signage. No signage related to the use of the tourist home shall be permitted on the Property.
6. Parking. Off-site parking for this use shall be prohibited. No oversized commercial vehicles associated with rental occupants of the tourist home, such as, but not limited to, buses, commercial trucks, and trailers shall be allowed to park on the Property.
7. Compliance Review. On or before November 28, 2025, the owner of the Property must submit a letter to the Director of Planning requesting either continuance or cancellation of the SUP. If the owner requests cancellation of the SUP or does not submit the required letter, the Director of Planning shall initiate proceedings for the Board of Supervisors to revoke the SUP pursuant to Section 24-12 of the County Code. If the owner of the Property requests continuance of the SUP, the owner must also submit a statement certifying that the use and Property are in compliance with all SUP conditions. The Director of Planning shall then prepare a memorandum setting forth any and all complaints received by staff since issuance of the SUP and any violations of the SUP conditions. The Director of Planning shall place the compliance review on the Board of Supervisors' February 2026 Board meeting as a Public Hearing item at not cost to the Property owner. Following the public hearing, the Board of Supervisors shall determine whether to initiate proceedings to revoke the SUP due to incompatibility with the surrounding neighborhood, violation of the SUP conditions, or any other reason related to the health, safety, and welfare of the community or may instead set a new compliance review date.
8. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

JCC SUP-23-0003 2884 Chickahominy Road Tourist Home



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 2884 Chickahominy Rd

0 550 1,100 Feet

JCC SUP-23-0003 2884 Chickahominy Road Tourist Home



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 2884 Chickahominy Rd

0 2,875 5,750 Feet

SUP-23-0003, 2884 Chickahominy Rd Tourist Home



Property Information
 2230100007
 Mario A. Medina & Gloria E. Suarez
 2884 Chickahominy Road
 Toano, VA 23168
 Zoning: R8 Rural Residential
 2045 Comp Plan: Rural Lands
 Legal Acreage: 5.05

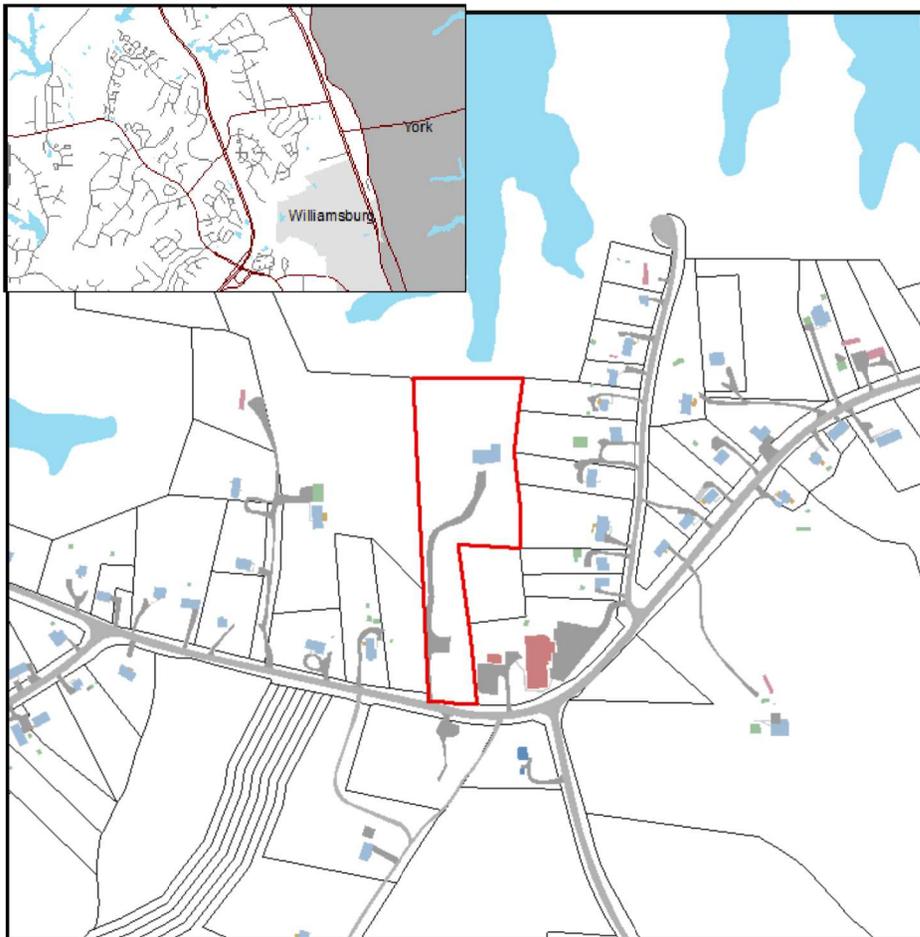
General Notes

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

Sheet Index

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

April 12, 2023



Adjacent Properties

2120100001 Newport News Waterworks 700 Town Center Ste 400 Newport News, VA 23606 PL Public Lands	2230100012 Jonathan & Tammy Jackson 2920 Browns Drive Toano, VA 23168 R8 Rural Residential
2230100004 Andrew E. Meekins Sr 2812 Chickahominy Rd Toano, VA 23168 R8 Rural Residential	2230100013 Chiffone Hawkins, William Hawkins & Elizabeth Hawkins 2924 Browns Dr Toano, VA 23168 R8 Rural Residential
2230100006 Thomas E. Meekins c/o Kim Hawkins 2730 Little Creek Dam Rd Toano, VA 23168	2230100014 Tribble L & Jean A. Jones PO Box 131 Toano, VA 23168 R8 Rural Residential
2230100009A Chickahominy Baptist Church P O B0x 506 Toano, VA 23168	2230100015 Beverly Investments LLC 215 McLaws Cir Ste 2B Williamsburg, VA 23185 R8 Rural Residential
2230100009B CBC World Ministry/ Chickahominy Bap 2900 Chickahominy Rd Toano, VA 23168	2230100030 Chickahominy Community Improvement c/o Linda Wallace PO Box 634 Toano, VA 23168 R8 Rural Residential
2230100015 Beverly Investments LLC 215 McLaws Cir Ste 2B Williamsburg, VA 23185 R8 Rural Residenti	

JCC SUP-23-0003 2884 Chickahominy Road Tourist Home

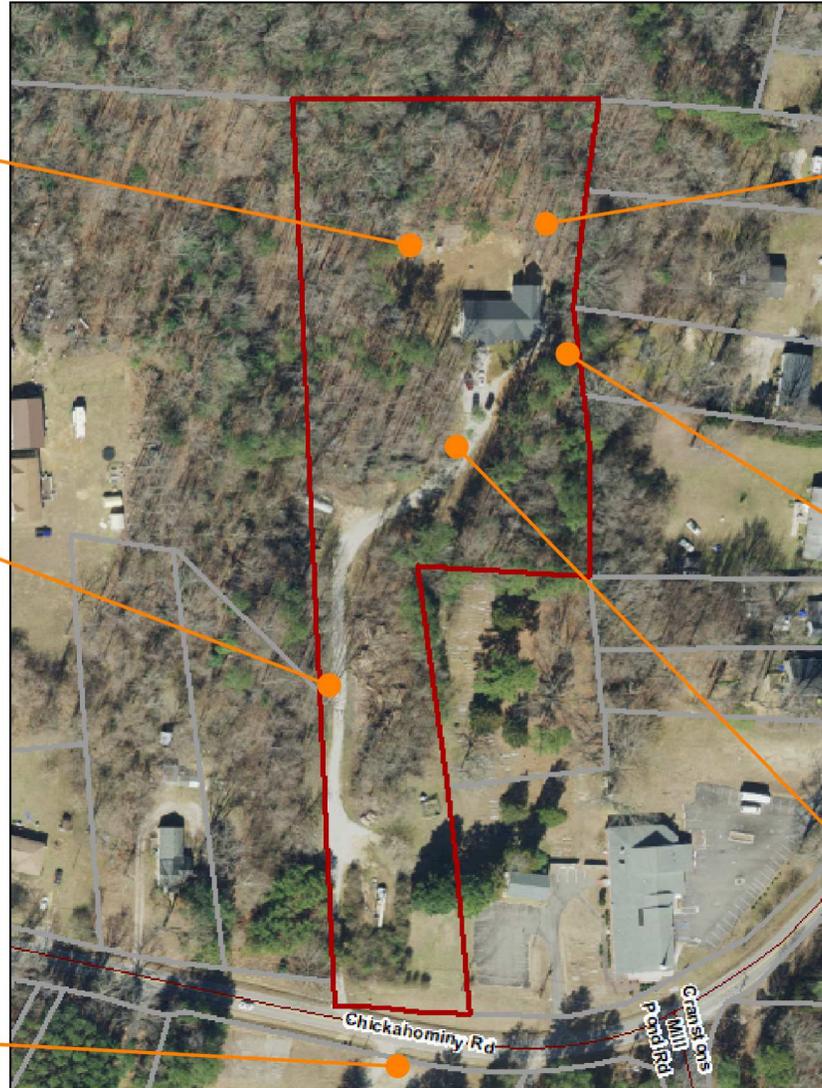
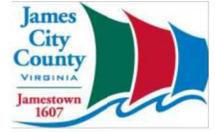


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 2884 Chickahominy Rd

0 550 1,100 Feet

JCC SUP-23-0003
2884 Chickahominy Road Tourist Home





HUNTER LAW FIRM

Thomas L. Hunter P.C.

Reply To:

February 13, 2023

Mr. John Rogerson
Senior Zoning Administrator, James City County
101 Mounts Bay Rd., Bldg A
Williamsburg VA 23187

Re : Suarez Special Use Permit, 2884 Chickahominy Rd.

Dear Mr. Rogerson:

Allow me to provide a brief narrative of the property Located at 2884 Chickahominy Rd., so that the planning commission may fully understand the intent, import, and impact of this application for a Special Use Permit.

The property in question is a wooded flag lot of approximately 5 acres, bounded on the right side by Chickahominy Baptist Church. There are five properties along Chickahominy Rd. prior to reaching the church that share a Western border with this property. Given that the most proximate neighbor is a church which is occupied on a limited basis, its wooded nature, and its distance from the other properties it shares a border with, to date there has been zero interactions with the proximate landowners, and there have been zero incidents of disturbance. This situation is not likely to change. In addition, this property backs up to the Newport News Waterworks Little Creek Reservoir watershed and has a significant access to the associated wetlands. This unique access feature is a boon for any eco-tourist who desires seclusion, scenery, and natural habitat of waterfowl and other indigenous aquatic fauna in their backyard during a bucolic stay in James City County.

My clients the Suarez family purchased the property in April of 2022. This was a newly built residence. The original home on the property was demolished and a new residence was built by the previous owners, approximately 3000 Sq. Ft, with an assessed value of \$379,000.00

The original intention was for the daughter of the Suarez family to reside there while she attended William and Mary. Instead their daughter chose to attend school in Ireland, thus leaving the house unoccupied. The original owners of the property had the home listed on VRBO, and the Suarez's continued according to their established operating plan – they continued utilizing the services of a resident manager who resided approximately 3200 feet away, Mrs. Jessica Dellenbach of 2584 Little Creek Dam Rd., Toano VA 23168. Given her proximity to the property it is easy for the owners (who reside in Danville) to keep a close and watchful eye on the premises, even though they reside 5 hours away. Also as a property owner herself, Mrs. Dellenbach has a vested interest in maintaining the nature, quality, and standards of the neighborhood.

Peninsula
□ 910 W. Mercury Blvd.
Suite 2A
Hampton, VA 23666
Phone: (757) 825-0400
Fax: (757) 825-9389

□ 12610 Patrick Henry Dr.
Suite B
Newport News, VA 23602
Phone: (757) 825-0400
Fax: (757) 872-3232

Middle Peninsula
□ 6834 Coleman's Crossing Ave.
Suite C
Hayes, VA 23072
Phone: (804) 694-0560
Fax: (757) 825-9389

Southside
□ 3800 Poplar Hill Rd.
Suite G
Chesapeake, VA 23321
Phone: (757) 393-1110
Fax: (757) 393-7764

Founder/CEO
Thomas L. Hunter

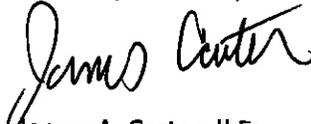
Managing Partner
Sara A. Lynch

Associates
John R. Pritchard, III
Mark A. Stallings
Lary W. Lockwood, Jr.
Kristof G. Koletar
James A. Carter
Matthew J. Barbero

At the present the Suarez family has taken their property off the rental market until they can fully comply with all JCC Codes and Regulations. Thus has caused a serious financial impact upon my clients but they received your Cease and Desist letter, took it very seriously, removed their property from the market and retained counsel to address the outstanding issues because they desire to be in full compliance with the County in all regards. They are good citizens of the Commonwealth and have purchased a newly renovated property which adds to the value of the community. They have had zero problems during their rental phase with disturbing neighbors or increased traffic. They have a resident manager who is a resident and property owner within the same neighborhood, who seeks to maintain order, decorum, and property values as they affect her residence as well. This property is a uniquely situated out-of-the-way eco-tourism destination which adds to the appeal of James City County as a whole. As such we request their application for a conditional use permit be granted.

I am available at the number above to address any concerns you may have. Feel free to reach out to me at any time. I look forward to working with you to resolve this matter.

Sincerely I Remain,



James A. Carter, II Esq.

ITEM SUMMARY

DATE: 5/3/2023
TO: The Planning Commission
FROM: Terry Costello, Senior Planner
SUBJECT: SUP-23-0009. 2868 Lake Powell Road Tourist Home

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	Proposed Conditions	Backup Material
☐	Location Map	Exhibit
☐	Master Plan	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	4/25/2023 - 12:15 PM
Planning Commission	Holt, Paul	Approved	4/25/2023 - 12:16 PM
Publication Management	Daniel, Martha	Approved	4/25/2023 - 12:26 PM
Planning Commission	Holt, Paul	Approved	4/25/2023 - 12:26 PM

**SPECIAL USE PERMIT-23-0009. 2868 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

SUMMARY FACTS

Applicant: Ms. Mary Waltrip
Landowners: Mr. Dudley and Ms. Rebecca Waltrip
Proposal: To allow for a tourist home of up to five rooms in a single-family dwelling.
Location: 2868 Lake Powell Road
Tax Map/Parcel No.: 4810100046
Property Acreage: ± .89 acres
Zoning: R-2, General Residential
Comprehensive Plan: Low Density Residential
Primary Service Area: Inside
Staff Contact: Terry Costello, Senior Planner

PUBLIC HEARING DATES

Planning Commission: May 3, 2023, 6:00 p.m.
Board of Supervisors: June 13, 2022, 5:00 p.m. (Tentative)

FACTORS FAVORABLE

1. There is adequate off-street parking.
2. The applicant has acknowledged that, should this application be approved, she will obtain the proper licensing and inspections through the County and will be subject to appropriate use-based taxes.
3. The owner will reside on-site during the time of the rentals.
4. Impacts: See Impact Analysis on Pages 3-4.

FACTORS UNFAVORABLE

1. Staff finds the proposal inconsistent with the short-term rental recommendations of the *Our County, Our Shared Future: James City County 2045 Comprehensive Plan*.
2. Impacts: See Impact Analysis on Pages 3-4.

SUMMARY STAFF RECOMMENDATION

Staff finds the proposal to be incompatible with surrounding development and not consistent with the recommendations of the 2045 Comprehensive Plan. Staff, therefore, does not recommend approval of this application. Should the Planning Commission wish to recommend approval, staff has included proposed conditions for consideration (Attachment No. 1).

PROJECT DESCRIPTION

Ms. Mary Waltrip has applied for a Special Use Permit (SUP) to allow for the rental of up to five rooms located within an existing seven-

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-23-0009. 2868 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

bedroom single-family dwelling. The proposal includes no changes to the size or footprint of the home.

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

The property has an existing driveway off a private 20-foot access road. The property has an existing parking area sufficient to accommodate guests. The seven-bedroom home is on private water and public sewer. In previous tourist home applications, staff calculated the number of occupants to be two people per bedroom. Therefore, proposed Condition No. 3 states that the maximum number of occupants per contract, including children, is 10. The owner is aware that the maximum number of bedrooms permitted to be used as a short-term rental is five.

PLANNING AND ZONING HISTORY

- There have been no legislative cases associated with the residence. The original three-bedroom home was built in 1997. A four-bedroom modular home was added to the existing home in 2006. (A kitchen was removed in the original dwelling as part of the addition so as not to create a duplex.)
- Information was discovered that the Property was being listed as a short-term rental. A letter was sent to the owner in December 2022. The applicant has stated that she is changing the listing to a 30-day minimum rental and has applied for a SUP to operate a tourist home (short-term rental).

SURROUNDING ZONING AND DEVELOPMENT

- The property is not located within any major or minor subdivision.
- The properties surrounding this parcel to the north are zoned R-2, General Residential and R-8, Rural Residential.
- Properties to the south, east, and west are zoned R-2, General Residential.
- Properties to the north, south, east, and west are all designated Low Density Residential on the 2045 Comprehensive Plan Land Use Map.
- The property is within one mile of the Williamsburg-Jamestown Airport.

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-23-0009. 2868 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The proposal is not anticipated to generate traffic exceeding a typical residential use. - The subject property is located off a private access road that takes access from Lake Powell Road. No changes anticipated to the Level of Service on Lake Powell Road.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Per the Adopted Regional Bikeways Map and Pedestrian Accommodations Master Plan, Lake Powell Road is an existing shared roadway. - There are no changes to the existing footprint of the building and bicycle and pedestrian accommodations are not required per Section 24-35(c)(2) of the Zoning Ordinance.
<u>Public Safety</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Fire Station 3 on John Tyler Highway serves this area of the County and is approximately 2.1 miles from the proposed tourist home property. - Staff finds this project does not generate impacts that require mitigation to the County’s Fire Department facilities or services.
<u>Public Schools</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - N/A since no residential dwelling units are proposed.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - N/A since no residential dwelling units are proposed.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Staff finds this project does not generate impacts that require mitigation.
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The property receives private water and public sewer. - The proposal does not generate impacts that require mitigation to groundwater or drinking water resources.

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-23-0009. 2868 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

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

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

**SPECIAL USE PERMIT-23-0009. 2868 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

2045 COMPREHENSIVE PLAN

The property is designated Low Density Residential on the 2045 Comprehensive Plan Land Use Map. Per the adopted Comprehensive Plan, recommended uses include single-family and multifamily units, accessory units, cluster or cottage homes on small lots, recreation areas, and limited commercial.

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

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

This property is designated Low Density Residential, which is not one of the recommended land use designations.

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

This parcel is not located within an existing platted subdivision, but is within a grouping of closely spaced residential lots.

- Be located on a major road.

This property takes access from a 20-foot private right-of-way for ingress and egress. This access is off Lake Powell Road which is a major collector road. The private access crosses two lots until the entrance of the property.

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

It is staff's understanding that the property owner will reside in the residence at the times of the rentals.

Staff finds the proposal is inconsistent with the recommendations of the 2045 Comprehensive Plan.

STAFF RECOMMENDATION

Staff finds the proposal incompatible with surrounding zoning and development and not consistent with the recommendations of the adopted 2045 Comprehensive Plan.

Staff therefore does not recommend approval of the proposed SUP. Should the Planning Commission wish to recommend approval, staff has included proposed conditions for consideration (Attachment No. 1).

TC/md
SUP23-9_2868LkPwITH

- Attachments:
1. Proposed Conditions
 2. Location Map
 3. Master Plan

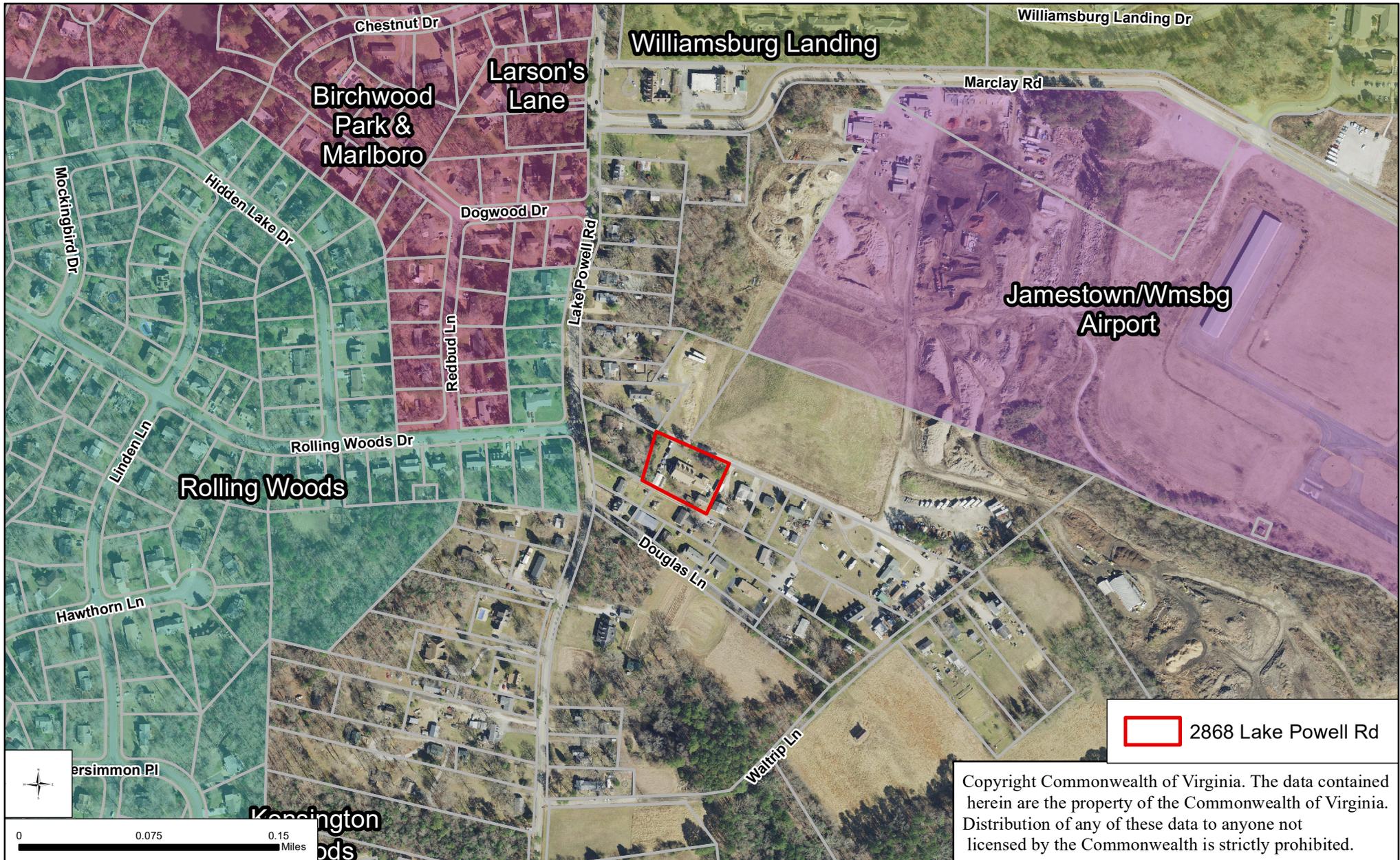
This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

Conditions:

1. Master Plan. This SUP shall permit a tourist home on property located at 2868 Lake Powell Road and further identified as James City County Real Estate Tax Map Parcel No. 4810100046 (the "Property"). The use and layout of the Property shall be generally as shown on the document entitled "JCC SUP-23-0009, 2868 Lake Powell Rd Tourist Home" and date stamped April 14, 2023 (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended. This condition does not restrict improvements typical of a residential property as determined by the Director of Planning.
2. Commencement. Evidence of a business license and updated Certificate of Occupancy shall be provided to the Director of Planning within twelve (12) months from the issuance of the SUP, or this SUP shall automatically be void.
3. Number of Rental Room Occupants. There shall be no more than five (5) bedrooms available for rent to visitors and no more than ten (10) rental occupants total at any one time.
4. Contracts per Rental Period. There shall not, during any period of time, be simultaneous rentals of the Property under separate contracts.
5. Signage. No signage related to the use of the tourist home shall be permitted on the Property.
6. Parking. Off-site parking for this use shall be prohibited. No oversized commercial vehicles associated with rental occupants of the tourist home, such as, but not limited to, buses, commercial trucks, and trailers shall be allowed to park on the Property.
7. Compliance Review. On or before November 28, 2025, the owner of the Property must submit a letter to the Director of Planning requesting either continuance or cancellation of the SUP. If the owner requests cancellation of the SUP or does not submit the required letter, the Director of Planning shall initiate proceedings for the Board of Supervisors to revoke the SUP pursuant to section 24-12 of the County Code. If the owner of the Property requests continuance of the SUP, the owner must also submit a statement certifying that the use and Property are in compliance with all SUP conditions. The Director of Planning shall then prepare a memorandum setting forth any and all complaints received by staff since issuance of the SUP and any violations of the SUP conditions. The Director of Planning shall place the compliance review on the Board of Supervisors' February, 2026 Board meeting as a Public Hearing item at no cost to the Property owner. Following the public hearing, the Board of Supervisors shall determine whether to initiate proceedings to revoke the SUP due to incompatibility with the surrounding neighborhood, violation of the SUP conditions, or any other reason related to the health, safety, and welfare of the community or may instead set a new compliance review date.
8. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

JCC SUP-23-0009

2868 Lake Powell Rd Tourist Home



SUP-23-0009, 2868 Lake Powell Rd Tourist Home

Property Information

4810100046
Dudley S. & Rebecca R Waltrip
2868 Lake Powell Road
Williamsburg, VA 23185
Zoning: R2 General Residential
2045 Comp Plan: Low Density Residential
Legal Acreage: .89

General Notes

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

April 14, 2023



Adjacent Properties

4810100042A
T & L Rentals Inc.
100 Lands End Dr
Williamsburg, VA 23185
R2 General Residential

4810100048
Tracey S. & Angela L. Douglas
2862 Lake Powell Rd
Williamsburg, VA 23185
R2 General Residential

4810100044
Aaron & Emily Martel
2886 Lake Powell Rd
Williamsburg, VA 23185
R2 General Residential

4820100006
Larry T. & Dudley L. Waltrip
100 Marclay Rd
Williamsburg, VA 23185
R2 General Residential

4810100045
Daryl Eubank
9800 Wilcox Neck Rd
Charles City, VA 23030
R2 General Residential

4820100007C
Dudley S. Waltrip Jr.
2870 Lake Powell Rd
Williamsburg, VA 23185
R2 General Residential

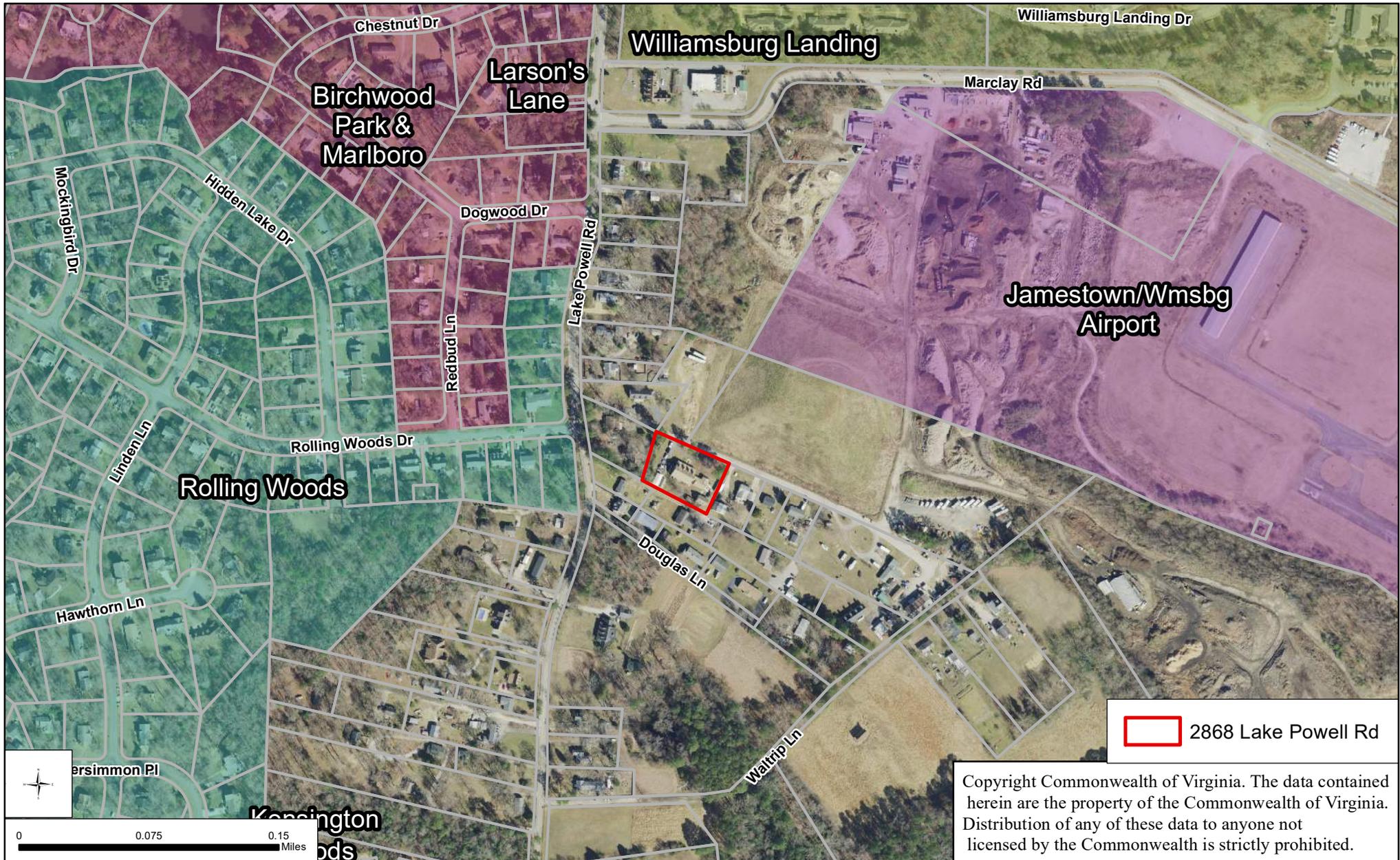
4810100047
Tracy S. Douglas
2862 Lake Powell Rd
Williamsburg, VA 23185
R2 General Residential

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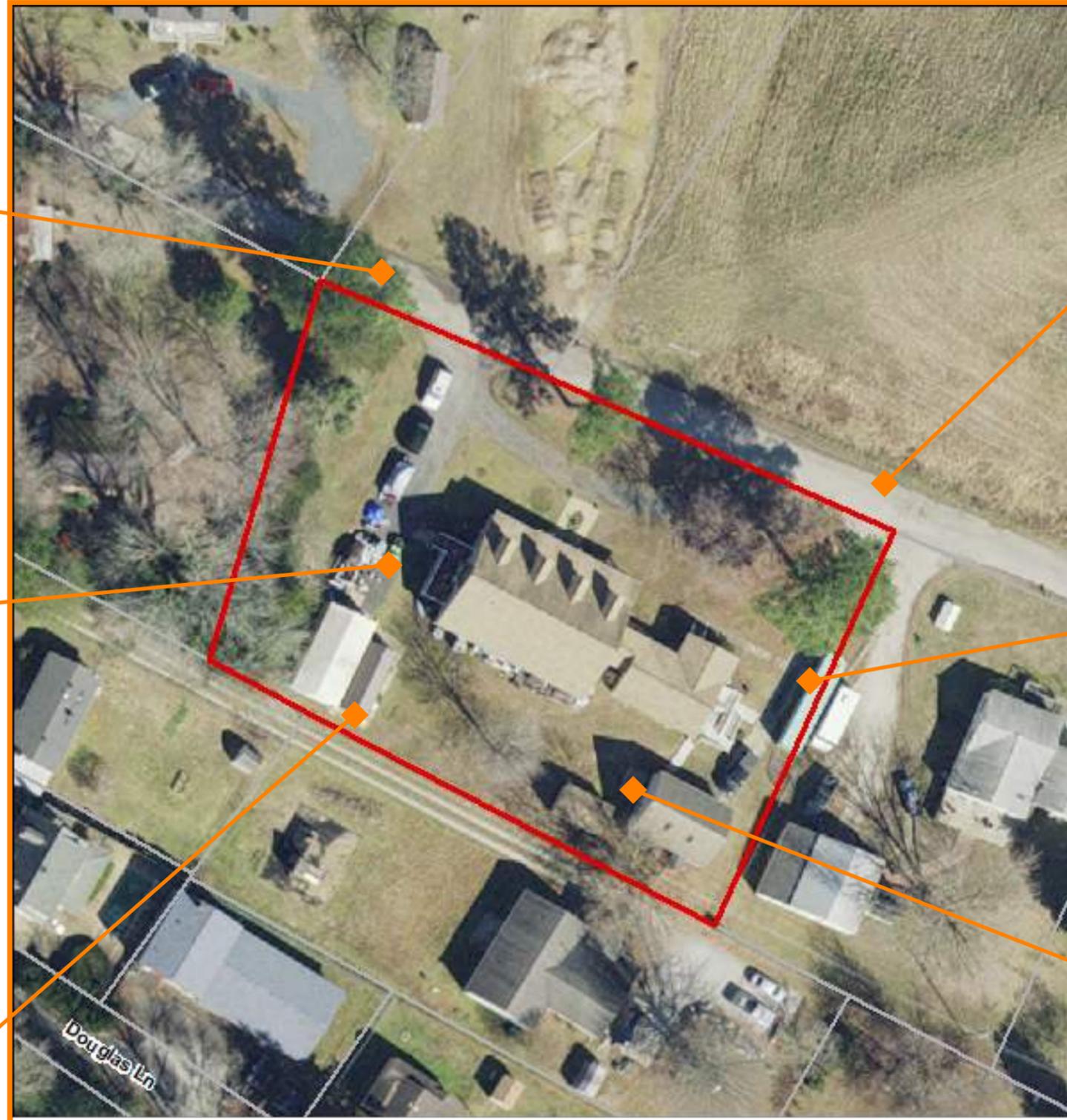
1. Cover Page
2. Location Page
3. Site Details

JCC SUP-23-0009

2868 Lake Powell Rd Tourist Home



JCC SUP-23-0009
2868 Lake Powell Road Tourist



ITEM SUMMARY

DATE: 5/3/2023

TO: The Planning Commission

FROM: Terry Costello, Senior Planner

SUBJECT: SUP-23-0010. 2884 Lake Powell Road Tourist Home

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	Proposed Conditions	Backup Material
☐	Location Map	Exhibit
☐	Master Plan	Exhibit
☐	Narrative	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	4/25/2023 - 12:16 PM
Planning Commission	Holt, Paul	Approved	4/25/2023 - 12:16 PM
Publication Management	Pobiak, Amanda	Approved	4/25/2023 - 1:06 PM
Planning Commission	Holt, Paul	Approved	4/25/2023 - 4:46 PM

**SPECIAL USE PERMIT-23-0010. 2884 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

SUMMARY FACTS

Applicant: Ms. Dena L. Waltrip
Landowner: Ms. Dena L. Waltrip
Proposal: To allow for a tourist home of up to four rooms in a single-family dwelling.
Location: 2884 Lake Powell Road
Tax Map/Parcel No.: 4820100009B
Property Acreage: ± .76 acres
Zoning: R-2, General Residential
Comprehensive Plan: Low Density Residential
Primary Service Area: Inside
Staff Contact: Terry Costello, Senior Planner

PUBLIC HEARING DATES

Planning Commission: May 3, 2023, 6:00 p.m.
Board of Supervisors: June 13, 2022, 5:00 p.m. (Tentative)

FACTORS FAVORABLE

1. There is adequate off-street parking.
2. The applicant has acknowledged that should this application be approved; she will obtain the proper licensing and inspections through the County and will be subject to appropriate use-based taxes.
3. Impacts: See Impact Analysis on Pages 3-4.

FACTORS UNFAVORABLE

1. Staff finds the proposal inconsistent with the short-term rental recommendations of the *Our County, Our Shared Future: James City County 2045 Comprehensive Plan*.
2. Impacts: See Impact Analysis on Pages 3-4.

SUMMARY STAFF RECOMMENDATION

Staff finds the proposal to be incompatible with surrounding development and not consistent with the recommendations of the 2045 Comprehensive Plan. Staff, therefore, does not recommend approval of this application. Should the Planning Commission wish to recommend approval, staff has included proposed conditions for consideration (Attachment No. 1).

PROJECT DESCRIPTION

Ms. Dena Waltrip has applied for a Special Use Permit (SUP) to allow for the rental of an entire four-bedroom residence. The proposal includes no changes to the size or footprint of the home.

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-23-0010. 2884 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

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

The property has an existing driveway off a private 20-foot access road. The property has an existing parking area sufficient to accommodate guests. The seven-bedroom home is on private water and public sewer. In previous tourist home applications, staff calculated the number of occupants to be two people per bedroom. Therefore, proposed Condition No. 3 states that the maximum number of occupants per contract, including children, is 10.

PLANNING AND ZONING HISTORY

- There have been no legislative cases associated with the residence that was built in 2007.

SURROUNDING ZONING AND DEVELOPMENT

- The property is not located within any major or minor subdivision; however, the lot was created as part of a family subdivision.
- The properties surrounding this parcel to the north and west are zoned R-2, General Residential.
- Properties surrounding this parcel to the south are zoned R-2, General Residential and R-8, Rural Residential.
- Properties surrounding this parcel to the east are zoned R-8, Rural Residential.

- Properties to the north, south, east, and west are all designated Low Density Residential on the 2045 Comprehensive Plan Land Use Map.
- The property is within one mile of the Williamsburg-Jamestown Airport.

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**SPECIAL USE PERMIT-23-0010. 2884 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The proposal is not anticipated to generate traffic exceeding a typical residential use. - The subject property is located off a private access road that takes access from Lake Powell Road. No changes anticipated to the Level of Service on Lake Powell Road.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Per the Adopted Regional Bikeways Map and Pedestrian Accommodations Master Plan, Lake Powell Road is an existing shared roadway. - There are no changes to the existing footprint of the building and bicycle and pedestrian accommodations are not required per Section 24-35(c)(2) of the Zoning Ordinance.
<u>Public Safety</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Fire Station 3 on John Tyler Highway serves this area of the County and is approximately 2.1 miles from the proposed tourist home property. - Staff finds this project does not generate impacts that require mitigation to the County’s Fire Department facilities or services.
<u>Public Schools</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - N/A since no residential dwelling units are proposed.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - N/A since no residential dwelling units are proposed.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - Staff finds this project does not generate impacts that require mitigation.
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"> - The property receives private water and public sewer. - The proposal does not generate impacts that require mitigation to groundwater or drinking water resources.

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-23-0010. 2884 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

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

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

**SPECIAL USE PERMIT-23-0010. 2884 Lake Powell Road Tourist Home
Staff Report for the May 3, 2023, Planning Commission Public Hearing**

2045 COMPREHENSIVE PLAN

The property is designated Low Density Residential on the 2045 Comprehensive Plan Land Use Map. Per the adopted Comprehensive Plan, recommended uses include single-family and multifamily units, accessory units, cluster or cottage homes on small lots, recreation areas, and limited commercial.

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

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

This property is designated Low Density Residential, which is not one of the recommended land use designations.

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

This parcel is not located within an existing platted subdivision, but is within a grouping of closely spaced residential lots and is part of a family subdivision.

- Be located on a major road.

This property takes access from a 20-foot private right-of-way for ingress and egress. This access is off Lake Powell Road which is a major collector road. The private access crosses several lots until the entrance of the property.

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

It is staff's understanding that the property owner will not reside on this property, but will reside in a nearby house at the times of the rentals.

Staff finds the proposal is inconsistent with the recommendations of 2045 Comprehensive Plan.

STAFF RECOMMENDATION

Staff finds the proposal incompatible with surrounding zoning and development and not consistent with the recommendations of the adopted 2045 Comprehensive Plan.

Staff, therefore, does not recommend approval of the proposed SUP. Should the Planning Commission wish to recommend approval, staff has included proposed conditions for consideration (Attachment No. 1).

TC/ap
SUP23-10_2884LkPwIITH

Attachments:

1. Proposed Conditions
2. Location Map
3. Master Plan
4. Narrative

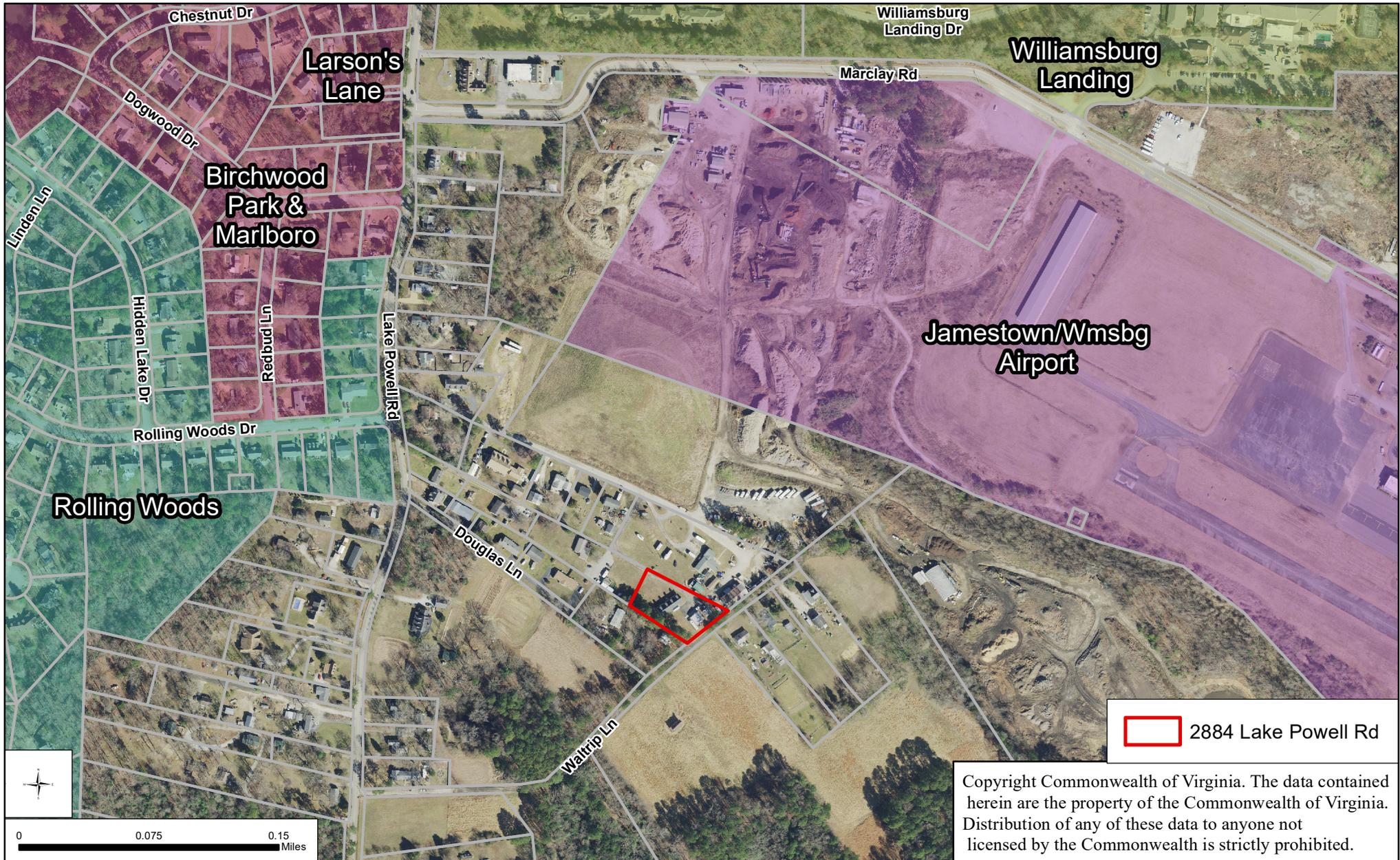
This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

Conditions:

1. Master Plan. This SUP shall permit a tourist home on property located at 2884 Lake Powell Road and further identified as James City County Real Estate Tax Map Parcel No. 4820100009B (the “Property”). The use and layout of the Property shall be generally as shown on the document entitled “JCC SUP-23-0010, 2884 Lake Powell Rd Tourist Home” and date stamped April 14, 2023 (the “Master Plan”), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended. This condition does not restrict improvements typical of a residential property as determined by the Director of Planning.
2. Commencement. Evidence of a business license and updated Certificate of Occupancy shall be provided to the Director of Planning within twelve (12) months from the issuance of the SUP, or this SUP shall automatically be void.
3. Number of Rental Room Occupants. There shall be no more than four (4) bedrooms available for rent to visitors and no more than eight (8) rental occupants total at any one time.
4. Contracts per Rental Period. There shall not, during any period of time, be simultaneous rentals of the Property under separate contracts.
5. Signage. No signage related to the use of the tourist home shall be permitted on the Property.
6. Parking. Off-site parking for this use shall be prohibited. No oversized commercial vehicles associated with rental occupants of the tourist home, such as, but not limited to, buses, commercial trucks, and trailers shall be allowed to park on the Property.
7. Compliance Review. On or before November 28, 2025, the owner of the Property must submit a letter to the Director of Planning requesting either continuance or cancellation of the SUP. If the owner requests cancellation of the SUP or does not submit the required letter, the Director of Planning shall initiate proceedings for the Board of Supervisors to revoke the SUP pursuant to section 24-12 of the County Code. If the owner of the Property requests continuance of the SUP, the owner must also submit a statement certifying that the use and Property are in compliance with all SUP conditions. The Director of Planning shall then prepare a memorandum setting forth any and all complaints received by staff since issuance of the SUP and any violations of the SUP conditions. The Director of Planning shall place the compliance review on the Board of Supervisors’ February, 2026 Board meeting as a Public Hearing item at no cost to the Property owner. Following the public hearing, the Board of Supervisors shall determine whether to initiate proceedings to revoke the SUP due to incompatibility with the surrounding neighborhood, violation of the SUP conditions, or any other reason related to the health, safety, and welfare of the community or may instead set a new compliance review date.
8. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

JCC SUP-23-0010

2884 Lake Powell Rd Tourist Home



 2884 Lake Powell Rd

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SUP-23-0010, 2884 Lake Powell Rd Tourist Home

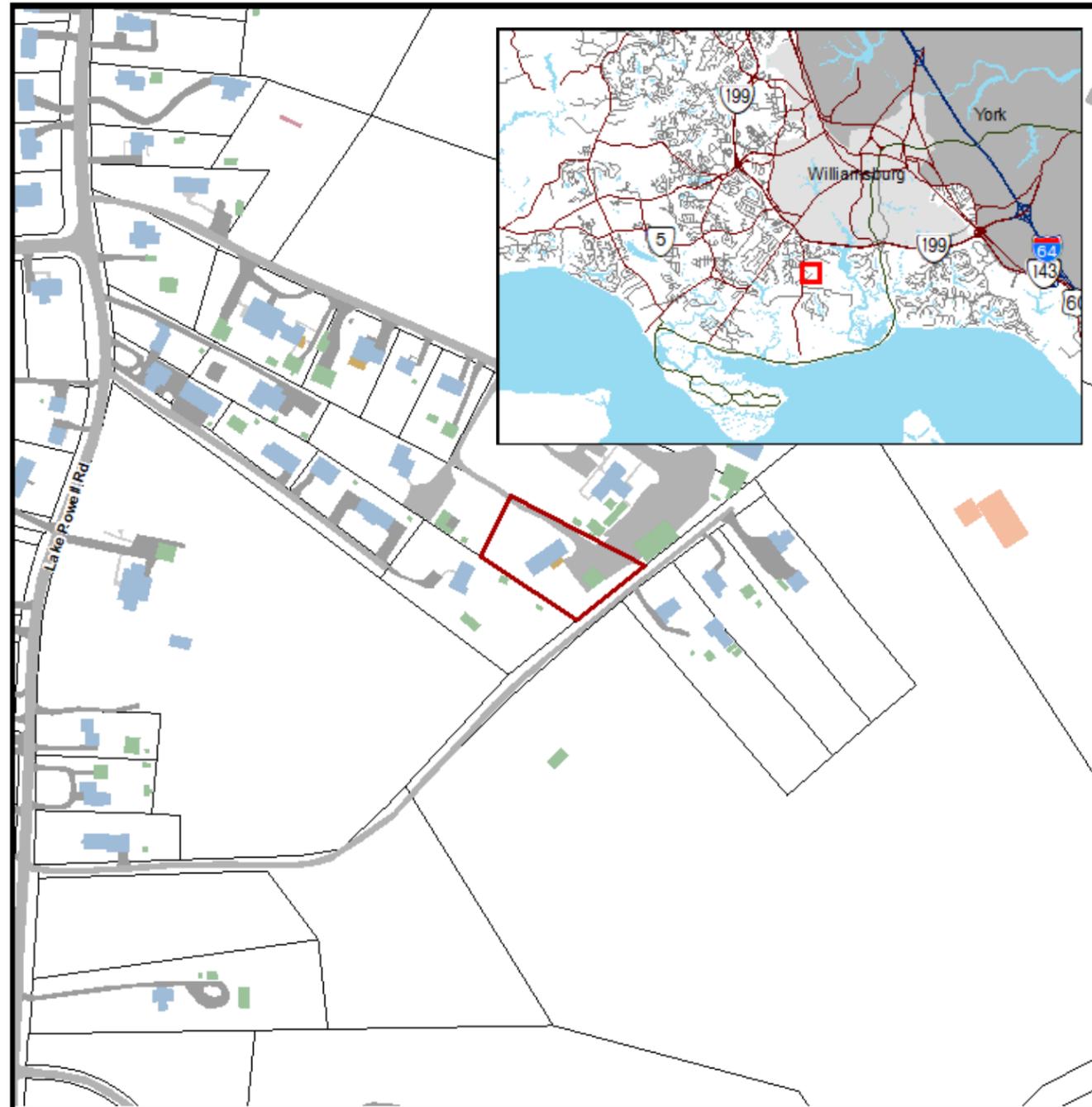
Property Information

4820100009B
Deana L. Waltrip
2884 Lake Powell Road
Williamsburg, VA 23185
Zoning: R2 General Residential
2045 Comp Plan: Low Density
Residential
Legal Acreage: .76

General Notes

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

April 14, 2023



Adjacent Properties

4820100008
Dudley S. Waltrip Jr.
2892 Lake Powell Rd
Williamsburg, VA 23185
R2 General Residential

4840100002
Mary H. & Lloyd M. Waltrip
150 Waltrip Ln
Williamsburg, VA 23185
R8 Rural Residential

4820100009A
Brian C. Waltrip
2882 Lake Powell Rd
Williamsburg, VA 23185
R2 General Residential

4840100005
Williamsburg Winery LTD
5800 Wessex Hundred
Williamsburg, VA 23185
R8 Rural Residential

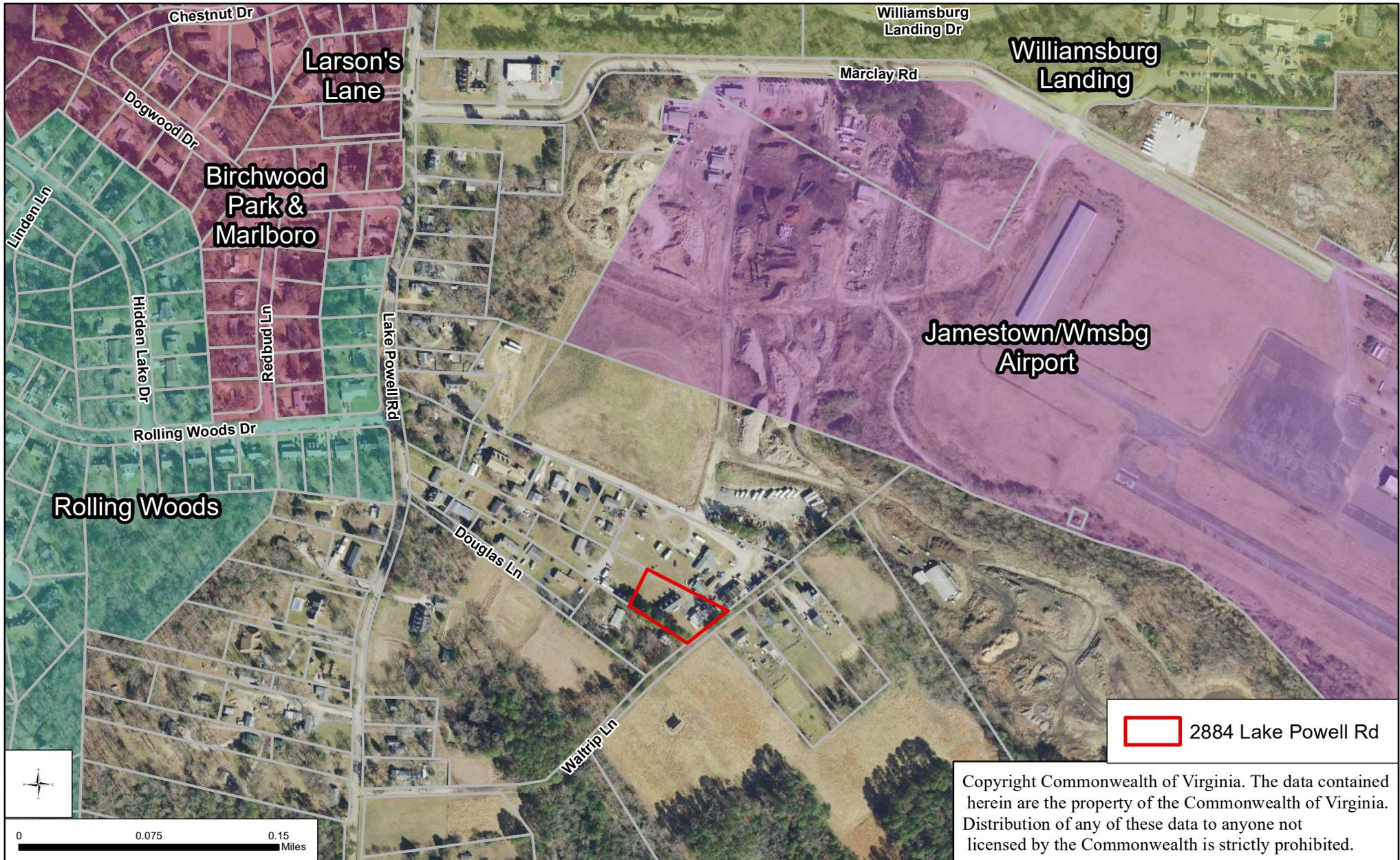
4840100001
Tracy S. Douglas
2862 Lake Powell Rd
Williamsburg, VA 23185
R2 General Residential

Sheet Index

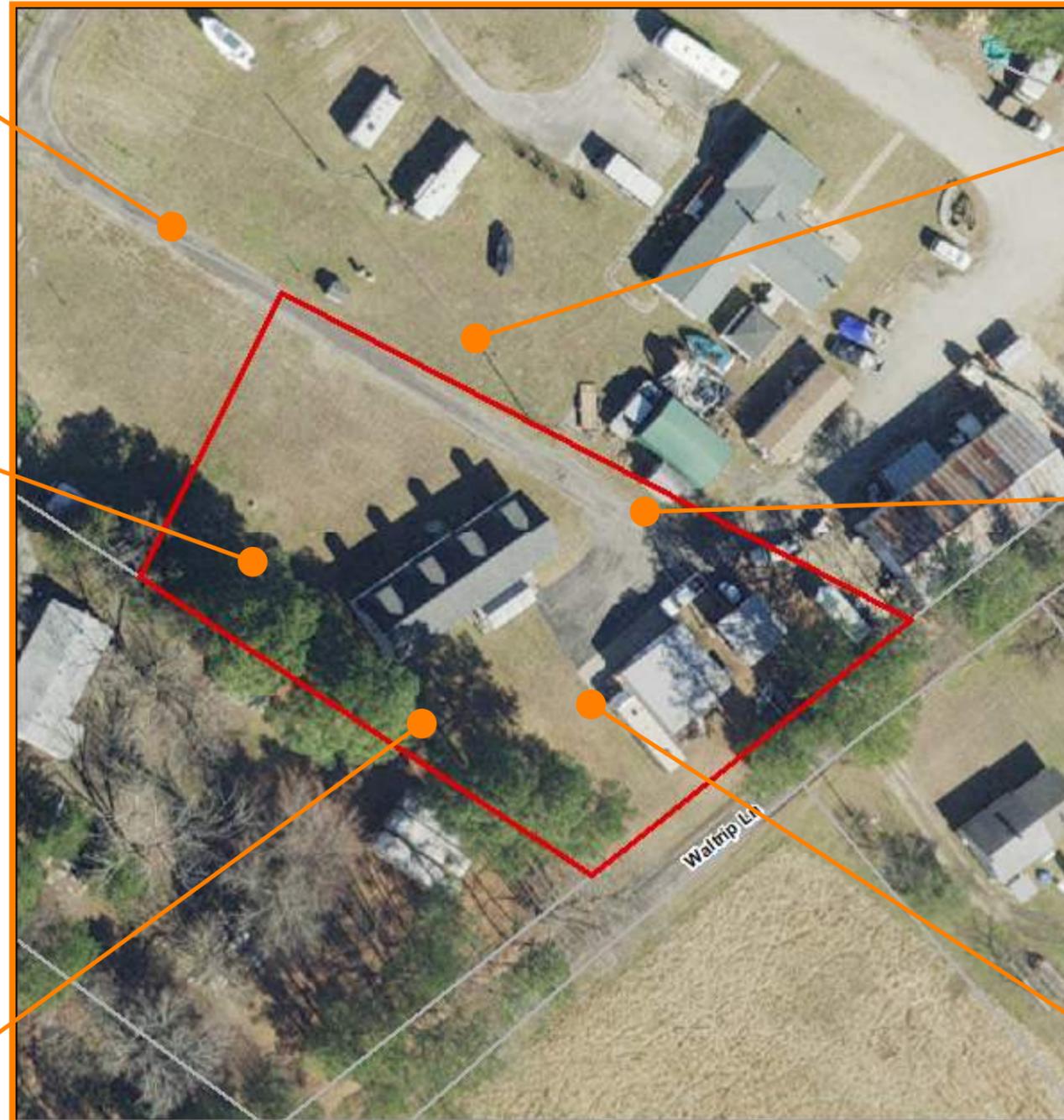
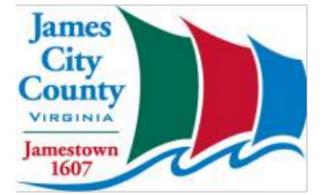
1. Cover Page
2. Location Page
3. Site Details

JCC SUP-23-0010

2884 Lake Powell Rd Tourist Home



JCC SUP-23-0010
2884 Lake Powell Road Tourist



**Short Term Rental Narrative for
2884 Lake Powell Rd, Williamsburg VA, 23185**

My name is Dena Waltrip and I live at the above address, I am a lifelong resident of James City County and an employee of James City Service Authority for over 22 & ½ years. My oldest child lives in Toano and my youngest is serving in the Air Force which now also makes me an empty nester.

My home is located on a private drive off Lake Powell Rd. I'm pretty much adjacent to the Williamsburg Jamestown Airport and Yard Works. I'm also located about 1 mile from Williamsburg Winery and centrally located within a 5 or 6-mile radius of Water Country, Bush Gardens, Colonial Williamsburg, College of William & Mary, and Jamestown Settlement.

My house will be available for full rental (3 bedrooms, 3 bathrooms, kitchen, dining room, den, and utility room - minus rooms that are locked off) or rental of a few rooms. When I'm not staying in my home with the renters, I will be staying next door in my childhood home which is located approximately 90-100 feet away. Not only is there access to my home from Lake Powell Rd but also a private entrance off Waltrip Ln.

I have always been a people person and would love to share my home and knowledge of our community with visitors. On any given day you can see deer, rabbits, squirrels, geese, turkeys, hawks, bald eagles, and numerous other bird's native to our area. I do consider my home very safe for any potential renters not only because of required detectors, fire extinguishers and motion sensor lights but also because the nearby houses on the property are all family.

If any further information is required, please advise at your earliest convenience.

Thank you,

Dena Waltrip

pudnbud@hotmail.com

(757) 592-8998

ITEM SUMMARY

DATE: 5/3/2023

TO: The Planning Commission

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

SUBJECT: Planning Director's Report - May 2023

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Resolution Regarding Large-Scale Solar Farm Applications	Exhibit
☐	Resolution Regarding Impacts to Public Facilities and Resources Related to Residential Dwelling Units	Exhibit
☐	Spreadsheet Listing New Cases Received	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	4/21/2023 - 2:18 PM
Planning Commission	Holt, Paul	Approved	4/21/2023 - 2:18 PM
Publication Management	Daniel, Martha	Approved	4/21/2023 - 3:19 PM
Planning Commission	Holt, Paul	Approved	4/21/2023 - 3:22 PM

PLANNING DIRECTOR'S REPORT May 2023

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 document.

- **Board Action Results:**
 - **April 11, 2023**
 - AFD-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition (Approved 5-0)
 - SUP-20-0010. Hertzler Clearing and Grading (Deferred to October 10, 2023)
 - SUP-23-0001. 2886 Lake Powell Road Rental of Rooms (Approved 5-0)
 - LU-20-0002. Eastern State – Parcel C and LU-20-0003. Eastern State – Mixed Use Community Land Use Designation Changes (Deferred to April 2024 or when a rezoning application is filed)

 - Also on April 11th, the Board adopted a resolution directing staff to develop a comprehensive policy for the siting of Large-Scale Solar Farm projects. A copy of the adopted resolution is attached to this report.

- **Fiscal Impact Model:** At its February 28, 2023, meeting, the Board of Supervisors adopted a resolution directing staff to use the Fiscal Impact Model developed as part of the 2045 Comprehensive Plan to determine the financial impacts of residential dwellings related to increased use and demand on public facilities and resources. This information will be included in future staff reports for rezoning applications. A copy of the adopted resolution is attached to this report.

➤ **Community Development**

The Clara Byrd Baker Safe Routes to School sidewalk project will begin construction on May 1, 2023. The construction phase is expected to last four-months and the project will add sidewalks, crosswalks and pedestrian crossing signals around Clara Byrd Baker Elementary School.

➤ **Planning/ Stormwater and Resource Protection**

Work on updating several of the County's Watershed Management Plans (WMPs) has continued this spring. The second public meeting for the Powhatan Creek WMP is

scheduled for Tuesday, May 2, 2023, from 6 to 8 p.m., and will take place in the Building F Board Room at the James City County Government Center (101 Mounts Bay Road). At this meeting, the staff and consultant team will be sharing the results of the watershed assessments and draft project ideas and recommendations for the watershed. In addition, the first public meeting for the Yarmouth Creek WMP is scheduled for Wednesday, May 24, 2023, from 6-7:30, and will take place at the James City County Library (7770 Croaker Road). This meeting for the Yarmouth WMP will be an opportunity for the public to learn more about plans for the update process, hear some of the initial assessment results and provide feedback on goals for this watershed.

➤ **Neighborhood Development**

The Stormwater and Neighborhood Development Divisions are now accepting applications for the Septic Pump Out Grant funded by the Environmental Protection Agency through an assistance agreement with the Virginia Department of Environmental Quality. The grant will pay to pump out septic tanks for lower-income residents who have not pumped the tank in the past five years. To date, we have received 12 applications for assistance.

➤ **Building Safety & Permits**

Building Safety & Permits congratulates Yitony Berinyuy, Permit Tech I, Kathy Siefken, Permit Tech I, and Aidan Hayes, Permit Tech I on completing the Virginia Department of Housing and Community Development Core Module training which is required for all technical assistants working under the building official. The training is focused on Chapter 1, Administration of the *Virginia Uniform Statewide Building Code*.

RESOLUTION

LARGE-SCALE SOLAR FARM APPLICATIONS

- WHEREAS, the James City County Code (the “County Code”) permits any property owner, contract purchaser with the owner’s written consent, or the owner’s agent to apply to amend, supplement, or change by Ordinance the boundaries of zoning districts or the regulations established in the James City County Zoning Ordinance (the “Zoning Ordinance”), including zoning map amendments (collectively, “Owner Applications”); and
- WHEREAS, Owner Applications are regularly submitted for consideration by the Board of Supervisors (the “Board”), all of which are given thorough consideration by staff and the James City County Planning Commission (the “Commission”) prior to transmittal to the Board; and
- WHEREAS, major factors for the consideration of any amendment to the Zoning Ordinance, including Owner Applications, include whether staff, the Commission, and the Board believe that the proposed amendment is consistent with the James City County Comprehensive Plan (the “Comprehensive Plan”), the James City County Code (the “County Code”) and any other adopted plans and policies; and
- WHEREAS, at its meeting on October 25, 2022, the Board of Supervisors adopted the Natural & Cultural Assets Plan (the “Assets Plan”); and
- WHEREAS, Goal No. 1.I of the Assets Plan calls for the development of “zoning tools and guidance for siting large-scale solar sites to avoid or minimize disturbance of habitats or cultural resources”; and
- WHEREAS, Goal No. 2.A of the Assets Plan calls for the inclusion of “high-value agriculture soils maps in County Geographic Information System layers and property information and recommend minimal disturbance of those soils during development (especially for utility solar sites)”; and
- WHEREAS, Goal No. 3.D of the Assets Plan calls for the prevention of “stormwater impacts from utility-scale solar projects by adopting stormwater standards as required by the Virginia Department of Environmental Quality”; and
- WHEREAS, at the March 14, 2023, Board meeting, members of the Board expressed concern that its consideration of any Owner Applications involving solar farms would be done so without the benefit of the completion of the three solar-farm-related goals (the “Goals”) set forth in the Assets Plan; and
- WHEREAS, the Board finds that it promotes the health, safety, and welfare of the citizens of the County and good zoning practice to ensure that all Owner Applications involving large-scale solar farms are considered with analysis set forth in the Goals.
- NOW, THEREFORE, BE IT RESOLVED the Board does hereby direct staff to analyze the manpower, financial assets, and the recommended work timeline that will be required to conduct the analysis of the goals listed in the Assets Plan and to present that information to the Board at its July 25, 2023, Business Meeting so that the Board can determine the most effective way to proceed with meeting these goals.

BE IT FURTHER RESOLVED the Board does hereby direct staff to retain an outside consultant to assist both staff and the Board in devising a comprehensive Board Policy on Large-Scale Solar Farm projects and present a draft policy document to the Board at its September 12, 2023, Regular Meeting.

BE IT FURTHER RESOLVED the Board does hereby direct staff to not place any large-scale solar farm application on the Board’s Calendar until its first meeting in December 2023, or at such earlier time as the Board may determine.

BE IT FURTHER RESOLVED that any Owner Application for a large-scale solar farm associated with a conceptual plan submitted to the County on or prior to April 10, 2023 may be placed on the Board’s Calendar following consideration by the Planning Commission.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

SADLER
ICENHOUR
MCGLENNON
LARSON
HIPPLE

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

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2023.

LgSolarFrm-res

RESOLUTION

IMPACTS TO PUBLIC FACILITIES AND RESOURCES RELATED TO

RESIDENTIAL DWELLING UNITS

WHEREAS, the Board of Supervisors of James City County, Virginia (the "Board"), has adopted certain policy and planning documents that guide its legislative considerations in James City County (the "County"), including the Comprehensive Plan, the Strategic Plan, the Annual Budget, and the Capital Improvements Program; and

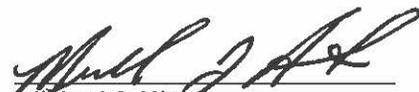
WHEREAS, on October 26, 2021, the Board adopted *Our County, Our Shared Future: James City County 2045 Comprehensive Plan* and, as part of that update, the Board retained consultant services to support several operational initiatives from the 2035 Strategic Plan, including: conducting scenario planning; conducting a cumulative fiscal, infrastructure, community character, and environmental impact analysis of expanding the Primary Service Area; and refining the fiscal impact model to assess development impacts on the County's fiscal health; and

WHEREAS, the consultant provided the specialized technical knowledge necessary to build, run, and extract pertinent information from sophisticated models; and

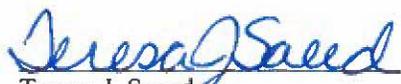
WHEREAS, the Board desires to identify the impacts of residential dwellings on public facilities and resources.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby rescinds that resolution entitled "Impacts to public facilities related to residential dwelling units" adopted September 10, 2019, that directed staff to develop a fact sheet that served as an interim methodology during development of the 2045 Comprehensive Plan.

BE IT FURTHER RESOLVED by the Board that staff is directed to use the Fiscal Impact Model developed as part of the 2045 Comprehensive Plan to determine the immediate and long-range financial impacts of residential dwellings related to increased use and demand on public facilities and resources and that such model be based on the Adopted Budget, the Capital Improvements Program, the Comprehensive Plan, the Strategic Plan, and any other relevant data.


Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:


Teresa J. Saeed
Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ICENHOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MCGLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of February, 2023.

Spreadsheet Listing New Cases Received - May 2023

Plan Type	Plan Number	Case Title	Address	Plan District	Plan Description	Plan Assigned To
Conceptual Plan	C-23-0002	101 Mounts Bay Road AT&T Tower	101 MOUNTS BAY RD Williamsburg, VA 23185	Roberts	Modifications and upgrades to existing tower.	Terry Costello
	C-23-0005	213 Southpoint Drive Detached garage with living area	213 SOUTHPOINT DR Williamsburg, VA 23185	Roberts	213 Southpoint Drive Detached garage with living area	Terry Costello
	C-23-0006	2016 Forge Road Event Venue & Outdoor Pavilion	2016 FORGE RD Lanexa, VA 23168	Powhatan	Use existing property to host indoor and outdoor events, to include weddings, receptions, banquets, anniversaries, meetings or conferences. Plan to build outdoor pavilion in future.	Terry Costello
	C-23-0007	2589 Greensprings Road Event Facility	2589 GREENSPRINGS RD Williamsburg, VA 23185	Berkeley	2589 Greensprings Road Event Facility	Terry Costello
	C-23-0015	7617 White Oak Drive Manufactured Home	7617 WHITE OAK DR Lanexa, VA 23089	Powhatan	Applicant is seeking to construct a manufactured home (or tiny home) along with a separate garage & shed/office space.	Ben Loppacker
	C-23-0017	Luck Stone's Yard Improvements	7734 RICHMOND RD Toano, VA 23168	Stonehouse	Improvement's to Luck Stone's Yard. Converting two open space areas into laydown and storage areas.	Suzanne Yeats
	C-23-0020	8604 & 8596 Richmond Road- Office/Warehouse	8604 RICHMOND RD Toano, VA 23168	Powhatan	8604 & 8596 Richmond Road- Office/Warehouse .	Suzanne Yeats
	C-23-0021	Proposed Dollar Tree location	7516 RICHMOND RD Williamsburg, VA 23188	Stonehouse	Proposed Dollar Tree location	Josh Crump
	C-23-0022	Moses Lane Extension	1310 MOSES LN Williamsburg, VA 23185	Roberts	Proposed Moses Lane Extension	Tom Leininger

Plan Type	Plan Number	Case Title	Address	Plan District	Plan Description	Plan Assigned To
Subdivision Plat	S-23-0012	112-114 Heathery Boundary Line Extinguishment	6079 SETTLERS MARKET BLVD Williamsburg, VA 23188	Jamestown	112-114 Heathery Boundary Line Extinguishment	Ben Loppacker
	S-23-0013	Setback Adjustment Plat, Lot 39, Section 8, Parcel D, Phase 2A New Town	6079 SETTLERS MARKET BLVD Williamsburg, VA 23188	Jamestown	Setback Adjustment Plat, Lot 39, Section 8, Parcel D, Phase 2A New Town	John Risinger
	S-23-0014	Subdivision Plat for 68 Residential Lots within Settlement at Powhatan Creek Phase 4	3901 MONTICELLO AVE Williamsburg, VA 23188	Berkeley	Subdivision Plat for 68 Residential Lots within Settlement at Powhatan Creek Phase 4	Josh Crump
	S-23-0015	Liberty Ridge Section 2C Subdivision Plat	5365 CENTERVILLE RD Williamsburg, VA 23188	Powhatan	Liberty Ridge Section 2C Subdivision Plat	Josh Crump
	S-23-0017	198 Clark Lane Courthouse Plat	198 CLARK LN Williamsburg, VA 23188	Powhatan	198 Clark Lane Courthouse Plat	Josh Crump
Site Plan	SP-23-0011	Patriot's Colony Memory Care Garden Site Plan Amendment	3400 JOHN TYLER HWY Williamsburg, VA 23188	Berkeley	Memory Care Garden Enhancements at Patriots Colony	Suzanne Yeats
	SP-23-0016	Veterans Park Lighting Plan Amendment	3793 IRONBOUND RD Williamsburg, VA 23188	Berkeley	Veterans Park Lighting Plan Amendment	Andrea Case
	SP-23-0020	Busch Gardens Food and Wine Fest (Oktoberfest Carts) Site Plan Amendment	7851 POCAHONTAS TRL Williamsburg, VA 23185	Roberts	This plan is a renewal of SP-0024-2014. There are no proposed revisions to the previously approved plans. This is simply to maintain an active site plan for annual building permit renewals	Ben Loppacker
	SP-23-0021	Busch Gardens Food and Wine Fest (Germany Carts) Site Plan Amendment	7851 POCAHONTAS TRL Williamsburg, VA 23185	Roberts	This plan is a renewal of SP-0011-2013. There are no proposed revisions to the previously approved plans. This is simply to maintain an active site plan for annual building permit renewals.	Ben Loppacker
	SP-23-0022	Busch Gardens Food and Wine Fest (Italy Kiosk) Site Plan Amendment	7851 POCAHONTAS TRL Williamsburg, VA 23185	Roberts	This plan renews SP-0014-2015 to permit a temporary kiosk on an existing concrete sidewalk in the Italy section of Busch Gardens.	Ben Loppacker
	SP-23-0028	New Town Sec 8 Parcel D Lighting Amendment	6020 SETTLERS MARKET BLVD Williamsburg, VA 23188	Jamestown	New Town Sec 8 Parcel D Lighting Amendment.	Thomas Wysong

Plan Type	Plan Number	Case Title	Address	Plan District	Plan Description	Plan Assigned To
Special Use Permit	SUP-23-0011	Stonehouse Waterline Improvements	3820 ROCHAMBEAU DR Williamsburg, VA 23188	Stonehouse	Stonehouse Waterline Improvements	Thomas Wysong
	SUP-23-0012	8659 Richmond Road Solar Project	8659 RICHMOND RD Toano, VA 23168	Powhatan	8659 Richmond Road Solar Project	Suzanne Yeats
	SUP-23-0013	The Overlook at Rochambeau	4097 ROCHAMBEAU DR Williamsburg, VA 23188	Stonehouse	Event Venue with Rental Cottages	John Risinger
	SUP-23-0014	7649 Cypress Drive Short-Term Rental	7649 CYPRESS DR Lanexa, VA 23089	Powhatan	Rental of one bedroom, one bathroom and a common room	Ben Loppacker
Rezoning	Z-23-0002	Colonial Heritage - Pickleball Proffers Amendment	6799 RICHMOND RD Williamsburg, VA 23188	Stonehouse	Colonial Heritage - Pickleball Proffers Amendment	Paxton Condon