

A G E N D A
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
April 11, 2023
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Olivia Mitchell, a 1st grade student at Clara Byrd Baker Elementary School and a resident of the Berkeley District

E. PUBLIC COMMENT

F. CONSENT CALENDAR

G. PUBLIC HEARING(S)

1. Fiscal Year 2024 County Budget
2. AFD-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition
3. LU-20-0002. Eastern State - Parcel C and LU-20-0003. Eastern State - Mixed Use Community Land Use Designation Changes
4. Proposed Fiscal Year 2024-2029 Secondary Six-Year Plan
5. SUP-23-0001. 2886 Lake Powell Road Rental of Rooms

H. BOARD CONSIDERATION(S)

1. Contract Award - Audit Services
2. SUP-20-0010. Hertzler Clearing and Grading
3. Resolution Considering Large-Scale Solar Farms

I. BOARD REQUESTS AND DIRECTIVES

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. CLOSED SESSION

1. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Va. Code § 2.2-3711 (7) and (8); specifically regarding: (1) a stormwater facility and (2) a potential special use permit violation.

L. ADJOURNMENT

1. Adjourn until 1 pm on April 25, 2023 for the Business Meeting

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Teresa Saeed, Deputy Clerk

SUBJECT: Olivia Mitchell, a 1st grade student at Clara Byrd Baker Elementary School and a resident of the Berkeley District

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 3:17 PM

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Sharon B. McCarthy, Director of Financial and Management Services

SUBJECT: Fiscal Year 2024 County Budget

ATTACHMENTS:

	Description	Type
📎	Memorandum	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Financial Management	Cochet, Cheryl	Approved	3/26/2023 - 2:42 PM
Publication Management	Daniel, Martha	Approved	3/27/2023 - 8:18 AM
Legal Review	Kinsman, Adam	Approved	3/27/2023 - 9:17 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:39 AM
Board Secretary	Rinehimer, Bradley	Approved	4/4/2023 - 10:56 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 11:19 AM

MEMORANDUM

DATE: April 11, 2023

TO: The Board of Supervisors

FROM: Sharon B. McCarthy, Director of Financial and Management Services

SUBJECT: Fiscal Year 2024 County Budget

The purpose of the Public Hearing is to invite public comment on any aspect of the proposed Fiscal Year 2024 Budget, with the expectation that those public comments would become part of the agenda for the upcoming budget business meeting.

No action is required of the Board at this meeting; however, any questions would be helpful as we prepare for the budget business meeting. The budget business meeting is scheduled for Tuesday, April 25, 2023, at 1 p.m. The Board is scheduled to adopt the budget as amended, at its meeting on Tuesday, May 9, 2023.

SBM/md
FY24CtyBdgt-mem

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: John Risinger, Senior Planner

SUBJECT: AFD-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	1. Ordinance	Ordinance
☐	2. Location Map	Backup Material
☐	3. Mill Creek AFD Map	Backup Material
☐	4. Mill Creek AFD 2022 Renewal Ordinance and Staff Report	Backup Material
☐	5. State Code § 15.2-4305 Regarding AFD Application Criteria	Backup Material
☐	6. Applicant's Narrative	Backup Material
☐	7. Unapproved Minutes of the January 19, 2023, AFD Advisory Committee Meeting	Backup Material
☐	8. Unapproved Minutes of the March 1, 2023, Planning Commission Meeting	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	3/27/2023 - 8:33 AM
Development Management	Holt, Paul	Approved	3/27/2023 - 8:36 AM
Publication Management	Pobiak, Amanda	Approved	3/27/2023 - 9:16 AM
Legal Review	Kinsman, Adam	Approved	3/27/2023 - 9:17 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:38 AM
Board Secretary	Rinehimer, Bradley	Approved	4/4/2023 - 10:58 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 11:19 AM

**AGRICULTURAL AND FORESTAL DISTRICT-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition
Staff Report for the April 11, 2023, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. William C. Taylor

Landowner: Greensprings Materials, LLC

Proposal: Addition of a $\pm$ 256.85-acre parcel to the Mill Creek Agricultural and Forestal District (AFD).

Location: 278 Ivy Hill Road

Tax Map/Parcel No.: 1130100013

Project Acreage: $\pm$ 256.85 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

Staff Contact: John Risinger, Senior Planner

PUBLIC HEARING DATES

AFD Advisory Committee: January 19, 2023, 4:00 p.m.

Planning Commission: March 1, 2023, 6:00 p.m.

Board of Supervisors: April 11, 2023, 5:00 p.m.

FACTORS FAVORABLE

1. Staff finds that this addition to the Mill Creek AFD would not adversely affect surrounding development and is consistent with the core of the District.
2. Staff finds the proposal consistent with the 2045 Comprehensive Plan Land Use Action 6.1.1.
3. Impacts: This proposal is not anticipated to generate any impacts that require mitigation.

FACTORS UNFAVORABLE

As this proposal is not anticipated to generate any impacts that require mitigation, staff finds no unfavorable factors.

SUMMARY STAFF RECOMMENDATION

Staff finds that the proposed addition meets all state and local requirements for inclusion in the Mill Creek AFD. Staff recommends that the Board of Supervisors (BOS) approve the application, subject to the proposed conditions, which are consistent with other properties in the District.

AFD ADVISORY COMMITTEE RECOMMENDATION

At its January 19, 2023, meeting, the AFD Advisory Committee voted 7-0 to recommend approval of the application to the Planning Commission and BOS.

PLANNING COMMISSION RECOMMENDATION

At its March 1, 2023, meeting, the Planning Commission voted 6-0 to recommend approval of the application to the BOS.

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

AGRICULTURAL AND FORESTAL DISTRICT-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition
Staff Report for the April 11, 2023, Board of Supervisors Public Hearing

CHANGES SINCE PLANNING COMMISSION MEETING

None.

PROJECT DESCRIPTION

- Mr. William C. Taylor of Greensprings Materials, LLC, has applied to enroll $\pm$ 256.85 acres of land located at 278 Ivy Hill Road into the Mill Creek AFD. It is currently an undeveloped, wooded lot with the exception of a Dominion Energy power line easement located at the west end of the property.
- The property was timbered approximately 15 years ago and is currently a mixture of pine and hardwood.
- Currently the property is used for hunting and trail riding and there are no plans for future development.
- The subject parcel is located within one mile of the core of the District and is contiguous with other parcels currently in the District which is consistent with the criteria listed in the *Code of Virginia* (see Attachment No. 3).
- Per the United States Department of Agriculture's *Soil Survey of James City and York Counties and the City of Williamsburg Virginia*, the parcel consists of the following soils:

Soil Type	Erosion Hazard	Equipment Limitation	Seedling Mortality	Windthrow Hazard
11B, Craven-Uchee complex, 2-6% slopes	Slight	Moderate	Slight/Moderate	Slight
11C, Craven-Uchee complex, 6-10% slopes	Slight	Moderate	Slight/Moderate	Slight

Soil Type	Erosion Hazard	Equipment Limitation	Seedling Mortality	Windthrow Hazard
14B, Emporia fine sandy loam, 2-6% slopes	Slight	Slight	Slight	Slight
15F, Emporia complex, 25-50% slopes	Moderate	Severe	Slight	Slight
19B, Kempsville-Emporia fine sandy loams, 2-6% slopes	Slight	Slight	Slight	Slight
25B, Norfolk fine sandy loam, 2-6% slopes	Slight	Slight	Slight	Slight
29A, Slagle fine sandy loam, 0-2% slopes	Slight	Moderate	Slight	Slight
29B, Slagle fine sandy loam, 2-6% slopes	Slight	Moderate	Slight	Slight
31B, Suffolk fine sandy loam, 2-6% slopes	Slight	Slight	Slight	Slight
34B, Uchee loamy fine sand, 2-6% slopes	Slight	Moderate	Moderate	Slight
38, Yemassee fine sandy loam	Slight	Moderate	Slight	Slight

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

**AGRICULTURAL AND FORESTAL DISTRICT-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition
Staff Report for the April 11, 2023, Board of Supervisors Public Hearing**

DISTRICT HISTORY

- The Mill Creek AFD was created in 1986 for a term of four years and originally consisted of 28 parcels totaling $\pm$ 3,547 acres.
- The District was renewed in four-year intervals in 1990, 1994, 1998, 2002, 2006, 2010, 2014, 2018, and 2022 with various additions and withdrawals taking place during those periods.
- The District currently consists of $\pm$ 3,132.45 acres. Should this addition be approved, the District would consist of $\pm$ 3,389.3 acres.

SURROUNDING ZONING AND DEVELOPMENT

Adjacent properties to the north, east, west, and south are zoned A-1, General Agricultural, and designated Rural Lands on the 2045 Comprehensive Plan Land Use Map. The parcels adjacent to the north are residential lots as part of the Merry Oaks subdivision.

COMPREHENSIVE PLAN

The subject parcel is designated Rural Lands on the 2045 Comprehensive Plan Land Use Map. Appropriate uses in Rural Lands include traditional agricultural and forestal activities. Land Use Action 6.1.1 of the 2045 Comprehensive Plan states that the County shall “Support both the use value assessment and AFD programs to the maximum degree allowed by the Code of Virginia. Explore extending the terms of the County’s Districts.” Staff finds this application to be consistent with both the Rural Lands designation and Land Use Action 6.1.1.

PUBLIC IMPACTS

This proposal is not anticipated to generate any impacts that require mitigation.

STAFF RECOMMENDATION

Staff finds that the proposed addition meets all state and local requirements for inclusion in the Mill Creek AFD. Staff recommends that the BOS approve the application, subject to the proposed conditions, which are consistent with other properties in the District.

JR/md
AFD22-18_278IvyHillAdd

Attachments:

1. Ordinance
2. Location Map
3. Mill Creek AFD Map
4. Mill Creek AFD 2022 Renewal Ordinance and Staff Report
5. State Code § 15.2-4305 Regarding AFD Application Criteria
6. Applicant’s Narrative
7. Unapproved Minutes of the January 19, 2023, AFD Advisory Committee Meeting
8. Unapproved Minutes of the March 1, 2023, Planning Commission Meeting

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

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-22-0018.

278 IVY HILL ROAD MILL CREEK AFD ADDITION

WHEREAS, a request has been filed with the Board of Supervisors of James City County, Virginia, (the "Board") to add ± 256.85 acres of land owned by Greensprings Materials, LLC, located at 278 Ivy Hill Road, further identified as James City County Real Estate Tax Map Parcel No. 1130100013, to Agricultural and Forestal District (AFD) No. 07-86, which is generally known as the "Mill Creek Agricultural and Forestal District" (the "Application"); and

WHEREAS, at its January 19, 2023, meeting, the AFD Advisory Committee voted 7-0 to recommend approval of the Application; and

WHEREAS, a public hearing was advertised and held by the Planning Commission (the "Commission") at its March 1, 2023, meeting, after which the Commission voted 6-0 to recommend approval of the Application; and

WHEREAS, a public hearing was advertised and held by the Board of Supervisors.

NOW, THEREFORE, BE IT ORDAINED that the Board of Supervisors of James City County, Virginia, hereby adds ± 256.85 acres located at 278 Ivy Hill Road and identified as James City County Real Estate Tax Map Parcel No. 1130100013, (the "Property") to AFD-07-86, which is generally known as the "Mill Creek Agricultural and Forestal District" (the "District") with the following conditions:

1. That pursuant to Sections 15.2-4309 of the Act, the Board of Supervisors requires that any parcel in the District shall not, without the prior approval of the Board of Supervisors, be developed to any more intensive use, other than uses resulting in more intensive agricultural or forestal production. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCFs), provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. Land within the District may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawal of Properties from Agricultural and Forestal Districts, adopted September 28, 2010.

- c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the Act, which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for WCFs on properties in the District that are in accordance with the County's Policies and Ordinances regulating such facilities.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

SADLER
ICENHOUR
MCGLENNON
LARSON
HIPPLE

VOTES

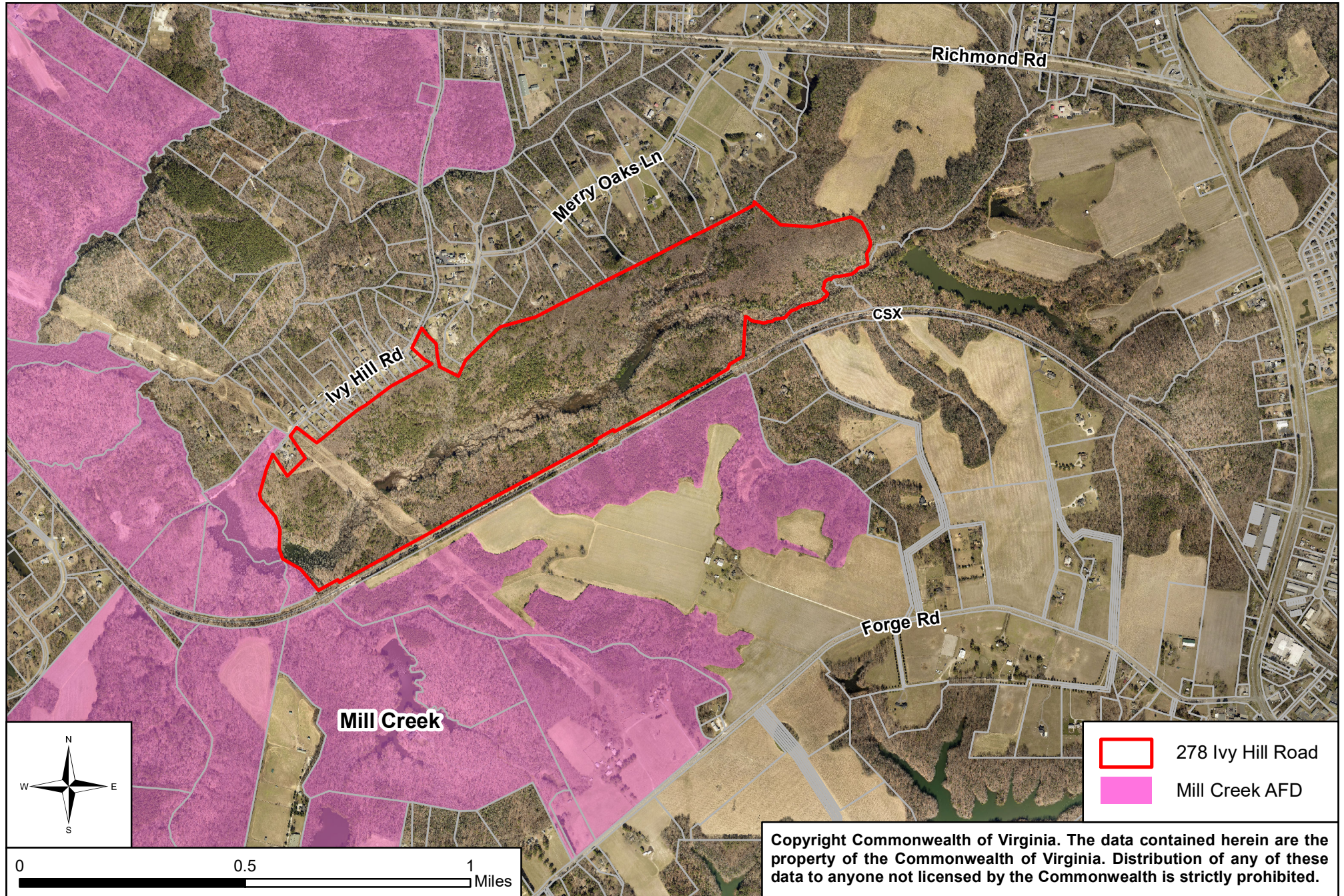
AYE NAY ABSTAIN ABSENT

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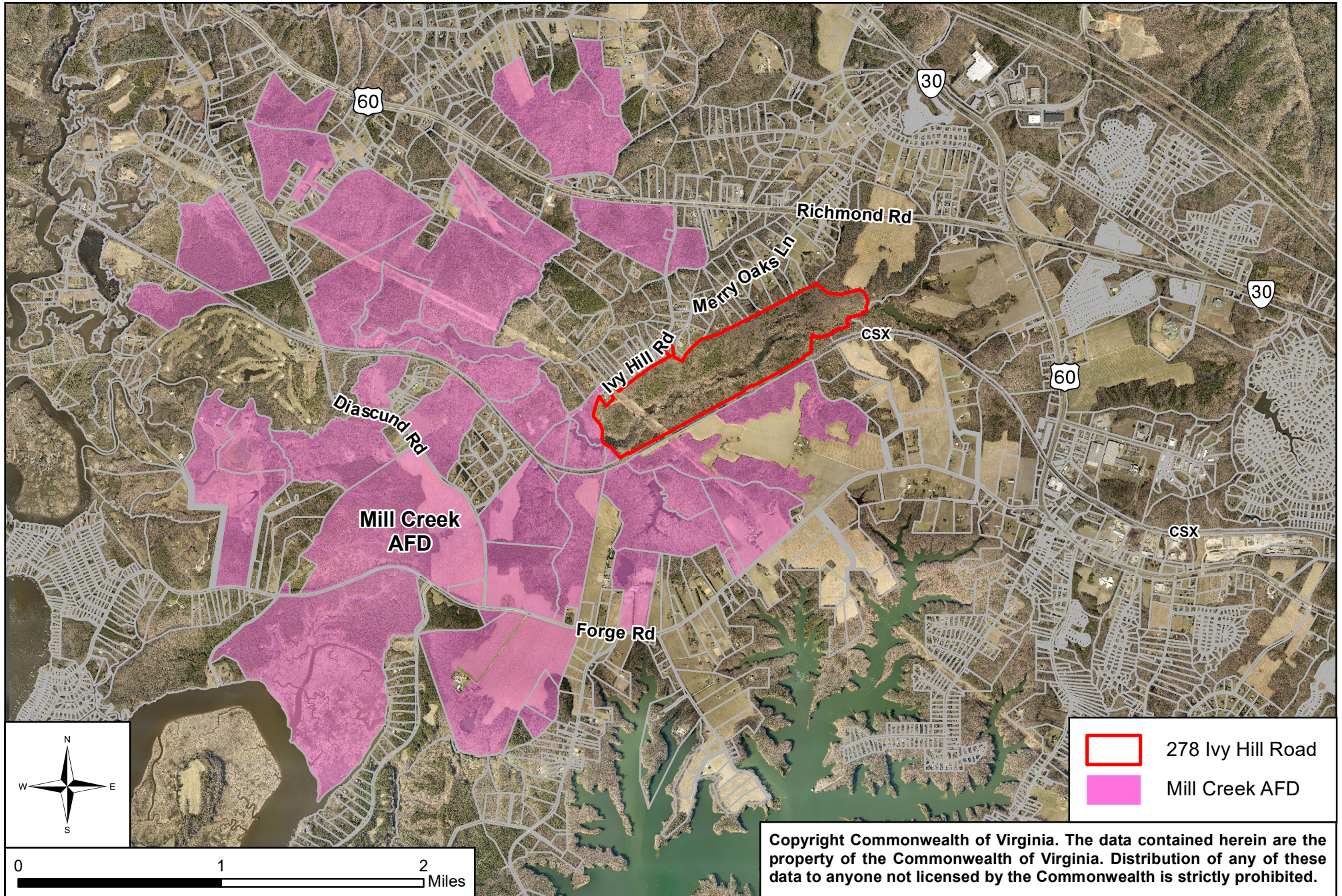
Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2023.

AFD22-18_278IvyHillAdd-ord

JCC AFD-22-0018, 278 Ivy Hill Road Mill Creek AFD Addition



JCC AFD-22-0018, 278 Ivy Hill Road Mill Creek AFD Addition



ADOPTED

SEP 13 2022

ORDINANCE NO. 169A-21

Board of Supervisors
James City County, VA

AGRICULTURAL AND FORESTAL DISTRICT-22-0011

MILL CREEK 2022 RENEWAL

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

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

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

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

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

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

<u>LAND OWNERS</u>	<u>PARCEL ID</u>	<u>ACRES</u>
8700 Barnes Road LLC	1010100037	104.00
Abbitt, M.W. Family Partnership	920100040	95.51
Albert T. & Joan Lloyd Slater	1010100028	69.69
Christopher M. Ware	920100036	39.13
Cowles-Cowlesville LLC	1040100005	249.89
Cowles-Cowlesville LLC	1040100006	124.77
Cowles-Cowlesville LLC	2010100002	2.00
Cowles-Lobbs LLC	2020100006	352.96
Dale Cowles Henderson & John Cowles Dozier, et al.	2020100001	8.76
Dale Cowles Henderson & John Cowles Dozier, et al.	2020100003	102.67
Daniel R. Winall & Marion Virginia	1030100019	97.59
Dennis P. and Christine A. Weygand	1030100013	34.03
Edwards' Mill Pond, LLC	1030100003	45.80
Ivy Hill LLC & Barbara L. Silverman c/o Ellen Lightman	1110100013	100.18

Ivy Hill LLC c/o Ellen Lightman	1110100024	1.18
J. Michael Sim	1040100003	103.26
J. Michael Sim	1040100001A	10.00
John E. & Elaine M. Sharp	0940100008N	57.81
John G. & Marie Antionette Findlay	0940100008H	118.29
John M. L. Barnes Estate	1110100001	29.00
John M.L. Barnes Estate & James F. Cowles	1020100004	215.77
Mark M. & Michelle B. Massie	1130100028B	29.43
Martha Ware Trust	2020100002	57.41
Mary M. Selph	1010100007	50.00
Mayes D. & Cheryl M. Matthews	2110100005	46.01
Nancy Cottrell Kruse & M. Anderson Bradshaw	1140100002	153.00
Pamaka LLC	1020100017	242.70
Pamela C. & Steve L. Massie	1130100028	102.06
Ralph Benjamin Dozier, Charles Norris Dozier III & Mary Elizabeth Sink	2020100005	178.44
Ralph Benjamin Dozier, Charles Norris Dozier III & Mary Elizabeth Sink	2020100007	16.50
Ralph Benjamin Dozier, Charles Norris Dozier III & Mary Elizabeth Sink	2020100008	12.00
Randolph G. & Michelle H. Gulden	1020100012	62.20
Randolph G. & Michelle H. Gulden	1020100032	25.00
Richard W. & Margaret Krapf	1140100006	4.73
Sarah Armistead	1010100038	50.00
Walter Nelson Marshall, III Trustee	1140100005	79.95
WGJ Land Holdings LLC	1040100004	43.07
WGJ Land Holdings LLC	1130100011	14.85
WGJ Land Holdings LLC	1130100011A	2.81
TOTAL ACRES		<u>3,132.45</u>

3. That pursuant to Section 15.2-4309 of the Act, The Board of Supervisors requires that any parcel in the District shall not, without the prior approval of the Board of Supervisors, be developed to any more intensive use, other than uses resulting in more intensive agricultural or forestal production. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCF), provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.

- b. Land within the District may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawal of Properties from Agricultural and Forestal Districts, adopted September 28, 2010.
- c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the Act, which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for WCFs on properties in the District that are in accordance with the County's policies and Ordinances regulating such facilities.


John J. McGlennon
Chairman, Board of Supervisors

ATTEST:


Teresa J. Saeed
Deputy Clerk to the Board

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

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

AFD22-11MillCrkRen-res

AGRICULTURAL AND FORESTAL DISTRICT-22-0011. Mill Creek Renewal**Staff Report for the September 13, 2022, Board of Supervisors Meeting****SUMMARY FACTS**

<u>LAND OWNERS</u>	<u>PARCEL ID</u>	<u>ACRES</u>		
8700 Barnes Road LLC	1010100037	104.00	Mayes D. and Cheryl M. Matthews	2110100005 46.01
Abbitt, M.W. Family Partnership	920100040	95.51	Nancy Cottrell Kruse and M. Anderson Bradshaw	1140100002 153.00*
Albert T. and Joan Lloyd Slater	1010100028	69.69	Pamaka LLC	1020100017 242.70
Christopher M. Ware	920100036	39.13	Pamela C. and Steve L. Massie	1130100028 102.06*
Cowles-Cowlesville LLC	1040100005	249.89*	Ralph Benjamin Dozier, Charles Norris Dozier III and Mary Elizabeth Sink	2020100005 178.44
Cowles-Cowlesville LLC	1040100006	124.77*	Ralph Benjamin Dozier, Charles Norris Dozier III and Mary Elizabeth Sink	2020100007 16.50
Cowles-Cowlesville LLC	2010100002	2.00	Ralph Benjamin Dozier, Charles Norris Dozier III and Mary Elizabeth Sink	2020100008 12.00
Cowles-Lobbs LLC	2020100006	352.96	Randolph G. and Michelle H. Gulden	1020100012 62.20
Dale Cowles Henderson and John Cowles Dozier, et al.	2020100001	8.76*	Randolph G. and Michelle H. Gulden	1020100032 25.00
Dale Cowles Henderson and John Cowles Dozier, et al.	2020100003	102.67	Richard W. and Margaret Krapf	1140100006 4.73
Daniel R. Winall and Marion Virginia	1030100019	97.59	Sarah Armistead	1010100038 50.00
Dennis P. and Christine A. Weygand	1030100013	34.03	Walter Nelson Marshall, III Trustee	1140100005 79.95*
Edwards' Mill Pond, LLC	1030100003	45.80	WGJ Land Holdings LLC	1040100004 43.07
Ivy Hill LLC and Barbara L Silverman c/o Ellen Lightman	1110100013	100.18	WGJ Land Holdings LLC	1130100011 14.85
Ivy Hill LLC c/o Ellen Lightman	1110100024	1.18	WGJ Land Holdings LLC	1130100011A 2.81
J. Michael Sim	1040100003	103.26	TOTAL ACRES	3,132.45
J. Michael Sim	1040100001A	10.00	*Parcel size changed since 2018 due to new plats and/or revised parcel acreages per Real Estate Assessments Division.	
John E. and Elaine M. Sharp	0940100008N	57.81	Zoning:	A-1, General Agricultural
John G. and Marie Antionette Findlay	0940100008H	118.29	Comprehensive Plan:	Rural Lands
John M. L. Barnes Estate	1110100001	29.00	Primary Service Area (PSA):	Outside
John M.L. Barnes Estate and James F. Cowles	1020100004	215.77*	Staff Contact:	Suzanne Yeats, Planner
Mark M. and Michelle B. Massie	1130100028B	29.43*		
Martha Ware Trust	2020100002	57.41		
Mary M. Selph	1010100007	50.00		

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

AGRICULTURAL AND FORESTAL DISTRICT-22-0011. Mill Creek Renewal

Staff Report for the September 13, 2022, Board of Supervisors Meeting

PUBLIC HEARING DATES

Agricultural and Forestal District
(AFD) Advisory Committee: July 21, 2022, 4:00 p.m.
Planning Commission: Aug. 3, 2022, 6:00 p.m.
Board of Supervisors: Sept. 13, 2022, 5:00 p.m.

STAFF RECOMMENDATION

Approval, subject to the proposed conditions.

AGRICULTURAL AND FORESTAL DISTRICT ADVISORY COMMITTEE RECOMMENDATION:

At its July 21, 2022, meeting, the Agricultural and Forestal District (AFD) Advisory Committee voted 6-0 to recommend the continuation of the District to the Planning Commission and Board of Supervisors.

PLANNING COMMISSION RECOMMENDATION:

At its August 3, 2022, meeting, the Planning Commission voted 7-0 for the continuation of the District to the Board of Supervisors including the following recommendations:

- For staff to review the end-to-end survey process prior to the next renewal cycle;
- For staff to consider other avenues inclusive of AFD tax credits, including but not limited to carbon sequestration, to reimburse AFD landowners;
- For staff to forward the Commissioner of the Revenue's "Tax Benefits Associated with Inclusion in an AFD for FY 2022" to the Board of Supervisors.

DISTRICT HISTORY

- The Mill Creek AFD was created in 1986 for a term of four years and originally consisted of 28 parcels totaling $\pm$ 3,547 acres.
- The District was renewed in 1990, 1994, 1998, 2002, 2006, 2010, 2014, and 2018 for four-year periods. Various additions and withdrawals occurred throughout these years.
- Since the 2018 renewal, the Board of Supervisors approved the addition of $\pm$ 70.73 acres:
 - o 10.00 ac.; AFD-18-2020 and Res. 169A-19
 - o 43.07 ac.; AFD-18-2016 and Res. 169A-20
 - o 14.85 ac.; AFD-18-2016 and Res. 169A-20
 - o 2.81 ac.; AFD-18-2016 and Res. 169A-20

DISTRICT DESCRIPTION

The Mill Creek AFD consists of $\pm$ 3,276 acres, the majority of which are located along Forge Road or Diascund Road. The majority of the District contains either woodland or active agriculture. All parcels are zoned A-1, General Agriculture and are designated Rural Lands on the 2045 Comprehensive Plan.

Total acreage includes all the land in the above properties except land within 25 feet of rights-of-way. This area has been excluded to allow for possible road and/or drainage improvements.

ADDITION/WITHDRAWAL REQUESTS

The owners of the property located at 2724 Forge Road (Parcel ID No. 114010002) has requested a partial withdrawal of 144.288 acres (Attachment No. 3). With this withdrawal, the District will encompass 3,132.45 acres and continue to maintain the 200-acre minimum requirement per State Code.

CONDITIONS

If continued, the Districts are proposed to be re-established for another four-year term, with edits to Condition No. 3 that reflects updates from the Virginia State Code and clarifying language (See Attachment No. 1).

SURROUNDING ZONING AND DEVELOPMENT

The surrounding area consists mostly of forestland. The majority of the surrounding property is zoned A-1 and is designated Rural Lands on the Comprehensive Plan. The Chickahominy River is located to the west. The Barnes Swamp AFD is located to the north and the Wright's Island AFD is located to the south.

COMPREHENSIVE PLAN

The 2045 Comprehensive Plan designates these parcels as Rural Lands. Land Use Action 6.1.1 of the adopted Comprehensive Plan states the County shall "support both the use value assessment and Agricultural and Forestal (AFD) programs to the maximum degree allowed by the *Code of Virginia*."

STAFF RECOMMENDATION

Staff finds the Mill Creek AFD compatible with surrounding development and consistent with the recommendations of the adopted Comprehensive Plan and Zoning Ordinance. Staff recommends that the Board of Supervisors approve the renewal of this AFD for a period of four years, subject to the conditions listed in the District Ordinance (See Attachment No. 1).

SY/md
AFD22-11MillCrkRen

Attachments:

1. Ordinance
2. Location Map
3. Property Owner Withdrawal Request

§ 15.2-4305. Application for creation of district in one or more localities; size and location of parcels

On or before November 1 of each year or any other annual date selected by the locality, any owner or owners of land may submit an application to the locality for the creation of a district or addition of land to an existing district within the locality. Each district shall have a core of no less than 200 acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in a district (i) if the nearest boundary of the parcel is within one mile of the boundary of the core, (ii) if it is contiguous to a parcel in the district the nearest boundary of which is within one mile of the boundary of the core, or (iii) if the local governing body finds, in consultation with the advisory committee or planning commission, that the parcel not part of the core or within one mile of the boundary of the core contains agriculturally and forestally significant land. No land shall be included in any district without the signature on the application, or the written approval of all owners thereof. A district may be located in more than one locality, provided that (i) separate application is made to each locality involved, (ii) each local governing body approves the district, and (iii) the district meets the size requirements of this section. In the event that one of the local governing bodies disapproves the creation of a district within its boundaries, the creation of the district within the adjacent localities' boundaries shall not be affected, provided that the district otherwise meets the requirements set out in this chapter. In no event shall the act of creating a single district located in two localities pursuant to this subsection be construed to create two districts.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

William C. Taylor
Greensprings Materials LLC
8589 Richmond Road
Toano VA 23168
1/9/23

Josh Crump
Principal Planner
James City County
101-A Mounts Bay Road
Williamsburg, VA 23185

Mr. Josh Crump:

I writing to request that our property located at 278 Ivy Hill Road Toano VA be included into The Agricultural and Forestall District. We purchased the property a little over a year ago. It is currently wooded, with the only exception being a Domino Energy power line easement that is located on the west end of the property. The timber was harvested approximately 15 years ago and is currently a mixture of pine and hardwoods. We have no plans to develop any of the property at this time. Currently the property is used for hunting and trail riding. As time goes by and the trees mature, we will most likely harvest the timber. If you have any questions or need any further information, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read 'William C. Taylor', written in dark ink.

William C. Taylor

**Unapproved Minutes
of the
January 19, 2023
Agricultural and Forestal District Advisory Committee**

AFD-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition

Mr. Chris Taylor stated that he would recuse himself from the matter due to a personal interest in the property.

Mr. Risinger stated that Mr. Chris Taylor has applied to enroll approx. 256.85 acres of land located at 278 Ivy Hill Road into the Mill Creek AFD. He said the parcel is zoned A-1, General Agricultural, and designated Rural Lands on the 2045 Comprehensive Plan. He added that the parcel is located within one mile of the core of the Mill Creek AFD and is directly adjacent to other parcels in the AFD.

Mr. Risinger stated that the property is undeveloped and wooded and that the applicant indicated it is used for private recreational activities. He stated the applicant indicated that the property was last timbered 15 years ago and would likely be timbered in the future after the timber stand has matured.

Mr. Risinger told the Committee that staff determined the proposed addition meets state and local requirements for inclusion in the AFD and recommends that the Committee recommend approval of the proposed addition to the Planning Commission and the Board of Supervisors. He said he would be happy to answer any questions.

Ms. Garrett asked Mr. Taylor what recreation activities occurred on the property.

Mr. Taylor stated that the property was used for hunting.

Mr. Abbott asked if the addition would be subject to the AFD's conditions from the latest renewal.

Mr. Risinger confirmed.

Ms. Garrett made a motion to recommend approval of enrolling approximately 256.85 acres of land at 278 Ivy Hill Road into the Mill Creek AFD.

Mr. Will Harcum seconded the motion.

On a voice vote, the Committee voted to recommend approval of the AFD addition. (7-0)

**Unapproved Minutes of the March 1, 2023
Planning Commission Regular Meeting**

AFD-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition

Mr. John Risinger, Senior Planner, stated that Mr. William C. Taylor of Greensprings Materials, LLC, has applied to enroll $\pm$ 256.85 acres of land located at 278 Ivy Hill Road into the Mill Creek Agricultural and Forestal District (AFD). Mr. Risinger stated that the parcel is zone A-1, General Agricultural, and designated Rural Lands on the 2045 Comprehensive Plan Land Use Map. Mr. Risinger stated that the parcel is located within one mile of the core of the AFD and is contiguous with other parcels currently in the District. Mr. Risinger stated that the parcel is currently an undeveloped, wooded lot. Mr. Risinger noted that currently the property is used for recreation and there are no plans for future development. Mr. Risinger stated that the property was timbered approximately 15 years ago and may be timbered again once the current stand of timber matures.

Mr. Risinger stated that at its January 19, 2023, meeting the AFD Advisory Committee recommended approval of the application by a vote of 7-0.

Mr. Risinger stated that staff finds this application to be consistent with both the Rural Lands designation and the Comprehensive Plan Land Use Action 6.1.1. Mr. Risinger further stated that staff finds that the proposed addition meets all state and local requirements for inclusion in the Mill Creek AFD and recommends that the Planning Commission recommend approval of the proposed addition to the Board of Supervisors.

Mr. O'Connor opened the Public Hearing.

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

Mr. Polster made a motion to recommend approval of the AFD addition.

On a roll call vote the Commission voted to recommend approval of AFD-22-0018. 278 Ivy Hill Road Mill Creek AFD Addition. (6-0)

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Thomas Wysong, Senior Planner II; Ellen Cook, Principal Planner

SUBJECT: LU-20-0002. Eastern State - Parcel C and LU-20-0003. Eastern State - Mixed Use Community Land Use Designation Changes

ATTACHMENTS:

	Description	Type
☐	0. Memo	Cover Memo
☐	1. Resolution to Approve	Resolution
☐	2. Resolution to Remand	Resolution
☐	3. LU-20-0002 Eastern State - New Town Addition, Staff Report (April 27, 2021)	Backup Material
☐	4. LU-20-0003 Eastern State - Mixed Use Community, Staff Report (April 27, 2021)	Backup Material
☐	5. Public Comments and Applicant Correspondence, received since April 12, 2022	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	3/27/2023 - 8:04 AM
Development Management	Holt, Paul	Approved	3/27/2023 - 8:05 AM
Publication Management	Pobiak, Amanda	Approved	3/27/2023 - 8:16 AM
Legal Review	Kinsman, Adam	Approved	3/27/2023 - 9:17 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:40 AM
Board Secretary	Rinehimer, Bradley	Approved	4/4/2023 - 11:00 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 11:19 AM

MEMORANDUM

DATE: April 11, 2023

TO: The Board of Supervisors

FROM: Thomas Wyson, Senior Planner II
Ellen Cook, Principal Planner

SUBJECT: Case No. LU-20-0002 Eastern State - Parcel C and Case No. LU-20-0003 Eastern State - Mixed Use Community Land Use Designation Changes

At the Board of Supervisors meetings on July 13, 2021, September 28, 2021, and October 26, 2021, the Board considered the 2045 Comprehensive Plan, and adopted the Plan on October 26, 2021. As part of its consideration of the Plan, the Board voted to postpone the Eastern State land use designation change applications for six months or until such time as rezoning applications for the properties involved had been submitted. No applications were submitted during that time, and on April 12, 2022, the Board voted to postpone these applications for 12 months or until such time as rezoning applications for the properties involved had been submitted. Since this most recent postponement, no formal applications have been received for the property encompassed by these two applications.

Since no rezoning application has been received to date, staff recommends postponing these applications; however, should the Board wish to approve a land use designation change to Mixed Use for one or both of these applications at this time, staff recommends the Board consider amendments to the 2045 Comprehensive Plan.

Based on guidance received from the Board on April 26, 2022, staff is proposing language that shows both Eastern State proposals as distinct and separate from New Town. Previously, staff had included guidance language for the portion of the Eastern State property associated with LU-20-0002 in the New Town Mixed Use area language, but the New Town Mixed Use area language is no longer being proposed for changes (no changes to the already adopted Comprehensive Plan are proposed for any existing, corollary references).

Instead, the following language would provide guidance for all of the Eastern State property subject to the proposed Mixed Use redesignations, for both LU-20-0002 and LU-20-0003. Note that staff has included the guidance that had previously been located in the New Town Mixed Use area language for LU-20-0002 into the language below.

“Mixed Use Area No. 15 Eastern State. UDA: Medium Town or Suburban Center”

“The eastern portion of this site is to be developed as a master planned community that harmoniously blends the Eastern State Hospital campus with the adjacent New Town community, though this development is expected to have its own mixture of uses and design expectations. This community should employ careful site orientation, landscaping and buffering and transportation network connectivity to connect these areas, while also allowing for proper land use separation where appropriate.

The two guiding principles for mitigating impacts regarding the redevelopment of this site are: a) the preservation and protection of environmentally sensitive features and b) the protection and expected enhancement of the immediate transportation network. Natural ravines, topography, Resource Protection Area (RPA) features and wooded areas are to provide buffering of the site and be protected from disturbance, and stormwater facilities are to be integrated seamlessly as low impact, “green

infrastructure” within the site. Controlled ingress/egress points will direct traffic solely to intersections with suitable capacity and traffic calming infrastructure.

The master planned community is to be centered on passive and active open spaces and associated amenities. These open spaces are to be interconnected via pedestrian, bicycling, and vehicular travel networks and are to serve as the central and perimeter congregational and buffer areas for the development. This development is to be clustered and strategically situated adjacent to natural conservation areas and topographic features.

This community is to be integrated into the existing transportation networks. Sidewalks, bike paths, and vehicular connections are to be designed to facilitate community residents’ enjoyment of parks and amenities internal to the development, but to permit residents to walk, bike, or drive to nearby schools, recreational areas, restaurants, and shops.

In combination with the Eastern State Hospital complex and employment center, this community is to provide a mixed use area consisting of residential, institutional, medical, commercial/office, and civic uses. Each of these uses are to be appropriately interconnected to blend and support one another. The residential development will provide housing opportunities for the adjacent employment centers and will be located in close proximity to the civic uses, allowing convenient pedestrian mobility.

For the portion of the Eastern State property located directly north of New Town and abutting Route 199, the principal suggested uses are a mixture of commercial, office, residential, and limited industrial. It is of critical importance that environmentally sensitive features such as topography, RPA features and wooded areas be protected and permanently preserved, where possible. New development or redevelopment in this area should follow consistent design guidelines and strive to integrate uses. The design, scale, and development pattern shall complement the existing New Town development located to the south.

The portion of the Eastern State parcel located west of Route 199 should be conserved as open space, meaning no development is recommended for this portion. Furthermore, no vehicular access is recommended for this portion.

Staff Recommendation

The Board’s motion on these applications previously was to postpone them for 12 months or until such time as staff receives a rezoning application for the properties involved. Since no rezoning application has been received to date, staff recommends postponing these applications. Staff recommends postponing these applications for 12 months or until such time as rezoning applications for the properties involved have been submitted.

Should the Board wish to approve a land use designation change to Mixed Use for one or both of these applications at this time, a resolution is attached for the Board’s consideration.

TW/EC/ap
LU20-2-3EstrnSt-mem

Attachment

1. Resolution to Approve
2. Resolution to Remand
3. LU-20-0002 Eastern State - New Town Addition, Staff Report (April 27, 2021)
4. LU-20-0003 Eastern State - Mixed Use Community, Staff Report (April 27, 2021)
5. Public Comments and Applicant Correspondence, received since April 12, 2022

RESOLUTION

CASE NO. LU-0020-0002. EASTERN STATE - PARCEL C AND

CASE NO. LU-20-0003. EASTERN STATE - MIXED USE COMMUNITY

LAND USE DESIGNATION CHANGES

WHEREAS, at its October 26, 2021, meeting the Board of Supervisors of James City County adopted the James City County Comprehensive Plan *Our County, Our Shared Future: James City County 2045 Comprehensive Plan*; and

WHEREAS, at its September 28, 2021, October 26, 2021, and April 12, 2022 meetings the Board of Supervisors postponed two components of the Comprehensive Plan, which were land use designation change requests submitted as Case No. LU-20-0002 Eastern State - New Town Addition and Case No. LU-20-0003 Eastern State - Mixed Use Community (James City County Real Estate Tax Map Parcel No. 3910100152); and

WHEREAS, the requests were to change the property from the Federal, State, or County Land use designation to the Mixed Use land use designation; and

WHEREAS, at its March 22, 2021 meeting the Planning Commission Working Group voted 6-1 to recommend approval of Case No. LU-20-0002 Eastern State - New Town Addition; and

WHEREAS, at its March 22, 2021 meeting the Planning Commission Working Group voted 5-2 to recommend approval of Case No. LU-20-0003 Eastern State - Mixed Use Community; and

WHEREAS, at its June 24, 2021 meeting the Planning Commission voted 5-2 to adopt the Comprehensive Plan, including accepting the recommendations of approval of the Planning Commission Working Group for these cases.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves Case No. LU-20-0002 Eastern State - Parcel C and associated Mixed Use description language and directs that the James City County Comprehensive Plan Future Land Use Map and Land Use Chapter description be updated accordingly.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves Case No. LU-20-0003 Eastern State - Mixed Use Community and associated Mixed Use description language and directs that the James City County Comprehensive Plan Future Land Use Map and Land Use Chapter description be updated accordingly.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

SADLER
ICENHOUR
MCGLENNON
LARSON
HIPPLE

VOTES

AYE NAY ABSTAIN ABSENT

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

LU20-2-3EstrnStAppr-res

RESOLUTION

CASE NO. LU-0020-0002. EASTERN STATE - PARCEL C AND

CASE NO. LU-20-0003. EASTERN STATE - MIXED USE COMMUNITY

LAND USE DESIGNATION CHANGES

WHEREAS, at its October 26, 2021, meeting the Board of Supervisors of James City County adopted the James City County Comprehensive Plan *Our County, Our Shared Future: James City County 2045 Comprehensive Plan*; and

WHEREAS, at its September 28, 2021, October 26, 2021, and April 12, 2022 meetings the Board of Supervisors postponed two components of the Comprehensive Plan, which were land use designation change requests submitted as Case No. LU-20-0002 Eastern State - New Town Addition and Case No. LU-20-0003 Eastern State - Mixed Use Community (James City County Real Estate Tax Map Parcel No. 3910100152); and

WHEREAS, the requests were to change the property from the Federal, State, or County Land use designation to the Mixed Use land use designation; and

WHEREAS, at its March 22, 2021 meeting the Planning Commission Working Group voted 6-1 to recommend approval of Case No. LU-20-0002 Eastern State - New Town Addition; and

WHEREAS, at its March 22, 2021 meeting the Planning Commission Working Group voted 5-2 to recommend approval of Case No. LU-20-0003 Eastern State - Mixed Use Community; and

WHEREAS, at its June 24, 2021 meeting the Planning Commission voted 5-2 to adopt the Comprehensive Plan, including accepting the recommendations of approval of the Planning Commission Working Group for these cases.

WHEREAS, the Board of Supervisors requests the Planning Commission to review approaches to the land use designation(s) for the Property, including considering revised Mixed Use designation description language for these cases.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby remands Case No. LU-20-0002 and Case No. LU-20-0003 to the Planning Commission.

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	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
MCGLENNON	_____	_____	_____	_____
LARSON	_____	_____	_____	_____
HIPPLE	_____	_____	_____	_____

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

LU20-2-3EstrnStRmds-res

LU-20-0002: Eastern State-New Town Addition
Staff Report for the April 27, 2021 BOS Business Meeting

SUMMARY FACTS

Case Number:	LU-20-0002
Case Description:	Eastern State-New Town Addition
Source:	Property owner-initiated
Property Address:	4601 Ironbound Rd
Tax Map/Parcel No.:	3910100152
Acreage:	± 540.65
Property Owner:	Commonwealth of Virginia Eastern State Hospital
Zoning:	PL Public Lands
Primary Service Area: (PSA)	Inside
Current Land Use Designation:	Federal, State, and County Land
Proposed Land Use Designation:	Mixed Use-New Town
PSA Change:	No

Proposal Rationale

See applicant narrative on PermitLink:
https://comdev.jamestowncityva.gov/EnerGov_Prod/SelfService/#/plan/62d37899-9ee4-482e-9f29-2e2d2a7207bf?tab=attachments

Parcel Background

This parcel is located between Route 199 and Depue Rd and is located north of the New Town development. The Commonwealth of Virginia has utilized this property as a psychiatric hospital and intends to continue this use in the portion of the parcel not subject to this proposal.

Agency Comments

VDOT recommended the County be aware that in the case of Olive Drive and Rollison Drive, a large increase in traffic through narrow residential streets with on-street parking may be problematic.

JCSA noted that upgrades to the existing sewer main will be required if the developer intends to connect to it. If the developer intends to use the private sewer mains outside of the site, the private infrastructure will have to be transferred to JCSA. JCSA raised no issues with extending water mains to serve the site, on the condition that capacity analyses be submitted and required upgrades be provided by the developer.

SRP noted the location of these properties within the Powhatan Creek watershed and the requirement for this proposal to adhere to the Special Stormwater Criteria (where appropriate),

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.

the approved Powhatan Creek watershed management plan, and other administrative requirements. SRP also noted the need for Olive Drive and Rollison Drive to be upgraded.

Fire, OED, Parks and Rec, & Neighborhood Development raised no comments regarding this proposal.

Key Land Use Policy Ideas Analysis

Key Land Use Policy Idea #3: Encouraging the majority of new growth as Complete Communities by redesignating land as Mixed Residential/Commercial (e.g. some existing Low Density Residential areas) or Mixed Commercial/Industrial (e.g. the existing Economic Opportunity areas)

Key Land Use Policy Idea #4 : Directing some new growth as feasible into redevelopment and infill development rather than into vacant rural areas.

Key Land Use Policy Idea #6: Directing new commercial growth into Mixed Use areas, as part of Complete Communities by redesignating existing commercial areas and/or revising zoning to encourage mixed use in these areas.

Transportation Considerations

This parcel is surrounded by Community Character Corridors to the west (Route 199) north (Longhill Road) and east (Depue Rd, and Ironbound Road). For Longhill Road, Phase 1 of the widening is under way to include bicycle and pedestrian facilities. The proposed access to this property is through the

extension of Olive Drive and Discovery Park Boulevard, meaning no additional entrances are proposed on Route 199 or Longhill Rd. The conceptual plan for this proposal shows Community Character buffering adjacent to Route 199, in accordance with County policy.

Transportation Road Networks

Per the traffic congestion mapping provided by EPR, the immediate surrounding transportation network (Longhill Road, Depue Drive and Ironbound Road) is currently experiencing low levels of congestion, with some congestion already at the Longhill Road & Depue Drive intersection.

In the Virtual Future Scenario A map, some congestion is expected to continue at the Longhill Road & Depue Drive intersection.

In the Alternative Future Scenario B map, there is less congestion at some of the Route 199 & Monticello Avenue ramps. The immediate surrounding roads continue to operate with low levels of congestion.

Land Use Designation Description Language

Proposed Revised Draft Language for Mixed Use New Town: "New development or redevelopment in this area, including any portion of the Eastern State Hospital property to be brought into the New Town development, should follow consistent design guidelines and strive to integrate uses." Please see the Land Use Designation Descriptions and Development Standards for the full description of the New Town Mixed Use designation.

Staff Recommendation

Approval

Recommendation Rationale

This application aligns with the key land use policy ideas recommended as a result of the public input provided during the Engage 2045 process. Specifically, this proposal supports the redevelopment/infill development of an existing site within the Primary Service Area (PSA) by the redesignation of land to Mixed Use, which also supports future growth in the form of the Complete Communities concept. The projected traffic congestion for this area is not expected to be severe, nor are the transportation linkages required for the development expected to hinder the County's Corridor vision for Longhill Road and Route 199. Finally, the proposed Land Use designation description language contains development standards and clear expectations regarding design that will guide any future legislative applications to ensure the preservation of the established community character of the area.

PCWG Recommendation

The PCWG recommended approval of this proposal by a vote of 6-1 at its March 22, 2021 meeting.

Attachments

1. Location Map

**LU-20-0003: Eastern State-Mixed Use Community
Staff Report for the April 27, 2021 BOS Business Meeting**

SUMMARY FACTS

Case Number:	LU-20-0003
Case Description:	Eastern State-New Town Addition
Source:	Property owner-initiated
Property Address:	4601 Ironbound Rd
Tax Map/Parcel No.:	3910100152
Acreage:	± 540.65
Property Owner:	Commonwealth of Virginia Eastern State Hospital
Zoning:	PL Public Lands
Primary Service Area: (PSA)	Inside
Current Land Use Designation:	Federal, State, and County Land
Proposed Land Use Designation:	Mixed Use-Eastern State (new)
PSA Change:	No

Proposal Rationale

See applicant narrative on PermitLink:
https://comdev.jamestowncityva.gov/EnerGov_Prod/SelfService/#/plan/380a9a62-4555-4798-a087-85253a9ad25c

Parcel Background

This parcel is located between Route 199 and Depue Rd and is located north of the New Town development. The Commonwealth of Virginia has utilized this property as a psychiatric hospital and intends to continue this use in the portion of the parcel not subject to this proposal.

Agency Comments

VDOT noted that a mixed use development on this property will have significant impact on Depue Drive and Ironbound Rd and surrounding intersection. VDOT recommended a traffic study be conducted for this proposal prior to development.

JCSA noted that if the developer intends to use the private water or sewer mains outside of the site, the private infrastructure will have to be transferred to JCSA after completion of a capacity analysis and required upgrades. JCSA raised no issues with portions of the site connecting to water mains to serve the site, on the condition that capacity analyses be submitted and required upgrades be provided by the developer.

SRP noted the location of these properties within the Powhatan Creek watershed and the requirement for this proposal to adhere to the Special Stormwater Criteria (where appropriate), the approved Powhatan Creek watershed management plan, and

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.

other administrative requirements.

Fire, OED, Parks and Rec, & Neighborhood Development raised no comments regarding this proposal.

Key Land Use Policy Ideas Analysis

Key Land Use Policy Idea #3: Encouraging the majority of new growth as Complete Communities by redesignating land as Mixed Residential/Commercial (e.g. some existing Low Density Residential areas) or Mixed Commercial/Industrial (e.g. the existing Economic Opportunity areas)

Key Land Use Policy Idea #4 : Directing some new growth as feasible into redevelopment and infill development rather than into vacant rural areas.

Key Land Use Policy Idea #6: Directing new commercial growth into Mixed Use areas, as part of Complete Communities by redesignating existing commercial areas and/or revising zoning to encourage mixed use in these areas.

Transportation Considerations

This parcel is surrounded by Community Character Corridors to the west (Route 199) north (Longhill Road) and east (Depue Rd, and Ironbound Road.) For Longhill Road, Phase 1 of the widening is under way to include bicycle and pedestrian facilities. The conceptual master plan for this proposal shows the site layout utilizing Ashbury Lane and Galt Lane to reach these

corridors. Per VDOT's recommendation, a traffic study prior to development would be helpful in assessing the required improvements for these roads and the potential impact on other roadways.

Transportation Road Networks

Per the traffic congestion mapping provided by EPR, the immediate surrounding transportation network (Longhill Road, Depue Drive and Ironbound Road) is currently experiencing low levels of congestion, with some congestion already at the Longhill Road & Depue Drive intersection.

In the Virtual Future Scenario A map, some congestion is expected to continue at the Longhill Road & Depue Drive intersection.

In the Alternative Future Scenario B map, there is less congestion at some of the Route 199 & Monticello Avenue ramps. The immediate surrounding roads continue to operate with low levels of congestion.

Land Use Designation Description Language

Proposed Draft Language: The portion of this site designated for this use is to be developed as a master planned community that harmoniously blends the Eastern State Hospital campus with the adjacent New Town community. This community should employ careful site orientation, landscaping and buffering and transportation network connectivity to connect these areas, while also allowing for proper land use separation where appropriate. Natural ravines, topography, RPA features and

wooded areas are to provide enveloped buffering of the site and be protected from disturbance. Controlled ingress/egress points will direct traffic to intersections with suitable capacity and traffic calming infrastructure.

The master planned community is to be centered on passive and active open spaces and associated amenities. These open spaces are to be interconnected via pedestrian, bicycling and vehicular travel networks and are to serve as the central and perimeter congregational and buffer areas for the development. This development is to be clustered and strategically situated adjacent to natural conservation areas and topographic features.

This community is to be integrated into the existing transportation networks. Sidewalks, bike paths and vehicular connections are to be designed to facilitate community residents' enjoyment of parks and amenities internal to the development, but to permit residents to walk, bike or drive to nearby schools, recreational areas, restaurants and shops.

In combination with the Eastern State Hospital complex and employment center, this community is to provide a mixed-use area consisting of residential, institutional, medical, office and civic uses. Each of these uses are to be appropriately interconnected to blend and support one another. The residential development will provide housing opportunities for the adjacent employment centers and will be located in close proximity to the civic uses, allowing convenient pedestrian mobility.

Staff Recommendation

Approval

Recommendation Rationale

This application aligns with the key land use policy ideas recommended as a result of the public input provided during the Engage 2045 process. Specifically, this proposal supports the redevelopment/infill development of an existing site within the Primary Service Area (PSA) by the redesignation of land to Mixed Use, which also supports future growth being in the form of the Complete Communities concept. The projected traffic congestion for this area is not expected to be severe, nor are the transportation linkages required for the development expected to hinder the County's Corridor vision for Longhill Road and Route 199. Finally, the proposed Land Use designation description language contains development standards and clear expectations regarding design that will guide any future legislative applications to ensure the preservation of the established community character of the area.

PCWG Recommendation

The PCWG recommended approval of this proposal by a vote of 5-2 at its March 22, 2021 meeting.

Attachments

1. Location Map

New Town Residential Association, Inc.

c/o Chesapeake Bay Management, Inc.
337 McLaws Circle, Suite 1
Williamsburg, VA 23185

March 3, 2023

Paul Holt
JCC Planning Director
paul.holt@jamescitycountyva.gov
James City County Governmental Center
101 Mounts Bay Road
Williamsburg, VA 23185

Dear Mr. Holt:

Members of the New Town Residential Association (NTRA) Board of Directors recently met with Michael Youngblood, ABVA Development LLC and were briefed on their revised preliminary plan for the rezoning of Parcel C of the Eastern State Hospital property that adjoins New Town. It appears that the developer has adjusted their past proposal to mitigate some of the numerous problems raised by New Town residents, particularly those affecting the Charlotte Park neighborhood.

However, our community remains concerned about the development and the potential impact that it will likely have on New Town residents, especially because past verbal and written promises by ABVA have not been fulfilled. For example, in July 2021 ABVA testified to the Board of Supervisors and wrote that they were preparing to deed the property at the end of Olive Drive, platted as a right of way and originally proposed to connect to the Eastern State property, to the NTRA. That has not happened to date. Similarly, ABVA has increased the density of past acreage after the initial County planning approval process.

The NTRA community requests that the concepts presented at our recent meeting be included as requirements in any rezoning process and recorded in ABVA proffers with James City County for the future Eastern State property development. Those conditions are listed below:

1. Olive Drive will not be extended into the Eastern State development or accessible for emergency vehicular traffic.
2. The property at the intersection of Olive and Rollison Drive owned by ABVA (5214 Rollison Drive – Parcel 3824100006A) will be deeded to the NTRA.
3. The new development will have its own name/identity and the New Town name will not be associated with the Eastern State development. This is important to avoid misconceptions and prevent confusion to potential home buyers.
4. An additional 100-foot buffer will be added to the existing 50-foot buffer that currently abuts several Charlotte Park homesites making the buffer between the two areas a minimum of 150 feet between the back of Charlotte Park lots and the back of the Eastern State development lots.
5. The Eastern State development will have its own independent amenities such as swimming pool, gym and a clubhouse.

6. Parcel C2 should be restricted to 86 single-family homes as briefed in our meeting.
7. Parcel C1 should be restricted to 150 townhouse/apartment units as briefed in our meeting.
8. The number and sizes of commercial units in C1 should be specified.
9. The new development must be governed by its own separate homeowners' association with no connection to the NTRA and/or the New Town Commercial Association (NTCA). (Note that if homes in the proposed Eastern State development are incorporated as part of the NTCA, their owners would be able to utilize NTRA facilities per the 2015 Amenities Use Easement and Agreement (Instrument 15001927) . This document also allows New Town Associates to add future real estate to this agreement without our association's approval. Such a unilateral action is unacceptable to the NTRA and must be specifically prohibited in the Eastern State Parcel C development proffers.)
10. Trails from the new development should not be further connected with the New Town trail system beyond the current configuration, i.e. no additional new connection should be cut towards our residential neighborhoods. There is sufficient connectivity in the current trail system (via the bridge behind 5186 Rollison Drive to Discovery Park Boulevard) for the two community's separate trails to function as a network. The focus for entry to the new development's trails should be where Discovery Park Boulevard currently ends.

The proffer negotiation will be a critical element in our community's acceptance of any new Eastern State Hospital land development, so we want to share these expectations early. We would appreciate your attention and consideration of these conditions when a rezoning application is filed. We further anticipate that increased traffic both on Discovery Park Boulevard and on the cross-streets of Casey Boulevard and New Town Avenue will need to be addressed. Our Board is available to meet with County staff at any time as the rezoning process evolves. Feel free to contact me by Email: jack.espinal@cox.net or by Cell Phone 703 946 5787.

Sincerely,



Jack Espinal

President, Board of Directors

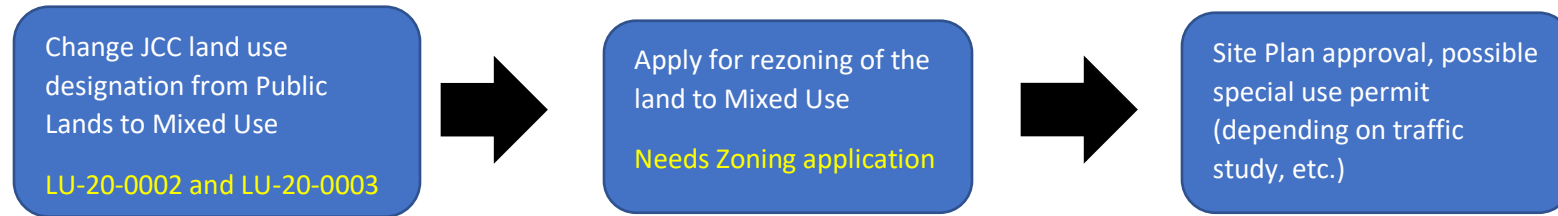
cc: Supervisor Jim Icenhour
Tom Leininger, Planner
Ken Allen, ABVA
Michael Youngblood, ABVA

Land Use and Rezoning Steps: Eastern State Hospital and “Manor on the Green” Developments - Opportunities for Public Input/comment

1st STEP/JCC HEARING

2nd STEP/JCC HEARING

3rd STEP/JCC HEARING



PROJECT 1:

EASTERN STATE HOSPITAL IS HERE

Note: The State has separately submitted a conceptual plan for Parcel C. This plan's review is complete.

PROJECT 2:



NEXT STEP FOR MANOR ON THE GREEN

Note: The County is currently reviewing a conceptual plan from The Whitmore Company for this property. The parcel is already zoned as Mixed Use.

DRAFT - 3/29/22

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Tom Leininger, Principal Planner

SUBJECT: Proposed Fiscal Year 2024-2029 Secondary Six-Year Plan

ATTACHMENTS:

	Description	Type
▣	Memorandum	Cover Memo
▣	Resolution	Resolution
▣	Map of FY24-29 SSYP Projects	Backup Material
▣	Aerial Map - Croaker Road	Backup Material
▣	Aerial Map - Longhill Road	Backup Material
▣	Aerial Map - Old Stage Road	Backup Material
▣	Aerial Map - Centerville Road	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	3/22/2023 - 9:53 AM
Development Management	Holt, Paul	Approved	3/22/2023 - 9:54 AM
Publication Management	Daniel, Martha	Approved	3/22/2023 - 9:58 AM
Legal Review	Kinsman, Adam	Approved	3/23/2023 - 12:42 PM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:40 AM
Board Secretary	Rinehimer, Bradley	Approved	4/4/2023 - 11:01 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 11:20 AM

MEMORANDUM

DATE: April 11, 2023

TO: The Board of Supervisors

FROM: Tom Leininger, Principal Planner

SUBJECT: Proposed Fiscal Year 2024-2029 Secondary Six-Year Plan

Each year the Virginia Department of Transportation (VDOT) works with the James City County Board of Supervisors to develop a list of project priorities for the Secondary Six-Year Plan (SSYP). The SSYP is a priority-funding plan for the improvement and construction of secondary roads (roads with route numbers of 600 or greater). As part of the review process, a public hearing has been advertised for the April 11, 2023, meeting to provide an opportunity for public comment.

Allocations

Through the SSYP, the County receives yearly state and federal allocations to fund proposed secondary improvements. Funding is primarily derived from state and federal gasoline taxes, vehicle title fees, vehicle sales tax, and state sales tax. The predictability of funding amounts is greatly dictated by the financial climate of the times and changes of funding levels by the federal and state government. For Fiscal Year (FY) 2024-2029, the proposed SSYP allocation for James City County totals \$1,286,760, with an FY24 allocation of \$214,713 compared to the FY23 allocation of \$229,269.

Throughout the 2045 Comprehensive Plan update, the citizen responses to the surveys focused on prioritizing walking and biking amenities in locations that increase connectivity between neighborhoods and shopping, schools, employment areas, and greenways. Comments from the open-ended questions included that the County should encourage more walking and biking paths, increase public transportation, and reduce congestion while improving roadways. Public input demonstrates that biking and walking accessibility is important to our community for both recreation and essential transportation needs. Respondents supported prioritizing County resources for enhancing quality of life amenities. Applying these funds to create complete streets and multimodal corridors, will help achieve the goals of the citizens.

Secondary allocations are not the only funding source for transportation projects. The County has applied and received or been recommended for competitive grants from the Construction District Grant Program and High Priority Projects Program via the SmartScale process, the Regional Surface Transportation Program (RSTP), and the Congestion Mitigation and Air Quality (CMAQ) program for Longhill Road and Croaker Road. County staff will continue to apply for more SmartScale, RSTP, CMAQ, and Revenue Sharing funds to help fund projects in future fiscal years.

Listed below is a brief summary of current and special funding projects for the priority list for the FY24-29 SSYP.

Current Projects

Croaker Road (Route 607)

This project will widen the section of roadway between Richmond Road and the James City County Library from two to four lanes (Attachment No. 3). The project will include preliminary engineering, right-of-way acquisition, and construction of a new two-lane bridge parallel to the existing bridge over the CSX lines,

two additional travel lanes, and a shared use path. Staff recommends keeping this project as the top priority on the SSYP. This project is currently funded and construction is expected to begin later this calendar year.

Intersection Safety Improvements

Over the past several years, VDOT has been studying two intersections. In March of 2021, VDOT placed temporary bollards at the intersections of Old Stage Road and Route 30 and Centerville Road and Route 5. These temporary improvements were done after VDOT completed Roadway Safety Assessments. In coordination with VDOT, the next step for these two intersections will be to construct the permanent safety improvements. Staff recommends including the following two projects in this year's priority rankings as the second and third priorities, respectfully:

- A. Old Stage Road and Route 30 Intersection Improvements
VDOT's current cost estimate for this project is \$160,257.
- B. Centerville Road and Route 5 Intersection Improvements
VDOT's current cost estimate for this project is \$170,000.

The Engineering phase has started for these two projects and staff will continue to work with VDOT to keep the two projects fully funded.

Longhill Road (Route 612) - Phases II and III - Quick-Hitter Items

Widening Longhill Road from Route 199 to Olde Towne Road/Devon Road from two to four lanes (Attachment No. 4) with a variable width median and accommodations has been the County's highest priority for secondary roads for a number of years. The 2014 Longhill Road Corridor Study examined the entire corridor from Route 199 to Centerville Road and identified short-term recommendations (Phase I widening and quick-hitter items) as well as mid-term (Phase II) and long-term recommendations (Phase III).

With Phase I complete, VDOT and the County have been investigating opportunities to fund and implement improvements in the vicinity of Phases II and III (Attachment No. 4). These include quick-hitter items such as school zone safety improvements, signal timing/traffic operation improvements, and pedestrian accommodations, as well as longer-term items such as select intersection improvements (especially in the vicinity of the Lafayette High School/Season's Trace entrances) and widening.

Special Funding Projects

VDOT utilizes a special funding mechanism, which provides annual allocations to localities for unpaved roads and bridge projects. Due to reductions in transportation funding over the past years, new funds have rarely been allocated to these special funding projects as part of the SSYP. For FY24-29 SSYP, VDOT staff has identified an eligible project as noted below. Staff recommends keeping eligible projects on the SSYP so that the County can continue to receive allocations as funds become available. The funds would be utilized when needed.

Hicks Island Road Bridge (Route 601)

VDOT identified replacing Hicks Island Road Bridge over Diascund Creek as a candidate project in 2012. This structure has a sufficiency rating less than 50, making it VDOT's first priority for bridge replacement on the County's secondary road system. The County concurred, identifying it as the County's priority for bridge funds in past SSYPs. In April 2017, the Board of Supervisors approved a resolution reducing the

design scope of the project to a one-lane, 16-foot-wide bridge. This project is currently funded and is underway. Staff recommends keeping Hicks Island Road Bridge as the specific project for the bridge funds.

Recommendation

Given the funding levels expected in the next six years and the current projects that are underway, staff recommends the following priorities:

1. Croaker Road
2. Old Stage Road and Route 30 Intersection Improvements
3. Centerville Road and Route 5 Intersection Improvements
4. Longhill Road - Phases II and III - Quick-Hitter Items

In addition, staff recommends keeping Hicks Island Road Bridge as the special funding project for the County's bridge funds until the project is completed.

Staff recommends adoption of the attached resolution, which endorses the secondary road priority list as set forth in this memorandum for the FY24-29 SSYP.

TL/md

PropFY24-29SSYP-mem

Attachments:

1. Resolution
2. Map of FY24-29 SSYP Projects
3. Aerial Map - Croaker Road
4. Aerial Map - Longhill Road
5. Aerial Map - Old Stage Road
6. Aerial Map - Centerville Road

RESOLUTION

PROPOSED FISCAL YEAR 2024-2029 SECONDARY STATE HIGHWAY SIX-YEAR PLAN

WHEREAS, Section 33.2-331 of the Code of Virginia, 1950, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation (VDOT) in developing a Secondary State Highway Six-Year Plan; and

WHEREAS, James City County, Virginia (the "County") has consulted with the VDOT District Project Manager to set priorities for improvements to the County's secondary state highways; and

WHEREAS, a public hearing was advertised for the regularly scheduled Board of Supervisors meeting on April 11, 2023, so citizens of the County would have the opportunity to participate in the hearing and to make comments and recommendations concerning the proposed list of priorities for improvement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves of the list of priorities for improvements to the Secondary State Highway System as presented at the public hearing and the County Administrator is hereby authorized to sign and execute all such documents as are necessary to evidence the Board's approval of the Six-Year Plan.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

SADLER
ICENHOUR
MCGLENNON
LARSON
HIPPLE

VOTES

AYE NAY ABSTAIN ABSENT

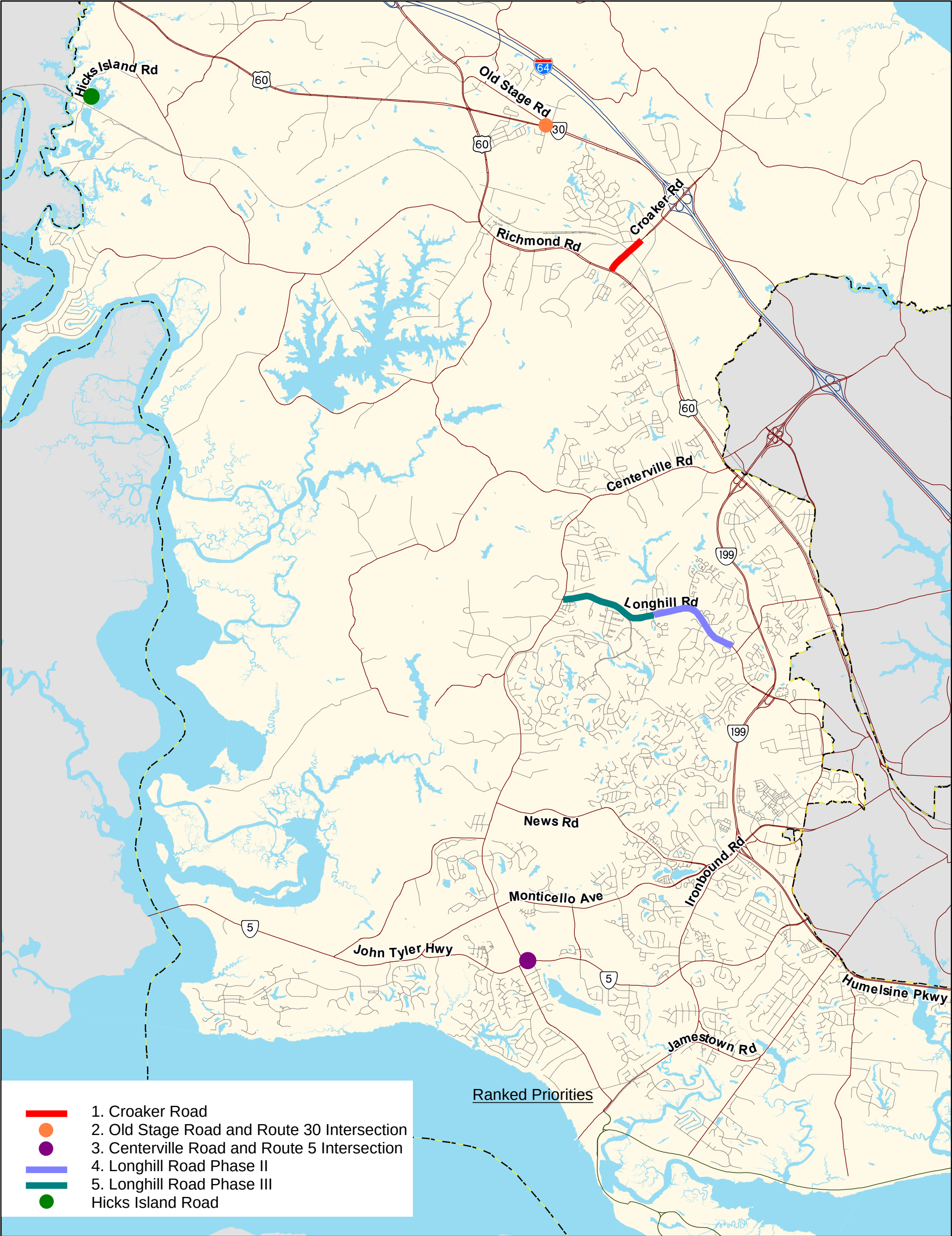
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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2023.

PropFY24-29SSYP-res

James City County

FY 24-29 SSYP Projects



Croaker Road (Route 607) Improvements



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Longhill Rd (Route 612)



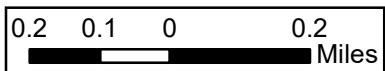
- Longhill Road Phase I - completed
- Longhill Road Phase II
- Longhill Road Phase III

0.25 0.125 0 0.25 0.5 Miles



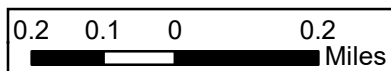
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Old Stage Road and Route 30 Intersection Improvements



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

Centerville Road and Route 5 Intersection Improvements



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ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Terry Costello, Senior Planner

SUBJECT: SUP-23-0001. 2886 Lake Powell Road Rental of Rooms

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Resolution	Resolution
▣	Location Map	Exhibit
▣	Master Plan	Exhibit
▣	Applicant Narrative	Backup Material
▣	Unapproved minutes of the March 1, 2023 Planning Commission Meeting	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	3/24/2023 - 11:20 AM
Development Management	Holt, Paul	Approved	3/24/2023 - 11:21 AM
Publication Management	Pobiak, Amanda	Approved	3/24/2023 - 1:17 PM
Legal Review	Kinsman, Adam	Approved	3/27/2023 - 9:18 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:41 AM
Board Secretary	Rinehimer, Bradley	Approved	4/4/2023 - 11:06 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 11:20 AM

SPECIAL USE PERMIT-23-0001. 2886 Lake Powell Road Rental of Rooms
Staff Report for the April 11, 2023, Board of Supervisors Public Hearing

SUMMARY FACTS

Applicant: Ms. Emily Martel

Landowners: Mr. Aaron and Ms. Emily Martel

Proposal: To allow for the rental of up to three rooms in a single-family dwelling.

Location: 2886 Lake Powell Road

Tax Map/Parcel No.: 4810100044

Property Acreage: ± .61 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: March 1, 2023, 6:00 p.m.

Board of Supervisors: April 11, 2022, 5:00 p.m.

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.
5. See Comprehensive Plan Analysis on Page 5.

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.
3. See Comprehensive Plan Analysis on Page 5.

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 Board of Supervisors approve this application, staff has included proposed conditions for consideration (Attachment No. 1).

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

**SPECIAL USE PERMIT-23-0001. 2886 Lake Powell Road Rental of Rooms
Staff Report for the April 11, 2023, Board of Supervisors Public Hearing**

PLANNING COMMISSION RECOMMENDTION

At its March 1, 2023, meeting, the Planning Commission recommended approval of this application by a vote of 6-0.

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

None.

PROJECT DESCRIPTION

Ms. Emily Martel has applied for a Special Use Permit (SUP) to allow for the rental of up to three rooms located within a single-family dwelling. The residence is a three-bedroom home with a one-bedroom accessory apartment, for a total of four bedrooms. The proposal includes no changes to the size or footprint of the home.

Unlike the “Tourist Home” use, the “Rental of Rooms” use limits rentals to a maximum of three bedrooms and requires the homeowners to continue residing at the property during the time of rentals. This use prohibits the rental of the dwelling as a whole. While the use permits the rental of a maximum of three rooms, the applicant states that it is her intent to rent out the one-bedroom apartment located in the upper level of the single-family dwelling on a regular basis. However, there may be an occasion where the applicant will rent the lower level of the home and reside in the second story accessory apartment.

The property has an existing driveway off of a private 20-foot access road. The property has an existing parking area sufficient to accommodate guests. The three-bedroom home as well as the accessory apartment is on public water and sewer. In previous rental of rooms 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 six.

PLANNING AND ZONING HISTORY

- There have been no legislative cases associated with the residence that was built in 2006.

SURROUNDING ZONING AND DEVELOPMENT

- The property is not located within any major or minor subdivision.
- The properties surrounding this parcel to the north, 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-23-0001. 2886 Lake Powell Road Rental of Rooms
Staff Report for the April 11, 2023, Board of Supervisors Public Hearing

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	- The proposal is not anticipated to generate traffic exceeding a typical residential use. - The subject property is located on the corner of a major collector road and a private access road. No changes anticipated to the Level of Service on Lake Powell Road.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	- 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>	- Fire Station 3 on John Tyler Highway serves this area of the County and is approximately 2.1 miles from the proposed rental of rooms property. - Staff finds this project does not generate impacts that require mitigation to the County's Fire Department facilities or services.
<u>Public Schools</u>	<u>No Mitigation Required</u>	- N/A since no residential dwelling units are proposed.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	- N/A since no residential dwelling units are proposed.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	- Staff finds this project does not generate impacts that require mitigation.
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigation Required</u>	- The property receives public water and 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-23-0001. 2886 Lake Powell Road Rental of Rooms
Staff Report for the April 11, 2023, Board of Supervisors Public Hearing

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>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-23-0001. 2886 Lake Powell Road Rental of Rooms
Staff Report for the April 11, 2023, Board of Supervisors 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 and is located on Lake Powell Road.

- Be located on a major road.

This property is located on the corner of Lake Powell Road and a private access road. This segment of Lake Powell Road is classified by the Virginia Department of Transportation as a major collector road.

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

The owner of the home will reside on the same property as the proposed rental.

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 Board of Supervisors approve this application, staff has included proposed conditions for consideration (Attachment No. 1).

TC/md
SUP23-1_2886LkPwll

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Applicant Narrative
5. Unapproved Minutes of the March 1, 2023, Planning Commission Meeting

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

RESOLUTION

CASE NO. SUP-23-0001. 2886 LAKE POWELL ROAD RENTAL OF ROOMS

WHEREAS, the Board of Supervisors of James City County, Virginia, has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Ms. Emily Martel has applied for an SUP to allow for the rental of rooms within a single-family dwelling located at 2886 Lake Powell Road, and further identified as James City County Real Estate Tax Map Parcel No. 4810100044 (the “Property”); and

WHEREAS, the Planning Commission, following its public hearing on March 1, 2022, recommended approval of Case No. SUP-23-0001 by a vote of 6-0; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-23-0001; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2045 Comprehensive Plan Land Use Map designation for the Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-23-0001 as described herein with the following conditions:

1. Master Plan. This SUP shall permit the rental of rooms on property located at 2886 Lake Powell Road and further identified as James City County Real Estate Tax Map Parcel No. 4810100044 (the “Property”). The use and layout of the Property shall be generally as shown on the document entitled “JCC SUP-23-0001, 2886 Lake Powell Road Rental of Rooms” and date stamped February 10, 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 three (3) bedrooms available for rent to visitors and no more than six (6) 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 rental of rooms 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, 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.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

SADLER
ICENHOUR
MCGLENNON
LARSON
HIPPLE

VOTES

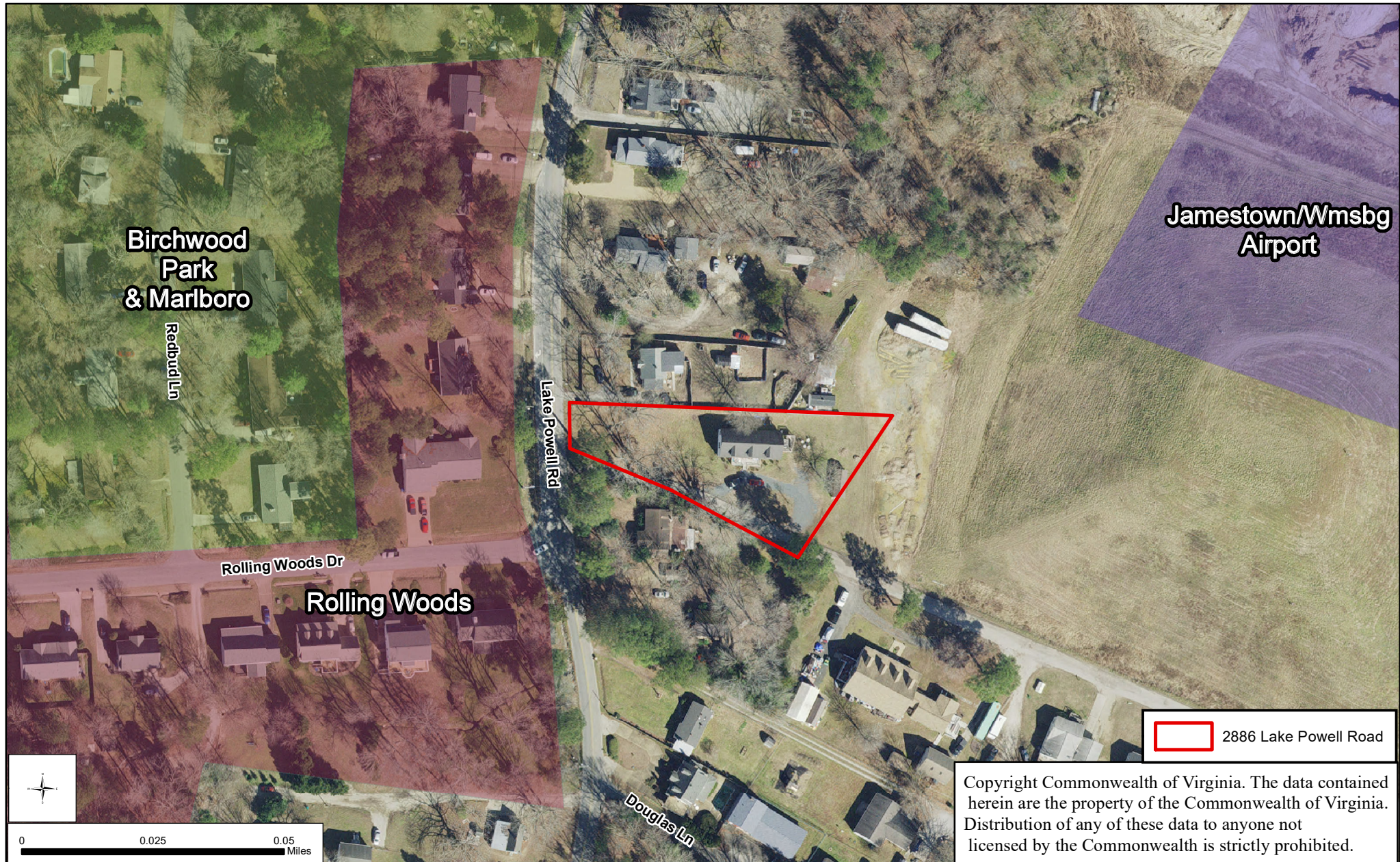
<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2023.

SUP23-1_2886LkPwll-res

JCC SUP-23-0001

2886 Lake Powell Road Tourist Home



SUP-23-0001, 2886 Lake Powell Rd Tourist Home

Property Information

4810100044
Aaron & Emily Martel
2886 Lake Powell Road
Williamsburg, VA 23185
Zoning: R2 General Residential
2045 Comp Plan: Low Density
Residential
Legal Acreage: .61

General Notes

1. Site is served by public water and 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 three parking spots shall be provided (one parking spot per bedroom).

February 10, 2023



Adjacent Properties

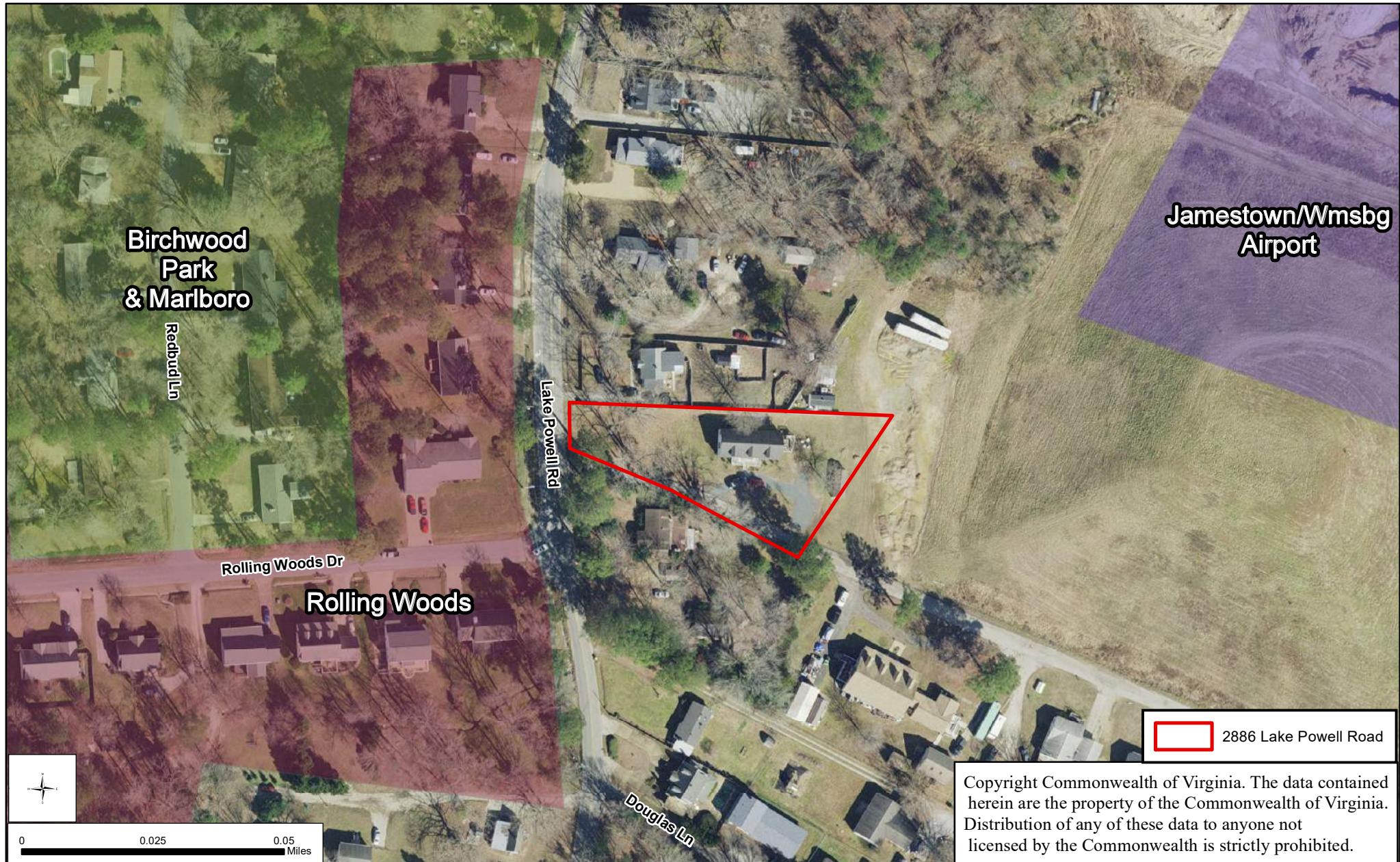
4810100042A T & L Rentals Inc. 100 Lands End Dr Williamsburg, VA 23185 R2 General Residential	4810100046 Dudley & Rebecca Dudley 2868 Lake Powell Rd Williamsburg, VA 23185 R2 General Residential
4810100043 Aaron & Emily Martel 2890 Lake Powell Rd Williamsburg, VA 23185 R2 General Residential	4811800001 Jerome & Candice Bresnahan 5500 Rolling Woods Dr Williamsburg, VA 23185 R2 General Residential
4810100045 Daryl Eubank 9800 Wilcox Neck Rd Charles City, VA 23030 R2 General Residential	4811800002 Theodore & Lorraine Fort 2891 Lake Powell Rd Williamsburg, VA 23185 R2 General Residential

Sheet Index

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

JCC SUP-23-0001

2886 Lake Powell Road Tourist Home



JCC SUP-23-0001
2886 Lake Powell Road Rental of Rooms



Terry Costello

From: Emily Martel <empmartel@gmail.com>
Sent: Friday, January 20, 2023 12:59 PM
To: Terry Costello
Subject: [External]Re: SUP-23-0001 2886 Lake Powell Rd Short Term Rental

Terry,

Per your request here is a narrative. Please let me know if you need any additional information.

Our residence at 2886 Lake Powell Road was purchased by us with an upstairs apartment that has an entrance from both the interior downstairs of this home and a separate entrance outside. This home was ideal for us because my mother, who had experienced a long illness, would be close by.

Now the upstairs apartment is a dedicated short-term rental primarily for couples but it accommodates up to four people. During the time this section of our home is occupied by guests, our family remains in the downstairs living quarters. Occasionally, we have families who need more space, at which time the downstairs part of our home is available and our family temporarily moves upstairs for the duration of the guest rental downstairs.

Thank you,

Emily Martel
757-990-9001

Sent from my iPhone

On Jan 19, 2023, at 11:00 AM, Emily Martel <empmartel@gmail.com> wrote:

Terry,

I will work on that this evening when my kids are asleep and get that to you as soon as possible.

Thank you.

Emily Martel
757-990-9001

Sent from my iPhone

On Jan 19, 2023, at 7:55 AM, Terry Costello <Terry.Costello@jamescitycountyva.gov> wrote:

Good morning,

Could you please send me a narrative as to how your rental would work, for example, how often would you rent, would you be onsite, etc?

Thanks

Terry

Terry Costello
Senior Planner



101-A Mounts Bay Road
Williamsburg, Virginia 23185
P: 757-253-6672 F: 757-253-6822
[Jamescitycountyva.gov](http://www.jamescitycountyva.gov)

Most permit requests and inquiries can now be handled online
Visit JCC Permitlink: <http://www.jamescitycountyva.gov/permitlink>

**Unapproved Minutes of the March 1, 2023
Planning Commission Regular Meeting**

SUP-23-0001. 2886 Lake Powell Road Rental of Rooms

Ms. Terry Costello, Senior Planner, stated that Ms. Emily Martel has applied for an SUP to allow for the short-term rental of a four-bedroom single-family home at 2886 Lake Powell Road. Ms. Costello stated that the property is zoned R-2, General Residential, is designated Low Density Residential on the Comprehensive Plan Land Use Map and is located inside the Primary Service Area and is served by public water and sewer. Ms. Costello stated that if granted, this SUP would allow for short-term rentals throughout the year. No changes to the footprint of the home are proposed.

Ms. Costello stated that staff finds some favorable factors for this application, such as the presence of adequate off-street parking and that the owner will live onsite. Ms. Costello further stated that staff finds the proposed use will not negatively impact levels of service for roads and other public services.

Ms. Costello stated that staff finds the proposal to be incompatible with surrounding development and not consistent with the recommendations for short-term rentals in the 2045 Comprehensive Plan; therefore, staff does not recommend approval of this application. Ms. Costello stated that should the Planning Commission wish to recommend approval; staff has included proposed conditions for consideration.

Mr. Rodgers inquired if the major collector road and a major road are the same.

Ms. Costello stated that the major collector road designation is given by the Virginia Department of Transportation (VDOT) and that the County does count a major collector road as a major road. Ms. Costello noted that the property fronts on Lake Powell Road which is a major collector; however, access is taken from a private road.

Mr. Haldeman inquired if the unfavorable factor is that it is not on a property designated Rural Lands.

Ms. Costello stated that the unfavorable factor is that it does not meet all of the performance standards recommended in the Comprehensive Plan.

Mr. Haldeman inquired if the property was within a platted subdivision.

Ms. Costello stated that the parcel is not within a platted subdivision. Ms. Costello stated that the only unfavorable factor is that the property is not designated Rural Lands.

Mr. O'Connor opened the Public Hearing.

Ms. Emily Martel, 2886 Lake Powell Road, Applicant, addressed the Commission in support of the application. Ms. Martel noted that she was agreeable to all the SUP Conditions.

Ms. Lisa Waltrip, 2868 Lake Powell Road, addressed the Commission in support of the application.

As no one further wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Polster asked for clarification about the property's status of tourist home or rental of rooms and being an Airbnb.

Ms. Costello stated that Airbnb is a platform that is used to advertise and book rental properties. Ms. Costello further stated that the County has two types of short-term rentals. Ms. Costello stated that one is Rental of Rooms which applies to short-term rental situations where the caretaker will be present and living in the home during the time of rentals, to a maximum of 3 bedrooms and the other Tourist Home which applies if a caretaker will be present during the time of rentals but would like to rent more than three bedrooms to a maximum of five. Ms. Costello stated that it is also considered a tourist home if the caretaker will live offsite and rent out the entire home any number of bedrooms to a maximum of five bedrooms. Ms. Costello stated that this application would fall under Rental of Rooms.

Mr. Polster inquired if this particular property had been subject to a legislative application previously.

Ms. Costello stated that this was the first application for the property.

Mr. Haldeman made a motion to recommend approval of the application subject to the proposed conditions.

On a roll call vote, the Commission voted to recommend approval of SUP-23-0001. 2886 Lake Powell Road Rental of Rooms. (6-0)

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Sharon McCarthy, Director of Financial and Management Services

SUBJECT: Contract Award - Audit Services

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 3:14 PM

MEMORANDUM

DATE: April 11, 2023

TO: The Board of Supervisors

FROM: Sharon McCarthy, Financial & Management Services Director

SUBJECT: Contract Award - Audit Services

A Request for Proposals (RFP) was publicly advertised for qualified and experienced firms to perform Audit Services for James City County (JCC), James City Service Authority (JCSA), Williamsburg-James City County Schools (WJCC Schools), and several other entities where James City County serves as the fiscal agent.

Four firms responded to the RFP by describing their qualifications, experience in performing similar work, methodology, schedule, and proposed pricing. A team of staff members representing JCC, JCSA, WJCC Schools, and the Purchasing Division evaluated the proposals. Based on the criteria listed in the RFP, the Evaluation Committee selected Cherry Bekaert as the most qualified firm that best meets the needs as defined in the RFP. Cherry Bekaert has successfully completed audit engagements for a significant number of Virginia counties, cities, authorities, and school divisions and the firm received satisfactory professional references.

A five-year contract with an initial annual fee of \$94,900 for the County's audit was negotiated with Cherry Bekaert. The contract contains the option for five additional one-year renewals. The estimated value of all possible contract years is over \$100,000 and requires Board approval for contract award.

Staff recommends adoption of the attached resolution authorizing award of the Audit Services contract to Cherry Bekaert.

SMC/kh
CA-JCCAuditServ-mem

Attachment

RESOLUTION

CONTRACT AWARD - AUDIT SERVICES

WHEREAS, a Request for Proposals (RFP) has been advertised and evaluated for Audit Services; and

WHEREAS, four firms submitted proposals and Cherry Bekaert was determined to be the most qualified firm that best meets the needs as defined in the RFP; and

WHEREAS, a five-year contract term with an initial annual fee of \$94,900 was negotiated with Cherry Bekaert with the option for five additional one-year renewal periods.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the Audit Services contract to Cherry Bekaert.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Secretary to the Board

HIPPLE
ICENHOUR
MCGLENNON
LARSON
SADLER

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.

CA-JCCAuditServ-res

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: John Risinger, Senior Planner

SUBJECT: SUP-20-0010. Hertzler Clearing and Grading

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	1. Resolution	Resolution
☐	2. Master Plan	Backup Material
☐	3. ACOE Preliminary Jurisdictional Determination	Backup Material
☐	4. Staff Report from the December 13, 2022, Board of Supervisors Meeting	Backup Material
☐	5. Location Map	Backup Material
☐	6. Community Impact Statement	Backup Material
☐	7. SUP-0007-2000 Staff Reports and Meeting Minutes	Backup Material
☐	8. Approved Minutes of the November 2, 2022, Planning Commission Meeting	Backup Material
☐	9. Citizen Correspondence	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	3/30/2023 - 10:18 AM
Development Management	Holt, Paul	Approved	3/30/2023 - 10:19 AM
Publication Management	Daniel, Martha	Approved	3/30/2023 - 10:29 AM
Legal Review	Kinsman, Adam	Approved	3/31/2023 - 2:01 PM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:42 AM
Board Secretary	Rinehimer, Bradley	Approved	4/4/2023 - 11:04 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 11:20 AM

**SPECIAL USE PERMIT-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the April 11, 2023, Board of Supervisors Meeting**

SUMMARY FACTS

Applicant: Ms. Mary Hertzler

Landowners: Mr. Steven L. Hertzler and Ms. Mary E. Hertzler

Proposal: To allow the operation of a contractor's office, warehouse, and sheds and the manufacturing and sale of wood products.

Location: 9537 Barnes Road

Tax Map/Parcel No.: 0430100012A

Project Acreage: ± 28.61 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

Staff Contact: John Risinger, Senior Planner

PUBLIC HEARING DATES

Planning Commission: November 2, 2022, 6:00 p.m.

Board of Supervisors: December 13, 2022, 5:00 p.m. (Postponed)
April 11, 2023, 5:00 p.m.

CHANGES MADE SINCE THE DECEMBER 13, 2022, BOARD OF SUPERVISORS MEETING

The applicant has provided a revised Master Plan which has been included as Attachment No. 2. The Master Plan identifies the areas of the property that are associated with the proposed Special Use Permit (SUP), including the proposed limits of operation of the business, the areas within the Resource Protection Area (RPA) which are to be remediated and the existing pond, as well as the areas which are for residential use on the property.

The applicant has also provided a letter from the United States Army Corps of Engineers for the Preliminary Jurisdictional Determination of wetlands on the property. The determination is accompanied by a map of identified wetlands on the property prepared by Roth Environmental, LLC. No impacts to the wetlands are identified in the determination.

On February 14, 2023, staff from the Stormwater and Resource Protection Division met with the property owner and their Civil Engineer to inspect the existing impacts to the RPA and discuss steps that will need to be completed for remediation. Specifically, there are three areas of impacts to the RPA. The easternmost area of impact is within the area designated for material processing and storage of vehicles and equipment. Remediation in this area entails removing vehicles and equipment from the RPA and planting 15 canopy trees, 30 understory trees, and 45 shrubs. The second impacted area is within the area used for timber processing. Remediation in this area entails removing a mulch stockpile from the RPA and planting 21 canopy trees, 42 understory trees, and 63 shrubs. The third impacted area is the existing pond and gravel driveway adjacent to the pond. Remediation in this area would entail planting eight canopy trees, 16 understory trees, and 24 shrubs. Staff has found that removing the driveway would cause further damage to the RPA. Instead 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-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the April 11, 2023, Board of Supervisors Meeting**

removing the driveway, the plantings would be required in the RPA adjacent to the driveway.

The applicant has stated that they have begun work to remove the existing impacts from the RPA and that the work will be completed within six months. A landscaping plan will be required for these areas showing the replanting of trees and shrubs to mitigate impacts to the RPA in accordance with Condition No. 16.

A site plan showing all the site improvements and features associated with the SUP is required per Condition No. 3. The applicant has stated that the site plan will be submitted within 60 days from the date of approval of the SUP and that the site will be brought into compliance with the site plan and SUP within one year from the date of approval of the site plan.

Following site plan approval, the applicant would be required to obtain all permits necessary to complete the work needed to bring the site into compliance with the site plan and SUP.

In accordance with the timelines provided by the applicant, staff has updated Condition Nos. 3 and 16 to require that the site plan be submitted within 60 days of the date of approval of the SUP and work completed within 12 months of the date of site plan approval and for RPA remediation to be completed within six months of the date of approval of the SUP.

Staff has added Condition No. 19 to require the property to be inspected annually by staff to ensure compliance with all SUP conditions.

STAFF RECOMMENDATION

With the attached conditions, staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2045 Comprehensive Plan.

Staff therefore recommends that the Board of Supervisors approve the SUP, subject to the proposed conditions.

JR/ap
SUP20-10_Hrtzler

Attachments:

1. Resolution
2. Master Plan
3. ACOE Preliminary Jurisdictional Determination
4. Staff Report from the December 13, 2022, Board of Supervisors Meeting
5. Location Map
6. Community Impact Statement
7. SUP-0007-2000 Staff Reports and Meeting Minutes
8. Approved Minutes of the November 2, 2022, Planning Commission Meeting
9. Citizen Correspondence

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

RESOLUTION

CASE NO. SUP-20-0010. 9537 BARNES ROAD

HERTZLER CLEARING AND GRADING

WHEREAS, the Board of Supervisors of James City County, Virginia, (the “Board”) has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Steven L. Hertzler and Mrs. Mary E. Hertzler own property located at 9537 Barnes Road, and further identified as James City County Real Estate Tax Map Parcel No. 0430100012A (the “Property”); and

WHEREAS, Ms. Mary Hertzler has applied for an SUP to allow for the operation of a contractor’s office, warehouse, sheds and the manufacturing and sale of wood products on the Property, as shown on the Master Plan titled “Hertzler Property 9537 Barnes Road” and dated March 1, 2023; and

WHEREAS, the Planning Commission, following its public hearing on November 2, 2022, voted 3-4 on a failed motion to recommend approval of Case No. SUP-20-0010; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-20-0010; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with good zoning practices and the 2045 Comprehensive Plan Land Use Map designation for the Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-20-0010 as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the operation of a contractor’s office, warehouse, sheds, and for the manufacturing and sale of wood products (the “Project”) located at 9537 Barnes Road, and further identified as James City County Real Estate Tax Map No. 0430100012A (the “Property”). Development of the Project on the Property shall occur generally as shown on the exhibit drawn by LandTech Resources Inc. entitled, “Hertzler Property 9537 Barnes Road” and dated March 1, 2023 (the “Master Plan”), with any deviations considered pursuant to Section 24-23(a)(2) of the James City County Code, as amended (“County Code”).
2. Existing Conditions. All existing conditions of the Property, including any unapproved or unpermitted structures or improvements, shall be brought into full compliance with the Master Plan and all applicable regulations. Within six months of the date of approval of the SUP, an inspection of the Property shall be conducted by County staff for the purpose of verifying all existing conditions of the Property to be shown on the site plan required per Condition No. 3.

3. Site Plan. A site plan showing all existing, proposed, and required improvements associated with the Project in full compliance with the Master Plan shall be submitted within 60 days from the date of approval of the SUP, and final approval of the site plan shall be obtained within 24 months of the date of approval of the SUP, or the SUP shall automatically be void. All work and improvements shown on the approved site plan shall be completed, and an inspection of the Property shall be conducted by County staff for the purpose of verifying full compliance with the Master Plan and approved site plan shall occur within 12 months of the date of approval of the site plan, or the SUP shall automatically be void.
4. Sales. No sales shall occur on the Property.
5. Hours of Operation. The hours of operation of the Project shall be limited from 6:30 a.m. to 6:30 p.m., Monday through Friday, except for transportation related to occasional storm cleanup. Activities associated with the manufacturing of wood products, including but not limited to, sorting materials, grinding, chipping, sawing, and soil screening, and the usage of any dumpsters on the Property shall be limited to 8 a.m. to 5 p.m., Monday through Friday. Activities associated with the repair and maintenance of vehicles and equipment shall be limited to 7 a.m. to 5 p.m., Monday through Friday.
6. Vehicular Access. All vehicular access to the Project shall be directly from Barnes Road as shown on the Master Plan. No vehicles associated with the Project shall access the site through the adjacent properties.
7. Signage. No outdoor signage advertising the Project shall be allowed on the Property.
8. Lighting. All new exterior light fixtures on the Property, including new building lighting, shall have recessed fixtures with no lens, bulb, or globe extending below the casing. All new light poles shall not exceed 16 feet in height from finished grade. No light trespass, defined as 0.1-foot-candle or higher, shall extend across any boundary line of the Property. A lighting plan showing satisfaction of this condition shall be approved by the Director of Planning prior to site plan approval.
9. Landscape and Screening Plan. As part of the site plan for the Project, a landscape plan shall be submitted to the Planning Director or designee for review and approval prior to final site plan approval with the following standards:
 - a. A vegetated buffer 50 feet in width shall be provided along the Property's frontage on Barnes Road, the side property line to the north, and the rear property line. The side property line adjacent to Interstate 64 shall, at a minimum, provide the building setback area as a vegetated buffer. Existing vegetation in the buffer areas shall be retained and supplemented as necessary with additional plantings to meet the requirements of Section 24-96 of the County Code. An inventory of existing vegetation in the buffer areas shall be provided in the site plan for the Project for the purpose of verifying the quantity of existing vegetation.
 - b. All components of the Project shall be screened from the Barnes Road right-of-way and from adjacent properties to the north by either a full panel fence or landscaping. Any fencing used to meet this requirement shall be of a natural wood color. Fence height shall be a minimum of six feet and a maximum of eight feet. The location of any fencing shall be shown on the site plan for the Project, and the design shall be submitted to the Planning Director for review and approval prior to final site plan approval.

- c. All landscape material installed to meet this condition shall be evergreen and shall meet or exceed the applicable landscape standards contained in the Zoning Ordinance.
10. Vehicle and Equipment Storage and Maintenance. All storage of vehicles and equipment associated with the Project shall be limited to the areas identified on the Master Plan as “Area utilized for material processing and storage of vehicles/equipment” and “Area utilized for material processing, storage and maintenance of vehicles/equipment.” All maintenance of vehicles and equipment associated with the Project shall be limited to the area identified on the Master Plan as “Area utilized for material processing, storage and maintenance of vehicles/equipment.”
11. Material Storage. All storage of wood products shall comply with the following requirements:
- a. Piles shall be on solid ground or other all-weather surface.
 - b. Piles shall not exceed 25 feet in height, 150 feet in width, and 250 feet in length.
 - c. Piles shall be separated from adjacent piles by at least 50 feet.
12. Material Decomposition. The use of chemicals to aid in the decomposition of material shall be prohibited. No materials shall be burned on the Property.
13. Fire Safety Plan. Prior to final approval of the site plan for the Project, a Fire Safety Plan shall be submitted to and approved by the Fire Marshal or designee. The plan shall address:
- a. Access to all areas of the Property related to the Project and to the residence at the rear of the property.
 - b. The types of materials and equipment stored on the property.
 - c. The capacity, availability, and access to any on-site water sources that may be used for fire suppression.
 - d. A plan for monitoring, controlling, and extinguishing spot fires.
14. Operations Mitigation Plan. Prior to final approval of the site plan for the Project, an Operations Mitigation Plan shall be submitted to and approved by the Planning Director or designee. The plan shall address:
- a. Dust mitigation, such as water trucks or similar methods.
 - b. Noise mitigation, such as the enforcement of hours of operation for the on-site activities.
 - c. Road monitoring of Barnes Road, to include cleaning of roadways of mud tracked onto Barnes Road from traffic associated with the Project.

15. Spill Prevention Control and Countermeasure Plan. Prior to approval of the site plan for the Project, a Spill Prevention Control and Countermeasure (SPCC) plan for the Project shall be submitted to the Stormwater and Resource Protection Director or designee for review and approval. The SPCC shall outline measures and procedures necessary for the operation of the Project.
16. Resource Protection Area Remediation. A remediation plan for all existing impacts to the Resource Protection Area (RPA) shall be submitted to and approved by the Stormwater and Resource Protection Director or designee within three months of the date of approval of the SUP. The plan shall include measures to restore the RPA to pre-development conditions or, where applicable, receive an exception as outlined in Chapter 23 of the County Code. The measures identified in the remediation plan shall be shown on the site plan for the Project and approved by the Stormwater and Resource Protection Director or designee prior to final site plan approval. All measures shall be completed to the satisfaction of the Stormwater and Resource Protection Director or designee within six months of the date of approval of the SUP.
17. Wetlands Permitting. Proof of permitting from the United States Army Corps of Engineers for any existing impacts to wetlands shall be submitted to the Stormwater and Resource Protection Director or designee prior to final approval of the site plan for the Project.
18. Stormwater Management. The stormwater management plan included with the site plan for the Project shall account for all development on the Property. All stormwater management facility designs shall be shown on the site plan for the Project.
 - a. If intended to be used for stormwater management purposes, the existing pond on the Property shall be designed and upgraded as necessary to meet all criteria for a Virginia Department of Environmental Quality BMP Clearinghouse Specification No. 14 Level 2 Wet Pond.
 - b. All water quality treatment associated with the Property must be provided on-site. The purchase of off-site nutrient credits shall be prohibited.
 - c. The Forested Open Space land use category may be used to account for a maximum of 50% of the required water quality treatment associated with the Property.
19. Inspections for Compliance with Conditions. Between January 1 and January 30 of each year, staff from the Department of Community Development shall be allowed to enter upon the Property to ensure compliance with all SUP conditions.
20. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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	_____	_____	_____	_____	
ICENHOUR	_____	_____	_____	_____	
MCGLENNON	_____	_____	_____	_____	
LARSON	_____	_____	_____	_____	
HIPPLE	_____	_____	_____	_____	

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

SUP20-10_Hrtzler-res

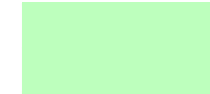
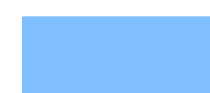
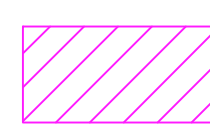
EXISTING STRUCTURE TABULATION:

ALL STRUCTURES ARE LESS THAN 35' IN HEIGHT

OUT BUILDING #1	STORAGE	120 S.F.
OUT BUILDING #2	STORAGE	340 S.F.
OUT BUILDING #3	STORAGE	950 S.F.
OUT BUILDING #4	STORAGE	2,100 S.F.
OUT BUILDING #5	GARAGE	1,600 S.F.
OUT BUILDING #6	STORAGE	330 S.F.
OUT BUILDING #7	STORAGE	400 S.F.
OUT BUILDING #8	STORAGE	930 S.F.
OUT BUILDING #9	STORAGE	1,300 S.F.

STATISTICAL DATA:

TOTAL PARCEL AREA	±1,246,252 S.F. / ±28.61 AC.
EX. PARCEL COVER	
IMPERVIOUS SURFACES	254,390 S.F. / 5.84 AC. (20.41%)
MANAGED TURF	275,736 S.F. / 6.33 AC. (22.13%)
FOREST	±716,126 S.F. / ±16.44 AC. (57.46%)
TOTAL EMPLOYEES	8
TRAFFIC GENERATION	20 TRIPS PER DAY

	RESIDENTIAL USE AREA
	LIMITS OF OPERATION
	POND IF TO REMAIN SHALL BE DESIGNED TO LEVEL 1 WET POND
	AREA WITHIN RPA TO BE MITIGATED



MASTER PLAN
HERTZLER PROPERTY
9537 BARNES ROAD
JAMES CITY COUNTY
VIRGINIA

Scale: 1" = 60'
Date: 03/01/2023
Job Number: 21-018
Drawn By: WSF
Sheet Title:
MASTER PLAN
Sheet Number:
MP101



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

27 January 2022

PRELIMINARY JURISDICTIONAL DETERMINATION

Southern Virginia Regulatory Section
NAO-2021-02246 (Barnes Swamp)

Hertzler Clearing & Grading Corporation
Attn: Mary Hertzler
P.O. Box 370
Toano, Virginia 23168

Dear Ms. Hertzler:

This letter is in regard the request by Roth Environmental on your behalf for a preliminary jurisdictional determination of the aquatic resources (e.g., wetlands, streams, and ponds), on an approximately 28.6 acre parcel, located at 9735 Barnes Road in Toano, Virginia.

The map entitled "Wetland Delineation Map", by Roth Environmental and received by the U.S. Army Corps of Engineers (Corps) on 18 August 2021 (copy enclosed) provides the locations of 3.8 acres of wetlands and 2,550 linear feet of waters within the project area referenced above. This letter is not confirming the Cowardin classifications of these aquatic resources. These aquatic resources exhibit wetland criteria as defined in the 1987 Corps of Engineers Wetland Delineation Manual, and the Atlantic and Gulf Coastal Plain Regional Supplement. This preliminary jurisdictional determination and associated aquatic resource delineation map may be submitted with a permit application.

Please be aware that you may be required to obtain a Corps permit for any discharge of dredged and/or fill material, either temporary or permanent, into a water of the U.S. In addition, you may be required to obtain a Corps permit for certain activities occurring within, under, or over a navigable water of the U.S. subject to the Section 10 of the Rivers and Harbors Act. Furthermore, you may be required to obtain state and local authorizations, including a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ), a permit from the Virginia Marine Resources Commission (VMRC), and/or a permit from your local wetlands board.

This delineation and preliminary jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. Therefore, if you or your tenant are US Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

The Norfolk District has relied on the information and data provided by the requestor to make this preliminary determination. If it is determined such information and data are materially false or materially incomplete, a new preliminary determination would be necessary.

This is a preliminary jurisdictional determination and is not a legally binding determination regarding whether Corps jurisdiction applies to the aquatic resources in question. To determine Corps' jurisdiction, you may request and obtain an approved jurisdictional determination.

This delineation of aquatic resources can be relied upon for no more than five years from the date of this letter. New information may warrant revision. Enclosed is a copy of the "Preliminary Jurisdictional Determination Form". Please review the document, sign, and return one copy to the Corps, either by email matt.m.wicks@usace.army.mil or by standard mail to Attn: Matthew Wicks, U.S. Army Corps of Engineers, Norfolk District, CENAO-WR-R, 803 Front Street, Norfolk, VA 23510-1011.

If you have any questions, please contact me either by telephone at (757) 201-7540 or by email at the address listed above.

Sincerely,

WICKS.STEVEN

M.1384937736

Matthew Wicks

Southern Virginia Regulatory Section

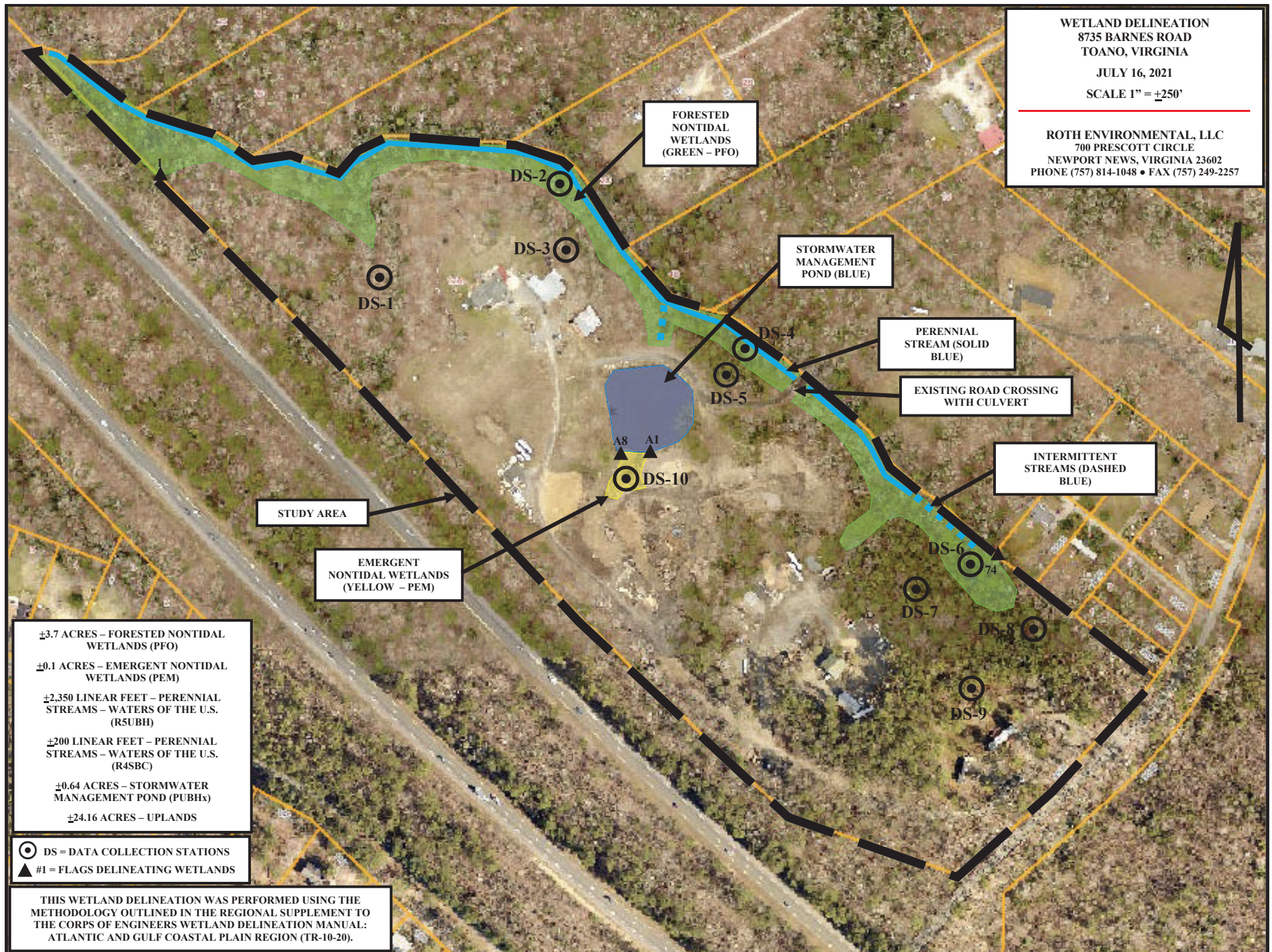
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WETLAND DELINEATION
8735 BARNES ROAD
TOANO, VIRGINIA

JULY 16, 2021

SCALE 1" = ±250'

ROTH ENVIRONMENTAL, LLC
700 PRESCOTT CIRCLE
NEWPORT NEWS, VIRGINIA 23602
PHONE (757) 814-1048 • FAX (757) 249-2257



Received by USACE NAO LLH August 18, 2021

**SPECIAL USE PERMIT-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Ms. Mary Hertzler

Landowners: Mr. Steven L. Hertzler and Ms. Mary E. Hertzler

Proposal: To allow the operation of a contractor's office, warehouse, and sheds and the manufacturing and sale of wood products

Location: 9537 Barnes Road

Tax Map/Parcel No.: 0430100012A

Project Acreage: ± 28.61 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: (PSA) Outside

Staff Contact: John Risinger, Senior Planner

PUBLIC HEARING DATES

Planning Commission: November 2, 2022, 6:00 p.m.

Board of Supervisors: December 13, 2022, 5:00 p.m.

FACTORS FAVORABLE

1. Staff finds the proposal compatible with surrounding zoning and development and consistent with the *Our County, Our Shared Future: James City County 2045 Comprehensive Plan*.
2. Traffic impacts generated by this proposal are not anticipated to negatively impact surrounding zoning and development.
3. Impacts: Please see Impact Analysis on Pages 5-6.

FACTORS UNFAVORABLE

1. With the proposed conditions, staff finds that there are no unfavorable factors.
2. Impacts: Please see Impact Analysis on Pages 5-6.

SUMMARY STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors (BOS) approve this application subject to the proposed conditions.

PLANNING COMMISSION RECOMMENDATION

At its November 2, 2022, Regular Meeting, the Planning Commission's motion to recommend approval of the Special Use Permit (SUP) failed by a vote of 3-4.

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

None.

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-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

PROJECT DESCRIPTION

Ms. Mary Hertzler has applied for an SUP to allow the operation of a contractor's office, warehouse, sheds, and the manufacturing of wood products at 9537 Barnes Road. The business is currently operating on the property and this application has been submitted to bring the use into conformance with the Zoning Ordinance.

In 2000, Case No. SUP-0007-2000 was submitted and reviewed for the operation of a contractor's warehouse and office, storage and repair of heavy equipment, and the manufacture and sale of wood products. The business operations proposed with that application included a contractor's office for the clearing and grading operation with logs, stumps, brush, and other clearing debris brought to the property for processing. The application was considered by the Planning Commission at its June 5, 2000, July 5, 2000, and August 7, 2000, meetings where the Planning Commission recommended approval of the application by a vote of 6-0. The application was then considered by the BOS at its September 12, 2000, meeting where the BOS denied the application by a vote of 5-0. The staff reports and minutes from those meetings have been included in the Agenda Packet as Attachment No. 5.

Having received a complaint, the Zoning Division issued a notice of violation in 2020 indicating that the property was being used for a contractor's office and warehouse and the manufacturing of wood products and that an SUP would be needed to bring the use into conformance with the Zoning Ordinance. The applicant states that the business has been operating from the property for approximately 20 years. During this time, the area utilized for business operation has increased without the appropriate approvals or permitting from the County. Impacts to the Resource Protection Area (RPA) include land disturbance and clearing of trees, the construction of a pond, and the construction of a driveway onto a neighboring property. The

construction of the pond and driveway have also impacted the wetlands. These existing conditions are generally shown on the master plan.

The business operation currently entails clearing and grading work conducted on off-site properties. Logs, stumps, brush, and other clearing debris from off-site properties are brought to the property to be processed into lumber or mulch. The applicant states that processed lumber is typically used to make pallets. The property is not open to the public and no sales occur on the property. All processed materials are hauled off-site by employees for sale or recycling.

Equipment and vehicles are stored and maintained on the property for use during clearing and grading work, hauling materials, and manufacturing wood products. The vehicles include three road tractors, three dump trucks, a chipper, a topsoil screen, a Biogrid 400 stump and debris grinder, a LT70 sawmill, two excavators, a bulldozer, three loaders, and several pickup trucks. Vehicles are stored in and around Buildings four, six, and nine shown on the master plan and minor maintenance and repair of vehicles is conducted in and around Building five.

Up to eight employees arrive on the property starting at 6:30 a.m., Monday through Friday, before either traveling to off-site properties or working on the property. Minor maintenance and repair of vehicles is conducted from 7 a.m. to 5 p.m., Monday through Friday. All work associated with the manufacturing of wood products, including sorting materials, soil screening, grinding, and sawing, is conducted from 8 a.m. to 5 p.m., Monday through Friday.

The applicant indicates that there are approximately 20 vehicular trips per day to and from the property. Those trips include employees arriving to the property and then leaving for work sites in the morning, occasional trips throughout the day for hauling materials, and then

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-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

employees returning to the property before leaving work at the end of the day. This property is located approximately 1,500 feet from the intersection of Route 30 and Barnes Road. The Virginia Department of Transportation (VDOT) has reviewed the application and did not indicate any concerns with utilizing this stretch of Barnes Road. Engineering details associated with the commercial entrance onto Barnes Road will be reviewed during the site plan stage.

The application has been reviewed by County staff to address potential impacts of the business. The Stormwater and Resource Protection Division has reviewed the application regarding stormwater management design for the current operations and for impacts to the RPA and wetlands. The proposed conditions would require impacts to the RPA be remediated, proof of appropriate permits for impacts to the wetlands, and that the stormwater management design be sufficient for all development on the property.

The application has also been reviewed by the Fire Department to ensure adequate fire safety measures are utilized. The proposed conditions would limit the size of storage piles for wood products, prohibit the use of chemicals or burning on the property to dispose of materials, and require a fire safety plan to be developed. Furthermore, the proposed conditions require that vehicles and equipment be stored on the property in an area which is separate from the area used for timber processing and mulch stockpiles.

A condition proposed for landscaping would require a 50-foot buffer along Barnes Road and the adjoining residential properties and provide screening the business from the view of Barnes Road or the adjoining properties by means of landscaping or fencing.

The highest noise generating operations of the use, primarily the operations associated with the manufacturing of wood products such as grinding and sawing, occur between 8 a.m. to 5 p.m., Monday through Friday. Staff finds that this is consistent with normal operating hours for businesses and has proposed a condition to restrict the hours of operation of the manufacturing of wood products to 8 a.m. to 5 p.m., Monday through Friday. Noise from Interstate 64 (I-64) and required buffering may also reduce potential noise impacts.

Additional proposed conditions include prohibiting sales on the property, restricting vehicular access to the business to only come from Barnes Road, prohibiting signage associated with the business, restricting the height of light poles, and prohibiting any light trespass onto adjoining properties.

A site plan would be required for the business and would need to show all existing improvements being brought into full conformance with the master plan, conditions, Zoning Ordinance, and other applicable regulations. The proposed conditions would require that the site plan be submitted within 12 months of the date of approval of the SUP and receive final approval within 24 months of the date of approval of the SUP. The proposed conditions would require that County staff inspect the property within six months of the date of approval of the SUP to verify existing conditions and within 36 months of the date of approval of the SUP to verify that all improvements shown on the site plan are completed and that the site is fully in compliance with the SUP and the site plan.

**SPECIAL USE PERMIT-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

PLANNING AND ZONING HISTORY

- On September 12, 2000, Case No. SUP-0007-2000 was denied by the BOS. This SUP was requested to allow the operation of a contractor's warehouse and office, storage and repair of heavy equipment, and the manufacture and sale of wood products on the property.
- A notice of violation was issued by the Zoning Division in 2020 for the business operating without an SUP.
- The Community Impact Statement submitted with this application indicates the business has been operating on the property for the last 20 years. This application is to bring the use into conformance with the Zoning Ordinance.

SURROUNDING ZONING AND DEVELOPMENT

- The properties west of Barnes Road are zoned A-1, General Agricultural, and are designated Rural Lands on the adopted 2045 Comprehensive Plan Land Use Map. Most of these properties are developed with single-family residential dwellings, but a few properties remain undeveloped.
- The properties east of Barnes Road are zoned B-1, General Business, and are designated Economic Opportunity on the adopted 2045 Comprehensive Plan Land Use Map. These properties are currently undeveloped but have an approved SUP for commercial development.
- To the south, the property is immediately bordered by I-64.

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-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	- Per proposed Condition No. 6, all access to the business will be from Barnes Road. A commercial entrance is required and will be reviewed by VDOT at the site plan stage. - Traffic generated by the site is anticipated to be approximately 20 trips per day which are spread out from the morning to the afternoon. The property is approximately 1,500 feet from the intersection of Route 30 and Barnes Road. Staff anticipates that this portion of Barnes Road is equipped to handle the trips to and from the site which are spread throughout the day.
<u>Public Transportation: Pedestrian/Bicycle</u>	<u>No Mitigation Required</u>	- No pedestrian or bicycle improvements are shown along Barnes Road on the Pedestrian Accommodations Master Plan. - Barnes Road is shown as a shared roadway on the Regional Bikeways Master Plan. No improvements are required to be installed for this designation.
<u>Public Safety</u>	<u>Mitigated</u>	- Subject property is located approximately 4.6 miles from Fire Station 1. - Proposed Condition Nos. 10, 11, 12, and 13 are intended to mitigate potential public safety impacts including restricting where vehicles and equipment may be stored when not in use, limiting the size of piles of wood products, prohibiting the use of chemicals, or burning to dispose of materials, and requiring a fire safety plan to be developed.
<u>Public Schools</u>	<u>No Mitigation Required</u>	- The proposal will not generate schoolchildren.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	- The proposal does not generate impacts that require mitigation to the County's Parks and Recreation services or facilities.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	- The proposal does not generate impacts that require mitigation to public libraries or cultural centers.
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigation Required</u>	- The property is outside the PSA. Any wells or drain fields used for the business will be reviewed by the Virginia Department of Health at the site plan stage.

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-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

Impacts/Potentially Unfavorable Conditions	Status (No Mitigation Required/Mitigated/Not Fully Mitigated)	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Watersheds, Streams, and Reservoirs</u>	<u>Mitigated</u>	- Proposed Condition No. 15 requires a Spill Prevention Control and Countermeasures plan be developed. - Proposed Condition No. 16 requires impacts to the RPA be restored. - Proposed Condition No. 17 requires the applicant to submit proof of permitting from the United States Army Corps of Engineers to County staff for any impacts to wetlands. - Proposed Condition No. 18 requires a stormwater management plan to be developed for the property inclusive of all improvements on the property. - Detailed stormwater management and design will be reviewed at the site plan stage.
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	- The property is not designated as a high-sensitivity or ultra-sensitivity area by the James City County Archaeological Assessment. - Site plan submittal requirements for archaeological studies will be reviewed at the site plan stage.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	- Proposed Condition Nos. 4, 5, 6, 7, and 8 prohibit sales on the property, limit the hours of operation, restrict vehicular access to come directly from Barnes Road, prohibit outdoor signage related to the business, and restrict the height of light poles and prohibit light trespass. - Proposed Condition No. 9 requires a vegetated buffer 50 feet in width along Barnes Road and the property lines that are shared with adjoining properties. The condition also requires that landscaping or fencing be installed to screen the use from Barnes Road and from the adjoining properties. All landscaping installed per this condition will be required to be evergreen. - Proposed Condition No. 14 requires an Operations Mitigation Plan be developed to address dust and noise mitigation, and cleaning any mud tracked onto Barnes Road by traffic associated with the business.
<u>Community Character</u>	<u>No Mitigation Required</u>	- Barnes Road is not a Community Character Corridor (CCC), and the property is also not located in 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-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

2045 COMPREHENSIVE PLAN

The site is designated Rural Lands on the 2045 Comprehensive Plan Land Use Map. Recommended uses include agricultural and forestal activities, agri-tourism, rural-support businesses, and certain commercial uses which require very low intensity settings. The Rural Lands Development Standards have the following guidance.

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

- Locating structures and uses outside of sensitive areas.

With the proposed conditions, impacts to the RPA would be remediated and the use would be operated outside of sensitive areas.

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

The proposed use is generally within an area that has previously been cleared. The proposed conditions require vegetated buffers to protect and increase vegetation along the property lines.

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

The proposed improvements do not impact farmland, open fields, scenic roadside vistas, and other important agricultural/forestal soils and resources.

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

The proposed improvements are not located in an open field.

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

The proposed conditions require that access to the business be limited to come from Barnes Road. There is an existing driveway that has an entrance on Barnes Road.

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

The property is subject to height limitations in accordance with Section 24-418 of the Zoning Ordinance. The proposed conditions require vegetated buffers and screening the use from Barnes Road and adjoining properties.

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

The proposed conditions limit access to the property from Barnes Road. The business would utilize an existing driveway which the entrance will be improved to VDOT standards.

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

The proposed conditions restrict the permitted height of light poles and prohibit light trespass across property lines.

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-20-0010. 9537 Barnes Road Hertzler Clearing and Grading
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

The property is not located along a CCC.

PROPOSED SUP CONDITIONS

Proposed conditions are provided in Attachment No. 1.

STAFF RECOMMENDATION

With the attached conditions, staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2045 Comprehensive Plan.

Staff therefore recommends that the BOS approve the SUP subject to the proposed conditions.

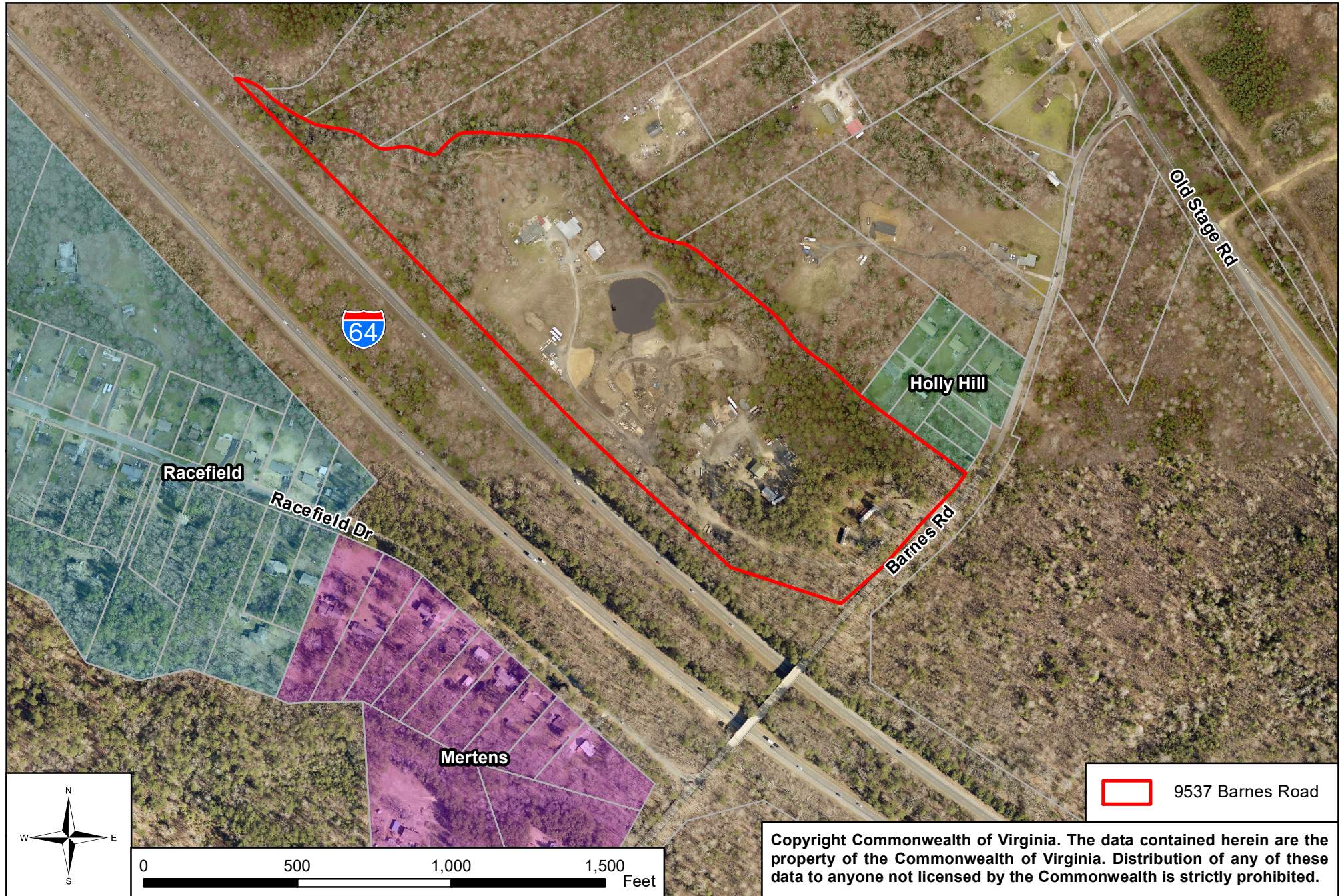
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Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Community Impact Statement
5. SUP-0007-2000 Staff Reports and Meeting Minutes
6. Unapproved Minutes of the November 2, 2022, Planning Commission Meeting
7. Citizen Correspondence

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

JCC SUP-20-0010, Hertzler Clearing and Grading

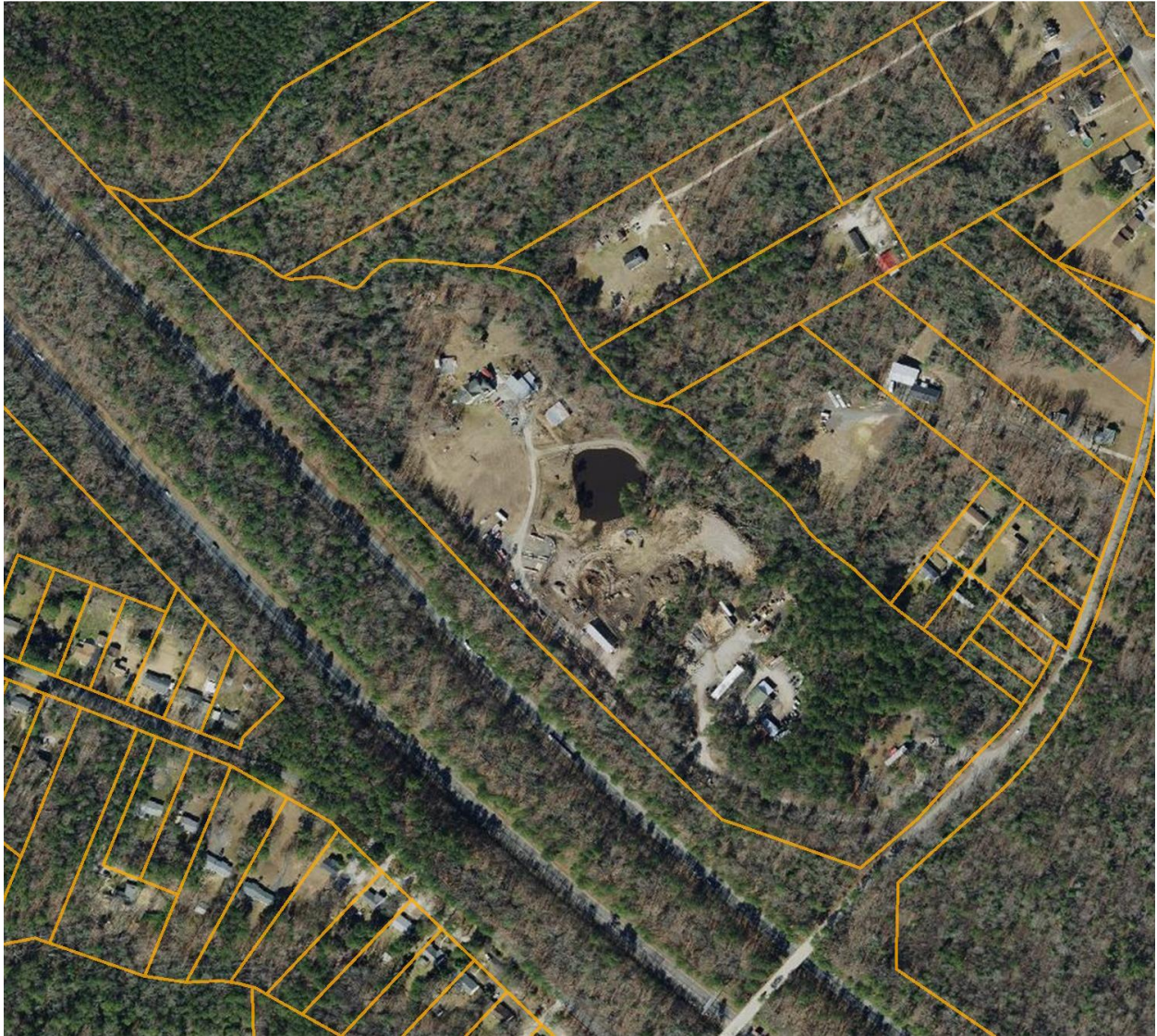


COMMUNITY IMPACT STATEMENT
HERTZLER CLEARING AND GRADING
9537 BARNES ROAD
SPECIAL USE PERMIT
SUP-20-0010



Introduction

The subject property is located at 9537 Barnes Road, Tax Map #043010001ZA, and is owned by Steven L. and Mary E. Hertzler. The Hertzlers live on the property. The property contains approximately 28.6 acres, is zoned A-1, and designated Rural Lands on the Comprehensive Plan Land Use Map.



The Hertzlers are the owners of Hertzler Clearing and Grading, a small family-owned land clearing and rough grading business. The business has been operated from the property for the last 20 years. The County has informed the Hertzlers that their business constitutes a

contractor's office/warehouse and wood product manufacturing facility requiring a special use permit. The Hertzlers are applying for a special use permit.

The property contains the Hertzlers' residence and numerous out buildings as designated on the Master Plan made by LandTech Resources submitted herewith. The adjacent parcels outlined in red on the photo below are owned by members of the Hertzler family.



The Business

The company is in the land clearing and rough grading business based from the property. Hertzler Clearing and Grading has generally from eight to ten employees, four of whom are family members and not all of whom come to the property. The company owns, at present,

three road tractors, three dump trucks, a chipper, a top soil screen, a BioGrind 400 stump and debris grinder, a LT 70 saw mill, two excavators, three loaders and several pickup trucks. Pictures of the equipment appear below.

On a typical day, six to eight employees arrive at the property in private vehicles between 6:30 a.m. and 8:00 a.m. Employees park in the gravel area adjacent to out building #5 shown on the Master Plan. Three to four of the heavy trucks leave the site between 7:30 a.m. and 8:30 a.m. Some days the trucks return to the site during the day and unload and return to the job site. Other days they return only at the end of the work day. Occasionally, equipment and trucks remain on the job site overnight. The applicant indicates that on average there are approximately 20 trips per day to and from the site.

The Hertzlers' goal is to responsibly reuse and recycle all wood and soil materials from the land clearing operation, rather than simply dumping it in a landfill. To that end, the operations that take place on the property are as follows:

Vehicle and Equipment Storage, Maintenance, and Repair

Vehicles and equipment are stored on site under pole barns shown on the Master Plan as out buildings 4, 6, and 9. Employees perform minor maintenance and repair on the vehicles and equipment as needed in and around outbuilding #5. All repairs and maintenance work are done between 7:00 a.m. and 5:00 p.m.

































Yard Operations

Trucks returning from job sites dump stumps, logs, brush, and other clearing debris. These materials are then sorted for further processing by either grinding, sawing for lumber, delivering to the paper mill in West Point for wood pulp or screening soil. Generally, this work is done by one employee using one excavator and 1 dozer between the hours of 8:00 am and 5:00 pm.



Grinding

Every three to four weeks, on average, stumps and brush are ground into mulch, utilizing the grinder and excavator between the hours of 8:00 am and 5:00 pm. Generally no more than 400 to 500 cubic yards of mulch are stored on site.



Soil Screening

Soil comes to the site with stumps and clearing debris. The soil is screened using the topsoil screener and one loader. This process involves two employees and generally takes place six to eight hours a week. About once a week the Hertzlers bring a load of manure from Dreamcatchers to mix in with the soil and to help Dreamcatchers dispose of their manure.



Sawing

Appropriate logs are cut into dimensional lumber, using the saw mill. The lumber is either air or kiln dried. Sawing takes place between the hours of 8:00 am and 3:00 pm generally three or four days a week. One day a week cut lumber is assembled into pallets.



The site is not open to the public and there are no retail sales of any product from the site. All materials are trucked by the Hertzlers to customers/end users.

Water and Sewer Impacts

The property is served by a private well and septic system and will accordingly have no impact on the public water and sewer system.

Traffic Impacts

There is no use category comparable to the Hertzler's business in the ITE Trip Generation manual. The applicant indicates that on average there are 20 total trips in and out of the site per day. The level of traffic does not warrant a traffic impact study. The vast majority of the traffic is traveling the segment of Barnes Road between the site and Route 30. All site traffic uses the single entrance to the property off Barnes Road which will be upgraded to meet VDOT commercial entrance standards. The applicant indicates its vehicles have never been involved in an accident on Barnes Road.

Fire Protection

The closest fire station to the site is fire station #1 located at 3135 Forge Road, approximately 4.6 miles from the site.

Solid Waste

All trash and solid waste generated at the site is collected by a private contractor.

Environmental

Wetlands on the property have been delineated by Roth Environmental and the limits of wetlands and associated RPA buffers are shown on the Master Plan.

Stormwater Management

If the applicant for special use permit is approved, the applicant will be preparing and submitting a site plan including a stormwater management plan meeting applicable state and local requirements.

Fiscal Impact

The applicant pays approximately \$20,000 per year in various taxes to James City

County, including real estate, personal property and business license taxes, with minimal to no demand on County services.

Comprehensive Plan

The property is designated Rural Lands on the 2045 Comprehensive Plan Land Use Map. Appropriate uses include traditional agricultural and forestal uses. The Plan recognizes that certain uses may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area and are in accordance with the Rural Lands Development Standards. These uses should be located in a manner that minimizes effects on agricultural and forestal activities, and where public services and facilities, especially roads, can adequately accommodate them. The proposed use is similar to a forestry use in that it involves cutting, handling and processing timber with the use of heavy trucks and equipment. The unique location of the site immediately adjacent to Interstate 64 mitigates potential impacts from the business, especially noise. All operations are located in the interior of the site, are well buffered with mature trees and are not visible from Barnes Road or surrounding properties. The business generates little traffic. Special use permit conditions will further insure impacts from the business are fully mitigated.

The business in this location is consistent with rural land development standards. Structures and uses are located outside of sensitive areas. The site is well buffered with mature trees, especially along Barnes Road. There is no development on farmland, open fields, scenic roadside vistas, and other important agricultural/forestal soils and resources. The height of structures are below the height of surrounding mature trees and buildings are scaled to be compatible with the character of the existing community. The property is served by a single entrance minimizing the number of street and driveway intersections along the main road. The site utilizes minimal security lighting only that does not generate glare and brightness on surrounding properties.

Conclusion

Approval of the requested special use permit, with appropriate conditions, will allow the applicant to continue operating its small, family business while bringing it into compliance with applicable County requirements. Given the location of the site immediately adjacent to I-64 and the low traffic generated by the use, the applicant submits the business can continue to operate without adverse impacts on neighbors and in accordance with the rural land development standards set forth in the Comprehensive Plan.

SPECIAL USE PERMIT-7-00. Hertzler Clearing and Grading
Staff Report for the September 12, 2000, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Building C Board Room; County Government Center
Planning Commission: June 5, 2000, (deferred); July 5, 2000, (deferred)
August 7, 2000, 7:00 p.m.(approved)
Board of Supervisors: September 12, 2000, 7:00 p.m.

SUMMARY FACTS

Applicant/Landowner: Mr. Steven L. Hertzler

Proposed Use: Contractor's warehouse and office, storage and repair of heavy equipment, and the manufacture and sale of wood products.

Location: 9537 Barnes Road; Stonehouse District

Tax Map and Parcel No.: (4-3)(1-12A)

Primary Service Area: Outside

Parcel Size: 28.6 acres

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Surrounding Zoning: North: A-1, General Agricultural
South: B-1, General Business
East: A-1, General Agricultural
West: A-1, General Agricultural

Staff Contact: Christopher M. Johnson - Phone 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal, with conditions, generally consistent with the surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve this application with the conditions found in the staff report. At its August 7, 2000, meeting, the Planning Commission concurred with staff and voted to recommend approval of this application by a vote of 6 to 0, with one absence.

Description of Project

Mr. Steven L. Hertzler has applied for a special use permit to allow the construction of a contractor's warehouse and office, the storage and repair of heavy equipment, and the manufacture of wood products at 9537 Barnes Road. The property is zoned A-1, General Agricultural, and is further identified as Parcel No. (1-12A) on James City County Real Estate Tax Map No. (4-3). The applicant's father currently resides in a mobile home located on the site. The applicant owns and operates a clearing and grading business which currently has six full-time employees but has had as many as eight employees within the past year. If approved, this special use permit would allow the construction of a 5,000-square foot office/warehouse, the storage and repair of Hertzler Clearing and Grading vehicles and heavy equipment, the storage of cleared stumps and wood material, and the grinding of stumps and wood material into mulch. Approximately seven acres (one quarter of the 28.6-acre site) is proposed to be cleared for this operation. A tub grinder would be leased periodically and brought to the site to grind accumulated stumps and wood materials into mulch on a 2.5-acre wood storage, manufacturing and processing area. The applicant has stated that because of the high concentration of dirt in the mulch, it is not suitable for resale. **A condition has been added which eliminates the sale of wood, mulch, and wood materials on the site. A condition has also been added that restricts the transportation of wood, mulch or wood materials onto or off of the property to those vehicles registered to Hertzler Clearing and Grading and restricts both the number of vehicles used as part of the operation and the number used to transport materials onto or off of the property.**

Description of the Grinder Apparatus

The type of grinder to be used on this property periodically is a Moorbark tub grinder, Model 1300. The 36-ton grinder measures 38 feet in length and 13 feet in height and is powered by a 750 horsepower Caterpillar engine. The production rate varies depending on the type of material being processed but it is capable of grinding 320-cubic yards per hour. Stumps, wood, and wood debris are loaded into a large rotating tub which moves the wood over a hammer mill. Heavy hammers tear the wood to bits utilizing a grinding motion. When the bits are small enough, they fall through a screen onto a conveyer and the mulch is then stockpiled. A tractor would spread the mulch out on clear areas. The grinder achieves a three to one reduction from raw materials to the end product.

Field Visit/Sound Test

On May 12, 2000, several Planning Commission members and Mr. Kennedy joined staff on a visit to the property for the purpose of viewing the tub grinder and conducting sound tests from adjacent residential properties. The tub grinder was not located at the point where it would ultimately be used as that area has yet to be cleared. Staff and the applicant tried to locate the grinder in a manner which would best approximate the distance and sound levels adjacent residential properties would encounter if a special use permit is granted for this operation. It should be noted that if approved the grinder would be approximately the same distance from one of the residences as it was from one of the test sites. A map is included as an attachment that identifies the locations where sound tests were observed and lists the recorded noise levels. Readings taken at the nearby residential test sites when the grinder was not in operation ranged from 50 dBA to 56 dBA with the primary source of background noise coming from Interstate 64. The readings taken at the various residential test sites with the grinder in operation ranged from 55 dBA to 60 dBA. Staff conducted sound tests in advance of the official test to compare results and did not observe any appreciable difference in decibel levels between the two tests.

According to the Occupational Safety and Health Administration (OSHA), continued exposure to noise over 85 dBA will eventually harm hearing. While OSHA has no mandated definition for what constitutes a substantial increase over existing sound levels, state highway departments typically use either a 10 dBA increase or a 15 dBA increase in noise levels to define "a substantial increase" in existing noise levels. Neither

the Department of Environmental Quality (DEQ) and the Environmental Protection Agency (EPA) specifically define what constitutes a substantial increase. **The measured noise level increase falls well within this acceptable range of increase typically used by state highway departments.** Examples of noises which might be typically observed in a rural setting include freeway traffic 70 dBA, a tractor 90 dBA, a leafblower 110 dBA, a power lawn mower 65-95 dBA, and an ambulance siren 120 dBA. As a comparison, a decibel reading of 84 dBA was observed from a distance of approximately 200 feet when the tub grinder was in operation.

Surrounding Zoning and Development

The property is bordered on the west by Interstate 64 and further to the west by the Racefield subdivision which is zoned A-1, General Agricultural. Single-family homes and undeveloped properties are located to the north and east of the site and are also zoned A-1. The undeveloped and wooded 185-acre Hazelwood Farms property to the south of the site across Barnes Road is zoned B-1, General Business. Examples of by-right uses for B-1 include automobile service stations, professional office buildings, lumber and building supply stores, restaurants, schools, retail and service stores, and wholesale and warehouse facilities. As the Stonehouse planned community continues to develop, the B-1 properties south of Barnes Road will face increasing development pressure. **Staff finds the proposal, with conditions, consistent with the surrounding zoning and development.**

Physical Features and Environmental Considerations

The 28.6-acre site is relatively flat and wooded. A stormwater management facility may be required southeast of the proposed warehouse/office due to impervious areas associated with the construction of approximately 500 feet of entrance road. Most of the entrance road area collects to a low point in topography about midpoint between Barnes Road and the proposed site and would bypass the site's primary stormwater management facility located in the interior of the site. **A condition has been added which requires the Environmental Director's approval of an erosion and sediment control and stormwater runoff management plan prior to final site plan approval. This plan would also address the method of containment for the materials in the wood processing area and stabilization of the berms.** A stormwater pollution prevention plan must comply with County erosion and sediment control and stormwater management plan requirements established by the County's Erosion and Sediment Control and Chesapeake Bay Preservation Ordinances.

The proposed facility would require a construction and demolition debris landfill permit from the Virginia Department of Environmental Quality (DEQ). DEQ requires local approval of a land use before they will review an application for a permit. Condition No. 2 requires that the applicant acquire all State permits prior to final site plan approval. Wood product storage and processing may also require a general Virginia Pollutant Discharge Elimination System (VPDES) permit for Discharges of Storm Water associated with Industrial Activity from DEQ.

Transportation

Access to the property would be from Barnes Road (Route 601). Barnes Road is included in the FY 2000-2005 Six-Year Secondary Road Plan; however, the Virginia Department of Transportation (VDOT) has indicated that the "spot" improvements recommended for portions of Barnes Road to improve drainage and grading should not impact this site. VDOT has also indicated that a commercial entrance will be required for the site. **Given the low trip volume anticipated at the site, VDOT does not anticipate the need for turn lanes. VDOT did not identify road width as an issue in its preliminary review of this proposal.**

Three pickup trucks, two dump trucks, a single-axle chip truck, a log trailer, and a low-boy trailer are presently registered to Hertzler Clearing and Grading. The applicant has stated that the pickup trucks make an average of one to two trips per day to and from the site and typically go home with employees each night. Both of the trailers and the single-axle chip truck would typically make one trip per day each to and from a job site. The dump trucks make an average of three to four trips per day to and from the site. Staff estimates that the number of vehicle trips to and from the site will be approximately 24 to 34 per day. **Given the relatively low trip volume generated by the development and the fact that all traffic improvements are required to be installed or bonded prior to the issuance of an occupancy permit (Condition No. 10), staff feels that the traffic impacts generated by this proposal will have a minimal effect on the surrounding community.**

Fire Potential

Concern was expressed by residents in the surrounding community over the potential for mulch and debris waste fires. The Fire Department reviewed a conceptual plan for the proposal and concluded that fire response would not be a problem provided reasonable access is provided to the site. This would typically be reviewed by the Fire Department during the site plan review process. **The Deputy Fire Marshall reported no significant problems with similar rural properties in the past and stated that existing resources would be able to control a fire on the site.** The Fire Marshall stated in a subsequent analysis of the proposal that the department was not concerned about having a single entrance to the site.

Public Utilities

The property lies outside the Primary Service Area (PSA). The site is served by an on-site well and an on-site treatment and disposal system.

Comprehensive Plan

Land Use Designation

The property is designated as Rural Lands on the Comprehensive Plan Land Use Map. Rural Lands are areas containing farms, forests, and scattered houses, exclusively outside the Primary Service Area, where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for the future. Appropriate primary uses include agricultural and forestal activities and certain recreational and public uses which may require a spacious site and which are compatible with the natural and rural setting. Most retail and commercial uses which will serve Rural Lands will be located at planned commercial locations on major thoroughfares inside the PSA. However, a few of the smaller uses and uses which require a specialized location may be located and approved on a case by case review, provided such uses are compatible with the natural and rural character of the area, in accordance with the Development Standards of the Comprehensive Plan. These uses should be located in a manner that minimizes effects on agricultural and forestal activities, and located where public services and facilities, especially roads, can adequately accommodate them.

Several conditions attached to this application require Environmental Director or Planning Director approval or Development Review Committee review in order to insure that the potential impacts of this development on adjacent properties are mitigated and the rural character of the surrounding area is preserved to the largest extent possible. **The unique location of the site adjacent to Interstate 64 mitigates many of the factors such as noise, dust, and odor which would be magnified if a more remote location had been proposed. A condition has also been added which limits the project size to no more than 25 percent of the site without prior Board of Supervisors approval. This condition, in addition to requiring Board of Supervisors approval of any proposed expansion of the facility or specially permitted use which is not specified in this application, insures that the project scale is consistent with the surrounding natural and rural character of the area. This proposal is consistent with the Rural Lands designation.**

Land Use Standards

Rural Land Use standards call for the natural, wooded, and rural character of the County to be preserved with particular attention given to locating structures and uses outside of sensitive areas, maintaining existing topography, vegetation, and tree lines to the maximum extent possible and limiting the height of structures to an elevation below the height of surrounding mature trees. This proposal would maintain an undisturbed 150-foot buffer along the eastern property line nearest adjacent residential homes and an undisturbed 50-foot buffer along the western property line bordering Interstate 64. A second rural land use standard seeks to minimize visual impact from public roads and not disturb agricultural/forestal uses. This proposal seeks to retain the wooded rural character of the site to the greatest extent possible by locating all operations interior to the site and by requiring the clearing of only 25 percent of the site. In addition, the use does not prevent most of the site from being returned to forestry use should the wood processing and manufacturing operation cease. The proposed use is similar to a forestry type use in that it involves handling and cutting of timber and the use of heavy trucks and equipment.

The noise generated on the site through the daily operations of trucks and equipment are typical for rural areas. The tub grinder itself makes less noise than a tractor. Unlike an agricultural operation, the tub grinder which would be used on the site will only be necessary when the applicant has accumulated sufficient material on site to justify the expense of leasing the equipment. The applicant anticipates that this will only occur every other month and use of the grinder will only be necessary for a few days at a time. The typical daily noise volume generated on adjoining areas will not be significantly different than the noise levels generated by the Interstate on any given day. This proposal meets these land use standards.

RECOMMENDATION

The Planning Commission conducted three public hearings on this application and received a significant number of comments at each of the hearings. A substantial amount of written information was received from citizens and interested parties and has been included as attachments to this report. **Significant changes were made to the conditions over the course of the three public hearings to address questions and concerns raised by Commission members and citizens.** Several conditions were added and others were revised to clarify areas of concern raised during the public hearings. Staff consulted with several agencies who would be required to review a site plan for this proposal should the Board of Supervisors approve this application and incorporated language into the conditions which addressed their areas of concern. At the request of the Planning Commission, several conditions were revised to require Planning Commission approval of such items as the location of the 2.5-acre wood material storage area, the location of the tub grinder, and the maximum height of stored wood materials. **It is important to note that several of the recommended additions and changes to the conditions rely heavily upon the good faith of the applicant to comply with the terms of the restrictions.** Staff would find it difficult to adequately monitor conditions which limit source material, limit the transport of material to vehicles registered to Hertzler Clearing and Grading, restrict the height of materials stored on the site, and eliminate the use of groundwater and chemicals in the decomposition process. **Condition No. 14 would allow staff to rescind the special use permit if any of the conditions were proven to have been violated.**

Staff finds the proposal, with the attached conditions, generally consistent with the surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve this application with the conditions found in the attached resolution. At its August 7, 2000, meeting, the Planning Commission concurred with staff and voted to recommend approval of this application by a vote of 6 to 0, with one absence.

Should the Board of Supervisors wish to approve this special use permit, staff and the Planning Commission recommends the following conditions:

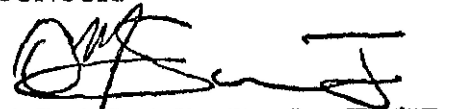
1. Construction on this project shall commence within 24 months from the date of approval of this special use permit or this permit shall become void. Construction shall be defined as securing permits for land disturbance, building construction, clearing and excavation, and the pouring of footings.
2. An erosion and sediment control and runoff management plan shall be approved by the Environmental Director prior to final site plan approval. This plan shall also address the method of containment for the materials in the wood processing area and stabilization of the berms. All required State permits shall be acquired prior to final site plan approval.
3. This permit shall allow the construction of a 5,000-square foot office/warehouse, the storage and repair of Hertzler Clearing and Grading vehicles and heavy equipment, the storage of cleared stumps and wood material, and the grinding of stumps and wood material into mulch. The total disturbed area for this project, including the location of the office/warehouse, vehicle and equipment storage and repair area, and 2.5-acre wood storage, manufacturing, and processing area, shall not exceed 25 percent of the site, except with prior approval of the Board of Supervisors. No portion of the project shall be located within 400 feet of Barnes Road with the exception of the entrance road.
4. The location of the disturbed area shall be approved by the Director of Planning or his designee prior to final site plan approval.
5. The storage, manufacturing, and processing of wood, mulch and wood materials shall be limited to a 2.5-acre area identified on a site plan to be approved by the Development Review Committee. The use of groundwater or chemicals shall not be used to aid in the decomposition of material.
6. The sale of wood, mulch, or wood materials shall not be permitted on the site.
7. The use or operation of the tub grinder shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday. Stumps and other accumulated material contained within the 2.5-acre area for storage, manufacturing, and processing of wood, mulch and wood materials shall be ground into mulch a minimum of four times and a maximum of six times per calendar year. Operation of the tub grinder shall be limited to a maximum of 15 days per calendar year with a minimum of 30 days elapsing between each usage. The applicant shall be required to submit written notification to the Planning Director a minimum of one week prior to each usage of the tub grinder.
8. The tub grinder shall be located so as to minimize potential adverse impacts on adjacent properties including, but not limited to noise, dust, debris, and odor. The final location for the tub grinder shall be shown on a site plan to be approved by the Development Review Committee.
9. A minimum 150-foot undisturbed buffer shall be provided along the eastern property line and a minimum 50-foot buffer shall be provided along the western property line adjacent to Interstate 64. The buffers shall contain enhanced landscaping, so that the required number of plant material equals at least 133 percent of the County's Landscape Ordinance requirements with at least 33 percent of the required number of trees being evergreen. The landscaping plan shall be approved by the Director of Planning or his designee prior to final site plan approval.
10. All traffic improvements required by the Virginia Department of Transportation or the Development Review Committee along Barnes Road (Route 601) shall be installed or bonded prior to issuance of a certificate of occupancy for any structure on the site.
11. The storage and repair of vehicles and heavy equipment on the site shall be limited to vehicles and equipment registered to Hertzler Clearing and Grading. No vehicles shall be allowed to transport

wood, mulch, or wood materials onto or off of the property except those registered to Hertzler Clearing and Grading. No more than ten vehicles shall be used as part of this commercial operation and no more than four shall be used to transport materials onto or off of the property.

12. Source material to be transported onto the property for storage, manufacturing, and processing shall be limited to materials cleared, gathered, or removed from Hertzler Clearing and Grading residential and commercial job sites.
13. A maximum height for accumulated stumps, mulch, and other wood materials contained within the 2.5-acre wood storage, manufacturing, and processing area shall be identified on a site plan containing a line of sight cross section to be approved by the Development Review Committee. The line of site cross section shall also identify the finished grade of the 2.5-acre wood storage, manufacturing, and processing area.
14. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.


Christopher M. Johnson

CONCUR:


O. Marvin Sowers, Jr.

CMJ/gb
sup-7-00.wpd

Attachments:

1. Unapproved Planning Commission Minutes of the August 7, 2000, meeting
2. Planning Commission Minutes of the July 5, 2000, meeting
3. Planning Commission Minutes of the June 5, 2000, meeting
4. Location Map
5. Planning Commission Rural Lands Transition Policy
6. Noise Levels in our Environment Fact Sheet; source: League for the Hard of Hearing
7. Sound Test Sites and Results, May 12, 2000
8. Memorandum received from Deputy Fire Marshall Joe Davis, June 15, 2000
9. Resolution

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF SEPTEMBER, 2000, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Ronald A. Nervitt, Chairman, Powhatan District
Bruce C. Goodson, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James G. Kennedy, Stonehouse District
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PLEDGE OF ALLEGIANCE

Mr. Nervitt requested that following the Pledge, a moment of silence be observed in memory of U. S. Representative Herbert H. Bateman.

Mr. Kelvin Pressey, a sophomore at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

C. PUBLIC COMMENT

1. Mr. Brian Rafferty, 59 Summer East, said that he has been a reporter for the Virginia Gazette for the past 5-1/2 years and thanked the Board and staff for its relationship with the press and its willingness to have open dialogue. He said that the County has been experiencing a decrease in the middle class and needs to take steps to stabilize the middle class by bringing in businesses that will foster the middle class.

D. CONSENT CALENDAR

Mr. Nervitt stated that Item No. 4, Bonded Industrial Access Road for James River Commerce Center, has been removed from the Consent Calendar by staff.

Mr. Nervitt inquired if any Board member wished to remove an item from the Consent Calendar.

Mr. Harrison asked that Item No. 3, Award of Contract - Greensprings Trail be pulled.

Mr. McGlennon made a motion to approve the remaining items on the Consent Calendar.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

1. Minutes
 - a. August 8, 2000, Regular Meeting
2. Appropriation of Funds – Fatherhood Grant

RESOLUTION

APPROPRIATION OF FUNDS - FATHERHOOD GRANT

WHEREAS, the Greater Williamsburg Fatherhood Coalition (Coalition) has received a grant of \$18,000; and

WHEREAS, James City County is the fiscal agent for the Coalition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following amendments and changes in appropriations for FY 2001:

Revenues:

From the Virginia Fatherhood Campaign	<u>\$18,000</u>
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Expenditures:

Big Brothers/Big Sisters	<u>\$18,000</u>
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5. Virginia Power Right-Of-Way Agreements for New Underground Wires

RESOLUTION

GRANTING VIRGINIA POWER EASEMENTS

FOR NEW UNDERGROUND WIRES

WHEREAS, Virginia Power has requested easements across County-owned land along Greensprings Road and along Route 199 for the purpose of installing new underground wires; and

WHEREAS, these new underground wires will improve power service to County residents and businesses.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute these Right-of-Way Agreements on behalf of James City County.

3. Award of Contract – Greensprings Trail

Mr. Needham S. Cheely, III, Director of Parks and Recreation, stated that during FY 1999, the Board of Supervisors accepted a \$52,140 matching grant that the Division of Parks and Recreation was awarded by the Virginia Department of Conservation and Recreation to assist with various surface improvements to provide a smooth, all-weather trail.

The sole bidder, Eco-Systems, Inc., submitted a base bid for the work to be completed on the trail and bid alternatives for puncheon footbridges and additional surfacing material for an entire project of \$125,612.

Staff recommends the Board approve the resolution awarding the contract for trail improvements at the Greensprings Trail to Eco-Systems, Inc., in the amount of \$125,612.

The Board and staff held a discussion concerning discouraging bikes on the trail and beaver activity affecting path development.

Mr. McGlennon made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY (0).

RESOLUTION

AWARD OF CONTRACT - GREENSPRINGS TRAIL

WHEREAS, funds are available from a Virginia Department of Conservation and Recreation grant in conjunction with the Greenways and Open Space Account for trail improvements at the Greensprings Trail; and

WHEREAS, the Board of Supervisors of James City County, Virginia, accepted the \$52,140 grant to help with the various surfacing needed to make the Greensprings Trail accessible; and

WHEREAS, Eco-Systems, Inc., provided a responsive and responsible bid in the amount of \$124,612.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the County Administrator to execute a contract between James City County and Eco-Systems, Inc., in the amount of \$124,612.

E. PUBLIC HEARINGS

1. Case No. SUP-20-00. Hipple Family Subdivision

Mr. Paul D. Holt, III, Senior Planner, stated that a family subdivision had been approved earlier this year (February 22, 2000 under Case No. SUP-2-00) with a condition which stated that final subdivision approval must be received within six months or the SUP was void. He reiterated that Mr. Michael Hipple had applied for a special use permit to allow a new family subdivision lot on 1.0 acre, zoned A-1, General Agricultural, located at 106 Jolly Pond Road, further identified as Parcel No. (1-7) on James City County Real Estate Tax Map No. (31-1).

Staff determined that the proposal was consistent with surrounding zoning and development and with the Comprehensive Plan.

Staff and the Planning Commission recommended approval of the special use permit with the conditions listed in the resolution.

Mr. Nervitt opened and, as no one wished to speak, closed the public hearing.

Mr. Harrison made a motion to approve the resolution.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

RESOLUTION

CASE NO. SUP-20-00. HIPPLE FAMILY SUBDIVISION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the applicant has requested a special use permit to allow for a family subdivision in an A-1, General Agricultural District, of a parcel generally one± acre in size located at 106 Jolly Pond Road, further identified as a portion of Parcel No. (1-7) on James City County Real Estate Tax Map No. (31-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-21-00 as described herein with the following conditions:

1. This special use permit is valid for only one (1) family subdivision for one parcel generally one acre in size.
2. Final subdivision approval must be received from the County within 180 days from the issuance of this special use permit or the permit shall become void.
3. The subdivision parcel submitted for approval shall be generally located between existing Parcel 3 and existing Parcel 4.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

2. Case No. SUP-7-00. Hertzler Clearing and Grading

Mr. Christopher M. Johnson, Planner, stated that Mr. Steven L. Hertzler had applied for a special use permit to allow the construction of a contractor's warehouse and office, the storage and repair of heavy equipment, and the manufacture of wood products on 28.6 acres, zoned A-1, General Agricultural, located at 9537 Barnes Road, further identified as Parcel No. (1-12A) on James City County Real Estate Tax Map No. (4-3).

Staff determined, with conditions, that the proposal was generally consistent with surrounding zoning and development and with the Comprehensive Plan.

In concurrence with staff, the Planning Commission, by a vote of 6-0, recommended approval of the special use permit with conditions listed in the resolution.

The Board and staff held a discussion concerning prior code violations by the applicant, sound test results, surrounding land zoning, restrictions on the amount of materials permitted to be hauled onto the site, the depth of the surrounding water tables, contrast of this proposal with the existing Waltrip site, restrictions concerning the height of the debris pile, and the restrictions concerning the days and hours of operations.

Mr. Nervitt opened the public hearing.

1. Mr. Steven L. Hertzler, applicant, stated that his business is to clear land of stumps, brush, and other debris. The equipment is moved from work site to work site and the business has grown to a point that a central base of operations is necessary. The land would be used for storage, equipment repair, and as a main office. The land would also be utilized to dispose of rake-up debris.

Mr. Goodson inquired how tall the debris mounds would be, if the business would utilize water for its operations, and if the trucks would use Barnes Road.

Mr. Hertzler stated that the mounds would be used for sound control and beautification of the site and may reach fifteen feet in height; the business would not utilize water for its operation; and Barnes Road to Route 60 is not in condition to be utilized by his trucks.

Mr. Kennedy inquired about the Code violations and the possible sales of mulch from the site.

Mr. Hertzler stated that once he was informed that he was doing work in violation of the Code, he promptly stopped and corrected the violation. He stated that there would be no sales of mulch on the site.

Mr. Harrison inquired about someone approaching the business to purchase some of the mulch, what would happen if the business failed, and what step would the applicant take to restore the land to its original condition.

Mr. Hertzler stated that there would be no sales from the site.

Mr. McGlennon inquired about the economic feasibility of a commercial venture with a limited base producing a poor product.

Mr. Hertzler stated that the rake-up debris is of poor quality. Currently, he has to pay to dispose of this debris. By using land he owns for disposal, the business may save some money.

Mr. Nervitt inquired how the applicant is going to save money and stated that this proposed land use seems to him like a dump.

2. Mr. Brian Schrecengost, 126 Racefield Drive, stated that the approval of this permit would decrease the surrounding land value. He requested to know what common objects make about 60 decibels of sound for comparison to the tub grinder. Mr. Schrecengost further stated the quality of living may drop and requested to know what would happen if a fire occurred.

3. Ms. Margaire Watkins, 9737 Old Stage Road, stated that there have been two major fires in Barhamsville which required tanker trucks to make water trips to supply enough water to contain the fire, the land and proposed use will be good breeding grounds for copperhead snakes and increase the truck traffic on Old Stage Road. She also requested to know who will enforce the special use permit restrictions.

4. Ms. Rosa Mayes, 135 Racefield Drive, stated that the neighbors oppose the proposed land use, the roads are not strong, wide, level, nor straight enough for industrial trucks, and there is the concern about school buses meeting these trucks on the road. She requested to know if the applicant will keep to the restrictions, and how many more accidents must occur on this road.

5. Mr. Ronald T. Lee, 132 Racefield Drive, read a letter to the Board from Ms. Jane Maston, 193 Barnes Road, who could not attend this meeting. The letter stated that she has concerns about the noise level for adjacent landowners, the hours of operations, the quality of life and health that will decrease due to the increased dust, and that the truck traffic is dangerous to children.

Mr. Lee questioned what the staff planners actually know about the Hertzler business and stated that had he known about this business moving into his neighborhood, he would not have chosen to move there.

6. Mr. Barry Trott, 145 Skillman Drive, stated his concern about the increased traffic and the safety of those biking and walking along the roads with the large construction trucks, and is concerned about the goodwill of the applicant if he has incurred several code violations.

7. Mr. Howard Anby, 9313 Barnes Road, stated his concern of construction trucks traveling the hairpin turns on Barnes Road, the number of stumps permitted to accumulate on the land, that renting a grinder is cheaper than paying to have someone else dispose of the debris, the odor emitted by mulch piles, and the statement by the staff that this proposed use is a complement to the neighborhood.

8. Mr. Brian Oyer, 9025 Barnes Road, stated that traffic on Barnes Road has increased over the years, a 70-lot development has been approved and the road is not conducive to heavy truck usage. He stated that Massie trucks cannot pass on the road. He disagrees with the statement made at the Planning Commission that the mulch would change to top soil and requests the Board vote no and do not defer this matter.

9. Ms. Betty Smith, 9347 Barnes Road, provided the Board with pictures of tub grinders, signatures collected in opposition to this land use, and stated her concerns that she did not want this or any business in her neighborhood, and that the present day traffic cannot compete with Hertzler trucks on Barnes Road.

10. Ms. Tyla Matteson, Sierra Club, encouraged the Board to deny this application which would decrease the quality of life, increase truck traffic, cause the loss of wildlife, increase the threat of fire, and stated concerns about the leakage from the mulch pile into to the groundwater in addition to the leakage from trucks.

11. Ms. Shireen Parsons, 306 Miller Street Christiansburg, Virginia, stated that this type of business is inappropriate for this neighborhood, offers no benefit to the community, and voiced concerns about the lack of limits on truck visits and protection for the community.

12. Ms. Kathleen Kennedy, 9405 Barnes Road, stated that the neighbors of this land are in the top of the poor, these homes are investments, the community feels as though they are being glossed over; and voiced her concerns that there are three blind curves on this road, it is narrow and has no shoulder; and asked the Board to protect the citizens, and the children who are citizens too.

13. Ms. Lynne Faltraco, Rutherford County, Unionville, North Carolina, stated her opposition to chip mills and voiced her concerns about trucks affecting road safety, devalued land, air quality problems, water usage associated with chip mills, and asked the Board to deny this permit.

Ms. Faltraco handed out a packet with her extended comments to the Board members.

14. Mr. James McRoy, 9427 Barnes Road, stated he adamantly objected to this permit, and voiced his concerns regarding the prior violations and noise pollution.

15. Mr. Peter Ladriere, 137 Racefield Drive, inquired if the Board can guarantee the land use will not hurt the surrounding land value, limit the number of trucks, protect the shallow wells, ensure water quality, and place a noise barrier requirement on the land use.

16. Mr. Jerry Woodson, 133 Racefield Drive, stated that although they are outside the primary service area of the County, they are citizens of the County and should be protected, the applicant should seek a more suitable site for this proposed land use, and requested the Board deny this permit, not defer.

17. Mr. Matthew Mayes, 135 Racefield Drive, stated that as a drive of commercial trucks, the road cannot handle this type of commercial truck traffic.

18. Mr. Ralph Derosa, President of the Stonehouse Homeowners Association, stated concerns about truck traffic on Route 30 and requested the Board deny this permit.

As no one else wished to speak, Mr. Nervitt closed the public hearing.

The Board held a discussion concerning the value of citizen input, the process set by the government for citizens to provide input, the Planning Commission's role in land use decisions, and the Planning office's role in land use decisions.

Mr. Kennedy made a motion to deny the permit.

On a voice vote, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

Mr. Nervitt recessed the Board for a break at 9:31 p.m.

Mr. Nervitt reconvened the Board at 9:43 p.m.

3. Case No. SUP-17-99. PrimeCo Communication Tower

Mr. Paul D. Holt III, Senior Planner, stated that Mr. Vernon Geddy, III, and Mr. Marc Cornell, on behalf of the applicant, has applied for a special use permit to construct a communications tower on 14 acres, zoned A-1, General Agricultural, located at 4881 Centerville Road, further identified as Parcel No. (1-56) on James City County Real Estate Tax Map No. (36-2).

Mr. Holt stated that, with conditions, the proposed height of the tower would appear comparable with surrounding vegetation and thus, compatible with all the surrounding zoning, uses, and the Comprehensive Plan.

The Planning Commission recommended approval of the application by a vote of 6-0.

Staff recommends the Board approve the application with conditions.

The Board and staff held a discussion concerning the height of the tower, the balloon test for visibility, and the reduced height request.

Mr. Nervitt opened the public hearing.

1. Mr. Geddy stated that this tower would provide service coverage to a portion of the County that has a gap in coverage along Centerville Road and western portions of Ford's Colony. The tower meets County performance standards.

Mr. Goodson asked how many other service providers could use the tower.

Mr. Geddy stated that there is room for three users on this tower and the permit allows for a second tower to be constructed on the site. The second tower would have room for three users too.

Mr. Nervitt asked if the second tower would be leased, requested to know who owns the land, and if the access lane to the tower could be at an angle to aid in hiding the tower base.

Mr. McGlennon asked if leasing the land had a requirement or obligation to allow a second tower.

Mr. Nervitt closed the public hearing as no one else wished to speak.

Mr. Goodson made a motion to approve the resolution.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

RESOLUTION

CASE NO. SUP-17-00. PRIMECO TOWER ON CENTERVILLE ROAD

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, James City County has developed certain policies for the placement of wireless communications facilities; and

WHEREAS, the applicant has requested a special use permit to allow for the construction of a 175-foot tall monopole tower and associated electronic equipment on a 14± acre parcel located at 4881 Centerville Road and more specifically identified as Parcel No. (1-56) on the James City County Real Estate Tax Map No. (36-2); and

WHEREAS, the Planning Commission recommended the proposal be approved by a vote of 6-0 at its public hearing of August 7, 2000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-17-00 as described herein with the following conditions:

1. This special use permit shall be valid for a total of two (2) towers. The maximum height of all towers shall not be greater than 175 feet; however the towers shall be so designed as to accommodate future vertical expansions. Prior to final site plan approval, the applicant shall demonstrate to the satisfaction of the Planning Director, that the lease area is adequate to accommodate two towers and supporting equipment. The portion of the lease area for the future tower and equipment shall remain free of all structures until such time the second tower is constructed and the additional tower shall be subject to administrative approval only. In order to maximize the number of colocating opportunities, all supporting equipment pads, sheds, buildings and huts shall have the minimum footprint necessary and shall be located within the lease area as approved by the Director of Planning.
2. Each individual tower shall be designed and constructed for at least three (3) users and shall be certified to that effect by an engineering report prior to site plan approval.
3. Towers shall be located on the site in a manner that maximizes the buffering effects of trees as determined by the Planning Director. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities as determined by the Planning Director. Access drives shall be designed in a manner that provides no view of the tower's base or related facilities as determined by the Planning Director. A minimum buffer of 100 feet in width of existing mature trees shall be maintained around the tower. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower.
4. A final inspection shall be obtained within one (1) year of approval of this Special Use Permit, or the permit shall become void.
5. Unless otherwise approved by the Director of Planning, all supporting equipment sheds, buildings and huts shall be of a similar design to that generally used on a single-family residence and shall be approved by the Director of Planning prior to final site plan approval. A gable or shed roof shall be used on all equipment sheds, buildings, and huts as determined by the Director of Planning prior to final site plan approval.
6. Following construction of the facility, certification by the manufacturer, or an engineering report by a Virginia-registered structural engineer, shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the structure, including number and type of antennas which could be accommodated, demonstrating to the satisfaction of the building official that all structural requirements and other safety considerations set forth in the BOCA Basic Building Code and Section 222(F) of the standards adopted by the Electronics Industries Association, or any amendment thereof, have been met.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

F. BOARD CONSIDERATION**1. Case No. SUP-18-99, Olde Towne Road Timeshares (deferred from August 8, 2000)**

Mr. O. Marvin Sowers, Director of Planning, stated that Mr. Vernon Geddy, III, on behalf of the applicant, has made a written request for deferral of this case.

Without Board objection, Mr. Nervitt deferred the case.

2. Regional Issues Committee Resolution – Corridor Beautification

Mr. John T. P. Horne, Manager of Development Management, stated that the Regional Issues Committee (RIC) is presenting to York County Board of Supervisors, the City Council of the City of Williamsburg, and the James City County Board of Supervisors a resolution for corridor beautification in the Historic Triangle.

Mr. Horne stated that staff recommends adoption of the resolution.

The Board and staff discussed current beautification efforts and the status of the trees to be transplanted from Upper County Park.

Mr. Harrison made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

RESOLUTION**CORRIDOR BEAUTIFICATION**

WHEREAS, the Regional Issues Committee (RIC) has approved a resolution proposing certain actions to beautify entry corridors in the Historic Triangle; and

WHEREAS, the Board of Supervisors wishes to support the proposal of the RIC with appropriate actions in James City County

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the proposal by the Regional Issues Committee as expressed in its resolution dated July 18, 2000 (attached), and directs staff to undertake appropriate actions to assist in the implementation of the proposal.

G. PUBLIC COMMENT – None**H. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that a report is being assembled based on the information from the committee.

Mr. Wanner stated that he and the City Manager had met and developed a proposal for the Board of Supervisors and City Council. Mr. Wanner recommended that the City/County staff send the study materials from the committee to the Board of Supervisors and City Council by mid September and that the Board of Supervisors and City Council members review those materials and make any requests for additional information and materials to the City Manager or County Administrator by early October.

The Board of Supervisors and City Council would then request or direct by mid October the County Administrator and City Manager to develop recommendations on a preferred option(s) and a timeline for implementation of the recommendations.

The City Manager or County Administrator will provide recommendations to the Council and Board at individual work sessions in November, and then the Board and Council will take action on those recommendations.

If it is determined by the Board or Council to have a joint work session, one would be scheduled.

The Board, County Administrator, and staff discussed how the information would be distributed, influences on VDOT, funding mechanism, willingness to look at short-term alternatives; aesthetic considerations, pedestrian access, and sound walls.

Mr. Wanner stated a copy of the briefing on the Convention Center Feasibility Study was provided to the Board. The City Council voted to continue the process and set up some mechanism to keep this idea alive.

Mr. Wanner recommended the Board recess for a James City Service Authority Board of Directors meeting, following which the Board of Directors will have a closed session pursuant to Section 2.1-344(A)(3) to consider acquisition of a parcel of property for public use. The Board of Supervisors would then reconvene for a closed session pursuant to Section 2.1-344(A)(1) to consider personnel matters(s), the appointment of individuals to County boards or commissions following which the Board would adjourn until September 26, 2000.

Mr. Wanner requested Mr. Richard Sebastian give a brief overview of the Real Estate Assessment Cycle.

Mr. Sebastian, Director of Real Estate Assessment, stated that the reassessment has completed and the annual reassessment notices have been mailed.

From July 1, 1999, to July 1, 2000, the assessed value of real estate has changed by 9.75 percent. Many of these changes resulted from new construction, subdivision of property, and changes other than reassessment.

Due to reassessment, 27 percent of all parcels had changed in value. The overall percentage of change in total real property value is 2.84 percent. The average increase for those properties with changes was 6.96 percent.

For commercial property, the property value increased by four percent overall.

Mr. Sebastian gave an overview of the appeal process. The appeal period will end on October 5, 2000. Following the staff appeal, there is a 30-day appeal period to the Board of Appeals. That appeal period will end on November 6, 2000. A final appeal may be made to the Circuit Court.

The Board and staff held a discussion concerning the frequency of assessments in neighborhoods and how close the assessment matched budget revenues.

A public hearing on the assessment increase will be held at the next Board meeting on September 26, 2000.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy stated that September 24 will be the dedication for the new Stonehouse Elementary School. On September 30 there will be a parade for Chickahominy Day, and October 9 will be the next "Meet the Supervisor" open public meeting at the Library in Croaker for Stonehouse District residents.

Mr. Harrison thanked the citizens for their participation during this meeting and requested that the Board consider adopting a formal time limit for public comments and public hearings.

Mr. Nervitt requested the Acting Police Chief to move forward with a safety locks for guns program in the County.

Mr. Nervitt recessed the Board at 10:49 p.m.

J. CLOSED SESSION

Mr. Nervitt reconvened the Board at 10:51 p.m. and made a motion to convene into closed session as recommended by the County Administrator.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

Mr. Nervitt reconvened the Board into open session at 11:00 p.m.

Mr. Nervitt made a motion to approve the closed session resolution.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters

lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed or considered by the Board as were identified in the motion and Section 2.1-344(A)(1) to consider a personnel matter(s), the appointment of individuals to County boards and/or commissions.

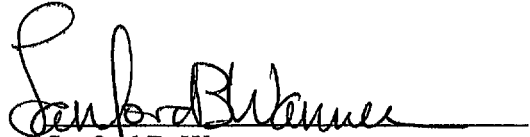
Mr. Goodson made a motion to appoint Dr. Barbara B. Richardson to the Social Services Advisory Board for a four-year term, term expiring on June 30, 2004; and to appoint Mr. M. Anderson Bradshaw to the Water Conservation Committee for a three-year term, term expiring on September 12, 2003.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

Mr. Nervitt made a motion to adjourn.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

The Board adjourned at 11:01 p.m.


Sanford B. Wanner
Clerk to the Board

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**RESOLUTION OF THE
REGIONAL ISSUES COMMITTEE
CORRIDOR BEAUTIFICATION**

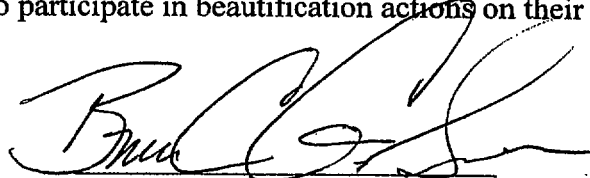
WHEREAS, the Regional Issues Committee has been charged with identifying issues of regional significance in the Historic Triangle; and

WHEREAS, the appearance of the entry corridors in the area is an important factor in making the area attractive to residents and visitors; and

WHEREAS, the Regional Issues Committee wishes to foster cooperation and appropriate public standards for certain corridor improvements.

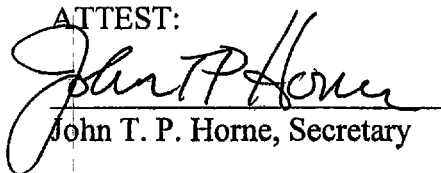
NOW, THEREFORE, BE IT RESOLVED by the Regional Issues Committee that Williamsburg, York County, and James City County should undertake the following corridor beautification efforts along all entry corridors leaving from Route 199 to the City of Williamsburg, including their intersections with Route 199.

- Landscape planting and roadway median and edge maintenance.
- Installation of uniform route number and road name signage, consistent with the designs now in use in the City of Williamsburg.
- Establishment of a program, in cooperation with the Chamber of Commerce, to encourage private landowners to participate in beautification actions on their property.



Bruce C. Goodson, Chairman

ATTEST:



John T. P. Horne, Secretary

Adopted by the Regional Issues Committee, this 18th day of July, 2000.

**SPECIAL USE PERMIT 7-00. Hertzler Clearing and Grading
Staff Report for the August 7, 2000 Planning Commission Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building C Board Room; County Government Center
June 5 (deferred); July 5 (deferred); August 7, 2000, 7:00 p.m.
September 12, 2000, 7:00 p.m.

SUMMARY FACTS

Applicant/Landowner:

Steven L. Hertzler

Proposed Use:

Contractor's office and warehouse, storage and repair of heavy equipment, and the manufacture and sale of wood products.

Location:

9537 Barnes Road; Stonehouse District

Tax Map and Parcel No.:

(4-3)(1-12A)

Primary Service Area:

Outside

Parcel Size:

28.6 acres

Existing Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

Surrounding Zoning:

North: A-1, General Agricultural
South: B-1, General Business
East: A-1, General Agricultural
West: A-1, General Agricultural

Staff Contact:

Christopher M. Johnson – Phone 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal, with conditions, generally consistent with the surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff believes that the conditions attached to the special use permit will assure orderly development of the site and provide a development that compliments the surrounding rural community. Staff continues to recommend the Planning Commission approve this proposal with the conditions listed in the staff report.

The Planning Commission, at their meeting on July 5, 2000, deferred action on the Hertzler Clearing and Grading Special Use Permit in order to allow staff and the applicant to address concerns shared by citizens as well as several proposed changes and additions to the conditions. Staff has worked with the applicant to address the concerns shared at both the June 5, 2000, and July 5, 2000 public hearings and has recommended several changes and additions to the conditions attached to this special use permit. Each of the proposed revisions and issues is discussed in further detail below.

Condition #3

At the request of the Commission, staff has revised this condition to more accurately define the construction and activities that would be permitted within the disturbed area of this project. Staff incorporated language from condition #7 in the previous staff report to clarify this issue. The 5,000 square foot office/warehouse, vehicle and equipment storage and repair area, and the 2.5 acre wood storage, manufacturing and processing area are to be contained within the total disturbed area which is not permitted to exceed twenty five percent of the site without prior Board of Supervisors approval. The total disturbed area for the project will be approximately seven acres. Language has also been added to this condition which adds clarity to the exact nature of the permitted activities in the wood storage, manufacturing and processing area. A high capacity chip mill operation would not be a permitted activity under this condition.

Condition #4

This condition was included in the previous staff report as part of condition #7.

Condition #5

At the request of the Commission, staff has drafted language which eliminates the use of chemicals and ground water to aid in the decomposition of material into topsoil. Staff incorporated language previously contained in condition #3 which requires that the 2.5 acre area be identified on a site plan to be approved by the Development Review Committee.

Condition #6

Staff pulled the language which eliminates all sales of wood, mulch and wood materials out of a previous condition to make it more clear for citizens who expressed concerns at the initial public hearing about the potential traffic impacts that on site sales would have on the surrounding community.

Condition #7

At the request of the Commission and several speakers at last month's public hearing, staff has added language to this condition which further restricts the use of the tub grinder on the site. The condition proposed at last month's public hearing called for material to be ground at least quarterly and for no more than 2 days per quarter. Due to the seasonal ebb and flow of the applicants clearing and grading work, staff feels that condition language that requires the applicant to grind material a minimum of four times and a maximum of six times per calendar year is more appropriate than to require quarterly grinding on the site. The proposed condition also adds a restriction that limits the operation of the grinder to fifteen days per calendar year with a minimum of 30 days between each usage. The applicant is also required to notify the Planning Director in writing at least one week prior to each usage. The intent of this condition is to alleviate concerns that the tub grinder could be in continual operation on the site and cause a more significant impact than would be expected considering the applicants anticipated work

levels. This condition, as well as condition #13, also addresses concerns raised over the height of stumps, mulch, and other materials contained in the 2.5 acre wood storage area.

Condition #10

At the request of the Commission, staff has included the recommendation of the Development Review Committee to this condition requiring the installation or bonding of any traffic improvements prior to the issuance of a certificate of occupancy for any structure on the site. Staff anticipates that VDOT will require that the installation of a commercial entrance and improvements to the sight distance along Barnes Road.

Condition #11

Staff has revised the language of this condition to clarify several questions regarding the transportation of materials onto and off of the site and the potential traffic impacts posed by this operation. Staff proposes that the operation be limited to the use of no more than ten vehicles with no more than four used in the transportation of materials onto or off of the site. Further, only vehicles registered to Hertzler Clearing and Grading will be allowed to transport materials onto and off of the site. The applicant presently has two dump trucks, three pickup trucks, a single axle chip truck, a log trailer and a low-boy trailer. The only vehicles used to transport materials from job sites are the two dump trucks. If the applicant is limited to four vehicles for hauling and ten vehicles total, it is reasonable to infer that the expected traffic impacts associated with this operation would be minimal.

Condition #12

At the request of the Commission, staff has added this condition which restricts the material brought to the site for storage, manufacturing and processing to those source materials cleared and removed from Hertzler Clearing and Grading job sites.

Condition #13

In response to concerns raised at last month's public hearing over the potential height of materials stored on the site prior to grinding, staff has drafted a condition which requires Development Review Committee approval of the maximum height above finished grade for material contained in the 2.5 acre wood storage, manufacturing and processing area. The finished grade for the 2.5 acre area has yet to be determined. Establishing a maximum height for material contained in this area prior to formal review of an engineered site plan would not provide much benefit to this application.

Several of the recommended changes to the conditions rely heavily upon the good faith of the applicant to comply with the terms of the restrictions. Staff would find it difficult to enforce conditions which limit source material, limit the transport of material to vehicles registered to Hertzler Clearing and Grading, restrict the height of materials stored on the site, and eliminate the use of ground water and chemicals in the decomposition process.

RECOMMENDATION:

Staff finds the proposal, with conditions, generally consistent with the surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff believes that the revised conditions attached to the special use permit will assure orderly development of the site and provide a development that compliments the surrounding rural community. Staff continues to recommend the Planning Commission approve this proposal with the following conditions:

1. Construction on this project shall commence within 24 months from the date of approval of this special use permit or this permit shall become void. Construction shall be defined as securing permits for land disturbance, building construction, clearing and excavation, and the pouring of footings.
2. An erosion and sediment control and runoff management plan shall be approved by the Environmental Director prior to final site plan approval. This plan shall also address the method of containment for the materials in the wood processing area and stabilization of the berms. All required state permits shall be acquired prior to final site plan approval.
3. This permit shall allow the construction of a 5,000 square foot office/warehouse, the storage and repair of Hertzler Clearing and Grading vehicles and heavy equipment, the storage of cleared stumps and wood material, and the grinding of stumps and wood material into mulch. The total disturbed area for this project, including the location of the office/warehouse, vehicle and equipment storage and repair area, and 2.5 acre wood storage, manufacturing and processing area, shall not exceed twenty five percent of the site, except with prior approval of the Board of Supervisors. No portion of the project shall be located within 400-feet of Barnes Road with the exception of the entrance road.
4. The location of the disturbed area shall be approved by the Director of Planning or his designee prior to final site plan approval.
5. The storage, manufacturing and processing of wood, mulch and wood materials shall be limited to a 2.5 acre area identified on a site plan to be approved by the Development Review Committee. The use of ground water or chemicals shall not be used to aid in the decomposition of material.
6. The sale of wood, mulch or wood materials shall not be permitted on the site.
7. The use or operation of the tub grinder shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday. Stumps and other accumulated material contained within the 2.5 acre area for storage, manufacturing and processing of wood, mulch and wood materials shall be ground into mulch a minimum of four times and a maximum of six times per calendar year. Operation of the tub grinder shall be limited to a maximum of fifteen days per calendar year with a minimum of 30 days elapsing between each usage. The applicant shall be required to submit written notification to the Planning Director a minimum of one week prior to each usage of the tub grinder.
8. The tub grinder shall be located so as to minimize potential adverse impacts on adjacent properties including, but not limited to noise, dust, debris, and odor. The final location for the tub grinder shall be shown on a site plan to be approved by the Development Review Committee.
9. A minimum 150-foot undisturbed buffer shall be provided along the eastern property line and a minimum 50-foot buffer shall be provided along the western property line adjacent to Interstate 64. The buffers shall contain enhanced landscaping, so that the required number of plant material equals at least 133 percent of the County's Landscape Ordinance requirements with at least 33 percent of the required number of trees being

evergreen. The landscaping plan shall be approved by the Director of Planning or his designee prior to final site plan approval.

10. All traffic improvements required by the Virginia Department of Transportation or the Development Review Committee along Barnes Road (Route 601) shall be installed or bonded prior to issuance of a certificate of occupancy for any structure on the site.
11. The storage and repair of vehicles and heavy equipment on the site shall be limited to vehicles and equipment registered to Hertzler Clearing and Grading. No vehicles shall be allowed to transport wood, mulch or wood materials onto or off of the property except those registered to Hertzler Clearing and Grading. No more than ten vehicles shall be used as part of this commercial operation and no more than four shall be used to transport materials onto or off of the property.
12. Source material to be transported onto the property for storage, manufacturing and processing shall be limited to materials cleared, gathered or removed from Hertzler Clearing and Grading residential and commercial job sites.
13. A maximum height for accumulated stumps, mulch, and other wood materials contained within the 2.5 acre wood storage, manufacturing and processing area shall be identified on a site plan containing a line of sight cross section to be approved by the Development Review Committee. The line of site cross section shall also identify the finished grade of the 2.5 acre wood storage, manufacturing and processing area.
14. This special use permit is not severable. Invalidity of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.


Christopher M. Johnson
Planner

Attachments:

1. Location Map

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SEVENTH DAY OF AUGUST, TWO THOUSAND AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Martin Garrett, Chair
John Hagee
Don Hunt
Willafay McKenna
A. Joe Poole III
Peggy Wildman

ALSO PRESENT

John Horne, Development Management Manager
Andy Herrick, County Attorney
Don Davis, Principal Planner
Paul Holt, Senior Planner
Jill Schmidle, Senior Planner
Christopher Johnson, Planner

2. MINUTES

Upon a motion by Joe Poole, seconded by Willafay McKenna, the minutes of the July 5, 2000, meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

Martin Garrett presented the report in which the DRC heard three non-controversial cases. He stated the DRC recommended approval for Scotts Pond which submitted 97 lots for Section 2 development, Anheuser Busch Inc. which submitted a proposal for off-site parking spaces, and Mulberry Place Subdivision which contained 50 lots.

John Hagee stated he had a conflict of interest with Case No. SP-87-00 Anheuser Busch Inc. and would not be voting on it.

Willafay McKenna made a motion, seconded by Joe Poole, to approve the DRC report. In a unanimous voice vote, motion passed.

4. CASE NO. AFD-13-86. GOSPEL SPREADING CHURCH (GILLEY ADDITION) 2000 REES PROPERTY WITHDRAWAL.

Paul Holt presented the staff report stating the applicant had requested that approximately 80 acres of the 108 acre property be withdrawn from the Gospel Spreading Church (Gilley Addition) Agricultural and Forestal District. The AFD property was originally approved by the Board in 1986 and the Rees property was added in 1997. Staff found that the application met the withdrawal criteria as outlined in the staff report and recommended the property be withdrawn from the AFD. On July 17, 2000, the AFD Advisory Committee recommended the property be withdrawn by a 7-0 vote, with three absences.

Martin Garrett opened the public hearing.

Paul Brittle, representing the Powhatan Shores Homeowners Association adjacent to the ADF property, asked what percentage of the property was wetlands.

Paul Holt displayed a map which showed the areas within the wetlands. He stated the back three lots were divided into flag stems in order to avoid any disturbance of the wetlands and flood plain. He did not have a percentage but stated the wetlands did cover a large number of acres.

Paul Brittle stated their concern of additional development in the area was the drainage problems and how it would be addressed.

Paul Holt stated that the only potential development would be for the owner to sell the lots and to have one single family home built on each.

There being no further speakers, the public hearing was closed.

Willafay McKenna made a motion, seconded by Joe Poole, to approve staff's recommendation of withdrawal from the AFD. In a roll call vote, motion passed 6-0. AYE: McKenna, Hagee, Hunt, Poole, Wildman, Garrett (6); NAY: 0.

5. CASE NO. SUP-7-00. HERTZLER CLEARING AND GRADING.

Martin Garrett reopened the public hearing. He stated there had already been two meetings in which people spoke and encouraged only those with new information to speak tonight.

Christopher Johnson presented the staff report stating the Planning Commission deferred this project on July 5, 2000, in order to allow staff and the applicant to address concerns shared by citizens as well as several proposed changes and additions to the conditions. Staff had worked with the applicant to address those concerns but noted that staff would find it difficult to enforce conditions which limited the source material, transportation of materials to vehicles registered only to Hertzler Clearing and Grading, to restrict the height of materials stored, and to eliminate the use of ground water and chemicals in the decomposition on the site. Staff found the proposal consistent with the surrounding zoning, development and Comprehensive Plan. Staff continued to recommend approval of this application as outlined in the staff report.

Willafay McKenna understood the difficulty in enforcing these regulations but asked if they did violate one of the conditions, would staff then be able to enforce the conditions.

Joe Poole asked if the applicant was comfortable with the conditions required by staff.

Christopher Johnson stated the applicant was generally comfortable but did have a few issues with the language with the limitation on the number of days the tub grinder could be in operation. He stated the applicant wished that be changed to 20 days per year rather than 15 days as proposed by staff.

Martin Garrett opened the public hearing.

John MacDonald of 2088 Harpers Mill Road spoke on behalf of the applicant and stated it was time that someone spoke on behalf of Steven Hertzler. He said Steven Hertzler was trying to be a good neighbor and said it appeared that the residents had taken this project out of scale and that in reality this was a small operation. He continued to state the applicant would only be allowed four dump trucks to transport materials into and out of the site and the material storage area was only on 2.5 acres. He concluded that all 14 conditions were acceptable to the applicant.

Martin Garrett stated that Shireen Parsons spoke at the last meeting about chip mills and that he reviewed the materials she handed out at that time. He stated the applicant had not applied for a chip mill operation but for an operation to grind up trunks of trees. He further stated that the applicant would not be grinding up trees to make chips to sell for the manufacture of wood products.

Shireen Parsons of Christiansburg, VA stated that this was not a full scale chip mill at this time but this was very often how full scale chip mills were eventually located into a community.

Martin Garrett said that as mentioned at the last meeting the applicant would have to come before the Commission and Board if it wished to increase the size of the operation.

Shireen Parsons responded that once a project comes into an area, it was typical that a request to increase the size of a project would be approved. She stated that, after all the information and comments presented during the public hearing, she felt it was difficult to understand how the revised staff report could continue to recommend approval. She felt the staff report still left many questions unanswered. She reviewed several of the conditions of the revised proposal and concluded by recommending that the Commission deny this application.

Glen Besa, Director of the Sierra Club of VA, addressed the issue of stump dump fires and handed out information regarding a stump dump fire in Baltimore County, Maryland. He stated this was an industrial operation and therefore, should be put on an industrial site. He asked the Commission to deny this application.

Margaret Tucker of 187 Racefield Drive spoke against this application with her main concern being the traffic situation on Barnes Road.

Betty Smith of 9347 Barnes Road spoke against this application and stated she had a petition with additional signatures which she presented to the Commission members. She stated that landowners did have rights and, with the 106 signatures already on petition and the signatures she presented tonight, she asked if their rights were being taken away from them by this application. She stated that Steven Hertzler also had rights but felt this type of operation was in the wrong location. She asked the Commission to deny this application. She asked how many vehicle trips would be generated by his clients that would be in addition to the truck and employee traffic.

Christopher Johnson stated that, with no sales allowed on the site, he was not sure what clients she was referring to. He stated that the majority of the business came through solicitation by phone adding that he presently operates his business from his home.

John MacDonald of 2088 Harpers Mill Road again spoke on behalf and in support of Steven Hertzler stating it was unfair to compare the size of this operation to a chip mill.

Rosa Mayes of 135 Racefield Drive spoke against this application with traffic being her main concern.

Raymond Stewart of Barnes Road spoke of the 106 signatures he presented at the last Commission meeting and stated that this project was being proposed at the wrong location and asked to Commission to deny this application.

Brian Schrecengost a young resident of Racefield Road spoke against this application and asked the Commission to deny this application.

Tanya Howell of Racefield commented on another case when someone said "you knew that this was a possibility when you moved there, what was your concern. You knew that this parcel had been designated as one that might become industrial." She stated when families moved to Racefield Drive and Barnes Road there was not a thought as to what type of industry would be developed down the street. She felt for this property to be used in an industrial way was unfair.

There being no further speakers, the public hearing was closed.

Willafay McKenna stated as a Commission member she looked at the use of the property, its location, and the conditions that were placed on it. She stated the petitions were a much greater consideration to the members of the Board of Supervisors because their way of looking at projects may be somewhat different than the Commissions. She recommended approval for the following reasons: most of the property was located adjacent to I-64; only 25% of the property would be used for the business, leaving 75% undeveloped; the SUP would not go into effect until all improvements required by VDOT were made; and the excessive amount of conditions imposed on this project.

Don Hunt stated he had no comments to make on this application.

John Hagee stated his position did not change and he believed that this was a small time operation. He felt Steven Hertzler was trying to open a business in a rural area with a rural usage and he did not know of a better area. He felt this application had been blown out of proportion and agreed with the comments made by Willafay McKenna.

Joe Poole seconded the motion for approval. He stated he had strong concerns initially based on access to the site and his perceptions that this was a more intense use than he now believed it to be. He said based on the conditions set upon this application, he did not think that this project was as aggressive as a chip mill and was comfortable with approving the application.

Peggy Wildman stated that given the conditions proposed on this applicant, which she believed addressed all the issues of concern, this was a viable application and she supported it.

Martin Garrett agreed with the comments of Willafay McKenna and the other Commission members and wanted the citizens to know that their decisions were not easily made. He said the Commission did give this application a lot of thought and there was an education process on their part and he supported staff's recommendation of approval.

In a roll call vote, motion passed (6-0). AYE: McKenna, Hagee, Hunt, Poole, Wildman, Garrett (6); NAY: (0).

6. CASE NO. SUP-7-99. GRIESEN AUER RESIDENTIAL CLUSTER.

Jill Schmidle presented the staff report stating staff received signed proffers in legal form on August 1, 2000, which was not in accordance with the adopted policy for proffers. Staff previously had notified the applicant of the proffer policy and in accordance with this policy, staff recommended the Planning Commission defer this case to allow staff adequate time to review the proffers.

Martin Garrett opened the public hearing.

Greg Dodd of Horton and Dodd stated he understood staff's recommendation of deferral and if that was the pleasure of the Commission, he would limit his comments. He said that if they were ever going to converge to a public hearing that's bonafide for a vote, there were some issues that might be worthy of discussion. He yielded to the Commission as to whether they wanted to hear those issues tonight or wait until the September meeting.

Martin Garrett recommended deferral since the applicant had ample notification to provide proffers within the required time period.

Greg Dodd stated the policy presented a problem since they had out-of-town owners. He said the proffer system as devised was a dynamic system in that they try to evaluate what proffers might be acceptable to all concerned. He stated they had presented proffers to staff for acceptance and then they had to contact their out-of-town owners for signatures and that the 21-day policy might not be met. He said it appeared to be a never-ending process and he wanted the Commission to know the type of problems they have incurred.

John Hagee asked if the applicant had any example of the changes that had been made that delayed the cut-off requirement.

Gregg Dodd said one example that was paramount to this was land use of the property versus off-site road improvements that were being required. He said he had tried to separate the land use issues from the off-site improvement that were required by presenting a proffer that was strong enough so if they overcame the obstacle of land use, the County still had another obstacle for them to pass before the project would be valid, that being a road system that would satisfy the County and VDOT. He said the cost of developing the off-site road plan to the satisfaction of the County and VDOT and the possibility of denial of the land use was something of concern. He felt the two could be separated and the County still be protected.

John Hagee asked for a response from staff as to whether that could be worked out.

Andy Herrick, Assistant County Attorney, responded by cautioning the Commission from giving specific instructions or requesting specific information regarding proffers since they were voluntary commitments made by owners.

John Horne assured the Commission that staff understood that the application had been in for a time and they would make every effort to bring to the Commission a package that they would be able to vote on next month.

The public hearing remained open for the September 6, 2000, meeting.

7. CASE NO. SUP-8-00/SUP-9-00. LEE/BICKFORD BORROW PITS.

Paul Holt presented the staff report stating the applicant had applied to renew two existing special use permits to allow for the continued operation of borrow pits at the southern end of the County. The two permits would expire on December 22, 2000 and were last reviewed and approved by the Board of Supervisors in 1997 and 1992. Time limits were placed on the permits in order to give staff the opportunity to re-evaluate the impact of the operation. The applicant at this time had requested no time limit be placed on them. Staff found the proposal consistent with the Comprehensive Plan Land Use Designation, compatible with surrounding properties and zoning. Staff recommended approval as outlined in the staff report.

Willafay McKenna asked about the condition which stated only inert materials could be used as fill and asked if that would make the land unbuildable.

Paul Holt stated that to the contrary it was designed to make sure that the property would be buildable in the future.

Willafay McKenna also asked if the invasion into the RPA by the applicant occurred after the approval of the last special use permit.

Paul Holt stated that the invasion occurred before the special use permit was last renewed in 1997 and that the restoration that took place at the time was not acceptable to the Director of the Environmental Division. He added that this was an opportunity to make sure that everything would get done.

Peggy Wildman asked what impact the traffic would have on the Wal-Mart application.

Paul Holt stated the Wal-Mart site development plan had its own set of road improvements designed for Route 60 and under those improvements, the Wal-Mart traffic should blend with the existing traffic including traffic coming out of the borrow pits.

Joe Poole commented that the conditions as outlined in the report had been submitted without a time limit with the stipulation that there be an annual report on the activity on the site and asked why staff made that change.

Paul Holt stated staff was confident that, with the requirement of the annual report documenting the items that would otherwise be checked when renewing an SUP, adequate control could still be maintained as to the future of the property.

Martin Garrett opened the public hearing.

Vernon Geddy of Geddy, Harris, Franck, and Hickman representing the applicant, Henry Branscome, spoke on the history of the property stating the applicant had been running his business for the past 33 years. He felt there was a significant improvement in the permit conditions that would benefit both Branscome and the County. He commented that it would benefit the County since the yearly report would be done rather than waiting until the permit was up for renewal to go out to the site and check the progress. He said the only point of disagreement with staff related to condition #9. The applicant proposed a 100' buffer around the top of the primary ecological boundary in order to do select timber harvesting and outside the 100' buffer the applicant wanted to timber the property. He stated they did not want to lose the value of that amount of timber but more important they did not want to set a precedent that the 40 acres would never be available for industrial development. He concluded by stating that the issues of safety and economic development had been addressed and he asked that the Commission approve this application.

Alvin Anderson of Kaufman and Canoles and representing the owners of Greenmount tract spoke in opposition of this application. He said the Greenmount tract was approximately 760 acres south of Route 60 and the subject site before the Commission was approximately 420 acres both of which were in the James River Enterprise Zone. He stated that on one hand, the County had recently gained substantial momentum with the construction of the new Busch Gardens Interchange, the location of the Wal-Mart Distribution Center and the renewed discussions about improvements on Route 60. But, on the other hand, the County tonight was faced with a special use permit expansion and extension of time for a total land area of approximately 18% of the James River Enterprise Zone. He asked the Commission to focus on the following three questions: Did the expansion of the land area and the removal of the time limitation adversely affect the development potential of the Branscome property and the adjacent Greenmount property? Did the use of the property immediately adjacent to the Wal-Mart facility encourage or discourage similar type of development as that of Wal-Mart on the adjacent or surrounding properties? Would a developer choose to locate their facility on virgin property or the alternative site which would be in a large hole filled with inert materials? He requested on behalf of his clients that the Planning Commission not approve the expansion of the area nor that the time limit be extended or eliminated altogether.

Henry Branscome stated that he had been mining that area years before the Wal-Mart planned on coming to the area and even before the present owners purchased Greenmount. He said he had over 500 employees and that he was not just a small time business but a large one that was a part of James City County. He felt that his property, even though adjacent to the Greenmount tract, had nothing to do with Wal-Mart or any future development in that area. He also mentioned the extinct plant life on the parcel that could not be disturbed, commenting that there were only three to five of them within a 30' square block at the edge of the marsh. He asked the Commission if they would want to give 40 acres of their property for a 30' square block for a plant they did not even know.

John Hagee asked why the applicant didn't want to have a time restriction on the permit and asked what impact there would be if a five year time limit extension was placed on the business.

Henry Branscome stated if they bid on a \$20,000,000 to \$30,000,000 job there could be a half million yards of dirt on the project. He said sometimes these jobs could extend from two to three years.

John Hagee felt the Commission should keep its perspectives open in terms of what may happen in the future but also it needed to make sure it did not restrict the applicants business. He suggested that the Commission place a limit of five years and asked if the applicant had any problems with that.

Vernon Geddy stated a problem may arise if limited to five years if the applicant received a contract three years out that might require delivery of material over a three year time period. He said the applicant could not guarantee that the permit would be renewed at the end of five years and the applicant would be taking a great risk in bidding on a job that would require delivery of material past the expiration of the current special use permit.

John Hagee commented that there were 148 acres left to be mined and with three to five acres being disturbed per year, there could be mining activity for another 37 years. He felt that was too long of a period of time to allow for the permit.

There being no further speakers, the public hearing was closed.

Willafay McKenna was concerned about not having a time limit on the permit and the harvesting provisions that were not included in the last application. She was uncomfortable leaving this to annual reports to staff and felt that the greatest reason that the Commission put limits on the last two proposals was simply to be able to take a look at the project and actually see what had been done over the years. She suggested that there be a time limit of three years and if the Commission chose not to renew the permit again that the applicant be able to continue the operation until all jobs under contract were completed.

Martin Garrett commended the applicant on this business but also felt that a time limit was necessary for the benefit of the County. He said the timber harvesting issue was of concern to him and asked if they could deal with that issue separately. He asked for a motion on the time limit.

John Hagee made a recommendation to approve a 40 acre limit over a seven year period.

Several Commission members felt that a five year time limit was more acceptable than the suggested seven years.

Joe Poole made a motion, seconded by Peggy Wildman, to limit this special use permit to a five year limit with a 40 acre limit as suggested by the applicant.

In a roll call vote, motion passed 6-0. AYE: McKenna, Hagee, Hunt, Poole, Wildman, Garrett, (6); NAY: (0).

Don Hunt felt the applicant's point was well made regarding the harvesting of the area reserved for the protection of a plant.

Paul Holt clarified that the applicant's proposal was not to timber within the primary boundary but to selectively timber in the 100' buffer around that primary area and timber outside the 100' buffer. Staff's proposal was not to timber inside the primary area of approximately three acres and that no timbering be done in an additional 100' buffer from the primary area. He said in between the 100' buffer and the secondary boundary staff recommended it be selectively timbered or the hardwood. He added that this was based on the state's recommendation that it was as important to protect the actual plant as well as protect the plant's habitat.

John Hagee suggested the applicant preserve three acres in the primary with a 100' buffer and allow the applicant to timber the remainder of the property and provide adequate drainage protection.

Staff agreed with John Hagee's proposal.

There was additional discussion on the options by staff and the applicants.

John Hagee made a motion, seconded by Martin Garrett, to recommend approval of a 100' buffer around the three acre area and the remaining thirty-four acres be timbered provided that erosion control measures were put in place and approved by the Environmental Department.

In a roll call vote, motion failed 2-4. AYE: Hagee, Garrett, (2); NAY: Hunt, Willafay, Poole, Wildman.

After some discussion, Martin Garrett stated the Commission passed a portion on this application and they would defer the timbering issue until the next meeting. He made a motion, seconded by Willafay McKenna, to defer this case.

In a roll call vote, motion passed 6-0. AYE: McKenna, Hagee, Hunt, Poole, Wildman, Garrett (6); NAY: (0).

8. CASE NO. SUP-17-00. PRIMECO TOWER ON CENTERVILLE ROAD.

Paul Holt presented the staff report stating the applicant had applied for a 175 foot monopole tower at 4881 Centerville Road with various accessory equipment huts and pads at the base of the tower to support the necessary electronic equipment. Staff believed that, with the proposed conditions and the distance of the setback, the proposed height of the tower would appear comparable with surrounding vegetation and was compatible with the surrounding zoning and uses. Staff recommended the Commission approve this application as outlined in the staff report.

Joe Poole recalled that when there were discussions on towers several years ago and it might even be in the Performance Standards of 1998, if these facilities ever became obsolete or did not function as originally designed would they be removed at the owner's expense? He asked if that, in fact, was enforceable.

Paul Holt stated that requirement was not written into the conditions because during the ordinance update it was written into the Zoning Ordinance so it would be enforceable and the company would be required to submit a bond.

Martin Garrett opened the public hearing.

Vernon Geddy of Geddy, Harris, Franck, and Hickman representing the applicant stated the applicant had worked hard to locate a site to cover the gap between the two existing facilities. He stated the application meet all the performance criteria and he urged the Commission to recommend approval to the Board.

There being no further speakers, the public hearing was closed.

Willafay McKenna made a motion, seconded by Joe Poole, to recommend approval of this application. In a roll call vote, motion passed 6-0. AYE: McKenna, Hagee, Hunt, Poole, Wildman, Garrett (6); NAY: (0).

9. PLANNING DIRECTOR'S REPORT

Don Davis informed the Commission that the Planning Division had had employee turnover but was once again fully staffed.

Peggy Wildman thanked the Community Character Committee and the Planning Division for their efforts in producing the Community Appearance Guide.

Don Hunt commented that he spoke with a citizen regarding the Greisenauer case that will be discussed at the September meeting stating the citizen's objection was the proposed density for the project.

There being no further business, the August 7, 2000, Planning Commission adjourned at approximately 9:50 p.m.



Martin A. Garrett, Chairman



O. Marvin Sowers, Secretary

file

**SPECIAL USE PERMIT 7-00. Hertzler Clearing and Grading
Staff Report for the July 5, 2000 Planning Commission Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:

Building C Board Room; County Government Center

Board of Supervisors:

June 5, 2000, (deferred); July 5, 2000, 7:00 p.m.

August 8, 2000, 7:00 p.m.

SUMMARY FACTS

Applicant/Landowner:

Steven L. Hertzler

Proposed Use:

Contractor's warehouse and office, storage and repair of heavy equipment, and the manufacture and sale of wood products.

Location:

9537 Barnes Road; Stonehouse District

Tax Map and Parcel No.:

(4-3)(1-12A)

Primary Service Area:

Outside

Parcel Size:

28.6 acres

Existing Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

Surrounding Zoning:

North: A-1, General Agricultural

South: B-1, General Business

East: A-1, General Agricultural

West: A-1, General Agricultural

Staff Contact:

Christopher M. Johnson – Phone 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal, with conditions, generally consistent with the surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff believes that the revised conditions attached to the special use permit will assure orderly development of the site and provide a development that does not detract from the surrounding rural community. Staff continues to recommend the Planning Commission approve this proposal with the conditions listed in the staff report.

The Planning Commission, at their meeting on June 5, 2000, deferred action on the Hertzler Clearing and Grading Special Use Permit due to several questions which were raised concerning the proposed conditions and the applicant's intended business on the site. Staff has worked with the applicant to address these issues and has recommended several changes to the conditions attached to this special use permit. Each of the proposed revisions and issues is discussed in further detail below.

Wood Processing Operation

The applicant has stated that he anticipates bringing a maximum of 30 loads of material per month onto the site. A typical load brought to the site would consist of approximately 10 cubic yards of small stumps and chipped brush material. The tub grinder which would be leased every two to three months is capable of processing 80 loads per day and reduces the volume approximately 3 to 1 resulting in a mulch by-product of 10 loads per month. Covering the 2.5 acre wood processing area with one-foot of mulch will require 400 loads of material. At 10 loads of mulch per month, this would require 40 months of work. The 2.5 acre area would be covered with almost 3 feet of mulch after ten years.

During the first several years of operation, the resulting by-product will be used to create berms along the perimeter of the wood processing area and mulch areas along the entrance road. Subsequently, the applicant intends on allowing the accumulated mulch piles spread over the 2.5 acre wood processing area to decompose into topsoil. This process can take upwards of five years depending on how often the material is turned over and treated. Staff has added a condition (#2) which requires that the method of containment for the materials in the wood processing area and stabilization of the berms are addressed during the erosion and sediment control and runoff management plan review by the Environmental Director prior to final site plan approval. While the sale of wood, mulch and wood materials is not permitted on the site, the applicant will be allowed to transport topsoil and material for sale at the appropriate time under the proposed conditions.

Fire Potential

Some concern has been raised by residents in the surrounding community over the potential for mulch or debris waste fires. The Fire Department reviewed this proposal and concluded that while the potential for spontaneous combustion does exist, mulch or debris waste fires are typically simple to control and normally remain self contained. These fires do not pose a high risk to citizens or firefighters and the Fire Department has not experienced any significant problems with similar properties.

Sale of Wood, Mulch or Wood Products

A question was raised during the public hearing regarding the applicants ability to sell wood, mulch or wood material wholesale. This condition originally stated that no retail sales would be permitted on the site. Staff has revised this condition by eliminating the word "retail," thus preventing all sales on the site. The applicant is not restricted in his ability to transport material off the site for sale elsewhere.

Traffic

Staff added Condition #9 to address the concerns raised by Commission members and adjacent property owners over traffic created by the proposal. Three pickup trucks, two dump trucks, a single axle chip truck, a log trailer and a low-boy trailer are presently registered to Hertzler Clearing and Grading. The applicant has stated that the pickup trucks make an average of one

to two trips per day to and from the site and typically go home with employees each night. Both of the trailers and the single axle chip truck would typically make one trip per day each to and from a job site. The dump trucks make an average of three to four trips per day to and from the site. Staff estimates that the number of vehicle trips to and from the site will be approximately 24 to 34 per day. Given the relatively low trip volume generated by the development and the fact that all traffic improvements are required to be installed or bonded prior to the issuance of an occupancy permit (Condition #8), staff feels that the traffic impacts generated by this proposal will have a minimal effect on the surrounding community.

RECOMMENDATION:

Staff finds the proposal, with conditions, generally consistent with the surrounding zoning and development and generally consistent with the Comprehensive Plan. Staff believes that the addition of condition #9 and revisions to conditions #2 and #3 will assure orderly development of the site and provide a development that does not detract from the surrounding rural community. Staff continues to recommend the Planning Commission approve this proposal with the following conditions:

1. Construction on this project shall commence within 24 months from the date of approval of this special use permit or this permit shall become void. Construction shall be defined as securing permits for land disturbance, building construction, clearing and excavation, and the pouring of footings.
2. An erosion and sediment control and runoff management plan shall be approved by the Environmental Director prior to final site plan approval. This plan shall also address the method of containment for the materials in the wood processing area and stabilization of the berms. All required state permits shall be acquired prior to final site plan approval.
3. This permit shall allow the construction of a 5,000 square foot warehouse/office, the storage and repair of trucks and heavy equipment and an area for the storage, manufacturing and processing of wood, mulch and wood materials. The storage, manufacturing and processing of wood, mulch and wood materials shall be limited to a 2.5 acre area identified on a site plan to be approved by the Development Review Committee. No portion of the project shall be located within 400-feet of Barnes Road with the exception of the entrance road. The sale of wood, mulch or wood materials shall not be permitted on the site.
4. The use or operation of the tub grinder shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.
5. The tub grinder shall be located so as to minimize potential adverse impacts on adjacent properties including, but not limited to noise, dust, debris, and odor. The final location for the tub grinder shall be shown on a site plan to be approved by the Development Review Committee.
6. A minimum 150-foot undisturbed buffer shall be provided along the eastern property line and a minimum 50-foot buffer shall be provided along the western property line adjacent to Interstate 64. The buffers shall contain enhanced landscaping, so that the required number of plant material equals at least 133 percent of the County's Landscape

Ordinance requirements with at least 33 percent of the required number of trees being evergreen. The landscaping plan shall be approved by the Director of Planning or his designee prior to final site plan approval.

7. The location of the disturbed area shall be approved by the Director of Planning or his designee prior to final site plan approval. The total disturbed area on the site shall not exceed twenty five percent of the site, except with prior approval of the Board of Supervisors.
8. All traffic improvements required by the Virginia Department of Transportation along Barnes Road (Route 601) shall be installed or bonded prior to issuance of a certificate of occupancy for any structure on the site.
9. The storage and repair of trucks and heavy equipment on the site shall be limited to vehicles and equipment registered to Hertzler Clearing and Grading. No more than ten vehicles shall be used to transport materials and equipment or stored on the property associated with the commercial operation. No vehicles shall be allowed to transport wood, mulch or wood materials onto or off of the property except those registered to Hertzler Clearing and Grading.
10. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.


Christopher M. Johnson
Planner

Attachments:

1. Location Map

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF JULY, TWO THOUSAND AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Martin Garrett, Chair
John Hagee
Don Hunt
Wilford Kale
Willafay McKenna
A. Joe Poole III
Peggy Wildman

ALSO PRESENT

John Horne, Development Management Manager
Marvin Sowers, Director of Planning
Leo Rogers, Deputy County Attorney
Paul Holt, Senior Planner
Jill Schmidle, Senior Planner
Christopher Johnson, Planner

2. MINUTES

Upon a motion by Joe Poole, seconded by Willafay McKenna, the minutes of the June 5, 2000, meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

John Hagee presented the report in which the DRC heard four cases at its June 28, 2000, meeting. He stated the DRC recommended approval for the Mid-County Park lighting improvements for its recreation area and that the DRC had some concern regarding the hours of the night time operation and wanted to make sure someone was there to turn the lights off after evening events; Williamsburg Plantation Master Plan Amendment, in which two units were added due to the loss of eight units because of the widening of Route 199; Capt. George's Restaurant which requested a set back reduction for a Gazebo; and a conceptual plan for Sections 3 and 4 of the Westmoreland Subdivision.

Willafay McKenna made a motion, seconded by Peggy Wildman, to approve the DRC report. In a unanimous voice vote, motion passed.

4. CASE NO. SUP-8-00/SUP-9-00. LEE/BICKFORD BORROW PITS.

Paul Holt presented the staff report stating the applicant had requested the Commission defer this case until its August 7, meeting.

This case was deferred and the public hearing was continued to the next meeting.

5. CASE NO. SUP-17-00. PRIMECO TOWER ON CENTERVILLE ROAD.

Paul Holt presented the staff report stating the applicant had requested the Commission defer this case until its August 7, meeting.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was continued to the next meeting.

6. CASE NO. SUP-7-99. GRIESEN AUER RESIDENTIAL CLUSTER.

Jill Schmidle presented the staff report stating the applicant had requested the deferral of this case until the next meeting of August 7.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was continued to the next meeting.

7. CASE NO. SUP-7-00. HERTZLER CLEARING AND GRADING.

Wilford Kale made a motion that the public hearing be reopened for this case. Joe Poole seconded his motion and by unanimous voice vote, the public hearing was reopened.

Christopher Johnson presented the staff report summarizing the questions raised by the Commission during its last meeting concerning the proposed conditions and the applicants intended business on the site. Staff had recommended several changes to condition #2 and #3 and added condition #9 as outlined in the staff report. Staff continued to recommend approval of this application.

Willafay McKenna asked why only a 50 foot buffer was required along I-64 when larger buffer areas had been required along that road and Route 199 with other applications.

Christopher Johnson stated, in this case, the topography was considerably above I-64 and staff felt that the retention of a 50 foot undisturbed buffer and the placement of berms adequately mitigated the impact.

Martin Garrett made a motion to add information under condition #8 "All traffic improvements required by VDOT *or the DRC* along Barnes Road....." Willafay McKenna seconded his motion and in a unanimous voice vote, motion passed.

Wilford Kale asked for clarification on the number of truck trips estimated at 24 to 36.

Christopher Johnson stated that into and out of a site counted as two vehicle trips and those numbers would mean 12 to 18 trucks based on the number of vehicles the applicant currently has in his operation.

Steven Hertzler thanked the Commission for reviewing this application and said he was surprised at the amount of opposition. He stated he reviewed the conditions presented by staff and supported staff and their recommendation. He said he'd answer any questions the Commission may have.

Shireen Parsons of Christiansburg, Virginia and a member of the Joint Subcommittee Studying the Impact of Satellite Chip Mills on Virginia's Economy and Environment appointed by the Virginia Legislature spoke on the growing number of wood chip mills in Virginia. She presented to the Commission members a copy of her statement which included comments and questions with respect to the recommended conditions presented in the staff report for this application, an article from the Washington Post on "*Chipping Away at the South's Forests*," and an article by Ted Williams from Mother Jones magazine. She urged the Commission to read all materials before deciding on the permit application before them tonight. She added that the residents in this area received a video tape featuring a chip mill community in North Carolina and stated it was an excellent representation on the impacts to a community of this industry, including chemical and water use, leaching, truck traffic, hours of operation, buffers, and reimbursement for damages.

Joe Poole asked Christopher Johnson to clarify that the area of activity would be restricted to 2-1/2 acres on the 28.6 acre site.

Christopher Johnson stated the wood processing area would be restricted to 2-1/2 acres with 7 acres, or 25% of the site, of total clearing.

Joe Poole asked Ms. Parsons to elaborate on her comment regarding the 100 mile radius.

Shireen Parsons stated that the 2 acre site was sufficient for a high capacity chip mill. She stated chip mill sources were trees taken from a radius of one hundred miles. She said the deforestation within that circle was devastating.

Raymond Stewart of 9583 Barnes Road spoke in opposition of this application and again showed a petition signed by 106 citizens of the County who also opposed this application.

Betty Smith of 9347 Barnes Road commented on Steven Hertzler's statement that he just wanted to slip in, be seen, and not be noticed. She asked how that could be done with the noise that would be generated from the trucks and wood grinding machine. She said his business was presently being run from three locations and by bringing it to one location there was no question that this would be a full fledged business and would have some impact on the adjacent property owners. She requested that the Commission deny this application.

Glen Besa, Director of the Virginia Chapter of the Sierra Club, stated if the Commission approved this application with the limits set forth in the staff report there was valid concern that the operation could be significantly enlarged into a full scale chip mill. He felt that the conditions presented in the staff report were not precise enough to protect the citizens. He stated that if business was slow in the terms of selling mulch then what the applicant would end up with would be a stump dump, something that had not been addressed. He stated there were no restrictions as to whether the applicant had to grind the stumps or not and no limit to the height of the stump dump and expressed concerns about fires occurring that are difficult to put out. He concluded by saying the use could be converted into a full-fledged chip mill and that if the Commission had to vote on this tonight, they had no choice but to deny this application.

John Hagee asked Glen Besa to elaborate on his comment that this could evolve into a bonafide chip mill.

Glen Besa said he believed that what Shireen Parsons referred to were operations for the chips to be used in paper products and for the manufacture of fiber board. He said those were serious problems and said that this operation could be converted into a high capacity chip mill.

John Hagee asked how it could be converted.

Glen Besa stated it could be converted by amending the special use permit.

John Hagee commented that the applicant would have to come before the Commission.

Glen Besa said yes, they would have to but he again stated the problems were with the current conditions and the facts that were set forth in the staff report.

Joe Poole asked if the concept of a stump dump was discussed by staff and the fire department.

Christopher Johnson stated the issue was discussed with the Deputy Fire Marshall in addition to debris and waste fires. He said the Deputy Fire Marshall stated that similar operations of a larger scale had not posed the County any problems. He added that the Fire Department reviewed the proposal stating they had no objections to this application and felt that any fire that could develop on the area would largely be self-contained and would have no problem addressing any fire response to the site.

Tyla Mattoson spoke as the Conservation Chair for the Virginia Chapter of the Sierra Club and encouraged the Commission to deny this application. She stated a chip mill or stump dump would diminish the quality of life for the residents living in the vicinity. She stated the noise, the fire hazard and loss of vegetation were only a few reasons not to permit this proposal. She asked the Commission to look at the permitted height and total volume of debris that would accumulate and examine the harm which may befall the quality of the ground water or wetland areas when chemicals are used in this operation.

Willafay McKenna asked Steven Hertzler what sources of materials would be used.

Steven Hertzler stated that 90% of the work was residential clearing and that he did not purchase tracts of land to timber. He said they were not trying to set up a chip mill to mass produce chips. All he intended to do was to recycle material that builders asked him to remove from residential lots and a few commercial lots.

Willafay McKenna asked the applicant if he would be reluctant to have a condition that would limit him to that source.

Steven Hertzler stated he had no problem.

Willafay McKenna asked if he would be using chemicals or water to hasten the process.

Steven Hertzler stated no to both questions.

Willafay McKenna asked if he had any problem with limiting the use of the tub grinder to a specified number of days per year.

Steven Hertzler stated that the conditions in the staff report were already above the number of days he would need and therefore had no problem for further limitation.

Willafay McKenna asked staff to clarify what was stated in condition #7, which mentioned the total disturbed area on the site shall not exceed 25% of the site, and condition # 3, where staff cited that the 2-1/2 acres included everything.

Christopher Johnson stated that the 2-1/2 acres was part of the 7 acres and that everything, including a 5,000 office-warehouse building and storage and repair of his vehicles, would be on the total of 7 acres.

Willafay McKenna asked that it be made clear that the 2-1/2 acres was for the wood processing and that the 7 acres included everything else.

Willafay McKenna asked Steven Hertzler if he would be opposed to having a condition which required the materials hauled into the site be ground quarterly in order to avoid accumulation.

Steven Hertzler had no objection to her suggestion of adding that condition.

Willafay McKenna asked how many of the eight trucks he owned would be hauling materials to the site and would he have any problem with having a condition that would limit the total number of trucks that could haul onto the site and limiting it only to his trucks.

Steven Hertzler stated he only had two dump trucks that would be hauling clearing material to the site and would have no problem with adding a condition that would limit the number of trucks he could use.

Willafay McKenna made a motion to approve this very limited application. She stated that the information that had been presented to the Commission for this application has emphasized recycling of materials that were otherwise unuseable. Therefore, she proposed that the Commission vote on this with the following additions:

1. Condition #3 - there would be a more careful definition of the area so that they know that 25% of the site was going to include everything that was planned for the site, including the 5,000 sq. ft. building, the maintenance area and storage, and the 2-1/2 areas for the wood processing.
2. That a condition be placed that required the applicant to grind the stumps at least quarterly.
3. That a condition be placed that limited the number of days of operation to 2 days per quarter.
4. That a condition be placed that limited the applicants processing on the site to clearing material from development sites collected by his own company.
5. That a condition be placed that no chemicals or water are to be used on the 2-1/2 acre area where the wood is mulched or turned into top soil.

Martin Garrett commented that the material that Steven Hertzler would be hauling was for other contractors and this may be a loophole for timbering activities.

Marvin Sowers stated it was staff's interpretation that debris from land clearing that was part of an approved development project was what the Planning Commission wanted to allow and not from a forestry operation. He stated that there was a clear difference in permitting and that the County was not involved in permits for forestry but were for land development of residential or commercial sites.

Willafay McKenna stated that if the conditions was specifically written in that manner then that would satisfy what she was looking for.

Leo Rogers made a point of clarification that the Commission did have one more deferral. He stated the first time the case came before the Commission was on June 5, 2000, and the Commission had 90 days from that date to act which would be their August 7 meeting.

Martin Garrett closed the public hearing and commented on the rural areas of the County. He stated there were certain things that were rural by nature, such as, forestry and agricultural and not all of those things that were part of forestry or agricultural were always compatible with citizens living next door to them. He stated that almost any endeavor that took place in rural areas of this County would have to pass at least a half dozen houses if not more because there was that much development within the County. He felt that this application was forestry related and was appropriate to this site.

Martin Garrett seconded the motion by Willafay McKenna.

Don Hunt commented that across the street from his property the Commission approved the new Dodge Dealership which was now in the process of clearing and said he was in as rural an area as anyone. He stated that the developer burned the stumps and just about smoked out the Kristiansand Subdivision and said this application would reduce such burning and that the Commission needed to make a choice.

Wilford Kale commended Willafay McKenna for her due diligence in her SUP recommendations and supported those recommendations, however, as he stated last month, he did not feel that this was the proper location for this project. He said he was convinced that Steven Hertzler's intentions were good but according to one of the conditions, the applicant could bring in forty truck loads per day for 30 days and he would not be able to grind all that during a 2 day period. He said the applicant would then have to return to the Commission stating that business had been very good and with the estimated 12,000 or so approved lots it had the opportunity to be a very successful business. Again he stated he did not like the location and spoke not only of the adjacent property owners but also of the community that was across the interstate. He believed the site was inappropriate due to the traffic, the road was in horrendous condition, and the potential damage to the surrounding area included damage from mulch being washed off-site, and he had too many questions at this time to support this application.

John Hagee agreed with both Martin Garrett and Willafay McKenna and felt where else could this project be located but in an agricultural area. He felt there were enough restrictions on this application and if Steven Hertzler's business were to expand to any great degree, he commented he did not feel that the business was taking on the capacity that was suggested by Shireen Parsons, and he would have to come before the Commission if he wanted to. John Hagee looked at this application as a man in business that saw an opportunity to improve it and he fully supported this SUP request.

Peggy Wildman also supported this application given the requirements added by Willafay McKenna this evening. She felt this was a very small parcel of land and she did not see it becoming a major issue due to the limitations placed on the application. Her only concern was the traffic but overall this was an appropriate site.

Joe Poole had strong concerns regarding the location and access to the site. He agreed that this would be a small operation but also worried about the traffic on Barnes Road. He stated he could support a deferral but not approval of this application tonight.

Joe Poole made a motion to defer as a substitute for Willafay McKenna's motion for approval.

Willafay McKenna seconded Joe Poole's motion of deferral until the August 7 meeting.

John Hagee asked what specific information they was looking for in this deferral.

Willafay McKenna understood that they would have in writing the conditions as spoken about tonight. She commented that they would be voting on a concept if they voted tonight.

Joe Poole stated that in addition to having the conditions in writing, he would also like to review some of the materials referenced this evening.

Martin Garrett asked for all those in favor of deferral. In a unanimous voice vote, the Commission approved deferral of this application to its August 7, 2000, meeting.

Martin Garrett commented that the Commission had heard a lot from the public tonight regarding this case and requested that anyone wishing to speak at the next meeting not repeat themselves but, if they had new information to offer, the Commission would be happy to listen to them.

8. CASE NO. SUP-18-99. OLDE TOWNE ROAD TIMESHARES.

Jill Schmidle presented the staff report stating that on September 8, 1999, the Planning Commission voted 7-0 to deny this application due to the impact it would have on Olde Towne Road. She stated the Board deferred this case on November 23, 1999, to allow the applicant the opportunity to provide additional information. Since that time, the applicant made significant changes to the project which staff felt warranted the proposal be returned to the Commission. Staff found the revised proposal consistent with the surrounding zoning and single-family, multi-family, and timeshare uses, requirements of the residential cluster zoning ordinance and the Comprehensive Plan. Staff recommended the Commission recommend approval of this application as outlined in the staff report.

Martin Garrett commented that staff stated that fiscal impacts would be better with timeshares than with 131 by-right single-family units and asked how many years staff ran that information out.

Jill Schmidle believed it was run out for ten years but would check on that information.

Martin Garrett stated that the fiscal impact information was incorrect and if it were run out 50 years, timeshares would not be beneficial to this community.

Wilford Kale asked how much of the land was undevelopable under the current guidelines.

Jill Schmidle stated that 23.47 acres were undevelopable.

Wilford Kale asked how many acres were left and how many units per acre were there.

Martin Garrett asked that during the Comprehensive Plan weren't there discussions and wasn't it decided that undevelopable property would not be counted as being given to the County.

John Hagee stated that the discussion allowed nondevelopable land to be included in the buffers but not in the terms of recreation. He added that the applicant had provided 49% of the developable land for open space and recreation.

Wilford Kale explained that what he was looking for was the total number of units per acre on the entire developable portion of the site. He stated he believed that even though the applicant reduced the number of units they still were providing a proposal that was three times larger than what could be done by-right in single-family units. He said his concern was that this was not an improved project over what was originally presented in November nor over what by-right use would be. He said the only thing that made a dramatic impact initially was the absence of school children.

John Hagee asked if they were looking at 131 by-right lots, what would be the requirement for open space and recreation.

Jill Schmidle stated that 10% - 15% of the net developable area of the site was required for recreation.

John Hagee said that by-right 15% of the acreage for recreation would be approximately 20 acres and what the applicant was offering was 50 acres out of the developable land. He commented that this proposal was giving an additional 30 acres of developable land for open space recreation.

Joe Poole commented that traffic was an issue to him back in September and said that staff indicated that traffic decreased. He asked if that was due to the opening of Route 199 and what was the level of service for Olde Towne Road.

Jill Schmidle stated that with the opening of Route 199 the level of service on Olde Towne Road remained at a level of service "D."

John Hagee said he spoke with someone from VDOT and it was suggested since the opening of Route 199 that there be another traffic count done on Olde Towne Road.

Martin Garrett opened the public hearing.

Vernon Geddy of Geddy, Harris, Franck and Hickman spoke on behalf of the applicant. He introduced the property owner Phil Richardson and from the Berkeley Group, J. P. Otino and Frank Eck. He gave a brief history of the property and of Jim Lambert, owner of the Berkeley Group. He stated the company had been in business for 26 years and had 19 timeshare resorts in various stages of development and sales including the Williamsburg Plantation project directly across from Route 199 from this site. He stated it was important to note that this was not a rezoning request but a special use permit under the new cluster ordinance for a density of over one unit per acre and could be developed by-right into a 130 unit subdivision of single family homes. He said this proposal was different because it was limited by conditions as a timeshare use and could not be changed without the approval of the Board of Supervisors. He stated staff had done an excellent job in outlining the significant changes made by the applicant in the staff report. He stated that as previously discussed traffic appeared to be of concern at this location and since the last meeting a number of new studies and work had been done. He stated traffic counts were taken last September and October by the applicant's traffic consultant and at that time it showed traffic reductions of approximately 25% in the AM peak and 9% in the PM peak. As staff stated more recent information revealed a more significant reduction of traffic as a result of the opening of Route 199. He also said to confirm the accuracy in the trip generation numbers actual counts were taken at the Powhatan Plantation and the Fairfield Communities Resorts. Finally, he stated that a study was done of the level of service at the Olde Towne Road/Longhill Road intersection and the results showed the intersection now operated at the level of service C. He also spoke of the 3,500 foot multi-use path and the mulched path that would be tied into the greenways systems developed by Parks and Recreation. He concluded by stating the applicant supported the recommendation of approval by the staff and said he would answer any questions of the Commission.

Joe Poole asked if the traffic analysis prepared by Dexter Williams on behalf of the applicant was reviewed by VDOT and if so, what was their determination.

Jill Schmidle stated VDOT did review the traffic study and concurred with Dexter Williams' recommendation.

Peggy Wildman had some concern regarding the two BMPs being the sole source for water for landscaping and the shallow well as a backup. She asked if there was bad drought how would the applicant handle the situation.

Vernon Geddy said the applicant would design landscaping that would be drought resistant.

Peggy Wildman asked why the weekend was not taken into account during the traffic studies and did they take into consideration that vacationers might make multiple trips in one day to and from the timeshares.

Vernon Geddy stated they used the week day because that was when the vast majority of non-vacationing public would be going to and from work and when the traffic was the heaviest. He also stated that multiple trips into and out of the timeshares were taken into account during the study.

Allan Clark of 615 Beechwood Drive in the Piney Creek Estates Subdivision in Williamsburg was concerned about water and traffic and asked the Commission to reject this plan. He stated it was only a few months ago that members of this Commission commented that they had nothing against timeshares but thought timeshares did not belong here. He said he and residents of Piney Creek Estates agreed with the Commission then as they do now. He said he was also very concerned about the multi-use path that would be constructed within the 35 foot buffer area between the adjacent property owners. He concluded by again asking the Commission to reject this proposal.

A resident of Piney Creek Estates commented that both James City County and the City of Williamsburg were more interested in the financial affairs of the communities rather than anything that affected the citizens and asked the Commission why Williamsburg needed another timeshare community.

Bob Stowers of 1619 Beechwood Drive applauded the applicant who listened to the Planning Commission and the Board of Supervisors when they heard negative issues regarding the project. He stated the applicant heard negative issues because these timeshares were not a good idea then and they are not a good idea now. He asked what benefits the community would gain from this type of proposal and asked the Commission to deny this application.

There being no further speakers, Martin Garrett closed the public hearing.

Martin Garrett questioned the necessity of the bike path since most bikers do not use paths but stay on the main roadways and felt if they were to protect the adjacent homeowners the path should not be placed so close to their property lines.

Willafay McKenna stated that if she had young children she would not send them out onto the County roadways but would prefer these type of bike paths.

John Hagee stated that the Commission needed to rethink what they were trying to encourage in the cluster ordinance. He felt this was a difficult case but thought that what the ordinance encouraged were bike paths and usable recreation space. He stated that all the years he's been on the Commission clusters had been encouraged because they do provide a benefit but it appeared that whenever a cluster proposal came forward, the Commission found ways not to like it. He thought that the Commission could not discriminate against timeshares and that they had to look at them as they would any other residential type of proposal. He felt that of all the timeshares within the County this area seemed to be the best location since it was just off of the main tourist corridor of Richmond Road.

Martin Garrett stated that the purpose of the cluster was to allow for significant space between the cluster and what was next to it and in this case they had placed a bike path very close to the property line. He stated if all that were left natural then the residents in Piney Creek Estates would be protected.

Wilford Kale commented that one or both of the paths would have to get state approval since they would encroach upon wetlands and there was a good chance that the mulched path would never get approved. He stated he felt this was a bad location, it was not low-density, the traffic was

a problem, and the County was not actually benefitting. He said he could not support this application.

Martin Garrett stated there was no data available since timeshares were too new. He did not feel this proposal would be a long term asset for the community and could not support this application.

Willafay McKenna spoke in favor of the application because she was pleased with the changes the applicant had made. She felt the proposal offered an opportunity to connect a long area of bikeways that would not be done if this were a by-right development and there would be an economic impact that would be favorable to the County. She did not think that they should look to see if these timeshares were beneficial 50 years from now since they don't do it for any other type of development. She commented that, according to the table provided for the traffic, the average for a timeshare development for trips in and out was lower than a residential area.

A brief discussion on traffic along Olde Towne Road took place among the Commission members.

John Hagee felt the use and location of the property was ideal for this project and felt it also met the cluster requirements and supported this application.

Joe Poole had to give the applicant credit for the improvement from what was initially presented but stated he was still not as supportive of this project as he would like to be due to the location and the issue of traffic on Olde Towne Road. He felt a by-right use of this property would be less of an impact than this proposal.

Martin Garrett felt at this point the Commission was not ready to take a vote on this project and asked if it would help to defer this another month.

Joe Poole stated it would not help him by waiting.

Peggy Wildman stated that her question regarding the water situation was answered.

Don Hunt said that the shallow wells were not a water source for the timeshare use but specifically for irrigation to water the grass.

Willafay McKenna said there were several things they should look at when it came to development on this parcel. If it was done by-right there could only be a 35 foot buffer between Piney Creek and the other development; that the question brought up by Peggy Wildman needed to be resolved and if the development went by-right what impervious surface would be required within the interior property. She also commented on the petition that was signed by residents in favor of this proposal.

John Horne stated the applicant said he would not object to a deferral if that was what the Commission desired. He also suggested that since the Commission would be deferring every case tonight, August would be a long agenda and, it would be helpful if they gave staff some direction as to what additional information the Commission wanted.

Martin Garrett didn't think staff could bring back anything additional that would help the Commission.

Joe Poole made a motion, seconded by Wilford Kale, to deny this application. In a roll call vote, motion failed 3-4. AYE: Kale, Poole, Garrett (3); NAY: McKenna, Hagee, Hunt, Wildman (4).

Don Hunt made a motion for approval, seconded by John Hagee. In a roll call vote, motion passed 4-3. AYE: McKenna, Hagee, Hunt, Wildman (4); NAY: Kale, Poole, Garrett (3).

9. PLANNING DIRECTOR'S REPORT.

Marvin Sowers reminded the Commission of the scheduled work session with the Board of Supervisors on July 10 at 7 PM in the Board Room.

Don Hunt stated he spoke to the his Board Supervisors and said that one topic that was expected to come up was water issues.

Martin Garrett asked if any Commission member had any topics they wished to discuss, please let him know prior to the meeting.

Martin Garrett stated that the Commission needed a better definition of what land use in this County ought to be and suggested that this might be brought up. He said that he would inform the Board that the Commission won't do a whole lot with respect to cash proffers until they received direction from the Board.

There being no further business, the July 5, 2000, Planning Commission adjourned at approximately 9:45 p.m.



Martin A. Garrett, Chair



O. Marvin Sowers, Secretary

SPECIAL USE PERMIT 7-00. Hertzler Clearing and Grading Staff Report for the June 5, 2000 Planning Commission Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Building C Board Room; County Government Center

Board of Supervisors:

June 5, 2000, 7:00 p.m.

July 11, 2000, 7:00 p.m.

SUMMARY FACTS

Applicant/Landowner:

Steven L. Hertzler

Proposed Use:

Contractor's warehouse and office, storage and repair of heavy equipment, and the manufacture and sale of wood products.

Location:

9537 Barnes Road; Stonehouse District

Tax Map and Parcel No.:

(4-3)(1-12A)

Primary Service Area:

Outside

Parcel Size:

28.6 acres

Existing Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

Surrounding Zoning:

North: A-1, General Agricultural

South: B-1, General Business

East: A-1, General Agricultural

West: A-1, General Agricultural

Staff Contact:

Christopher M. Johnson -- Phone 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal, with conditions, generally consistent with the surrounding zoning and development. Staff also finds the proposal generally consistent with the Comprehensive Plan. Therefore, staff recommends the Planning Commission approve this application with the conditions listed in the staff report.

Description of Project

Mr. Steven L. Hertzler has applied for a special use permit to allow the construction of a contractor's warehouse and office, the storage of heavy equipment, and the manufacture of wood products at 9537 Barnes Road. The property is zoned A-1, General Agricultural and is further identified as Parcel No. (1-12A) on James City County Real Estate Tax Map No. (4-3). A mobile home is currently located on the site and is the residence of the applicant's father. The applicant owns a clearing and grading business which currently has six full time employees but has had as many as eight employees in recent months. If approved, this special use permit would allow Mr. Hertzler to construct a 50-foot by 100-foot warehouse and office building on the site, store his trucks and heavy equipment, and allow the storage, grinding and mulching of wood materials on the site. Approximately seven acres (one quarter of the site) is proposed to be cleared for this operation. A tub grinder would be leased approximately every 2-3 months and brought to the site to grind stumps and other wood materials into mulch on a 2.5 acre area located in interior area of the site. The mulch would not be sold to the public and would remain on the site. The applicant has stated that because of the high concentration of dirt in the mulch, it is not suitable for resale. A condition has been added which eliminates the retail sale of mulch, wood and wood materials on the site. The site would be used solely by Hertzler Clearing and Grading as part of their daily operations and no dumping will be allowed by other individuals or companies at the site.

Description of the Grinder Apparatus

The type of grinder to be used on this property periodically is a Moorbark tub grinder, Model 1300. The grinder measures 38 feet in length and 13 feet in height. This particular model is powered by a 750 horsepower Caterpillar engine. The production varies depending on the type of material being processed but is capable of grinding 320 cubic yards per hour. The machine weighs 36 tons. Stumps, wood and wood debris are loaded into a large rotating tub which moves the wood over a hammer mill. Heavy hammers tear the wood to bits utilizing a grinding motion. When the bits are small enough, they fall through a screen onto a conveyor and the mulch is then stockpiled. A tractor would spread the mulch out on clear areas. The grinder achieves a three to one reduction from raw materials to the end product.

Field Visit / Sound Test

On May 12, 2000, several Planning Commission members joined staff on a visit to the property for the purpose of viewing the tub grinder and conducting sound tests from adjacent residential properties. The tub grinder was not located at the point where it would ultimately be used as that area has yet to be cleared. Staff and the applicant tried to locate the grinder in a manner which would best approximate the distance and sound levels adjacent residential properties would encounter if a special use permit is granted for this operation. It should be noted that if approved the grinder would be approximately the same distance from one of the residences as it was from one of the test sites. A map is included as an attachment that identifies the locations where sound tests were observed and lists the recorded noise levels. Readings taken at the residential test sites when the grinder was not in operation ranged from 50 dBA to 56 dBA with the primary source of background noise coming from Interstate 64. The readings taken at the various residential test sites with the grinder in operation ranged from 55 dBA to 60 dBA. Staff conducted sound tests in advance of the official test to compare results and did not observe any appreciable difference in decibel levels between the two tests.

According to the Occupational Safety and Health Administration (OSHA), continued exposure to noise over 85 dBA will eventually harm hearing. While OSHA has no mandated definition for what constitutes a substantial increase over existing sound levels, state highway departments typically use either a 10 dBA increase or a 15 dBA increase in noise levels to define "a substantial increase" in existing noise levels. Neither the Department of Environmental Quality (DEQ) and the Environmental Protection Agency (EPA) specifically define what constitutes a substantial increase. The measured noise level increase falls well within this acceptable range of increase. Examples of noises which might be typically observed in a rural setting include freeway traffic 70 dBA, a tractor 90 dBA, a leafblower 110 dBA, a power lawn mower 65-95 dBA and an ambulance siren 120 dBA. As a comparison, a decibel reading of 84 dBA was observed from a distance of approximately 200-feet when the tub grinder was in operation.

Surrounding Zoning and Development

The property is bordered on the west by Interstate 64 and further to the west by the Racefield subdivision which is zoned A-1, General Agricultural. Single family homes and undeveloped properties are located to the north and east of the site and are also zoned A-1. The undeveloped and wooded 185-acre Hazelwood Farms property to the south of the site across Barnes Road is zoned B-1, General Business. Examples of by-right uses for B-1 include automobile service stations, professional office buildings, lumber and building supply stores, restaurants, schools, retail and service stores and wholesale and warehouse facilities. As the Stonehouse planned community continues to develop, the B-1 properties south of Barnes Road will face increasing development pressure. Staff finds the proposal, with conditions, consistent with the surrounding zoning and development.

Physical Features and Environmental Considerations

The 28.6 acre site is largely flat and wooded. Topography and existing land slopes are roughly the same throughout the site, however, a separate stormwater management facility may be required southeast of the Warehouse/Office area for stormwater quantity and quality purposes due to impervious areas associated with the construction of approximately 500 feet of entrance road. Most of the roadway area collects to a low point in topography about midpoint between Barnes Road and the main site and would bypass the site's primary stormwater management facility located in the interior of the site. Wood product storage and processing may require a general Virginia Pollutant Discharge Elimination System (VPDES) permit for Discharges of Storm Water Associated with Industrial Activity from the Virginia Department of Environmental Quality (VDEQ). Regardless if a VPDES permit is required by VDEQ, the stormwater pollution prevention plan must comply with County erosion and sediment control and stormwater management plan requirements established by the County's Erosion and Sediment Control and Chesapeake Bay Preservation Ordinances.

Transportation

Access to the property would be from Barnes Road (Route 601). The Virginia Department of Transportation has indicated that a commercial entrance will be required for the site. VDOT has also indicated that a project included on the Six Year Secondary Road Plan on Barnes Road to improve drainage and grading and to lay plant mix from 0.5 miles east of Route 60 to 0.85 miles east of Route 60 should not impact this site. The applicant has indicated that the three trucks

used as part of his operation would average three to four trips per day into and out of the site. Given the relatively low trip volume anticipated at the site, VDOT does not anticipate the need for turn lanes. VDOT did not identify road width as an issue in their preliminary review of this proposal.

Public Utilities

The property lies outside the Primary Service Area (PSA). The site is served by an on-site well and an on-site treatment and disposal system.

Comprehensive Plan

Land Use Designation

The property is designated as Rural Lands on the Comprehensive Plan Land Use Map. Rural Lands are areas containing farms, forests and scattered houses, exclusively outside the Primary Service Area, where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for the future. Appropriate primary uses include agricultural and forestal activities and certain recreational and public uses which may require a spacious site and which are compatible with the natural and rural setting. Most retail and commercial uses which will serve Rural Lands will be located at planned commercial locations on major thoroughfares inside the PSA. However, a few of the smaller uses and uses which require a specialized location may be located and approved on a case by case review, provided such uses are compatible with the natural and rural character of the area, in accordance with the Development Standards of the Comprehensive Plan. These uses should be located in a manner that minimizes effects on agricultural and forestal activities, and located where public services and facilities, especially roads, can adequately accommodate them.

Land Use Standards

Rural Land Use standards call for the natural, wooded, and rural character of the County to be preserved with particular attention given to locating structures and uses outside of sensitive areas, maintaining existing topography, vegetation and tree lines to the maximum extent possible and limiting the height of structures to an elevation below the height of surrounding mature trees. This proposal would maintain an undisturbed 150 foot buffer along the eastern property line nearest adjacent residential homes and an undisturbed 50-foot buffer along the western property line bordering Interstate 64. A second rural land use standard seeks to minimize visual impact from public roads and not disturb agricultural/forestal uses. This proposal seeks to retain the wooded rural character of the site to the greatest extent possible by locating all operations interior to the site and by requiring the clearing of only 25 percent of the site. In addition, the use does not prevent most of the site from being returned to forestry use should the wood processing and manufacturing operation cease type use. The proposed use is similar to a forestry type use in that it involves handling and cutting of timber and the use of heavy trucks and equipment.

The noise generated on the site through the daily operations of trucks and equipment are typical for rural areas. The tub grinder itself makes less noise than a tractor. Unlike an agricultural operation, the tub grinder which would be used on the site will only be necessary when the applicant has accumulated sufficient material on site to justify the expense of leasing the

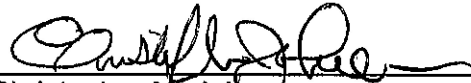
equipment. The applicant anticipates that this will only occur every other month and use of the grinder will only be necessary for a few days at a time. The typical daily noise volume generated on adjoining areas will not be significantly different than the noise levels generated by the Interstate on any given day. This proposal meets these land use standards.

Recommendation

Staff finds the proposal, with conditions, generally consistent with the surrounding zoning and development generally consistent with the Comprehensive Plan. Staff recommends the Planning Commission approve this proposal with the following conditions:

1. Construction on this project shall commence within 24 months from the date of approval of this special use permit or this permit shall become void. Construction shall be defined as securing permits for land disturbance, building construction, clearing and excavation, and the pouring of footings.
2. Site plan approval shall be required.
3. This permit shall allow the construction of a 5,000 square foot warehouse/office, the storage of trucks and heavy equipment and an area for the storage, manufacturing and processing of wood, mulch and wood materials. The storage, manufacturing and processing of wood mulch and wood materials shall be limited to a 2.5 acre area identified on a site plan to be approved by the Development Review Committee. No area of the operation shall be located within 400-feet from Barnes Road with the exception of the entrance road. No retail sales of wood, mulch or wood materials shall be permitted on the site.
4. The use of the tub grinder shall be permitted to operate only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.
5. A minimum 150-foot undisturbed buffer shall be provided along the eastern property line and a minimum 50-foot buffer shall be provided along the western property line adjacent to Interstate 64. The buffers shall contain enhanced landscaping, so that the required number of plant material equals up to 133 percent of the County's Landscape Ordinance requirements with up to 33 percent of the required number of trees being evergreen. The landscaping plan shall be approved by the Director of Planning or his designee prior to final site plan approval.
6. The tub grinder shall be located so as to minimize potential adverse impacts including, but not limited to noise, dust, debris, odor, etc) on adjacent properties and the final location for the tub grinder shall be approved by the Development Review Committee.
7. The location of the disturbed area shall be approved by the Director of Planning or his designee prior to final site plan approval. The total disturbed area on the site shall not exceed twenty five percent of the site, except with prior approval of the Board of Supervisors.
8. Traffic improvements along Barnes Road (Route 601) shall be installed or bonded prior to issuance of a certificate of occupancy for any structure on the site.

9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.


Christopher M. Johnson
Planner

Attachments:

1. Location Map
2. Noise Levels in our Environment Fact Sheet
3. Sound Test Sites and Results
4. Policy Committee Guidelines for Transitional Uses in Rural Lands

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF JUNE, TWO THOUSAND AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Martin Garrett, Chair
Don Hunt
Wilford Kale
Willafay McKenna
A. Joe Poole III
Peggy Wildman

ALSO PRESENT

Marvin Sowers, Director of Planning
Leo Rogers, Deputy County Attorney
Christopher Johnson, Planner

ABSENT

John Hagee

2. MINUTES

Upon a motion by Joe Poole, seconded by Don Hunt, the minutes of the May 1, 2000, meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

Joe Poole presented the report in which the DRC heard three cases at its May 31, 2000, meeting and one case prior to tonight's meeting. He stated the DRC recommended approval for The Pointe at Jamestown which came before the DRC to discuss the drainage structures to assure conformance; Mulberry Place which came before the DRC because there were several issues regarding drainage structures and paths. He stated the DRC was expecting a resubmittal of Mulberry Place. He said the final case was for the Greensprings Plantation RV lot in which a screen fence and landscaping were reviewed. He stated that at tonight's meeting, the DRC reviewed and recommended approval for landscape buffer variances for Powhatan Townhomes.

Peggy Wildman made a motion, seconded by Wilford Kale, to recommend approval of the DRC report. In a unanimous voice vote, motion passed.

4. CASE NO. SUP-7-99. GRIESEN AUER RESIDENTIAL CLUSTER.

Christopher Johnson presented the staff report stating the applicant had requested the deferral of this case to the July 5 meeting.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was continued to the next meeting.

5. CASE NO. SUP-8-00/SUP-9-00. LEE/BICKFORD BORROW PITS.

Christopher Johnson presented the staff report stating the applicant had requested the Commission defer this case until its July 5 meeting.

Martin Garrett opened the public hearing. There being no speakers, the public hearing was continued to the next meeting.

6. CASE NO. SUP-10-00. St. Bede Catholic Church.

Christopher Johnson presented the staff report stating the Commission deferred this case from

its May 1, 2000, meeting in order that the applicant address the concerns raised over the proposed buffer along the adjacent properties in The Meadows subdivision and the traffic impacts caused by the proposed development. He stated staff reviewed the revised master plan and had recommended several changes to the conditions attached to the special use permit as outlined in the staff report. Staff found the proposal, with conditions, consistent with the surrounding zoning and development and Comprehensive Plan. Staff continued to recommend that the Planning Commission approve this proposal as outlined in the staff report.

Martin Garrett opened the public hearing.

Father William Carr, pastor of St. Bede, spoke on the history of Catholicism in Williamsburg and how the church had evolved into the large congregation that exists today and for their need to have such a large church in James City County. He explained the process of the design and landscaping for this site and as good neighbors, informed the adjacent properties owners of their intent. He asked that the Commission support this application by their recommendation of approval. Father Carr then introduced Eliza Eversole.

Eliza Eversole, Co-Chair of the Building Committee and a resident of James City County, stated that the master plan presented to the Commission had taken several years to develop and throughout the process they had made many changes. She said the most significant change was the location due to the generous gift of land by the Diggs family. She said this wonderful property on Ironbound Road had provided St. Bede with tremendous opportunities for its 7,000 members, the thousands of visitors that worship with them each year, and for future generations. She continued by stating that they reviewed many options and central to their all deliberations was the idea to preserve the natural beauty of the land, reflect the area they lived in, and honor the Catholic traditions. She stated at the May meeting there were two major concerns: traffic and side setback and buffers for The Meadows subdivision. She said that the responses to those concerns had given the church the opportunity for a good plan to be even better. She introduced Alvin Anderson who reviewed those modifications.

Alvin Anderson of Kauffman and Canoles stated in the Comprehensive Plan the suggested use for this parcel was for low-density residential which permits, with a special use permit, houses of worship. He stated that, using conservative estimates, a minimum of 75 single-family dwelling lots could be constructed on this parcel which, according to VDOT projections, would generate 750 vehicle trips per day, seven days a week. He noted that the serpentine nature of the parking lot had been straightened since the last meeting and moved approximately 20 feet further inward and the undisturbed buffer minimum was 50 feet adjacent to the rear lot lines of The Meadows. He said that beyond the 50 foot buffer there would be, in addition to landscaping, additional landscaping plus a 60 inch fence or wall where any paved surface in the parking lots was within 70 feet of the rear lot line. He stated St. Bede and its representatives gave considerable attention to the neighbors next door and had worked at length with staff to get the conditions that were acceptable and would permit the development. He concluded by asking that the Commission make a recommendation of approval to the Board of Supervisors.

Martin Garrett asked Alvin Anderson about his mention of the paved surface because Liza Eversole stated that the parking lots would not be paved.

Alvin Anderson clarified his comment by stating that "from the edge of the 'parking surface' to the rear of the lot line.

Gary Besnier of 110 Whistle Walk in The Meadows commented on the traffic study and recalled the huge problems that occurred when the Jamestown Road bridge washed out and felt that on Sundays these problems will occur at intersections around the church. He said his house was the one most affected by this application and asked if they could move the church 20 feet why couldn't they move it another 50 feet. He concluded by saying he wanted to be a good neighbor and asked that St. Bede be a good neighbor to him.

Geri Farrell of 3424 Wexford Run spoke in support of this application.

Alex Kuras of 112 Pasbehegh Road spoke in favor of this application and asked the Commission to recommend approval to the Board.

Jack Carey of 422 Hempstead Road and a member of the St. Bede Building Committee stated they wanted to be good a neighbor but, as a steward of the monies given by the parishioners, they could not always do what everyone wanted.

Robert Morris of 103 Birdie Road and a member of the Building Committee spoke on the issue regarding the parking lots and whether the building could be moved just anywhere. He stated the master plan was designed for future expansion for a youth activities building, social facility, and a parish office and that they were centrally located to the site.

Marie Maloney of 4504 Village Park Drive East and a member of St. Bede spoke in support of this project.

Edward Lull of 100 N. Berwick and Chairman of the Parish Council of St. Bede spoke of the gift of land given to the church and their obligation to use it as the giver had intended. He stated this church will enhance the beauty and status of James City County now and for the next 50 years. He asked that the Commission approve this application.

Bernard Farmer of 14 Tempsford Lane and a member of the parish spoke briefly from an engineering standpoint on how good design occurred and how it evolved from an understanding of the unique characteristics of the land, topography, vegetation, and open areas. He said, with that understanding and a thorough knowledge of the requirements of the design, the two came together to create a concept that satisfied both what was already there and what needed to be put there. He encouraged the Commission to recommend approval of this project.

There being no further speakers, Martin Garrett closed the public hearing.

Martin Garrett made a motion, seconded by Willafay McKenna, to accept staff's proposal. He commented that as opposed to some colleagues at the last meeting, he did not conceive of any transportation problems. He stated that whenever there were recreational, cultural, or religious events there would be a lot of cars congregated into a small space and there would be some congestion. He did not feel that a transportation problem was one that was at issue and if it was, it had been well covered in the staff proposal.

Wilford Kale stated at the last meeting, the Commission did not have a VDOT report nor did they have all of the proposals for the traffic study. He said that he was never opposed to the project but did have several concerns that still were not alleviated. He stated he measured off 70 feet from Gary Besnier's property line and said if there was no berm or fence for that lot, the angles of the far right parking lot would throw light directly onto his home. He said he knew he was trying to solve a problem for one property owner and understood it couldn't always be done but asked when it came to the construction of the project and they saw the homes that would be affected, that they should extend the berm or fence.

Martin Garrett asked Wilford Kale if he wished to recommend that the berm or fence be extended.

Wilford Kale said he would like to see either the fence or berm protect lots 11 and 13 and stated he didn't know which one would be better.

Glenda White of 104 Whistle Walk, lot 10, said that due to the loss of some large trees during

the past several storms, the location of her home sitting down low, and the skylights on the back of her home, there would be an impact on her property. She also had concern regarding the run-off from the property.

Wilford Kale asked Leo Rogers if he could amend the motion to state that either a berm or fence be placed in front of the property.

Leo Rogers said a motion to amend could be made at any time. He suggested an amendment to the motion that stated the Director of Planning, during the construction process, may approve the site plan or amendments to the site plan that would allow for additional screening and contain some objective factors that would denote whether it would be a fence or berm.

Martin Garrett asked if this would go before the DRC. He then asked Wilford Kale if he would defer to the DRC.

Wilford Kale agreed to defer this issue of the buffer area to the DRC.

Joe Poole stated he was impressed with the sensitivities of the design submitted by the applicant and agreed with Wilford Kale that the last piece of the puzzle needed to be fine tuned. He felt it had been done by the applicant from the plan that was presented tonight. He also commented that he did not want to be diswayed by a threat that if it were not a church it could be housing. He said he supported this application with the conditions provided in the staff report.

Willafay McKenna seconded what Joe Poole had stated and added that maybe when this project was built, it might just be a welcomed site that people may not want to close off the view. She said she was pleased that this month they were able to address the issues that met the concerns brought up at the May meeting. She thought it was an appropriate place for this project and fully supported this application.

Peggy Wildman said she was also pleased with the solutions brought back that addressed the major concerns at the last meeting. She supported this application and felt the project would be a beautiful addition to the County.

Don Hunt fully supported the application. He commented that he had to take issue with one thing because he himself was a land owner. He stated that the last person to fill in the puzzle should not be penalized by having additional requirements placed upon them and felt that would be a serious mistake.

Wilford Kale commented on the spirit in which the parish leaders of St. Bede responded to the statements that were made at the Commission meeting last month. He said he received a number of positive calls regarding this plan and was pleased with the plans that were brought back tonight.

In a roll call vote, motion passed 6-0. AYE: McKenna, Hunt, Kale, Poole, Wildman, Garrett (6); NAY: (0).

7. CASE NO. SUP-7-00. HERTZLER CLEARING AND GRADING.

NOTE: The Planning Commission made a field trip to the site on May 12, 2000, for the purpose of viewing the tub grinder and conducting sound tests from adjacent residential properties.

Christopher Johnson presented the staff report stating that Steven Hertzler had applied for a special use permit to allow the construction of a contractor's office and warehouse, storage of heavy equipment, and the manufacture of wood products at 9537 Barnes Road. Staff found the proposal, with conditions, generally consistent with the surrounding zoning and development, and Comprehensive Plan. Staff recommended that the Planning Commission make a recommendation of approval for this

application as outlined in the staff report.

Willafay McKenna asked if, in reading the language in condition #4 which allowed the tub grinder to be operated between the hours of 8 a.m. and 6 p.m., Monday through Saturday, that meant if they wanted to operate the tub grinder they could operate it approximately 300 days a year.

Christopher Johnson stated he believed that the way the condition was drafted the applicant could use it for an unlimited number of days, but due to the scale of the operation, they would not have enough material on the site for a daily operation. He stated the applicant would be renting the equipment and bringing it to the site, so the financial obligation of having the equipment beyond the time of use would be significant.

Willafay McKenna said there was no condition to lease and asked what could happen if they purchased the equipment.

Christopher Johnson said it could be possible but due to the scale of the operation, he did not feel the applicant had any desire or intention to purchase the equipment. He added that if the applicant needed to expand the 2-1/2 acre site for the mulch operation, the condition that limited them to the 2-1/2 acres would necessitate the applicant to look for another site.

Peggy Wildman asked if there was a particular rationale in the designation of 8 a.m. through 6 p.m. of operating hours.

Christopher Johnson stated that, based on discussions with the applicant, it was concluded that the time period gave them enough leeway when they have the equipment that they did not have to use it for more days than necessary. He said it would also give protection to surrounding properties that it would not be used during hours when most people were expected to be home.

Don Hunt asked if the interstate generated a decibel level of 70 and the tub grinder also generated 70 decibels, did that mean that there would be a total of 140 decibels or did it mean that you could not distinguish one noise from the other.

Christopher Johnson said it was not a doubling of the decibel level but you would hear two different sounds of 70 decibels that might produce a total of 73 or 74 decibels. He said the results of testing at the site and at adjacent properties were in the staff report.

Martin Garrett opened the public hearing.

Raymond Steward of 9583 Barnes Road, adjacent to the applicant's property, spoke of his concerns about the noise level, water runoff, truck traffic, and narrow road width. He said the applicant stated he had no more than two or three trucks but at this time a number of trucks, some of them not being the applicants, had been hauling as though the applicant already had approval of this application. He was opposed to this project and asked the Commission to deny this application. He handed out a petition with 50 signatures for the Commission members.

Rosa Mayes of 135 Racefield Drive stated that the neighborhoods on Barnes Road, Racefield Drive, and Belmont Drive firmly opposed this application. She said she moved to the upper part of the County in order to stay away from the downtown areas, major traffic areas, and the impact of massive growth from commercial or industrial permits. She stated that safety was number one in their way of life and felt they should not have to sacrifice their safety for this application. She stated that the roads were not designed for heavy duty equipment and felt, due to the number of trucks already entering the area, about 10 to 15 per day, the applicant was already operating a business on that property without any approval. She expressed concerns about well impacts and presented a petition of 56 signatures of neighbors opposed to this application.

Betty Smith of 9347 Barnes Road said she moved to this area because she was forced out of her home by businesses with the construction of the Coliseum Mall and did not want to be forced out again. She spoke of the mud trails on the road leading out of the applicant's property and also felt that there were activities taking place without any permits. She stated her main concern was the traffic and strongly opposed this application.

There being no further speakers, Martin Garrett closed the public hearing.

Martin Garrett said he could not speak for the Rural Lands Committee which met several times regarding rural lands but felt there were things that this County did not need in the way of growth. He said the rural areas of this County were the only places where certain type of things should be and felt this enterprise was not detrimental but beneficial to the upper County. He said he did not disagree with the traffic concerns that would be created but stated the applicant may be required to improve the entrance with a turn lane. He felt this application was appropriate for the rural area.

Willafay McKenna said she was prepared to recommend approval. She was convinced by the data received that the noise generation of the project was not going to impact the immediate properties. She also referred to the conditions that applied to this application stating there would be no commercial sales and that this operation was a means to get rid of bi-products from development on other sites. She said it was her understanding that because the mulched materials would stay on site that it would improve the land and with the restrictions placed on the property, would be a means of helping the environment by recycling the wood. She emphasized there would be no sales taking place at this site and commented to Betty Smith that with that limitation of sales, her concerns of excessive traffic were met.

Christopher Johnson clarified that there were three uses in the A-1 ordinance that required this application receive a special use permit. One was the manufacture and sale of wood products, the other was the storage and repair of heavy equipment, and last being a contractors office and warehouse. He said those three categories were listed in the public hearing ad and the adjacent property owner letters but the conditions in the staff report eliminated the sale from the site and there are added controls over the location of the disturbed area, limitation on the amount of disturbed area, and on the location of the warehouse and office.

Wilford Kale asked if work had begun at the site.

Christopher Johnson said work had been done on the site to clear for an entrance road so the tub grinder could be placed in an area to best approximate the distance for accurate sound tests that were performed during the site visit. He stated there was already a cleared area on the property for a mobile home where the applicant's father presently resided. He said the actual operation of this business was not occurring on the site at this time.

Raymond Stewart said he was retired and lived next door to the property and stated he had been watching the applicant hauling materials onto the property for the last eight months.

Willafay McKenna noted for the adjacent property owners that the last sentence in condition #3 stated that no retail sales of wood, mulch, or wood materials shall be permitted on the site.

Betty Smith asked the applicant what he would be doing with the wood chips created from the stumps and other debris that would be hauled onto the property.

Tim Fannin representing Hertzler Clearing and Grading stated the materials that would be generated by this operation would be stored on the property, spread out and turned into top soil. He stated they would create berms along the interstate and along the backside of the property. He said they did not anticipate the materials adding up to much due to the low scale of the operation. As for the

run off concerns, he stated the Department of Environmental Quality would require them to address those issues when they applied for permits for the discharges of the stormwater.

Martin Garrett announced that the public hearing had been closed. He again stated that wood products could not be sold and if they were, it would be in violation of the law.

Christopher Johnson stated the residents were responding to the public hearing ad and the adjacent property owner letters given the use categories in the A-1 ordinance.

Martin Garrett again explained to the residents that the condition placed on the applicant by staff stated that there could be no sale of wood products.

Rosa Mayes said she understood that they could not sell retail but questioned if they could sell wholesale.

Martin Garrett asked Leo Rogers if they could add to the condition the word "wholesale."

Leo Rogers said he understood the product would be produced on the property and possibly transported elsewhere for sale so the Commission could restrict any sales operations whatsoever. He added that the way the condition read, wholesale operations were permitted.

Willafay McKenna stated that at this point she felt the Commission was not in a position to vote on this application. She stated that if the operation was going to prepare materials that would be used on other development sites, the Commission needed to look at that since they didn't know how long the process took to make topsoil and how much traffic the 2-1/2 acres would generate for that purpose. She said that questions have arisen tonight that she felt needed to be answered and requested deferral.

There were no objections to the deferral by the Commission members.

Joe Poole said he was supportive of this application. He did, however, have some concern regarding the traffic and asked staff to research if they had ever had a condition elsewhere that limited the number of truck trips at a site.

Don Hunt felt that the traffic on Barnes Road needed to be better addressed.

Wilford Kale stated this type of operation was preferable in rural lands, but questioned if this was the preferable site.

Joe Poole commented that the sound issue was not as critical as the traffic and the ramifications associated with what the product became and how it would be moved in and out.

Martin Garrett asked the Commission what specific information that they would need from the applicant.

Joe Poole stated they needed to know what happens to the mulch when it becomes top soil, how the product would be transported to and from sites, the volume of the product, and the time frame from mulch to top soil.

Wilford Kale also added if this would be a natural or enhanced mulch operation.

Marvin Sowers asked for clarification for direction by stating staff was under the impression that the Commission was definitely against retail and wholesale but, may be interested in some type of limited conditions which would allow material to be removed from the site sometime in the future so that the site could continue to be viable, but had concerns about the volume on the site, how long it took to

accumulate, and how often the trucks had to make the trips.

A citizen asked that the Commission also investigate the odor from the mulch and gave an example of an existing business and the odor that occurred there.

Don Hunt felt it was an unfair comparison since the one operation used sulphur dioxide and other chemicals to digest their wood products. He felt that the odors were not related.

Christopher Johnson asked the Commission if the applicant could address some of these issues, such as, the amounts of the material and his long range look at this operation.

Martin Garrett requested that this be postponed in order to get all the information into one package.

This case was deferred to the meeting of July 5, 2000.

8. PLANNING DIRECTOR'S REPORT.

Marvin Sowers stated there would be a public input meeting on the Rt. 199/Jamestown Road Study on June 15, 2000, at 7 p.m. in the Williamsburg Community Building. He stated the purpose of the meeting was to present additional alternatives that were currently being evaluated and to receive public input.

Marvin Sowers stated that on June 6, 2000, there would be a meeting on the Rt. 60 relocation in Grove at the James River Elementary School at 7 p.m. He stated this meeting was for public input in advance of the VDOT public hearings that would be held this fall.

Marvin Sowers spoke on the special use permit application that will be heard at their July 5, 2000, meeting filed by PrimeCo Communications. He stated they were applying for a 199' tower off of Centerville Road and there would be a balloon test from 8 a.m. to 9 a.m. on June 15, 2000 with the alternate date being June 16, 2000.

Joe Poole asked about the Olde Towne Road Timeshares application that would be heard at the July 5, 2000 meeting. He wanted to know if the density the applicant was proposing was the same as the density originally proposed.

Marvin Sowers stated the density was reduced.

9. ADJOURNMENT

There being no further business, the June 5, 2000, Planning Commission adjourned at approximately 9:00 pm.

NOTE: On May 31, 2000, the Planning Commission attended a presentation by Barbara Schuler from Custom Gardens on the design and landscape of BMP's.


Martin A. Garrett, Chair


O. Marvin Sowers, Jr. Secretary

**Approved Minutes of the November 2, 2022
Planning Commission Regular Meeting**

SUP-20-0010. Hertzler Clearing and Grading

Mr. Josh Crump, Principal Planner, stated that Ms. Mary Hertzler has applied for an SUP to allow the operation of a contractor's office, warehouse, and the manufacturing of wood products at 9537 Barnes Road. Mr. Crump stated that the property is zoned A-1, General Agricultural, is designated Rural Lands on the Comprehensive Plan Land Use Map and is located outside the PSA. Mr. Crump noted that the business is currently operating on the property and this application has been submitted to bring the use into conformance with the Zoning Ordinance.

Mr. Crump stated that in 2020, the Zoning Division met with the property owner after receiving a complaint regarding the operation of the business. Mr. Crump stated that staff discussed the activities and violations occurring and that an SUP would be needed to bring the use into conformance. Mr. Crump noted that the applicant stated that the business has been operating from the property for approximately 20 years.

Mr. Crump further stated that in the year 2000, an SUP application was submitted for the operation of a contractor's office, warehouse, storage and repair of heavy equipment, and the manufacture and sale of wood products. Mr. Crump stated that the application was considered by the Planning Commission and recommended for approval and was then considered by the Board of Supervisors where it was ultimately denied.

Mr. Crump stated that since this time, the area utilized for the business operation has increased without the appropriate approvals or permitting from the County. Impacts to the Resource Protection Area (RPA) include land disturbance and clearing of trees, the construction of a pond, and the construction of a driveway onto a neighboring property. Mr. Crump stated that the construction of the pond and driveway have also impacted existing wetlands. Mr. Crump stated that these existing site conditions are shown on the master plan.

Mr. Crump further stated that staff has reviewed the application to address the impacts of the business. Mr. Crump stated that the Stormwater and Resource Protection Division (SRP) has reviewed the application regarding stormwater management design for the current business operations. Mr. Crump noted that the proposed SUP conditions would require impacts to the RPA and wetlands be remediated, proof of appropriate permits for impacts to the wetlands, and that the stormwater management design be sufficient for all development on the property.

Mr. Crump stated that additional proposed conditions include, but are not limited, to restricting the hours of operation of certain activities from 8 AM to 5 PM to reduce potential noise impacts, prohibiting sales on the property, prohibiting signage associated with the business, restricting vehicular access to the business to only come from Barnes Road, providing buffering and screening the business from Barnes Road and adjoining properties, various fire safety measures, limiting the height of light poles, and prohibiting any light trespass onto adjoining properties.

Mr. Crump stated that if the SUP were to be approved, a site plan would be required for the business and would need to show all existing improvements being brought into full conformance with the master plan, conditions, Zoning Ordinance, and other applicable regulations. Mr. Crump further stated that the proposed conditions would require that the site plan be submitted within 12 months of the date of approval of the SUP and receive final site plan approval within 24 months of the date of approval of the SUP. Mr. Crump stated that the proposed conditions would also require that County staff inspect the property within six months of the date of approval of the SUP to verify existing site conditions and within 36 months of the date of approval of the SUP to verify that all improvements shown on the site plan are completed and that the site is fully in compliance with the SUP and the site plan.

Mr. Crump stated that staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2045 Comprehensive Plan and recommends that the Planning Commission recommend approval of this application, subject to the proposed conditions.

Mr. O'Connor opened the floor for questions from the Commission.

Ms. Null requested confirmation that the pond was installed without the necessary permits; a previous SUP request in 2000 was denied; and the business has been operating for 22 years without an SUP.

Mr. Crump confirmed.

Ms. Null inquired if any complaints had been received during that time.

Mr. Crump stated that staff received complaints in 2001, 2002, 2004, 2011, and 2019.

Ms. Null noted that another complaint had been received in the last week also.

Ms. Null inquired about the complaint received in 2019.

Mr. Crump stated that staff met with the property owner in 2019 to discuss remediation and that the current SUP application was submitted in 2020.

Ms. Null commented that the business has been operating for 22 years without any permits.

Mr. Haldeman inquired about the future of the business and the property if this application is denied.

Mr. Crump stated that all business activities would cease, and the property would need to be brought into compliance with the Zoning ordinance and the Chesapeake Bay Ordinance. Crump further stated that it would require removing all business equipment, logs, debris and provide Resource Protection Area (RPA) mitigation. Mr. Crump stated that staff would work with the County Attorney's Office to achieve compliance.

Mr. Krapf inquired if the SUP Condition for staff being allowed to inspect the property could be broadened to allow staff more latitude to access the property in the event of further complaints.

Mr. Holt stated that he would not recommend changing the SUP Conditions at this time. Mr. Holt further stated that as proposed, the SUP Conditions allow staff to enter the property to verify existing conditions and later to confirm that all of the improvements have been made and are consistent with the master plan and the site plan. Mr. Holt further stated that once the final site conditions are verified, it would be like any other property where, should a complaint be received, staff would first look to work with the property owner which usually resolves the situation. Mr. Holt stated that in the few instances where the property owner is not responsive, staff can work with the County Attorney's Office to find other options.

Mr. O'Connor inquired if the mixed mulch and soil stockpile should have a silt fence.

Mr. Holt stated that staff would review this during the site plan process; however, it would not be a requirement for stockpiles in active use.

Mr. O'Connor noted that the stockpile is adjacent to the pond. Mr. O'Connor inquired whether the stockpile activities could be inspected periodically to ensure that the stockpile is in good shape and compliant with Erosion and Sediment Control (E&S) regulations.

Mr. Holt stated that should the property move to site plan review, all of the E&S requirements and remediation will be factored in.

Dr. Rose inquired about the owner of the neighboring property where the driveway was constructed.

Mr. Crump stated that the property is also owned by the applicant.

Dr. Rose inquired if approving the SUP would give the County more opportunity to ensure that the conditions are continuously met.

Mr. Crump stated that there would be an inspection of existing conditions and staff would work with the applicant during the site plan review to ensure that all remediation was completed, and regulations met. Mr. Crump stated that once the site plan was approved, staff would inspect the property to ensure that everything is constructed and in compliance with the site plan and existing regulations and requirements.

Mr. Holt stated that approval of the SUP does not convey extra authority to staff to access the property; however, should there be complaints, it is easier for staff to determine if the operation is in conflict with the SUP, the master plan, and the site plan.

Dr. Rose inquired whether the business would be allowed to operate another 20 years without permits and approvals.

Mr. Holt stated that if the SUP is denied, the existing conditions would have to be brought into compliance with the Zoning Ordinance and the Chesapeake Bay Act. Mr. Holt stated that following the previous SUP denial, the violations were abated; however, at some point the activities commenced again. Mr. Holt stated that in this instance there would be follow up to ensure that the property was in compliance and the environmental impacts were remediated.

Mr. Rodgers inquired about the historical information on the property and the Board of Supervisor's rationale for denying the SUP.

Mr. Crump stated that there appeared to be a lot of public comment against the application; however, the minutes do not provide detail on the rationale of the Board of Supervisors.

Mr. Holt noted that the minutes were more action-oriented minutes and did not provide robust details of the discussion.

Mr. Rodgers inquired why the County did not pursue action against the property sooner.

Mr. Holt stated that the County's long-standing practice is to respond on a complaint basis.

Ms. Null noted that there were several complaints over the years and inquired why no action was taken sooner.

Mr. Holt stated that the County did receive complaints in the past. Mr. Holt noted that without the ability to access the property, the typical inspection is legally limited to what can be seen from a public right-of-way. Mr. Holt stated that there are forested conditions on the site and it is not always easy to observe the day to day operations. Mr. Holt stated that his thought is that these complaints were investigated but there was not enough evidence available through the permitted investigative options.

Ms. Null stated that her concern is that approving this application may lead to other businesses operating without the appropriate approvals.

Mr. Haldeman inquired if this application is substantially similar to the one submitted in 2000.

Mr. Crump stated that to his knowledge it is very similar.

Mr. O'Connor opened the Public Hearing.

Mr. Krapf, Mr. Haldeman, and Mr. Polster stated that they each had spoken with Mr. Geddy regarding the application.

Mr. Vernon Geddy, Geddy, Harris, Franck, and Hickman, LLP, made a presentation to the Commission in support of the application.

Mr. Polster inquired if the Hertzlers were aware of the work done on the proposed master plan.

Mr. Chase Grogg, Landtech Resources, Inc., stated that the Hertzlers contracted with Landtech to provide the topographic and boundary survey of the property. Mr. Grogg stated that they Hertzlers also contracted with Roth Environmental Consultants to get the wetlands delineated and confirmed by the Army Corps of Engineers. Mr. Grogg further stated that The Army Corps of Engineers has been on site and found no wetlands violations.

Mr. Polster inquired if this pond would be subject to the County's review of Best Management Practices (BMPs) every five years.

Mr. Grogg stated that the pond would be subject to review and further, that it would have a maintenance plan.

Mr. Polster inquired if the mulch and soil stockpiles would require any type of concrete storage facility.

Mr. Grogg stated that the concrete facilities could be helpful and that they could consider them during the site plan review.

Mr. Holt noted that the concrete barriers are mostly necessary when dealing with a final product where its integrity needs to be preserved.

Mr. Polster stated that his question stemmed from the possibility of the manure leaching out and impacting the pond

Mr. Joshua Mayes, 135 Racefield Drive. addressed the Commission in opposition to the application.

As no one further wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion.

Mr. O'Connor inquired if there would be improvements on Barnes Road associated with the development of the Hazelwood Property.

Mr. Holt stated that the conditions for the Hazelwood property specifically state that there shall not be any improvements to Barnes Road.

Mr. Haldeman inquired if the property owner has been paying taxes on the property assessed as a business or assessed as undeveloped property.

Mr. Holt stated that staff would follow up with real estate assessment.

Mr. Polster stated that the Traffic Impact Analysis for the Hazelwood property discussed modifications to the traffic signal at Barnes Road.

Mr. Krapf inquired if the prior SUP denial meant that none of the existing operations should be on the site.

Mr. Crump responded that the prior SUP was to bring the property into conformance with the Zoning Ordinance and that all uses were denied.

Mr. Krapf made a recommendation to amend SUP Condition 9A to read: Existing vegetation in the buffer areas shall be retained and supplemented as necessary with additional plantings, a majority of which shall be native species to meet the requirements of Section 24-96 of the County Code.

Mr. Krapf stated that the Planning Commission role is not one of enforcement but determining if the use is appropriate for the property and conforms with the zoning Ordinance and the Comprehensive Plan. Mr. Krapf stated that if the SUP is approved, the recommended conditions will bring the use into conformance. Mr. Krapf further stated that no matter how poorly the process was handled for 20 years, this would become a legally conforming business. Mr. Krapf stated that there have been other cases where businesses have been operating without the proper approvals and they have been brought into compliance. Mr. Krapf noted that this is no different although it is on a larger scale.

Dr. Rose stated that it is apparent that there have been ongoing impacts to the area and that those impacts to the community will continue regardless of whether the activities come up to code.

Mr. Polster stated that he believes the applicant is making a good faith effort to bring the property into compliance. Mr. Polster noted that the majority of adjacent properties are owned by the applicant and serve as a buffer to other property owners. Mr. Polster further stated that this is a business which should benefit the County with revenue from business taxes. Mr. Polster stated that the property owner is trying to do the right thing and they should be given the opportunity to make the necessary improvements. Mr. Polster stated that he intends to support the application.

Ms. Null stated that many of the complaints were related to excessive noise outside of normal hours. Ms. Null inquired about who would be responsible for enforcing the hours of operation.

Mr. Polster stated that the County would be able to fall back on the SUP conditions where there is a complaint.

Mr. O'Connor stated that he feels that approving the application would essentially be rewarding bad behavior; however, the Commission is neither a punitive body nor an enforcement body. Mr. O'Connor stated that the Commission's job is to work with the application that was submitted from a land use perspective. Mr. O'Connor stated that he views this application as meeting the Comprehensive Plan goal of encouraging and preserving an agricultural and forestal economy in rural lands. Mr. O'Connor stated that there have been concern about truck traffic for other similar uses and those applicants came into compliance with the SUP conditions. Mr. O'Connor further stated that it is important to look at what would come out of approving the application. Mr. O'Connor stated that ultimately there would be a site that is compliant and good for the wetlands with thriving business that is a different economic use for rural lands.

Mr. Polster made a motion to recommend approval of the application with the amended SUP Condition 9A.

On a roll call vote, the motion to recommend approval of SUP-20-0010. Hertzler Clearing and Grading did not carry (3-4)

John Risinger

From: Paul Holt
Sent: Tuesday, November 1, 2022 11:15 AM
To: John Risinger
Cc: Josh Crump
Subject: FW: [External]Reasons to deny Hertzler clearing SUP AGAIN!

FYI and for your use and project file.
Please include with citizen correspondence for the BOS packet too.

From: Tim OConnor <Tim.OConnor@jamescitycountyva.gov>
Sent: Tuesday, November 1, 2022 9:19 AM
To: Paul Holt <Paul.Holt@jamescitycountyva.gov>; PlanComm <PlanComm@jamescitycountyva.gov>
Subject: Fw: [External]Reasons to deny Hertzler clearing SUP AGAIN!

Timothy P. O'Connor
James City Planning Commission
757-871.6962

From: Bbsoyer@aol.com <bbsoyer@aol.com>
Sent: Saturday, October 29, 2022 8:14 PM
To: Tim OConnor <Tim.OConnor@jamescitycountyva.gov>; Barbara Null <Barbara.Null@jamescitycountyva.gov>;
richard.krapf@jamescitycountyva.org <richard.krapf@jamescitycountyva.org>
Subject: [External]Reasons to deny Hertzler clearing SUP AGAIN!

First I have lived on and traveled Barnes Rd for over 40 years. You may not be aware but an SUP for this very operation was denied many years back. But they went ahead and snubbed their nose at the county and did what they wanted to do anyway.

Barnes Rd was not able to support this traffic then nor now. If memory served me they then stated they would not use Barnes to travel toward Rt 60 only out to Rt30. Well they have been traveling to Rt60 for years and the trucks certainly don't care for the posted speed limit.

The Hertzler trucks were destroying the road shoulder on Barnes turning off Rt30 left onto Barnes. So in the wisdom of VDOT they removed the stop sign that used to be located in the middle of the intersection and paved the small triangle where the sign was. This has probably help contribute to the death of 2 people on Oct 28 2020. The ultra wide intersection now encourages people turning left to cut the corner turning where as the previous set up forced you to make a hard left and stay in your lane. A van was turning left on Barnes and probably with the super wide intersection was sure they could beat the motorcycle on Rt 30 heading toward Toano. Well both people on the motorcycle hit the van and were killed. To approve this permit after already having the original denied would pretty much tell people its ok to do as you please since the County really doesn't care.

This needs to be denied and the Hertzlers made to stop operating an illegal activity.

Brian Oyer
757-603-0185

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Resolution Considering Large-Scale Solar Farms

ATTACHMENTS:

	Description	Type
☐	Memo	Cover Memo
☐	Reso	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	3/31/2023 - 3:27 PM
Publication Management	Daniel, Martha	Approved	3/31/2023 - 3:30 PM
Legal Review	Kinsman, Adam	Approved	3/31/2023 - 3:51 PM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:41 AM
Board Secretary	Rinehimer, Bradley	Approved	4/4/2023 - 11:02 AM
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 11:20 AM

MEMORANDUM

DATE: April 11, 2023
TO: The Board of Supervisors
FROM: Adam R. Kinsman, County Attorney
SUBJECT: Resolution Considering Large-Scale Solar Farms

At the March 14, 2023, meeting of the Board of Supervisors (the “Board”), Ms. Sadler expressed concern that consideration of future applications for large-scale 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 Natural & Cultural Assets Plan adopted by the Board in October 2022 (the “Asset Plan”). Ms. Sadler expressed a desire to delay placing any application for a large-scale solar farm on the Board’s Agenda until such time as the Goals set forth in the Asset Plan are completed.

Attached is a resolution directing staff to not place any large-scale solar farm applications on the Board’s Agenda until such time as the Goals are completed or until March 2024, whichever comes first.

ARK/ap
LgScSolFrm-mem

Attachment

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; and
- WHEREAS, the Code of Virginia allows the Board up to 12 months to act upon any Owner Applications forwarded to it by the Commission; and
- WHEREAS, it is the Board’s desire to delay its consideration of any Owner Applications involving large-scale solar farms until its first Regular Meeting in March 2024 to allow time for the analysis set forth in the Goals to be completed.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby state its intention to not consider any Owner Applications that propose large-scale solar farms until such time as the analysis set forth in the Goals has been completed and further directs staff to not place any such application on the Board's Calendar until its first meeting in March 2024, or at such earlier time as the Board may determine.

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.

LgScSolFrm-res

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Va. Code § 2.2-3711 (7) and (8); specifically regarding: (1) a stormwater facility and (2) a potential special use permit violation.

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:52 AM

ITEM SUMMARY

DATE: 4/11/2023

TO: The Board of Supervisors

FROM: Teresa Saeed, Deputy Clerk

SUBJECT: Adjourn until 1 pm on April 25, 2023 for the Business Meeting

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Saeed, Teresa	Approved	4/4/2023 - 10:54 AM