

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
March 14, 2023
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - McKinley Ingram, a 3rd grade student at Norge Elementary and a resident of the Powhatan District

E. PUBLIC COMMENT

1. Proclamation Celebrating the Life of Edwin C. Oyer

F. CONSENT CALENDAR

G. PUBLIC HEARING(S)

1. AFD-22-0019. 1245 Stewarts Road Barnes Swamp AFD Withdrawal
2. AFD-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal
3. SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project

H. BOARD CONSIDERATION(S)

1. SUP-22-0007. Branscome Resource Recovery and Aggregate Storage

I. BOARD REQUESTS AND DIRECTIVES

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. CLOSED SESSION

L. ADJOURNMENT

1. Adjourn until 8:30 am on March 17, 2023 for the Joint Meeting located at Room 127 in the Stryker Building, 412 N Boundary Street, Williamsburg, VA

ITEM SUMMARY

DATE: 3/14/2023

TO: The Board of Supervisors

FROM: Teresa Saeed, Deputy Clerk

SUBJECT: Pledge Leader - McKinley Ingram, a 3rd grade student at Norge Elementary and a resident of the Powhatan District

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Saeed, Teresa	Approved	3/14/2023 - 9:09 AM

ITEM SUMMARY

DATE: 3/14/2023

TO: The Board of Supervisors

FROM: Michael J. Hipple, Chairman

SUBJECT: Proclamation Celebrating the Life of Edwin C. Oyer

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 8:51 AM

ITEM SUMMARY

DATE: 3/14/2023

TO: The Board of Supervisors

FROM: Thomas Wysong, Senior Planner II

SUBJECT: AFD-22-0019. 1245 Stewarts Road Barnes Swamp AFD Withdrawal

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	Ordinance	Ordinance
☐	2. Location Map	Backup Material
☐	3. Barnes Swamp AFD 2022 Renewal Ordinance and Staff Report	Backup Material
☐	4.. Policy Governing the Withdrawals of Property from AFDs	Backup Material
☐	5. AFD Withdrawal Request Letter	Backup Material
☐	6. Unapproved Subdivision Plat of Parcel	Backup Material
☐	7. Unapproved Minutes of the January 19, 2023, AFD Advisory Committee Meeting	Backup Material
☐	8. Unapproved Minutes of the February 1, 2023, Planning Commission Meeting	Backup Material
☐	9. Executive Summary of the 2022 AFD Renewal Timeline	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	2/24/2023 - 10:58 AM
Development Management	Holt, Paul	Approved	2/24/2023 - 11:00 AM
Publication Management	Daniel, Martha	Approved	2/24/2023 - 11:36 AM
Legal Review	Kinsman, Adam	Approved	2/27/2023 - 1:55 PM
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 8:30 AM
Board Secretary	Purse, Jason	Approved	3/7/2023 - 4:42 PM
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 4:44 PM

**AGRICULTURAL AND FORESTAL DISTRICT-22-0019. 1245 Stewarts Road Barnes Swamp AFD Withdrawal
Staff Report for the March 14, 2023, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. Tim Mills

Landowners: Mr. Tim and Ms. Joan Mills

Proposal: Withdrawal of $\pm$ 23.84 acres of the 52.15 total acre parcel from the Barnes Swamp Agricultural and Forestal District (AFD).

Location: 1245 Stewarts Road

Tax Map/Parcel No. 0310100002

Parcel Size: $\pm$ 52.15 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area (PSA): Outside

Staff Contact: Thomas Wysong, Senior Planner II

PUBLIC HEARING DATES

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

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

Board of Supervisors: March 14, 2023, 5:00 p.m.

FACTORS FAVORABLE

1. The request would not cause damage or disruption to the existing District.

FACTORS UNFAVORABLE

1. The request does not fully meet all four criteria set forth in the Board of Supervisors' policy.

STAFF RECOMMENDATION

The adopted Board of Supervisors' policy governing withdrawal of property from AFDs states that "it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts." This withdrawal request was submitted approximately three and a half months after the most recent renewal of the Barnes Swamp AFD on September 13, 2022. Staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Therefore, staff recommends that the Board deny this request.

AFD ADVISORY COMMITTEE RECOMMENDATION

At its January 19, 2023, meeting, the AFD Advisory Committee voted 7-0 to recommend approval of the withdrawal request to the Planning Commission and the Board of Supervisors.

PLANNING COMMISSION RECOMMENDATION

At its February 1, 2023, meeting, the Planning Commission voted to recommend approval of this withdrawal request and the motion failed by a vote of 5-2.

CHANGES SINCE PLANNING COMMISSION MEETING

None.

**AGRICULTURAL AND FORESTAL DISTRICT-22-0019. 1245 Stewarts Road Barnes Swamp AFD Withdrawal
Staff Report for the March 14, 2023, Board of Supervisors Public Hearing**

DISTRICT HISTORY

- The Barnes Swamp AFD was created in 1986 for a term of four years and originally consisted of 29 parcels totaling ± 1,905 acres.
- The District was renewed at four-year intervals again in 1990, 1994, 1998, 2002, 2006, 2010, 2014, 2018, and 2022 with various additions and withdrawals taking place during that period.
- If this withdrawal is approved, the District would consist of approximately 1,814.87 acres.

DISTRICT DESCRIPTION

This District is primarily forested, though records indicate that a significant portion of the land is actively in agricultural use. All the land in this District is zoned A-1, General Agricultural, located outside of the PSA, and designated Rural Lands and Open Space and Recreation by the adopted 2045 Comprehensive Plan.

However, there is one exception. The Hogue parcel is located inside the PSA and designated Low Density Residential by the adopted 2045 Comprehensive Plan.

WITHDRAWAL REQUESTS/WITHDRAWAL ANALYSIS

Mr. Tim Mills has requested to withdraw 23.84 acres of their 52.15-acre parcel from the AFD. The requested withdrawal is to allow for a minor subdivision, which has an approved conceptual master plan and driveway layout from the Planning Commission.

On September 28, 2010, the Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels outside of renewal periods. That policy is enclosed (Attachment No. 4) and the withdrawal criteria are listed below with staff comments following in italics.

- A. The request is caused by a change in circumstances that could not have been anticipated at the time the application was made for inclusion in the District.

Historically, a change in circumstances has been interpreted to include “death of a property owner,” as stated in the State Code, but has not included new opportunities for development of a property. The withdrawal policy, as adopted by the Board of Supervisors, states that it is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.

- B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.

Staff interprets “public purpose” as using the land for a public facility such as a school or fire station. The proposed minor subdivision is not a public purpose.

- C. The request would not cause damage or disruption to the existing District.

With this withdrawal, the District will continue to meet minimum acreage requirements.

- D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan.

The 2045 Comprehensive Plan designates this parcel as Rural Lands. Rural Lands are intended to help protect and enhance the viability of agricultural and forestal resources and compatible rural economic development uses as important components of the local economy. Residential development is not a recommended use.

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. Development consists of farms and housing.

STAFF RECOMMENDATION

The adopted Board of Supervisors' policy governing withdrawal of property from AFDs states that "it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts." This withdrawal request was submitted approximately three and a half months after the most recent renewal of the Barnes Swamp AFD on September 13, 2022. Staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Therefore, staff recommends that the Board of Supervisors deny this withdrawal application.

TW/md
AFD22-19_1245StwtRdBSwp

Attachments:

1. Ordinance
2. Location Map and Withdrawal Request
3. Barnes Swamp AFD 2022 Renewal Ordinance and Staff Report
4. Policy Governing the Withdrawals of Property from AFDs
5. AFD Withdrawal Request Letter
6. Unapproved Subdivision Plat of Parcel
7. Unapproved Minutes of the January 19, 2023, AFD Advisory Committee Meeting
8. Unapproved Minutes of the February 1, 2023, Planning Commission Meeting
9. Executive Summary of the 2022 AFD Renewal Timeline

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-22-0019.

AMENDMENT OF ORDINANCE NO. 167A-18:

1245 STEWARTS ROAD BARNES SWAMP AFD WITHDRAWAL

WHEREAS, a request has been filed with the Board of Supervisors of James City County, Virginia (the "Board"), to withdraw $\pm$ 23.84 acres of land from the Barnes Swamp Agricultural and Forestal District (AFD), which is currently $\pm$ 1,838.71 acres (the "Application"); and

WHEREAS, the $\pm$ 23.84 acres subject to the Application is a portion of the $\pm$ 52.15-acre property owned by Mr. Tim and Mrs. Joan Mills, located at 1245 Stewarts Road and identified as James City County Real Estate Tax Map Parcel No. 0310100002; 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 at its February 1, 2023, meeting, pursuant to Section 15.2-4314 of the Code of Virginia, 1950, as amended (the "Virginia Code"), during which a motion to recommend approval of the Application failed by a vote of 2-5; and

WHEREAS, pursuant to Sections 15.2-1427 and 15.2-4309 of the Virginia Code, a public hearing was advertised and held by the Board; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Ordinance No. 167A-18 is hereby amended to remove $\pm$ 23.84 acres owned by Mr. Tim and Mrs. Joan Mills, as referenced herein, from the Barnes Swamp Agricultural and Forestal District.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

SADLER
ICENHOUR
MCGLENNON
LARSON
HIPPLE

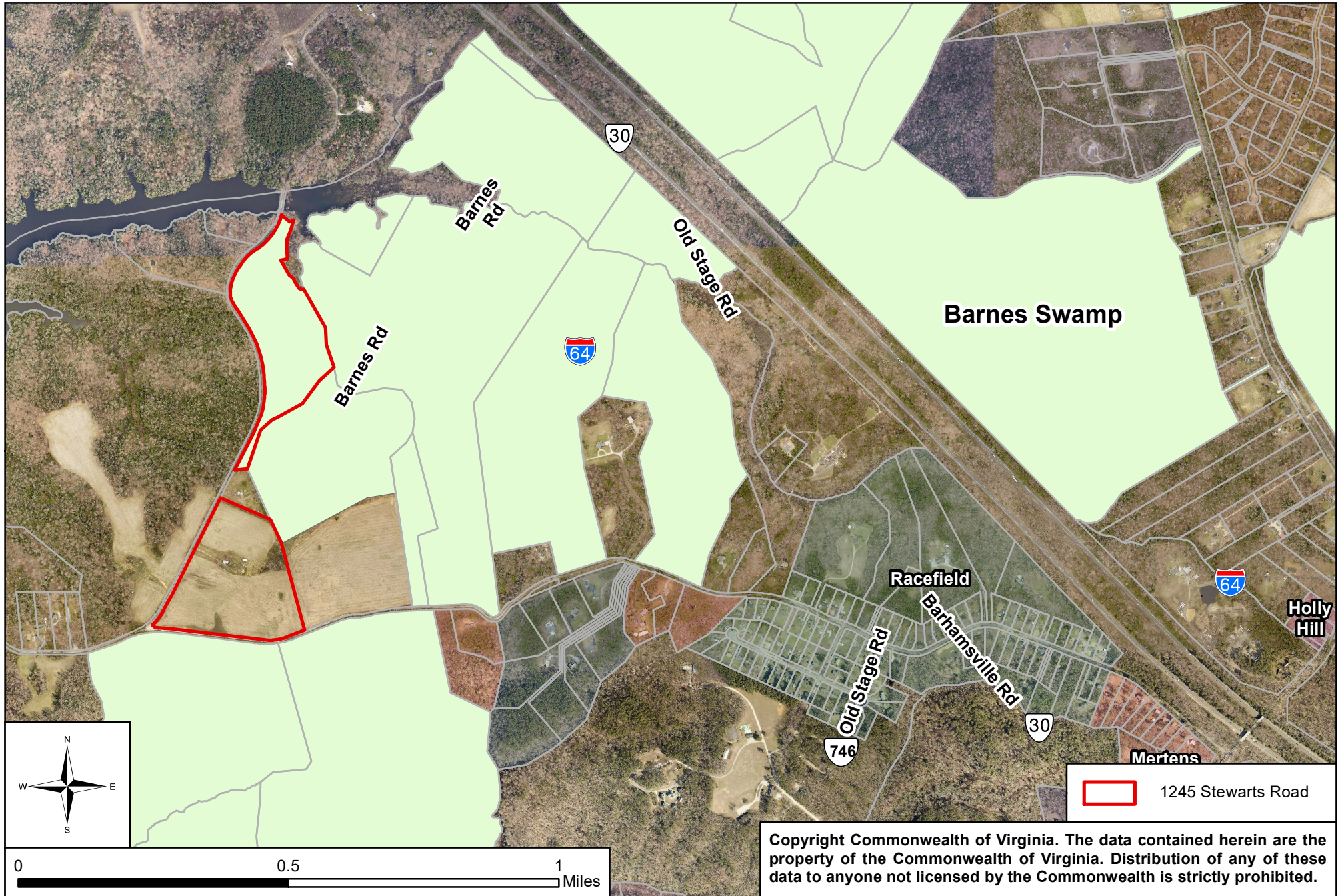
VOTES

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

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of March, 2023.

AFD22-19_1245StwrtsRd-ord

AFD 22-0019. 1245 Stewarts Road Barnes Swamp Withdrawal



AGRICULTURAL AND FORESTAL DISTRICT-22-0003. Barnes Swamp 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>
Arline H. Bowmer Estate	0240100012	62.19
Berta L. Bowmer Estate	0240100013	18.90
Berta L. Bowmer Estate	0240100014	25.84
Alex L. Penland	0240100029	55.90
Maynard P. Phelps and Joy L. Barnes	0310100001	108.47
Leah R. Fry & Craig A. Beck	0310100001A	10.00
Maynard P. Phelps	0310100001B	10.23
<i>Timothy & Joan Mills</i>	<i>0310100002</i>	<i>23.84*</i>
<i>Katherine L. Hockaday, Ann Blair Hall Martin, and Justin Ray Martin</i>	<i>0310100003</i>	<i>39.26*</i>
<i>Elizabeth O. Harwood</i>	<i>0320100001</i>	<i>43.53*</i>
<i>Stephen E. and Rebecca Murphy, Trustee</i>	<i>0320100002</i>	<i>13.86*</i>
Frederick C. Johnson, Trustee	0320100002A	17.20
<i>Betty Johnson and Lynn Fischer</i>	<i>0320100003</i>	<i>19.08*</i>
<i>Betty Johnson and Lynn Fischer</i>	<i>0320100003A</i>	<i>93.99*</i>
<i>Robert M. Dzula</i>	<i>0320100004</i>	<i>28.08*</i>
Jane Farmer and Betty Rady	0330100003	70.00
Jane Farmer and Betty Rady	0330100004	70.00
Arline H. Bowmer Estate	0330100006	96.75
Steven and Michelle Johnson	0340800003	52.63
Steven and Michelle Johnson	0340800005	68.43
John A. Richardson	0410100005	42.00
John A. Richardson	0410100006	10.00
Jonathan C. Kinney, Trust	0410100010	196.30
<i>Niceland Farm, LLC</i>	<i>0420100008</i>	<i>188.68*</i>
Cherri U. Spellmeyer, Trustee	0420100014	134.00
<i>Donald A. Hazelwood</i>	<i>0420100018</i>	<i>4.77*</i>

Donald A. Hazelwood	0420100020	112.44
<i>Pamaka, LLC</i>	<i>0430100014A</i>	<i>1.12*</i>
<i>Pamaka, LLC</i>	<i>0430100015</i>	<i>19.99*</i>
<i>Pamaka, LLC</i>	<i>0430100016</i>	<i>36.84*</i>
<i>Donald A. Hazelwood</i>	<i>0440100001</i>	<i>6.12*</i>
David K. and Karen P. Hogue	0540100001	60.77
Charles and Dianne Hasbrouck	0920100001	97.50
<i>Shelton and Jennifer Daniels</i>	<i>1010100001</i>	<i>61.62*</i>

TOTAL ACRES 1,838.71

**Parcel size changed since 2018 due to new plats and/or revised parcel acreages per Real Estate Assessments Division.*

Zoning: A-1, General Agricultural
Open Space and Recreation

Comprehensive Plan: Rural Lands
Low Density Residential

Primary Service Area
(PSA): Outside and Inside

Staff Contact: Terry Costello, Senior Planner

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.

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-22-0003. Barnes Swamp Renewal

Staff Report for the September 13, 2022, Board of Supervisors Meeting**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 Barnes Swamp AFD was created in 1986 for a term of four years and originally consisted of 29 parcels totaling ± 1,905 acres.
- The District was renewed at four-year intervals again in 1990, 1994, 1998, 2002, 2006, 2010, 2014, and 2018 with various additions and withdrawals taking place during that period.

- On June 9, 2020, the Board of Supervisors approved the addition of approximately 44.74 acres, Parcel ID Nos. 0240100014 and 0240100013. Case number is AFD-19-0003.
- On October 13, 2020, the Board of Supervisors approved the addition of approximately 196.30 acres, Parcel ID No. 0410100010. Case number is AFD-05-85-2-2018.
- On January 11, 2022, the Board of Supervisors approved the addition of approximately 60.77 acres, Parcel ID No. 0540100001. Case number is AFD-21-0002.
- On March 8, 2022, the Board of Supervisors approved the withdrawal of approximately 26 acres, Parcel ID No. 0310100002. Case number is AFD-21-0003 and is part of a Special Use Permit (SUP) for Racefield Solar Farm (SUP-21-0022).

DISTRICT DESCRIPTION

This District is primarily forested, though records indicate that a significant portion of the land is actively in agricultural use. All the land in this District is zoned A-1, General Agricultural, located outside of the PSA, and designated Rural Lands and Open Space and Recreation by the adopted Comprehensive Plan. There is one exception; however, the Hogue parcel is located inside the PSA and designated Low Density Residential by the adopted Comprehensive Plan.

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

AGRICULTURAL AND FORESTAL DISTRICT-22-0003. Barnes Swamp Renewal

Staff Report for the September 13, 2022, Board of Supervisors Meeting**ADDITION/WITHDRAWAL REQUESTS**

None.

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 area surrounding the main body of the District is zoned A-1, General Agricultural and designated Rural Lands by the adopted Comprehensive Plan. Some parcels at the eastern end of the District are adjacent to the Stonehouse Development, which is zoned Planned Unit Development and designated Low Density Residential and Mixed Use by the adopted Comprehensive Plan. The Diascund Reservoir borders the main body of the District to the west, and Mill Creek AFD is located directly south of the District.

COMPREHENSIVE PLAN

The Comprehensive Plan designates all the parcels as Rural Lands and Open Space and Recreation except the Hogue parcel, which is designated Low Density Residential. 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 Barnes Swamp 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).

TC/md
AFD22-3BnsSwpRen

Attachments:

1. Ordinance
2. Location Map

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-22-0003

BARNES SWAMP 2022 RENEWAL

WHEREAS, James City County has completed a review of the Barnes Swamp 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 Barnes Swamp 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>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Arline H. Bowmer Estate	0240100012	62.19
Berta L. Bowmer Estate	0240100013	18.90
Berta L. Bowmer Estate	0240100014	25.84
Alex L. Penland	0240100029	55.90
Maynard P. Phelps & Joy L. Barnes	0310100001	108.47
Leah R. Fry & Craig A. Beck	0310100001A	10.00
Maynard P. Phelps	0310100001B	10.23
Timothy & Joan Mills	0310100002	23.84
Katherine L. Hockaday, Ann Blair Hall Martin, & Justin Ray Martin	0310100003	39.26
Elizabeth O. Harwood	0320100001	43.53
Stephen E. & Rebecca Murphy, Trustee	0320100002	13.86
Frederick C. Johnson, Trustee	0320100002A	17.20
Betty Johnson & Lynn Fischer	0320100003	19.08
Betty Johnson & Lynn Fischer	0320100003A	93.99

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Robert M. Dzula	0320100004	28.08
Jane Farmer & Betty Rady	0330100003	70.00
Jane Farmer & Betty Rady	0330100004	70.00
Arline H. Bowmer, Estate	0330100006	96.75
Steven & Michelle Johnson	0340800003	52.63
Steven & Michelle Johnson	0340800005	68.43
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John A. Richardson	0410100006	10.00
Jonathan C. Kinney, Trustee	0410100010	196.30
Niceland Farm, LLC	0420100008	188.68
Cherri U. Spellmeyer, Trustee	0420100014	134.00
Donald A Hazelwood	0420100018	4.77
Pamaka, LLC	0420100020	112.44
Pamaka, LLC	0430100014A	1.12
Pamaka, LLC	0430100015	19.99
Pamaka, LLC	0430100016	36.84
Donald A. Hazelwood	0440100001	6.12
David K. & Karen P. Hogue	0540100001	60.77
Charles & Dianne Hasbrouck	0920100001	97.50
Shelton & Jennifer Daniels	1010100001	<u>61.62</u>
Total:		<u>1,838.71</u>

3. 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.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

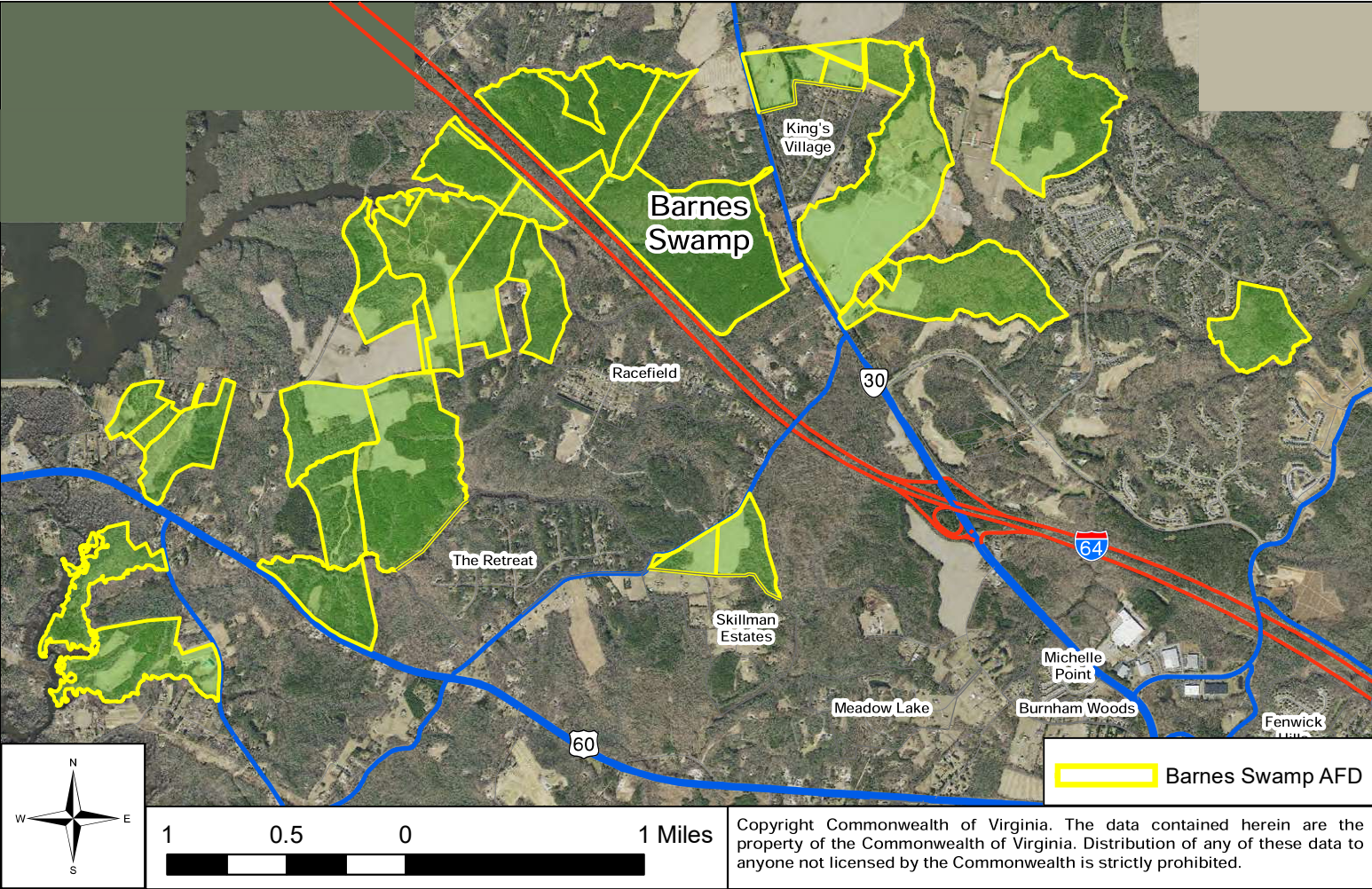
Teresa J. Saeed
Deputy Clerk to the Board

	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.

AFD22-3BnsSwpRen-res

JCC AFD-22-0003
Barnes Swamp Agricultural Forestal District



RESOLUTION

POLICY GOVERNING THE WITHDRAWALS OF PROPERTY FROM AGRICULTURAL

AND FORESTAL DISTRICTS (AFDs)

WHEREAS, the Board of Supervisors has determined that Agricultural and Forestal Districts (AFDs) are a valuable tool to help protect the agricultural and forestal lands and industry in James City County; and

WHEREAS, premature withdrawals of land from the Districts is contrary to the intent of the Board in allowing the establishment of these Districts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following policy relating to the withdrawal of lands from AFDs during the terms of those Districts. This policy in no way supersedes the provisions for withdrawal by right under Sections 15.2-4311 or 15.2-4314D of the Code of Virginia.

1. It is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.
2. The criteria for withdrawal during the terms of the districts are as follows:

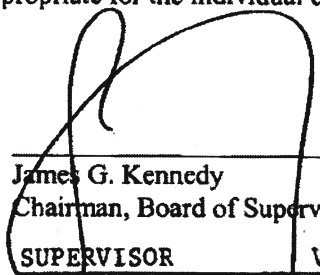
In order to establish "good and reasonable cause," a landowner requesting to withdraw property from an AFD must submit written information to demonstrate compliance with the following criteria:

- A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.
- B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.
- C. The request would not cause damage or disruption to the existing district.
- D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever other criteria as it deems appropriate for the individual case.

ATTEST:


Robert C. Mindaugh
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCGLENNON	AYE
GOODSON	AYE
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFDsPolWdraw_res

Timothy A. Mills, P.E.
Joan E. Mills
306 The Maine West
Williamsburg, VA 23185
757 869 0957; timtamva@gmail.com

November 18, 2022

Mr. Paul Holt, III, paul.holt@jamescitycountyva.gov
Director of Community Development and Planning
Members of the Board of Supervisors
Members of the AFD Advisory Committee
James City County
Community Development
101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784
757 253 6671

Re: 1245 Stewarts Road AFD and Planned Subdivision
Parcel 0310100002
Ref. Case No. C-20-0115; S-22-0033 and S-22-0034

Mr. Holt and Members of the Board of Supervisors and ADF Advisory Committee:

We are relatively new property owners of the farm property at 1245 Stewarts Road, a portion of which is in the Barns Swamp AFD. Only approximately one half of the property was and apparently still is in AFD.

Prior to our purchase of the property in 2021 we worked with Planning staff for five months to obtain an approved Master Plan to subdivide the approximately 53-acre parcel into six lots including one lot for my wife and I and one lot for each of our five adult children.

As part of our plan and discussions with staff it was clear that our plan has always been to wait for the AFD to expire on October 31, 2022 to remove the AFD portion of the property from the AFD and then file two plats to complete the subdivision in accordance with the approved Master Plan. A copy of the approved Master Plan is enclosed. After the subdivision is platted one half of the land will remain in row crops and agricultural use and the timber lot (which was in the AFD) will eventually support four modest homes. We will also move forward with the restoration of the 1915 farmhouse currently on the property.

Either due to confusion on our part or a poorly worded letter on the County's part the parcel was recently put back into the renewed AFD without our knowledge. We requested it be removed from the AFD prior to the October 31, 2002 expiration date by letter on September 26, 2002 (copy attached).

Timothy A. Mills, P.E.
Joan E. Mills
306 The Maine West
Williamsburg, VA 23185
757 869 0957; timtamva@gmail.com

We have not received a response regarding our letter but did recently receive a comment letter from Planning regarding our submitted subdivision plats with one of the comments indicating that the acreage within the AFD still needs to be removed.

Therefore, we are once again indicating our request to remove the noted portion of our property from the AFD so the approved Master Plan can move forward.

We are moving ahead with re-submitting the subdivision plats to address Planning's comments. Please let us know if any other action on our part is requested.

Thank you for your consideration,

Tim

A handwritten signature in black ink, appearing to read "Timothy A. Mills", written over a horizontal line.

Timothy A. Mills, P.E.

cc. Vernon Geddy, Esq.
encl.

Timothy A. Mills, P.E.
Joan E. Mills
306 The Maine West
Williamsburg, VA 23185
757 869 0957; timtamva@gmail.com

September 26, 2022

Mr. Paul Holt, III, paul.holt@jamescitycountyva.gov
Director of Community Development and Planning
Tom Leininger, Tom.Leininger@jamescitycountyva.gov
Senior Planner
James City County
Community Development
101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784
757 253 6671

Re: 1245 Stewarts Road AFD and Planned Subdivision
Parcel 0310100002
Ref. Case No. C-20-0115

Mr. Holt and Mr. Leininger:

As you may be aware we are new property owners for the property at 1245 Stewarts Road, a portion of which is in the Barns Swamp AFD. We have approval for subdividing the property in accordance with our case. We are working with LandTech Surveying at the moment as we are planning on submitting a subdivision plat shortly after the October 31, 2022 AFD expiration date.

We are also in receipt of Mr. Holts letter date August 17th regarding the AFD. We were unable to attend the public hearing noted in the letter on September 13, 2022 as we have been out of town. I spoke with Mr. Bruce Abbott this past weekend regarding the letter and AFD and he advised that I file a letter to withdraw from the AFD soon. Therefore, I visited your offices today to indicate and file our intent to not renew our property in the AFD due to the pending subdivision and ultimate transfer of five lots to each of our children.

I was stunned to be advised by staff that the Board has already approved extending the AFD with our property included. That is not and was not our intent.

Unfortunately, there is no way for us to interpret the August 17th letter in a way that suggests that we had just a few weeks or any deadline at all to act before the Board took action or that the Board would take action so soon, or that time was of the essence. We assumed that there would be Board action at the end of October. This appears to be a significant oversight in the way the letter is written and with a very short

Timothy A. Mills, P.E.
Joan E. Mills
306 The Maine West
Williamsburg, VA 23185
757 869 0957; timtamva@gmail.com

timeline to respond. This is the only correspondence along with a letter pertaining to the zoning lot size change that we have received regarding this property.

We are moving ahead with the subdivision as well as plans for house plan applications. Please let us know if any other action on our part is requested.

Thank you,

Tim

A handwritten signature in black ink, appearing to read "Timothy A. Mills". The signature is written in a cursive, flowing style with a horizontal line above the first part of the name.

Timothy A. Mills, P.E.

cc. Vernon Geddy, Esq.

**Community Development**

101-A Mounts Bay Road

P.O. Box 8784

Williamsburg, VA 23187-8784

P: 757-253-6671

F: 757-253-6822

community.development@jamescitycountyva.gov

jamescitycountyva.gov

Building Safety & Permits

757-253-6626

Neighborhood Development

757-253-6640

Planning

757-253-6685

Zoning

757-253-6671

0310100002

MILLS, TIMOTHY & JOAN

306 THE MAIN W

WILLIAMSBURG VA 231851448

August 17, 2022

RE: Agricultural and Forestal District (AFD) Renewals – Proposed Change to Conditions

Dear AFD Property Owner:

You currently have property in an AFD which is being reviewed by the James City County (JCC) Board of Supervisors to determine if the district should be terminated, modified, or continued for another term.

If continued, the District is proposed to be re-established for another four-year term, with the following amendment to Condition No. 3. (Deletions are shown in strikethrough. Additions are shown in italics.)

3. ~~That pursuant to Sections 15.2-4312 and 15.2-4313 of the Act, the Board of Supervisors requires that no parcel in the District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:~~ *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. ~~No land outside the Primary Service Area and within the District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District.~~ 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 SPUs for WCFs on properties in the District that are in accordance with the County's policies and Ordinances regulating such facilities.

August 17, 2022

Agricultural and Forestal District (AFD) Renewals – Proposed Change to Conditions

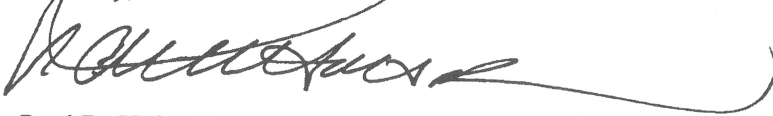
Page 2

The Board of Supervisors of James City County, Virginia, will hold a public hearing on this matter on Tuesday, September 13, 2022, at 5:00 p.m. in the County Government Center Board Room, 101-F Mounts Bay Road, Williamsburg, VA. All interested persons are invited to attend the hearing and may speak on the above matter. Land may be withdrawn from the AFD at the owner's discretion by filing a written notice with the local governing body at any time before it acts to continue, modify or terminate the district.

Persons requiring an accommodation in order to participate in the hearing should call 253-6685, Planning Division, at least three days prior to the meeting. Alternatively, you can comment on this matter by mailing, faxing, or emailing comments to the address listed above any time prior to the day of the public hearing.

Should you have questions, please feel free to call the Community Development office at 757-253-6671. Information related to the AFD Renewals is on file and available for review at the JCC Government Center, 101-A Mounts Bay Road, Williamsburg, Virginia. Office hours are Monday through Friday, 8 a.m. - 5 p.m., or at any time on the James City County PermitLink Portal: https://comdev.jamescitycountyva.gov/EnerGov_Prod/SelfService/#/home.

Sincerely,



Paul D. Holt, III, AICP, CNU-A, CFM
Director of Community Development and Planning

PDH/bk

Proposed Conditions for C-20-0115, 1245 Stewarts Road Shared Driveway Exception Request

1. **Lot Layout.** This exception to Section 19-73 of the Subdivision Ordinance shall be valid for the subdivision of property located at 1245 Stewarts Road and further identified as James City County Real Estate Tax Map No. 0310100002 (the “Property”). The layout of the property shall be substantially in accordance with the proposed lot layout titled “Boundary Survey Property of Jane B. Farmer, Betty B. Rady” prepared by Canada Land & Marine Surveying, and dated January 28, 2020 and revised December 22, 2020 (the “Master Plan”), with any deviations to be reviewed and approved by the Planning Director.
2. **Driveway Requirements.** Each new driveway as shown on the Master Plan shall be built to the following standards:
 - a. All driveways shall have a minimum separation of 300 feet between adjacent driveways.
 - b. All new driveways shall be built to the construction standards listed in Section 19-73(b) of the Subdivision Ordinance.
3. **Future Subdivision.** Any request to subdivide the consolidated Lot 6 (shown as Lots 6, 7, and 8) must gain approval from the DRC to determine if all new lots shall utilize the existing driveway off Stewarts Road (which would need to be brought into conformance with condition 2) or if any new driveways shall be permitted.

Recommended by the DRC by a vote of 3-0 on 2/17/21 and approved by the PC on 3/3/21 by a vote of 4-3.

DIASCUND CREEK RESERVOIR

REFERENCE - IN#07006572W, PB 54 PG 58/59

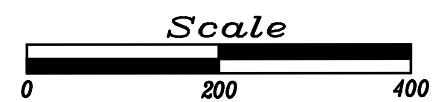
- LEGEND:**
- - DENOTES IRON PIN OR PIPE FOUND
 - ⊙ - DENOTES IRON PIN SET
 - P/L - DENOTES ADJOINING PROPERTY LINE
 - - DENOTES COMPUTED POINT
 - OHP- - DENOTES OVERHEAD POWER
 - ⊗ - DENOTES POINT IN BRANCH
 - ⊙ - DENOTES IRON POST FOUND
 - ⊗ - DENOTES POWER POLE
 - T - DENOTES TELEPHONE PEDASTAL
 - E - DENOTES ELECTRIC BOX

TAX PARCEL
0310100001
NOW OR FORMERLY
SD&SKI, LLC
IN#0500021685
PLAT IN#050004219
PB 54 PG 59

TAX PARCEL
0310100003
NOW OR FORMERLY
KATHERINE LEON HOCKADAY
DB 504 PG 184
PB 51 PG 58

TAX PARCEL
0330100001
NOW OR FORMERLY
RONALD LEONITUK
DB 247 PG 057

BOUNDARY SURVEY
PROPERTY OF
JANE B. FARMER
BETTY B. RADY
LOCATED ON STEWARTS ROAD & RACEFIELD DRIVE
STONEHOUSE DISTRICT
JAMES CITY COUNTY, VIRGINIA
SCALE 1" = 200' JANUARY 28, 2020
TOTAL AREA THIS SURVEY 52.15 Ac.



I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, IS CORRECT AND COMPLIES WITH THE MINIMUM STANDARDS AND PROCEDURES ESTABLISHED BY THE VIRGINIA DPOR STATE BOARD, AND IS BASED ON A CURRENT FIELD SURVEY.

THIS SURVEY HAS BEEN COMPLETED WITHOUT THE BENEFIT OF A TITLE SEARCH. THEREFORE, THIS SURVEY IS SUBJECT TO ANY EASEMENT OF RECORD, LAND TRANSACTIONS AND OTHER PERTINENT FACTS WHICH A TITLE SEARCH MIGHT DISCLOSE.

THE PROPERTY SHOWN ON THIS PLAT APPEARS TO BE LOCATED IN ZONE "X/A" AS SHOWN ON THE FLOOD INSURANCE RATE MAP, COMMUNITY-PANEL NUMBER 510201 0036 D & 510201 0028 D, DATED 12-16-2015.

**CANADA
LAND & MARINE
SURVEYING**

1212 S. Church Street Smithfield, VA 23430
PHONE : 757-357-2911

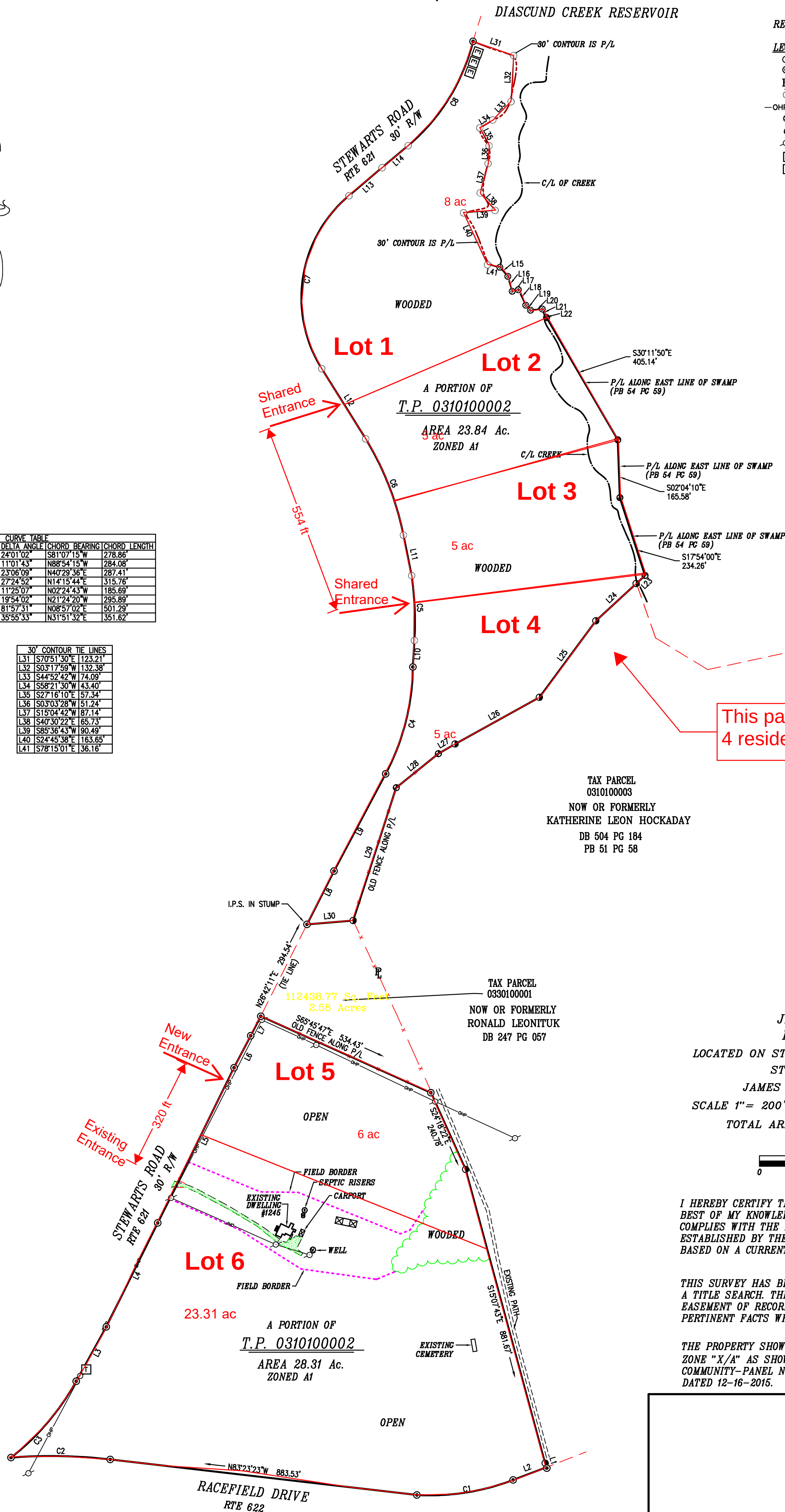
DRAWN BY: ECC

JOB #S20-13-JC

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	280.91'	670.15'	24°01'02"	S81°07'15"W	278.86'
C2	284.51'	1478.11'	11°01'43"	N88°54'15"W	284.08'
C3	289.36'	717.64'	23°06'09"	N40°29'36"E	287.41'
C4	318.80'	666.28'	27°24'52"	N14°15'44"E	315.76'
C5	186.00'	933.30'	11°25'07"	N02°24'43"W	185.69'
C6	297.38'	856.19'	19°54'02"	N21°24'20"W	295.89'
C7	546.73'	382.21'	81°57'31"	N08°57'02"E	501.29'
C8	357.44'	570.07'	35°55'33"	N31°51'32"E	351.62'

LINE	BEARING	DISTANCE
L1	S15°07'43"E	1.95'
L2	S69°06'45"W	101.40'
L3	N28°56'31"E	177.97'
L4	N26°18'27"E	332.08'
L5	N26°11'05"E	495.25'
L6	N27°28'13"E	103.19'
L7	N27°16'43"E	62.89'
L8	N26°51'58"E	171.25'
L9	N27°58'10"E	315.11'
L10	N03°17'50"E	76.17'
L11	N11°27'19"W	118.53'
L12	N32°01'44"W	237.32'
L13	N49°42'28"E	124.12'
L14	N49°49'19"E	97.82'
L15	S41°10'27"E	34.63'
L16	S16°13'12"E	44.45'
L17	N75°43'23"E	18.40'
L18	S25°21'13"E	49.04'
L19	S43°43'07"E	19.89'
L20	N84°18'14"E	33.81'
L21	S19°02'17"E	23.07'
L22	S60°23'37"E	5.35'
L23	S47°13'10"W	34.34'
L24	S47°13'10"W	157.24'
L25	S36°24'00"W	272.20'
L26	S61°01'20"W	275.79'
L27	S60°15'10"W	55.40'
L28	S51°04'40"W	155.35'
L29	S17°54'40"W	399.81'
L30	S85°17'43"W	132.57'

LINE	BEARING	DISTANCE
L31	S70°51'30"E	123.21'
L32	S03°17'59"W	132.38'
L33	S44°52'42"W	74.09'
L34	S58°21'30"W	43.40'
L35	S27°16'10"E	57.34'
L36	S03°03'28"W	51.24'
L37	S15°04'42"W	87.14'
L38	S40°30'22"E	65.73'
L39	S85°36'43"W	90.49'
L40	S24°45'38"E	163.65'
L41	S78°15'01"E	36.16'



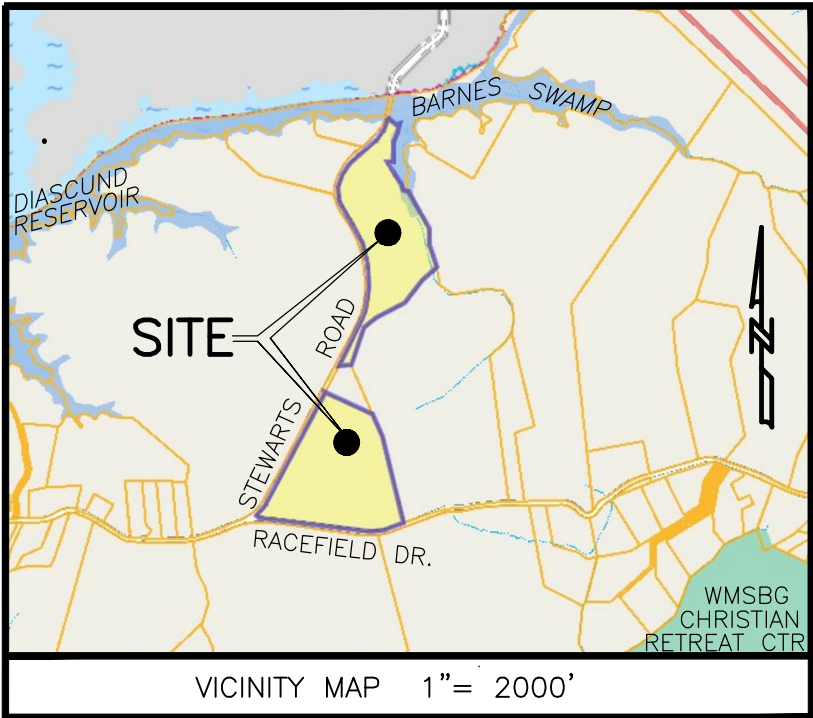
Sec. 19-73. - Shared driveway requirements for minor subdivisions.

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

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

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

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



PROPERTY INFORMATION

PARCEL ID: 0310100002
ADDRESS:
1245 STEWARTS ROAD
LANEXA, VIRGINIA 23089
ZONING DISTRICT: A1 GENERAL AGRICULTURE

BUILDING SETBACKS FOR A-1 ZONING:
FRONT - 75'
SIDE - 15'
REAR - 35'

AREA TABULATION

PARCEL	OLD AREA	NEW AREA
PARCEL ID: 0310100002	2,273,203 S.F. / 52.185± AC.	
NEW LOT 1 (AREA CALCULATED TO 30' CONTOUR)		295,045 S.F. / 6.773± AC.
NEW LOT 2		216,295 S.F. / 4.965 AC.
NEW LOT 3		249,427 S.F. / 5.726 AC.
NEW LOT 4		251,024 S.F. / 5.763 AC.
NEW LOT 5		1,203,178 S.F. / 27.621 AC.
AREA DEDICATED FOR PUBLIC USE		58,234 S.F. / 1.337 AC.

GENERAL NOTES

- THIS PLAT WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT REFLECT ALL ENCUMBRANCES, EASEMENTS AND SETBACKS THAT AFFECT THE SUBJECT PROPERTY.
- WETLANDS, IF ANY, WERE NOT LOCATED FOR THIS PLAT.
- THIS FIRM MADE NO ATTEMPT TO LOCATE UNDERGROUND UTILITIES.
- LOTS ARE SERVED BY PRIVATE WATER AND PRIVATE SEWER SYSTEMS.
- ALL NEW UTILITIES SHALL BE PLACED UNDERGROUND.
- THE PROPERTY SHOWN ON THIS PLAT DESIGNATED AS LOTS 1-3 APPEARS TO FALL IN FIRM ZONE "A" AND ZONE "X"; WITH LOT 5 FALLING IN ENTIRELY IN ZONE "X" ACCORDING TO FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 5102010036D & 5102010028D DATED DECEMBER 16, 2015.
- THIS PROPERTY FALL PARTIALLY WITHIN THE RPA. LIMITS OF RPA SHOWN IS BASED ON JCC GIS MAPPING AND HAS NOT BE VERIFIED.
- ANY EXISTING UNUSED WELLS SHALL BE ABANDONED IN ACCORDANCE WITH STATE PRIVATE WELL REGULATIONS AND JAMES CITY COUNTY CODE.
- MONUMENTS SHALL BE SET IN ACCORDANCE WITH SECTIONS 19-34 THROUGH 19-36 OF THE COUNTY CODE.
- THE VIRGINIA DEPARTMENT OF TRANSPORTATION, ITS AGENTS AND ASSIGNS ARE GRANTED THE EXCLUSIVE RIGHT TO MAINTAIN THE AREA DEDICATED FOR PUBLIC USE.
- PRIOR TO ANY FURTHER LAND DEVELOPMENT ACTIVITIES, A SITE SPECIFIC WETLAND DELINEATION AND RPA DETERMINATION SHALL BE PERFORMED IN ACCORDANCE WITH THE CHESAPEAKE BAY PRESERVATION SECTION OF THE JAMES CITY COUNTY CODE.
- WETLANDS AND LAND WITHIN RESOURCE PROTECTION AREAS SHALL REMAIN IN NATURAL UNDISTURBED STATE EXCEPT FOR THOSE ACTIVITIES PERMITTED BY SECTION 23-7 OF THE JAMES CITY COUNTY CODE.
- ON-SITE SEWAGE DISPOSAL SYSTEM INFORMATION AND SOILS INFORMATION SHOULD BE VERIFIED AND REEVALUATED BY THE HEALTH DEPARTMENT PRIOR TO ANY NEW CONSTRUCTION.
- ON-SITE SEWAGE TREATMENT SYSTEMS SHALL BE PUMPED OUT AT LEAST ONCE EVERY FIVE YEARS PER SECTION 23-9(B)(6) OF THE JAMES CITY COUNTY CODE.
- UNDERGROUND UTILITIES, IF ANY, HAVE NOT BEEN LOCATED FOR THIS PLAT. ONLY ABOVE GROUND UTILITIES ARE SHOWN

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 66°29'40" E	137.77'
L2	N 11°18'30" E	136.91'
L3	N 49°34'42" E	104.25'
L4	S 25°33'02" E	63.31'
L5	N 09°36'56" E	119.28'
L6	S 25°44'53" E	44.93'
L7	N 71°58'13" E	69.53'
L8	S 27°34'29" E	168.97'
L9	S 78°15'01" E	18.08'
L10	N 49°49'19" E	97.81'
L11	N 49°42'28" E	124.11'
L12	N 32°01'44" W	237.38'
L13	S 11°26'50" E	119.12'
L14	N 03°17'50" E	75.93'
L15	N 27°58'10" E	315.02'
L16	S 26°51'58" W	165.00'
L17	S 27°16'44" W	63.46'
L18	N 27°28'18" E	102.97'
L19	S 28°56'19" W	178.36'
L20	N 69°06'45" E	102.40'
L21	N 85°17'43" E	132.57'
L22	S 51°04'40" W	155.35'
L23	N 60°15'10" E	55.40'
L24	N 47°13'10" E	34.34'
L25	S 17°54'00" E	234.26'
L26	S 60°23'37" E	5.35'
L27	S 19°02'17" E	23.07'
L28	N 84°18'14" E	33.91'
L29	S 43°43'07" E	19.89'
L30	S 25°21'13" E	49.04'
L31	S 75°43'23" W	18.40'
L32	S 16°13'12" E	44.45'
L33	S 41°10'27" E	34.63'

SUBDIVISION
OF
PARCEL ID: 0310100002
BEING PROPERTY LOCATED AT
STEWARTS ROAD & RACEFIELD DRIVE
STONEHOUSE DISTRICT JAMES CITY COUNTY VIRGINIA
DATE: 10/11/2022 JOB # 22-296

LandTech
Resources, Inc.
Engineering & Surveying Consultants
205 Bulifants Blvd., Suite E, Williamsburg, Virginia 23188
Phone: (757) 565-1677 Fax: (757) 565-0782
web: landtechresources.com
SHEET 1 OF 3

JCC-S-xxxx -xxxx

VDH SUBDIVISION APPROVAL STATEMENT

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

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	TANGENT	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	580.07'	362.09'	187.16'	356.24'	S 31°56'21" W	35°45'55"
C2	372.21'	532.42'	323.32'	488.18'	N 08°57'02" E	81°57'31"
C3	866.19'	300.91'	151.99'	299.40'	N 21°24'27" W	19°54'16"
C4	943.30'	187.99'	94.31'	187.68'	N 02°24'43" W	11°25'07"
C5	676.28'	323.34'	164.82'	320.27'	S 14°16'21" W	27°23'39"
C6	704.85'	261.84'	132.45'	260.34'	S 39°12'46" W	21°17'04"
C7	1488.11'	254.77'	127.70'	254.46'	S 88°17'40" E	9°48'34"
C8	660.15'	276.72'	140.42'	274.70'	N 81°07'15" E	24°01'02"

OWNERS CERTIFICATE PARCEL ID: 3030100018:

THE SUBDIVISION OF LAND SHOWN ON THIS PLAT IS WITH FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND OR TRUSTEES.

TIMOTHY MILLS DATE

JOAN MILLS DATE

CERTIFICATE OF NOTARIZATION

COMMONWEALTH OF VIRGINIA

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

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

NOTARY REGISTRATION NO. _____

CERTIFICATE OF SOURCE OF TITLE

THIS IS TO CERTIFY THAT THE LAND EMBRACED IN THIS SUBDIVISION STANDS IN THE NAME OF TIMOTHY AND JOAN MILLS AND WAS ACQUIRED FROM: JANE B. FARMER AND BETTY B. RADY BY THAT CERTAIN DEED DATED APRIL 2, 2021 AND RECORDED APRIL 9, 2021 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF JAMES CITY COUNTY, VIRGINIA IN INSTRUMENT #210006992.

CERTIFICATE OF APPROVAL

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

DATE VA DEPARTMENT OF TRANSPORTATION

DATE VA DEPARTMENT OF HEALTH

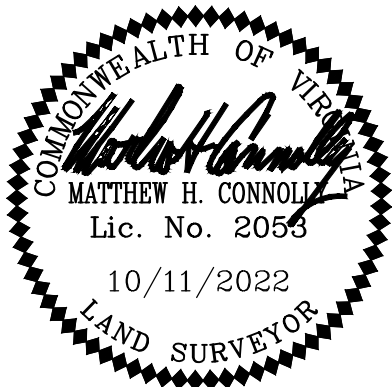
DATE SUBDIVISION AGENT OF JAMES CITY COUNTY

ENGINEERS OR SURVEYORS CERTIFICATE

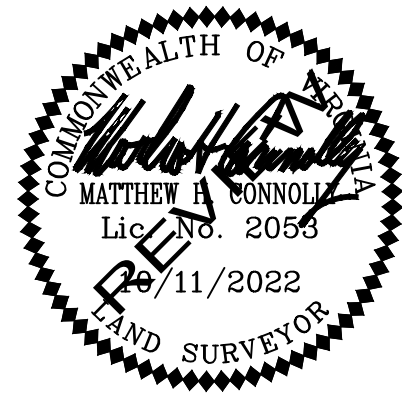
I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE OR BELIEF, THIS PLAT COMPLIES WITH ALL OF THE REQUIREMENTS OF THE BOARD OF SUPERVISORS AND ORDINANCES OF THE COUNTY OF JAMES CITY, VIRGINIA, REGARDING THE PLATTING OF SUBDIVISIONS WITHIN THE COUNTY.

MATTHEW H. CONNOLLY, E.S.

10/11/2022
DATE



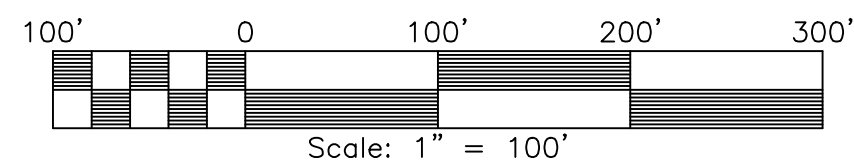
SUBDIVISION
OF
PARCEL ID: 0310100002
BEING PROPERTY LOCATED AT
STEWARTS ROAD & RACEFIELD DRIVE
STONEHOUSE DISTRICT JAMES CITY COUNTY VIRGINIA
DATE: 10/11/2022 JOB # 22-296



LandTech
Resources, Inc.
Engineering & Surveying Consultants

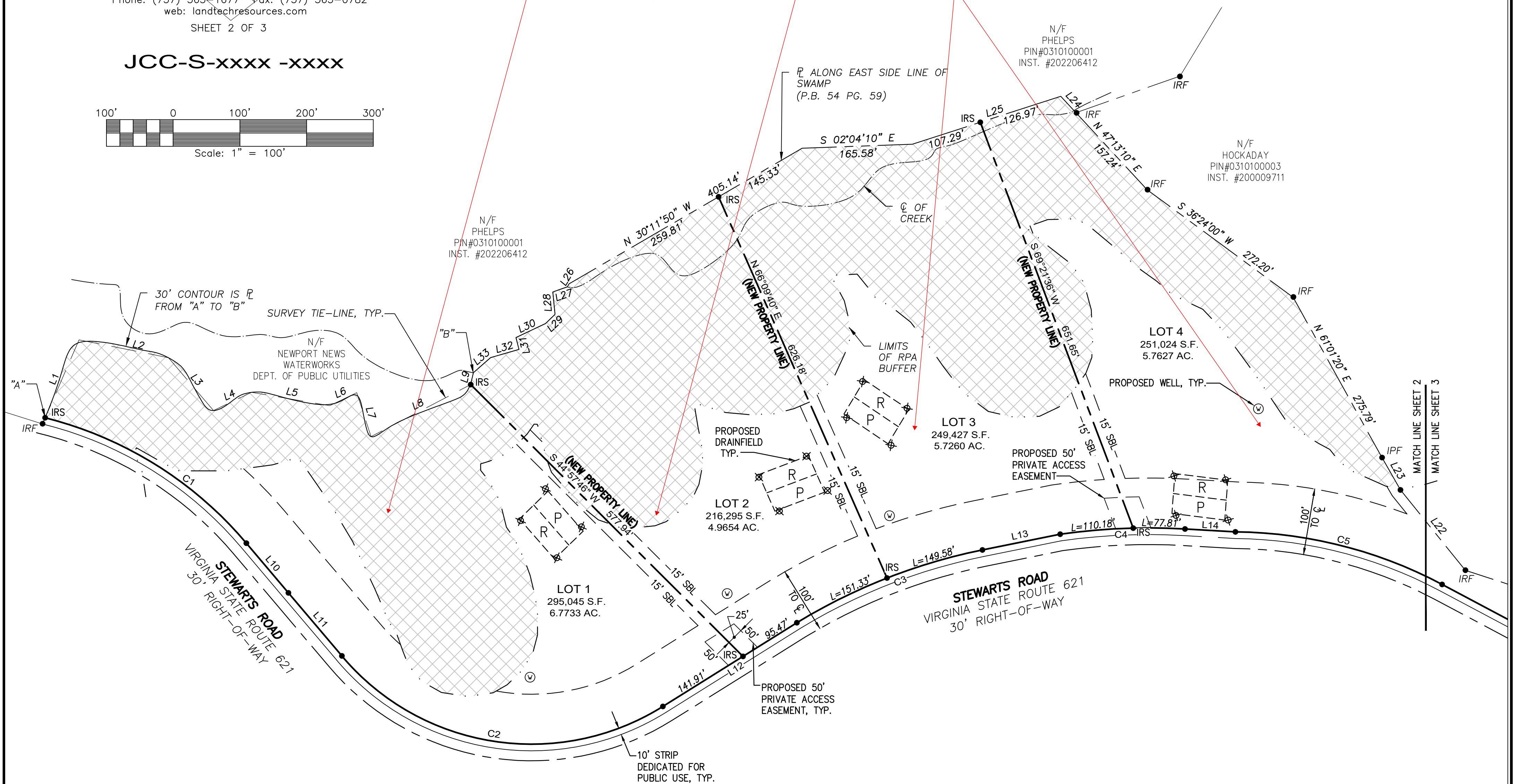
205 Bulfants Blvd., Suite E, Williamsburg, Virginia 23188
Phone: (757) 565-1677 Fax: (757) 565-0782
web: landtechresources.com
SHEET 2 OF 3

JCC-S-xxxx -xxxx



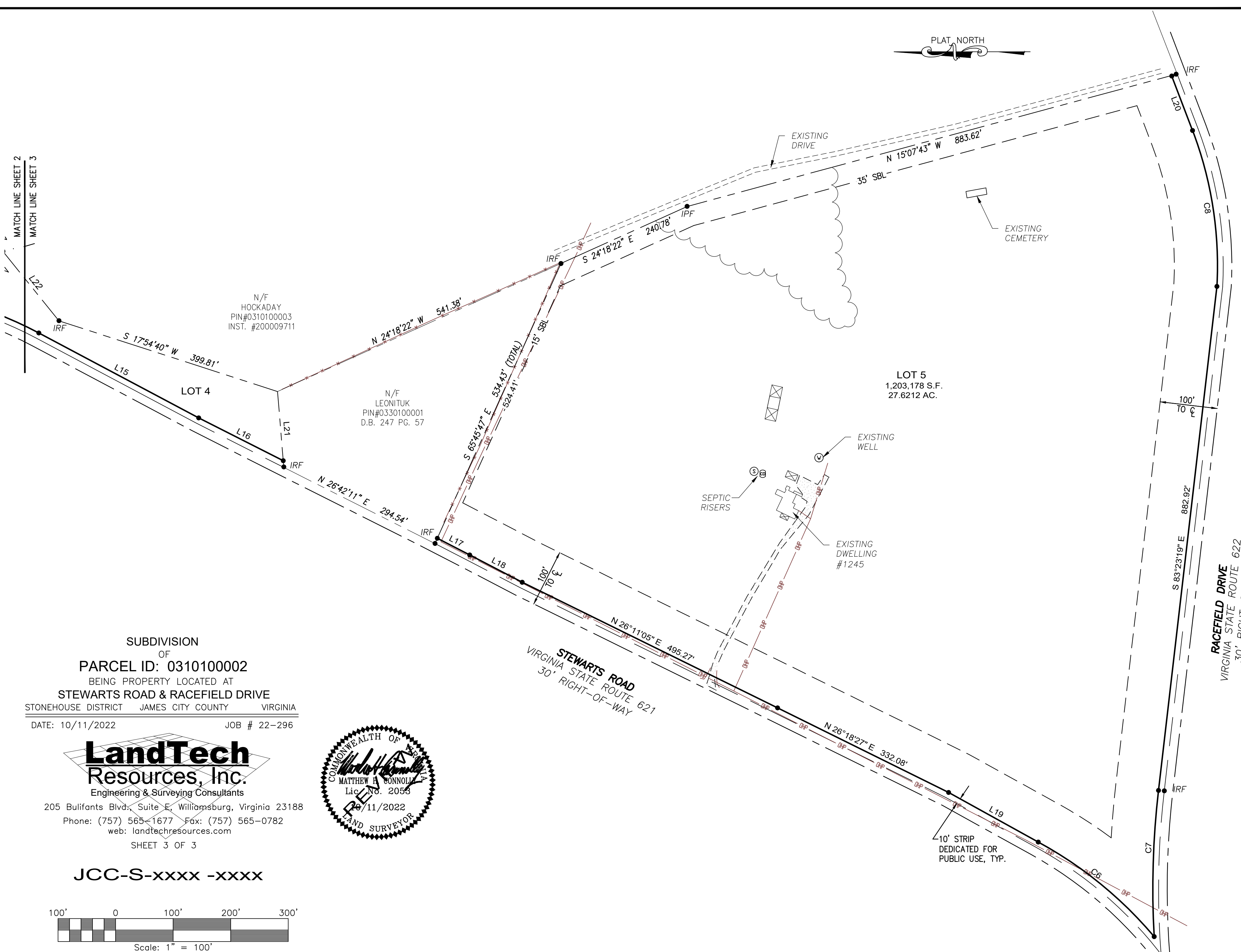
PLAT NORTH

Currently Inside the AFD



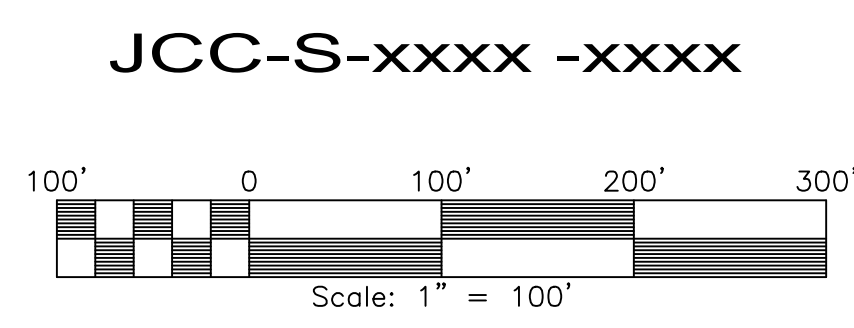
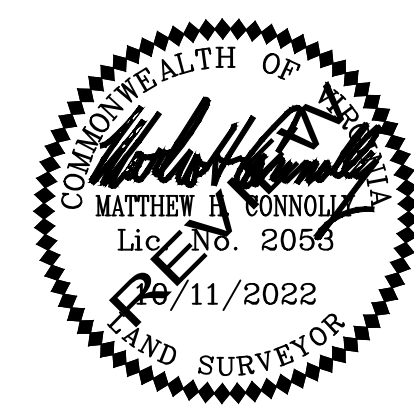


MATCH LINE SHEET 2
MATCH LINE SHEET 3



SUBDIVISION
OF
PARCEL ID: 0310100002
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SHEET 3 OF 3



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

AFD-22-0019. 1245 Stewarts Road Barnes Swamp AFD Withdrawal

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

Mr. Wysong stated that Mr. Tim Mills has requested to withdraw 23.84 acres of their 52.15-acre parcel from the AFD to allow for a minor subdivision, which has an approved conceptual master plan and driveway layout from the Planning Commission. Mr. Wysong further stated that the subdivision plat is currently in review.

Mr. Wysong stated that the property is zoned A-1, General Agricultural and is outside the Primary Service Area (PSA). Mr. Wysong further stated that the proposed withdrawal would not cause damage or disruption to the existing District. Mr. Wysong further stated that the request does not fully meet three of the four criteria set forth in the Board of Supervisors' policy since: 1) it is not a request caused by a change in circumstances that could not have been anticipated at the time the application was made for inclusion in the District; 2) does not serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD; 3) is not in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan.

Mr. Wysong stated that staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Mr. Wysong stated that, therefore, staff recommends that the AFD Advisory Committee not recommend approval of this withdrawal application.

Mr. Peyton Harcum inquired about the process for the subdivision approval.

Mr. Abbott stated that Mr. Mills had been advised that the property would need to be removed from the AFD prior to receiving subdivision plat approval. Mr. Abbott noted that Mr. Mills had the opportunity to request the withdrawal during the AFD renewal process.

Mr. Wysong noted that property owners were notified by letter of the opportunity to request withdrawal of property prior to the Board of Supervisors action to renew the District.

Mr. Will Harcum commented that staff should have advised the applicant about the requirement to withdraw the property when the subdivision application was submitted.

Mr. Wysong stated that staff did advise Mr. Mills of that requirement.

Mr. Mills addressed the Committee on the history of the project, the unusual configuration of the parcel, and his interpretation of the timeline and process for notifying the County of the desire to withdraw the property.

Mr. Taylor inquired about the potential to do a family subdivision.

Mr. Mills noted that he would have to own the property for five years to qualify for a family subdivision.

Mr. Bradshaw clarified that a portion of the parcel is not in the AFD and that removing the timber portion of the acreage from the AFD would change land use valuation with some roll back penalties. Mr. Bradshaw stated that he would not object to the withdrawal.

The Committee discussed the timing of the letter requesting withdrawal. It was noted that the letter was submitted after the Board of Supervisors' action renewing the district but before the District expiration date.

Mr. Taylor noted that it appears that the layout has preliminary approval and the AFD renewal is a final formality to allow approval of the subdivision plat.

The Committee discussed the requirements for subdividing parcels in the AFD.

Mr. Abbott made a motion to recommend approval of the withdrawal.

Mr. Taylor seconded the motion.

On a voice vote, the Committee voted to recommend approval of the withdrawal.

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

AFD-22-0019. 1245 Stewarts Road Barnes Swamp AFD Withdrawal

Mr. Thomas Wysong stated that Mr. Tim Mills has requested to withdraw 23.84 acres of their 52.15-acre parcel from the Barnes Swamp Agricultural and Forestal District (AFD). Mr. Wysong stated that the parcel is located at 1245 Stewarts Road, is zoned A-1, General Agricultural, is designated Rural Lands on the 2045 Comprehensive Plan Land Use Map and is outside the PSA.

Mr. Wysong stated that in 2022, the County notified property owners multiple times of the impending renewal period for the AFDs and the need for property owners to submit a written request should they wish to withdraw property from the AFD. Mr. Wysong stated that letters were mailed in May and August informing each property owner within an AFD that a written request to withdraw property needed to be submitted prior to the September Board of Supervisors meeting. Mr. Wysong stated that no request was submitted by the applicant prior to the September Board of Supervisors meeting which means that this request was received after the Board acted on the AFD renewals and is outside the renewal period.

Mr. Wysong further stated that withdrawal requests made outside the renewal period must meet the criteria set forth by the Board of Supervisors Policy Governing the Withdrawal of Property from AFDs. Mr. Wysong stated that those criteria are:

- 1) It is caused by a change in circumstances that could not have been anticipated at the time the application was made for inclusion in the District. Mr. Wysong stated that this is historically interpreted to be the death of a property owner. Mr. Wysong stated that, thankfully, this is not the case.
- 2) It serves a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD. Mr. Wysong stated that staff interprets this as the construction of a public facility. Mr. Wysong noted that the applicant is proposing a minor residential subdivision which would not serve a public purpose.
- 3) Would not cause disruption to the existing District. Mr. Wysong noted that the proposed withdrawal would not negatively impact the district.
- 4) Is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan. Mr. Wysong noted that the proposal is for the development of a minor subdivision and the Comprehensive Plan discourages residential development in rural lands.

Mr. Wysong stated that at its January 19, 2023, meeting, the AFD Advisory Committee voted 7-0 to recommend approval of the withdrawal request to the Planning Commission and the Board of Supervisors.

Mr. Wysong further stated that staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Mr. Wysong stated that staff recommends that the Planning Commission recommend denial of this request to the Board of Supervisors.

Mr. Polster inquired if there is a future plan to further subdivide Lot 5.

Mr. Wysong stated that the current plat does not show that lot and he would defer to the applicant.

Mr. Krapf inquired what approval a Conceptual Plan grants and the timeline for the applicant to take action.

Mr. Wysong stated that is an option for someone to present a plan for a property to staff and receive feedback on whether that use could potentially work and what steps would be necessary to go forward. Mr. Wysong stated that staff does not provide approval letters, but rather comment letters with recommendations. Mr. Wysong further stated that there is no deadline for moving forward.

Mr. Polster inquired about the shared driveway exception.

Mr. Wysong stated that the applicant did bring the exception request to the DRC and that the DRC recommendation was confirmed by the Planning Commission in 2021.

Mr. Haldeman inquired what address is used for mailing the AFD Property Owner Notifications.

Mr. Holt stated that the Real Estate Assessment database includes a mailing address for the property owner which is what staff uses to mail out notifications.

Mr. O'Connor opened the Public Hearing.

Timothy Mills, 306, The Maine, Applicant, addressed the Commission in favor of the application.

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

Mr. Polster inquired about the Master Plan for the property.

Mr. Mills noted that the minor subdivision will be developed in two sections. Mr. Mills provided the Commission with a rendering of the parcels.

Mr. Krapf inquired if there would be another structure on Lot 5.

Mr. Mills stated that there would only be one dwelling; however, the barn will be replaced with a newer structure.

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. Rogers stated that he does find that the August 17, 2022, letter is not totally clear about the deadline for action.

Mr. Holt stated that the specific verbiage regarding withdrawal of property and all of the hearing dates were specified in the initial letter sent out in May 2022. Mr. Holt noted that the August letter was sent because staff determined a need to amend the terms of the Districts to be consistent with changes in State Code.

Mr. Krapf stated that if he had a pending project and received a letter stating that the Board of Supervisors would meet on a certain date, he would have at least called to inquire if he needed to do anything related to this hearing. Mr. Krapf stated that his concern is, once again, setting a precedent by making an exception. Mr. Krapf stated that although he is sympathetic to the dilemma, he finds that this does not meet three of the criteria set by the Board of Supervisors for withdrawal of property from an AFD.

Mr. Polster stated that there is judgement involved in considering all the circumstances. Mr. Polster noted that the applicant did all the due diligence prior to acquiring the property. Mr. Polster stated that the Commission should consider the application in light of what is best for the County, the community, and the applicant. Mr. Polster stated that he intends to support the application.

Mr. O'Connor stated that he remains concerned about approving withdrawals because AFDs are a major tool to control growth outside the PSA. Mr. O'Connor noted that he was opposed to the shared driveway exception when it came before the DRC. Mr. O'Connor noted that this is a growth issue to him and that the AFDs are useful in preserving rural lands.

Mr. Polster made a motion to recommend approval of the application.

On a roll call vote, motion did not pass. (2-5)

AFD Dates/Timeline of Events:

March 10, 2022: News Release on AFD Renewals Issued

- Release highlighted “Existing property owners enrolled in an AFD will be notified of the renewal and may modify, renew, or terminate membership in the district without penalty.”

May 25, 2022: 1st AFD Property Owner Letters Mailed

- This letter notified all owners that had land within an AFD and spelled out the process to either withdraw, add property to AFD or remain in AFD, with dates of meeting and timeline.
- Quote from letter: “During this review period, land within the district may be withdrawn at the owner’s discretion by filing a written notice at any time before the governing body acts to continue, modify or terminate the district. Please send any written withdrawal requests to the address in this letterhead. If you do not file a written request to withdraw, the Board of Supervisors will assume that you wish to continue and remain in the AFD.”

July 21, 2022: AFD Advisory Committee Meeting

- The Committee voted 6-0 to recommend the continuation of the AFDs to the Planning Commission and Board of Supervisors.

August 3, 2022: Planning Commission Meeting

- The Commission voted 7-0 for the continuation of the AFDs to the Board of Supervisors.

August 17, 2022: 2nd AFD Property Owner Letters Mailed

- This letter notified all owners that had land within an AFD indicated minor changes to the conditions were being made and still mentioned owners could withdraw prior to the September 13th Public hearing at the BOS.
- Quote from letter: “Land may be withdrawn from the AFD at the owner’s discretion by filing a written notice with the local governing body at any time before it acts to continue, modify or terminate the district.”

September 13, 2022: Board of Supervisor Public Hearing Meeting & Renewal Adoption Date

- All 12 AFDs (including the Barnes Swamp) were continued for another four-year term. This is the official date the local governing body acted on the districts.

September 26, 2022: Staff received first Tim Mills Letter/Notice wishing to withdraw

September 28, 2022: Staff met with Mr. Mills

- Staff informed Mr. Mills that he missed the AFD withdrawal during the renewal and would need to apply for a withdraw per BOS adopted AFD withdrawal policy.

November 18, 2022: Staff received second Tim Mills Letter/Notice

- Staff received this letter which indicated Mr. Mills wishing to formally withdraw from the AFD and go through the AFD withdrawal process through the BOS adopted AFD withdrawal policy.

ITEM SUMMARY

DATE: 3/14/2023

TO: The Board of Supervisors

FROM: John Risinger, Senior Planner

SUBJECT: AFD-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	1. Ordinance	Ordinance
☐	2. Supplemental Materials Provided by the Applicant	Backup Material
☐	3. Staff Report from the December 13, 2022, Board of Supervisors Meeting	Backup Material
☐	4. Location Map	Backup Material
☐	5. Hill Pleasant Farm AFD 2022 Renewal Ordinance and Staff Report	Backup Material
☐	6. Policy Governing the Withdrawals of Property from AFDs	Backup Material
☐	7. AFD Withdrawal Request Letter	Backup Material
☐	8. Letter from Property Owner	Backup Material
☐	9. Map Showing Extent of Withdrawal Request	Backup Material
☐	10. Proposed Solar Farm Master Plan	Backup Material
☐	11. Approved Minutes of the October 20, 2022, AFD Advisory Committee Meeting	Backup Material
☐	12. Approved Minutes of the November 2, 2022, Planning Commission Meeting	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	3/1/2023 - 11:38 AM
Development Management	Holt, Paul	Approved	3/1/2023 - 11:38 AM
Publication Management	Daniel, Martha	Approved	3/1/2023 - 11:47 AM
Legal Review	Kinsman, Adam	Approved	3/1/2023 - 4:11 PM
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 8:29 AM
Board Secretary	Purse, Jason	Approved	3/7/2023 - 4:41 PM
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 4:43 PM

**AGRICULTURAL AND FORESTAL DISTRICT-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal
Staff Report for the March 14, 2023, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. Buzz Becker, Pivot Energy, Inc.

Landowners: D & S Chong, LLC

Proposal: Withdrawal of ± 10 acres of the 105.82 total acre parcel from the Hill Pleasant Farm Agricultural and Forestal District (AFD)

Location: 7294 Richmond Road

Tax Map/Parcel No. 2410100004

Parcel Size: ± 105.82 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Economic Opportunity (EO)

Primary Service Area: Outside

Staff Contact: John Risinger, Senior Planner

PUBLIC HEARING DATES

AFD Advisory Committee: October 20, 2022, 4:00 p.m.

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

Board of Supervisors: December 13, 2022, 5:00 p.m. (Postponed)
February 14, 2023, 5:00 p.m. (Postponed)
March 14, 2023, 5:00 p.m.

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

The applicant has provided supplemental materials (Attachment No. 2) which includes the applicant's timeline pertaining to the AFD withdrawal and memorandums from the Virginia Department of Environmental Quality.

STAFF RECOMMENDATION

The adopted Board of Supervisors' policy governing withdrawal of property from AFDs states that "it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts." This withdrawal request was submitted approximately one month after the most recent renewal of the Hill Pleasant Farm AFD on September 13, 2022. Additionally, staff finds that the use of this site would not serve a public purpose. Staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Therefore, staff recommends that the Board of Supervisors deny this withdrawal application.

JR/ap
AFD22-17_7294RichRdWdl

Attachments:

1. Ordinance
2. Supplemental Materials Provided by the Applicant
3. Staff Report from the December 13, 2022, Board of Supervisors Meeting
4. Location Map
5. Hill Pleasant Farm AFD 2022 Renewal Ordinance and Staff Report
6. Policy Governing the Withdrawals of Property from AFDs

**AGRICULTURAL AND FORESTAL DISTRICT-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal
Staff Report for the March 14, 2023, Board of Supervisors Public Hearing**

7. AFD Withdrawal Request Letter
8. Letter from Property Owner
9. Map Showing Extent of Withdrawal Request
10. Proposed Solar Farm Master Plan
11. Approved Minutes of the October 20, 2022, AFD Advisory Committee Meeting
12. Approved Minutes of the November 2, 2022, Planning Commission Meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-22-0017.

AMENDMENT OF ORDINANCE NO. 165A-14:

7294 RICHMOND ROAD HILL PLEASANT FARM AFD WITHDRAWAL

- WHEREAS, a request has been filed with the Board of Supervisors of James City County, Virginia (the "Board"), to withdraw $\pm$ 10 acres of land as shown on a plan titled "AFD Exhibit" dated September 2022, from the Hill Pleasant Farm Agricultural and Forestal District (AFD), which is currently $\pm$ 304.34 acres (the "Application"); and
- WHEREAS, the $\pm$ 10 acres subject to the Application is a portion of the $\pm$ 105.82-acre property owned by D & S Chong, LLC, located at 7294 Richmond Road and identified as James City County Real Estate Tax Map Parcel No. 2410100004; and
- WHEREAS, at its October 20, 2022, meeting, the Agricultural and Forestal District 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 November 2, 2022, meeting, pursuant to Section 15.2-4314 of the Code of Virginia, 1950, as amended (the "Virginia Code"), after which the Commission voted 5-2 to recommend approval of the Application; and
- WHEREAS, pursuant to Sections 15.2-1427 and 15.2-4309 of the Virginia Code, a public hearing was advertised and held by the Board; and
- WHEREAS, the Board finds that the withdrawal request meets the criteria set forth in the Board's Withdrawal Policy for Agricultural and Forestal Districts, dated September 28, 2010.
- NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Ordinance No. 165A-14 is hereby amended to remove $\pm$ 10 acres owned by D & S Chong, LLC, as referenced herein, from the Hill Pleasant Farm Agricultural and Forestal District.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

ICENHOUR
MCGLENNON
LARSON
SADLER
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 14th day of March, 2023.

AFD22-17_7294RichRdWD-ord

February 21, 2023

James City County
Paul Holt, Director of Community Development
101 Mounts Bay Road
Building A
Williamsburg, VA 23187

Dear Mr. Holt,

Please let this letter and subsequent exhibits serve as the supplementary materials for SUP-22-0015 and AFD-22-0017. The respective materials are summarized below.

- 1) Spring 2022 Memos from DEQ that show the regulatory guidance that informed the system design and permit application. This is directly related to the premise of the AFD withdrawal and is expounded upon below.
- 2) Further details about the safe CSX crossing at Peach St. These include the commercial entry route from signalized turn at Norge Ln, crossing procedures as identified from CDL Handbook, locations of flaggers and scouts to ensure clearance for crossing, turn radius analysis along entry route of largest proposed vehicle (lowboy), and Federal Railway Administration data on daily train traffic at location.
- 3) More information about the positive environmental health impacts of a pollinator smart solar project design and additional protections to ensure the ongoing environmental safety throughout the life of the project.

Sincerely,

Buzz Becker | Director, Project Development
bbecker@pivotenergy.net
918.346.9542

Exhibit 1 – DEQ Memos

Attached are the two DEQ memos that serve as the regulatory guidance which informed the stormwater design for our proposed site.

As you will see in the initial memo (dated March 29, 2022), these are the provisions that inform the county staff's proposed stormwater conditions, as first communicated to the applicant on August 29, 2022. What these proposed conditions fail to consider is DEQ's immediate implementation follow up memo on April 14, 2022 that states:

"The Department recognizes the contractual, financial, and other obligations with many utility-scale or community solar projects currently in design—especially for those in advanced stages of design or implementation. Therefore, any solar project that does not obtain an interconnection approval by a regional transmission organization or electric utility by December 31, 2024 must comply with the requirements detailed in the Department's March 29, 2022, memorandum, which will be further clarified in an agency guidance document."

Given that our project's initial interconnection approval was secured in August 2022 and the secondary (and final) interconnection approval is anticipated in Q2 of 2023, it is clear by the DEQ's own implementation guidance that our project would be evaluated under the previous stormwater provisions. This detail was communicated to county staff during the applicant's development roundtable on April 25th.

Our SUP packet, AFD calculations, and system design continued under this understanding through May and June with the original AFD withdrawal request submitted on May 10th and the initial digital submission of the SUP packet on June 21st. These were finalized on July 25th (SUP Application Completeness) and July 27th (AFD withdrawal) respectively while the new proposed stormwater conditions—markedly different from the approved stormwater conditions for Racefield Solar in March 2022—were not provided to the applicant until August 29, 2022.

What is clear throughout this timeline is that the property owner and SUP applicant could have easily withdrawn the entire parcel from the AFD during the enrollment window if there was any concern about development footprint mismatching AFD acreage. The partial withdrawal showed a good faith effort to minimize impact to the AFD while still pursuing a development. Furthermore, the applicant continued to work with county staff to meet the proposed stormwater provisions even though DEQ's own policy implementation guidance indicates that the project should not be subjected to the new rules. Because these proposed conditions were not provided to the applicant until after the closing of the AFD enrollment window and after the SUP packet completeness determination, this fully meets the "Unanticipated Change in Circumstances" criteria within the AFD policy.

As a further act of good faith, should the Board approve the AFD withdrawal request and associated SUP, the next item you will receive from the landowner/applicant is a request to submit additional acres from the neighboring property to the Hill Pleasant Farm AFD to offset this withdrawal. Hopefully this makes the intent of respecting the AFD clear in the eyes of the Board.



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

www.deq.virginia.gov

Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: All Members of the Stormwater Management Development/Design Community,
All Local Virginia Stormwater Management Program Administrators

From: Michael S. Rolband, PE, PWD, PWS Emeritus
Director, Department of Environmental Quality

A handwritten signature in blue ink, appearing to read "M. Rolband".

Date: March 29, 2022

Subject: Post-development Stormwater Management at Solar Projects

Dear All:

To date, the Department of Environmental Quality (DEQ) has not required solar projects that are subject to Virginia Stormwater Management Program (VSMP) requirements to account for the imperviousness of the solar panels when applying the Commonwealth's post-development stormwater management technical criteria. When performing water quantity (rainfall-runoff) calculations, DEQ's practice has been to consider only the solar panel support posts and beams as impervious areas. However, this approach has the potential to underestimate the post-development runoff volume or runoff rate from solar panel arrays, which in turn has the potential to negatively impact downstream waterways or properties. Additionally, the Environmental Protection Agency's (EPA) Chesapeake Bay Program considers the solar panels to be impervious areas for the purposes of performing water quality modeling/calculations for the Chesapeake Bay Total Maximum Daily Load.

To safeguard the protection of downstream waterways and properties as well as ensure consistency with EPA's Chesapeake Bay Program, DEQ will be implementing a stronger post-development stormwater management policy for solar projects that are subject to VSMP requirements. The new policy will go into effect **immediately** (i.e., the policy applies to all stormwater management plans not approved prior to the date of this memorandum regardless of the stage of design), and is as follows:

1. **Water Quantity.** Solar panels are to be considered unconnected impervious areas when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulation, 9VAC25-870-72. Current information regarding the application of unconnected impervious areas can be found in Chapter 9 (Hydrologic Soil-Cover Complexes), Part 630 (Hydrology) of the Natural Resource Conservation Service's National Engineering Handbook.
2. **Water Quality.** Solar panels are to be considered impervious areas when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM). To account for the disconnection of the solar panels from the overall drainage system, the area of the solar panels may be entered into the applicable "Simple Disconnection" stormwater best management practices section of the VRRM compliance spreadsheet (i.e., 2a – Simple Disconnection to A/B Soils or 2b – Simple Disconnection to C/D Soils).
3. **Alternative Methods.** This policy does not prohibit any alternative method. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with the appropriate laws and regulations.

DEQ staff are currently preparing an agency guidance document to provide additional clarity on the implementation of this memorandum. Until the guidance document is finalized, please feel free to contact Drew Hammond (Andrew.Hammond@deq.virginia.gov or 804-698-4101) or Erin Belt (Erin.Belt@deq.virginia.gov or 757-374-4621) should you have any questions.



Commonwealth of Virginia

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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: All Members of the Stormwater Management Development/Design Community
All Local Virginia Stormwater Management Program Administrators

From: Mike Rolband
Director, Department of Environmental Quality

A handwritten signature in blue ink, appearing to read "M. Rolband".

Date: April 14, 2022

Re: Implementation of the March 29 Memorandum regarding Post-Development
Stormwater Management for Solar Projects

Background

This memorandum provides additional details regarding the implementation of the Department of Environmental Quality (DEQ or Department) requirement that the surface area of solar panels are subject to the Virginia Stormwater Management Program (VSMP) and are considered impervious surfaces when applying the Commonwealth's post-development stormwater technical criteria to solar projects.

The Department's March 29, 2022, memorandum provided clarification to the regulated community that existing regulations for solar projects regarding impervious surfaces includes the solar panels as well as the base posts. This memorandum applies to *water quantity* when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulation, 9VAC25-870-72. This memorandum also applies to *water quality* when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM).

The prior memorandum noted that this does not prohibit any alternative method that might achieve the regulatory aims of DEQ and federal regulations. Please refer to the Department's March 29, 2022, memorandum in its entirety for full context.

Implementation

The Department recognizes the contractual, financial, and other obligations with many utility-scale or community solar projects currently in design—especially for those in advanced stages of

design or implementation. Therefore, any solar project that does not obtain an interconnection approval by a regional transmission organization or electric utility by December 31, 2024 must comply with the requirements detailed in the Department's March 29, 2022, memorandum, which will be further clarified in an agency guidance document.

After the agency guidance document is approved, solar projects submitted to DEQ and accepted for evaluation or those projects completed prior to March 29, 2022, may submit adjusted design criteria for an expedited review process from the DEQ to certify compliance with state and federal regulations for no additional fee (when DEQ is the VSMP Authority).

Additionally, DEQ recognizes that the primary issue related to the VSMP is the length of time required to receive a permit. The Department is committed to a significant reduction of the time required to receive a permit, and DEQ will develop details for further implementation of federal and state regulations and an expedited review process with the stakeholder community in conjunction with the guidance document process and future additional actions. The Department reserves the right, following additional conversations with stakeholders and an evaluation of all relevant factors, to update guidance documents and relevant regulations to achieve the public policy goals of the Commonwealth.

Current Requirements

DEQ reminds all parties that:

1. This memorandum does not relieve any party from compliance with existing local, state, or federal laws and regulations—including 9VAC25-840-40 Minimum Standards,¹ and in particular Minimum Standard 19, which requires that: “Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff ...”, (ii) Virginia’s Phase III Watershed Implementation Plan goals on the Chesapeake Bay TMDL; and (iii) other local, state, or federal water quality criteria standards.
2. Early compliance with the March 29, 2022, memorandum to the extent practicable (as determined by the applicant) is encouraged as the DEQ expedites plan reviews given current staff and budget constraints.

As noted in the Department’s March 29, 2022, memorandum, DEQ staff are currently preparing an agency guidance document pursuant to Va. Code § 2.2-4101 and § 2.2-4007.2. The guidance document process provides interested parties an opportunity to comment prior to the start of public comment published in the Virginia Register. Please feel free to contact Drew Hammond (Andrew.Hammond@deq.virginia.gov; 804-698-4101) or Erin Belt (Erin.Belt@deq.virginia.gov; 757-374-4621) should you have questions.

¹ Statutory authority: Va. Code § 62.1-44.15:52. Former 4VAC50-30-40 derived from VR625-02-00 § 4; eff. September 13, 1990; amended, Virginia Register Volume 11, Issue 11, eff. March 22, 1995; Volume 29, Issue 4, eff. November 21, 2012; amended and renumbered, Virginia Register Volume 30, Issue 2, eff. October 23 2013; amended, Virginia Register Volume 31, Issue 24, eff. August 26, 2015; Volume 33, Issue 4, eff. November 17, 2016.

Exhibit 2 – CSX Crossing at Peach St

In providing more details about the safety of the proposed CSX crossing at Peach St, there were two key lines of effort: a) determine the scope of train traffic at Peach St and b) outline the detailed procedures and controls to ensure safe operations during construction.

To identify daily estimates of train traffic during the potential hours of construction delivery, we submitted for a DOT Federal Railroad Administration Crossing Inventory Form. This report is provided in the following pages. As you can see from the outline, the DOT estimates 4 trains per day through the crossing from 6am to 6pm. In discussing with neighboring abutters of both the railroad and the applicant property, we believe 8 is a more conservative estimate. Based on published Amtrak itineraries, 3 of the estimated 8 are Amtrak trains with known arrival/departure times. To deconflict these 3 trains, we propose a condition that deliveries may not cross Peach St 20 minutes before or after the scheduled departure or arrival of an Amtrak train to Williamsburg Transportation Center.

For delivery trucks to navigate to and across the Peach St crossing, we look at the proposed route and specific protocols once at the CSX crossing.



This route as the commercial entrance utilizes a signalized turn to a robust path that does not interfere with residential properties.

U. S. DOT CROSSING INVENTORY FORM

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

OMB No. 2130-0017

Instructions for the initial reporting of the following types of new or previously unreported crossings: For public highway-rail grade crossings, complete the entire inventory Form. For private highway-rail grade crossings, complete the Header, Parts I and II, and the Submission Information section. For public pathway grade crossings (including pedestrian station grade crossings), complete the Header, Parts I and II, and the Submission Information section. For Private pathway grade crossings, complete the Header, Parts I and II, and the Submission Information section. For grade-separated highway-rail or pathway crossings (including pedestrian station crossings), complete the Header, Part I, and the Submission Information section. For changes to existing data, complete the Header, Part I Items 1-3, and the Submission Information section, in addition to the updated data fields. Note: For private crossings only, Part I Item 20 and Part III Item 2.K. are required unless otherwise noted. An asterisk * denotes an optional field.

A. Revision Date (MM/DD/YYYY) 08 / 21 / 2020	B. Reporting Agency ☒ Railroad ☐ Transit ☐ State ☐ Other	C. Reason for Update (Select only one) ☒ Change in Data ☐ New Crossing ☐ Closed ☐ Re-Open ☐ Date Change Only ☐ Change in Primary Operating RR ☐ No Train Traffic ☐ Quiet Zone Update ☐ Admin. Correction	D. DOT Crossing Inventory Number 224242R
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Part I: Location and Classification Information

1. Primary Operating Railroad CSX Transportation [CSX]		2. State VIRGINIA		3. County JAMES CITY	
4. City / Municipality ☐ In ☒ Near WILLIAMSBURG		5. Street/Road Name & Block Number PRIVATE ROAD (Street/Road Name) * (Block Number)		6. Highway Type & No. PRIVATE	
7. Do Other Railroads Operate a Separate Track at Crossing? ☐ Yes ☒ No If Yes, Specify RR			8. Do Other Railroads Operate Over Your Track at Crossing? ☒ Yes ☐ No If Yes, Specify RR ATK		
9. Railroad Division or Region ☐ None SOUTHERN EAST		10. Railroad Subdivision or District ☐ None PENINSULA		11. Branch or Line Name ☒ None	
12. RR Milepost CA 0044.600 (prefix) (nnnn.nnn) (suffix)					
13. Line Segment * 946590		14. Nearest RR Timetable Station * RICHMOND		15. Parent RR (if applicable) ☒ N/A	
16. Crossing Owner (if applicable) ☒ N/A					
17. Crossing Type ☐ Public ☒ Private		18. Crossing Purpose ☒ Highway ☐ Pathway, Ped. ☐ Station, Ped.		19. Crossing Position ☒ At Grade ☐ RR Under ☐ RR Over	
20. Public Access (if Private Crossing) ☐ Yes ☒ No		21. Type of Train ☒ Freight ☒ Intercity Passenger ☐ Commuter		22. Average Passenger Train Count Per Day ☐ Less Than One Per Day ☒ Number Per Day 2	
23. Type of Land Use ☐ Open Space ☒ Farm ☐ Residential ☐ Commercial ☐ Industrial ☐ Institutional ☐ Recreational ☐ RR Yard					
24. Is there an Adjacent Crossing with a Separate Number? ☐ Yes ☒ No If Yes, Provide Crossing Number			25. Quiet Zone (FRA provided) ☒ No ☐ 24 Hr ☐ Partial ☐ Chicago Excused Date Established		
26. HSR Corridor ID ☒ N/A		27. Latitude in decimal degrees (WGS84 std: nn.nnnnnnn) 37.3691640		28. Longitude in decimal degrees (WGS84 std: -nnn.nnnnnnn) -76.7687140	
29. Lat/Long Source ☒ Actual ☐ Estimated					
30.A. Railroad Use *			31.A. State Use *		
30.B. Railroad Use *			31.B. State Use *		
30.C. Railroad Use *			31.C. State Use *		
30.D. Railroad Use *			31.D. State Use *		
32.A. Narrative (Railroad Use) *			32.B. Narrative (State Use) *		
33. Emergency Notification Telephone No. (posted) 800-232-0144		34. Railroad Contact (Telephone No.) 904-366-3051		35. State Contact (Telephone No.) 804-786-2822	

Part II: Railroad Information

1. Estimated Number of Daily Train Movements				
1.A. Total Day Thru Trains (6 AM to 6 PM) 2	1.B. Total Night Thru Trains (6 PM to 6 AM) 4	1.C. Total Switching Trains 2	1.D. Total Transit Trains 0	1.E. Check if Less Than One Movement Per Day How many trains per week? ☐
2. Year of Train Count Data (YYYY) 2020		3. Speed of Train at Crossing 3.A. Maximum Timetable Speed (mph) 79 3.B. Typical Speed Range Over Crossing (mph) From 50 to 79		
4. Type and Count of Tracks Main 2 Siding 0 Yard 0 Transit 0 Industry 0				
5. Train Detection (Main Track only) ☐ Constant Warning Time ☐ Motion Detection ☐ AFO ☐ PTC ☐ DC ☐ Other ☒ None				
6. Is Track Signaled? ☒ Yes ☐ No		7.A. Event Recorder ☐ Yes ☒ No		7.B. Remote Health Monitoring ☐ Yes ☒ No



Northbound on Norge Ln before 1st Turn



Turn from Norge onto Peach St



Clear view down Peach St



Peach St out of eastern treeline, before CSX



Peach St near staging before crossing



Head on view of Peach St CSX Crossing



Northern sightline for trains



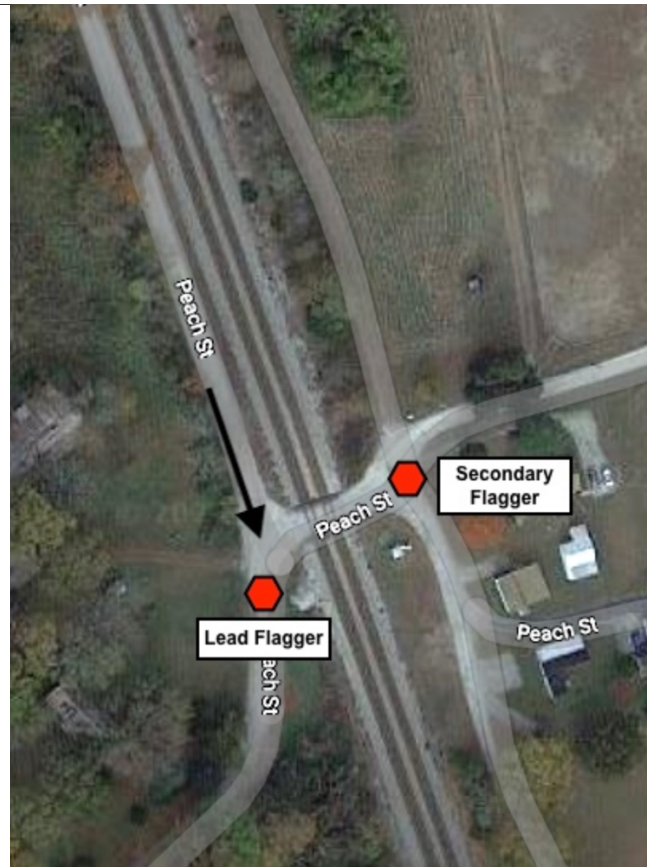
Southward view of remaining access after crossing

To confirm that this route is navigable with our largest proposed delivery trucks (lowboys, approximate 60 throughout 13 weeks of construction), we commissioned Kimley Horn to conduct a turn radius analysis. These sets are included in this submission. As you can see, even our largest proposed vehicle is able to safely navigate the CSX crossing at Peach St.

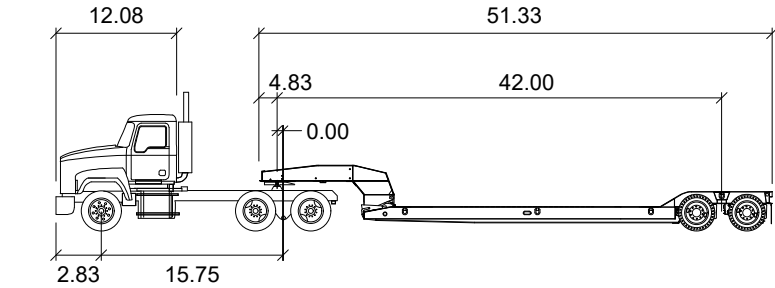
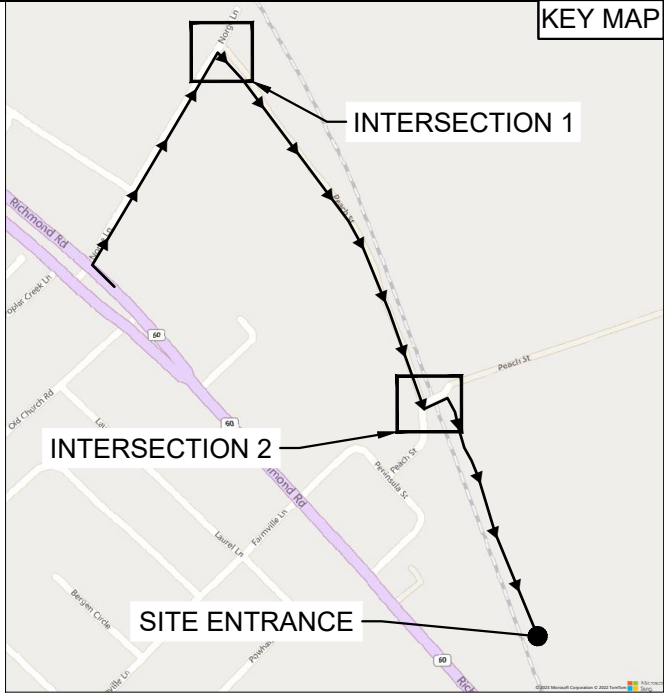
Safe operations are paramount in everything that we do, and we have consulted the Commercial Driver's License Handbook for the most stringent standards of railroad crossing procedures. These protocols, typically reserved for school bus operators, are the proposed required method for crossing the CSX railroad at Peach St.

Crossing Procedures as Outlined in CDL Handbook:

- 1) Approaching the Crossing:
 - a) Slow down, including shifting to a lower gear in a manual transmission vehicle, and test your brakes.
 - b) Activate hazard lights approximately 200 feet before the crossing. Make sure your intentions are known.
 - c) Scan your surroundings and check for traffic behind you.
 - d) Stay to the right of the roadway if possible. Choose an escape route in the event of a brake failure or problems behind you.
- 2) At the Crossing:
 - a) Stop no closer than 15 feet and no farther than 50 feet from the nearest rail, where you have the best view of the tracks.
 - b) Place the transmission in Park, or if there is no Park shift point, in Neutral and press down on the service brake or set the parking brakes.
 - c) Turn off all radios and noisy equipment and silence any passengers.
 - d) Confirm with lead flagger (west of crossing) that East and West Scout locations are confirmed for no trains.
 - e) Establish verbal and eye contact with secondary flagger (east of crossing) for final clearance to cross.
- 3) Crossing the Track:
 - a) When you are sure no train is approaching on any track, proceed across all the tracks until you have completely cleared them.
 - i) Cross the tracks in a low gear.
 - ii) Do not change gears while crossing.
 - iii) Keep hands on the steering wheel as the vehicle crosses the tracks.
 - iv) Do not stop while any part of your vehicle is proceeding across the tracks.
 - v) Four-way flashers should be deactivated after the vehicle crosses the tracks.
 - vi) Continue to check mirrors and traffic.



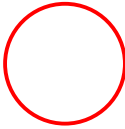
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Low-Boy Trailer 53 feet

	feet		
Tractor Width	: 8.50	Lock to Lock Time	: 6.0
Trailer Width	: 8.50	Steering Angle	: 22.3
Tractor Track	: 8.50	Articulating Angle	: 70.0
Trailer Track	: 8.50		

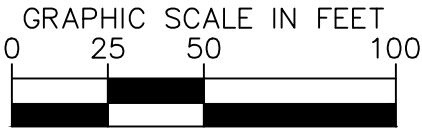
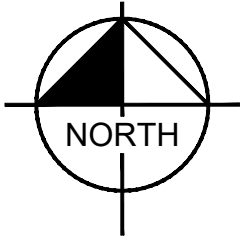
LEGEND



CONFLICT POINTS



VEHICLE PATH



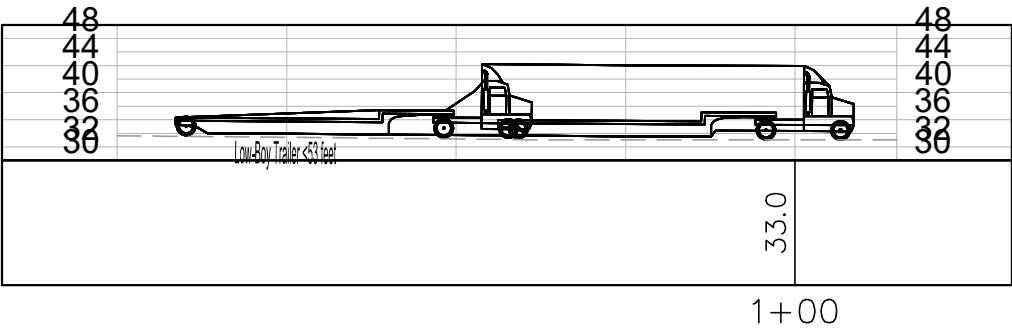
INTERSECTION 1
NORGE LANE AND PEACH STREET

INTERSECTION 2
PEACH STREET



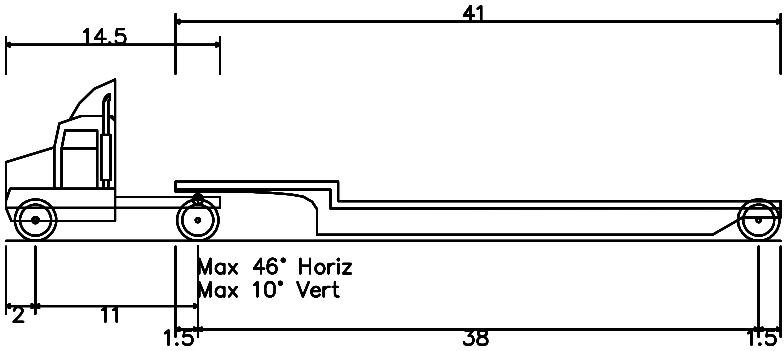
KHA PROJECT 113545000		DATE JANUARY 2023		SCALE AS SHOWN		DESIGNED BY JLT		DRAWN BY JLT		CHECKED BY MLH	
PIVOT ENERGY VA I & II PREPARED FOR PIVOT ENERGY VA, LLC		JAMES CITY COUNTY		VIRGINIA		TURNING MOVEMENT EXHIBIT (LOW-BOY)		NOT FOR CONSTRUCTION		Kimley»Horn © 2023 KIMLEY-HORN AND ASSOCIATES, INC. 2035 MAYWILL ST. SUITE 200, RICHMOND, VA 23230 PHONE: 804-673-3882 WWW.KIMLEY-HORN.COM	
SHEET NUMBER EX-1		No.		REVISIONS		DATE		BY			

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RR X-ING LOWBOY

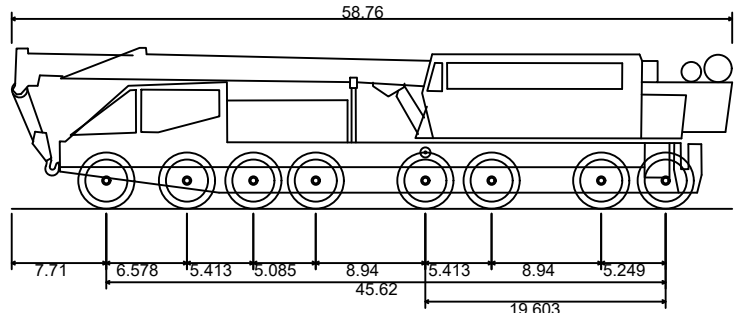
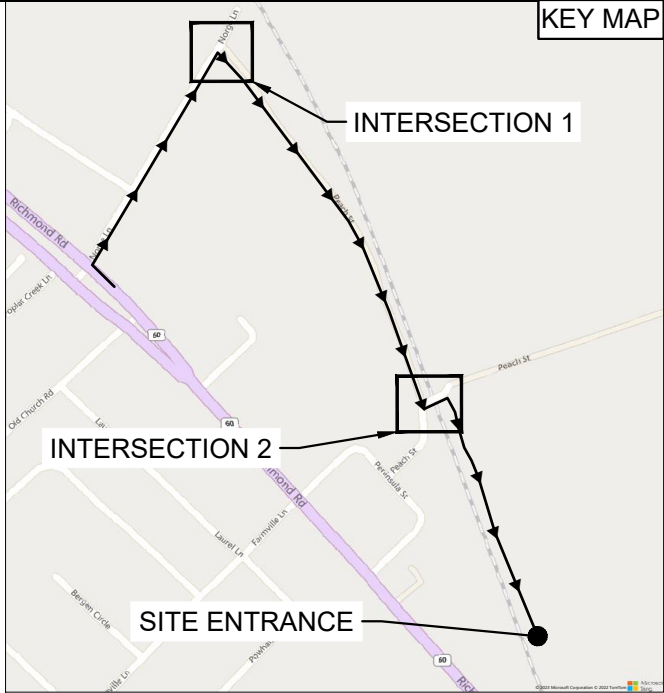
SCALE: 1" = 40' H
1" = 40' V



Low-Boy Trailer <53 feet	
Overall Length	52.499ft
Overall Width	8.000ft
Overall Body Height	10.925ft
Min Body Ground Clearance	0.417ft
Track Width	8.000ft
Lock-to-lock time	4.00s
Curb to Curb Turning Radius	39.900ft

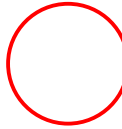
KHA PROJECT 113545000	DATE JANUARY 2023	SCALE AS SHOWN	DESIGNED BY JLT	DRAWN BY JLT	CHECKED BY MLH	VERTICAL CLEARANCE EXHIBIT (LOW-BOY)	PIVOT ENERGY VA I & II PREPARED FOR PIVOT ENERGY VA, LLC	JAMES CITY COUNTY VIRGINIA	SHEET NUMBER EX-1	Kimley»Horn © 2023 KIMLEY-HORN AND ASSOCIATES, INC. 2035 MAYWILL ST SUITE 200, RICHMOND, VA 23230 PHONE: 804-673-3882 WWW.KIMLEY-HORN.COM	NOT FOR CONSTRUCTION	No.	REVISIONS	DATE	BY

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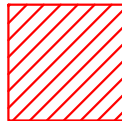


Liebherr LTM 1800 Mobile Crane
Overall Length 58.760ft
Overall Width 9.843ft
Overall Body Height 13.123ft
Min Body Ground Clearance 1.312ft
Track Width 9.843ft
Lock-to-lock time 4.00s
Wall to Wall Turning Radius 51.673ft

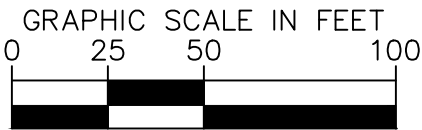
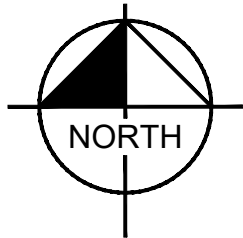
LEGEND



CONFLICT POINTS

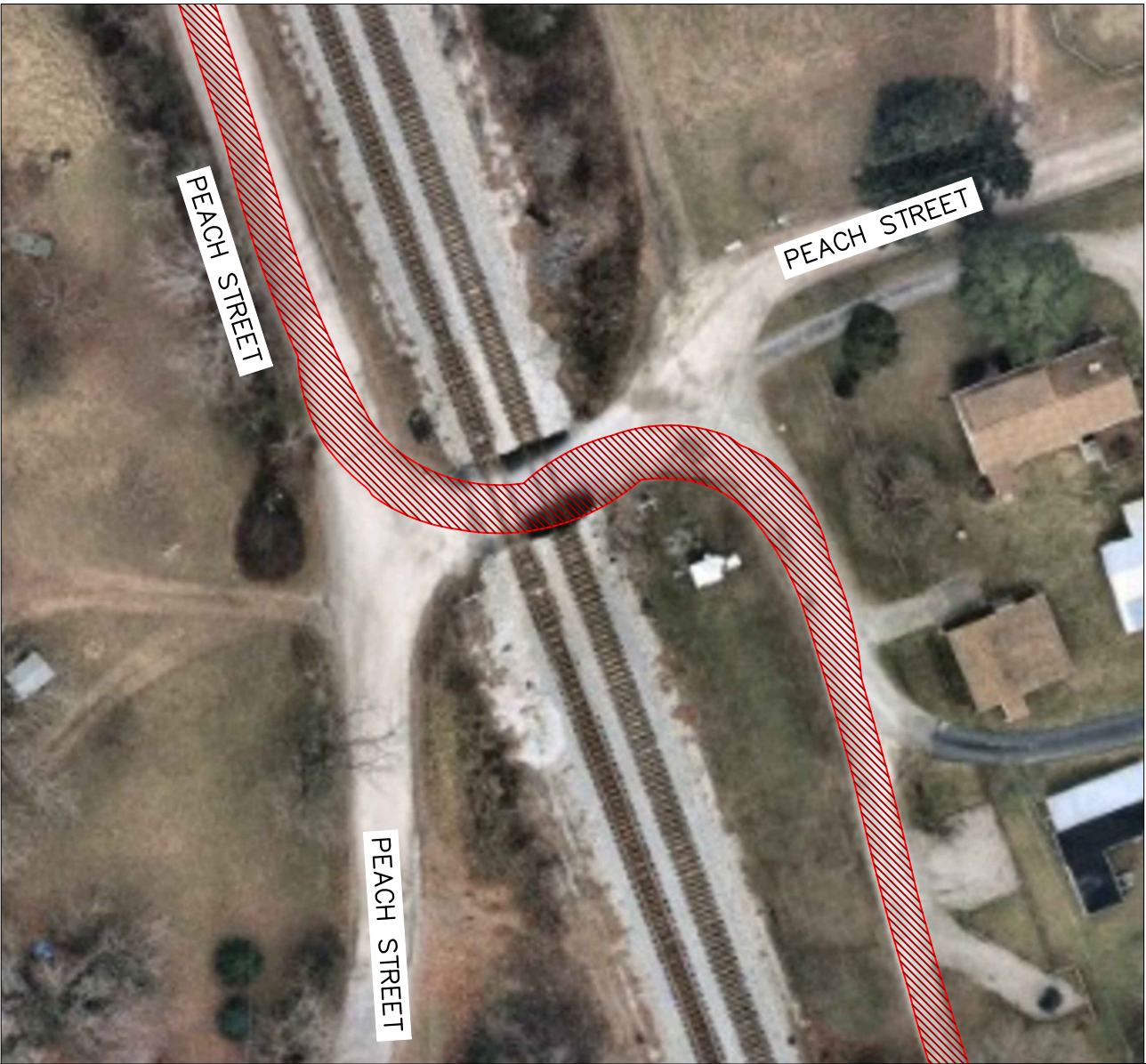


VEHICLE PATH



INTERSECTION 1
NORGE LANE AND PEACH STREET

INTERSECTION 2
PEACH STREET



KHA PROJECT 113545000		DATE JANUARY 2023		SCALE AS SHOWN		DESIGNED BY JLT		DRAWN BY JLT		CHECKED BY MLH	
TURNING MOVEMENT EXHIBIT (CRANE)						PIVOT ENERGY VA I & II PREPARED FOR PIVOT ENERGY VA, LLC					
JAMES CITY COUNTY						VIRGINIA					
SHEET NUMBER EX-1						No. REVISIONS DATE BY					

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NOT FOR
CONSTRUCTION

These crossing will be further deconflicted by the two scout positions we are proposing approximately 7 miles to the west and south of the Peach St crossing. These locations are identified in the maps provided.

Assuming a train is moving 55mph, this means that the scout location--approximately 7 miles away--can give clearance for a crossing at Peach St that would allow over 6 minutes and 20 seconds to execute a crossing. Furthermore, with an estimated 175 total vehicles over the 13 week construction period, we are evaluating less than 3 vehicles per day on average to make the crossing.

Given the few number of daily trains, the strong control measures proposed, and the relatively few number of total crossings proposed over the construction period, the risk for any possible incident at the Peach St Crossing is incredibly low.

West Scout
Position at VA603

Peach St
Crossing

Ruler

Line

Path

Polygon

Circle

3D path

3D polygon

Measure the distance between multiple points on the ground

Length:

6.76

Miles

☐ Show Elevation Profile

☒ Mouse Navigation

Save

Clear

**Peach St
Crossing**

Ruler

Line Path Polygon Circle 3D path 3D polygon

Measure the distance between multiple points on the ground

Length: 7.26 Miles

☐ Show Elevation Profile

☒ Mouse Navigation

Save Clear

**East Scout Position at
Transportation Center**

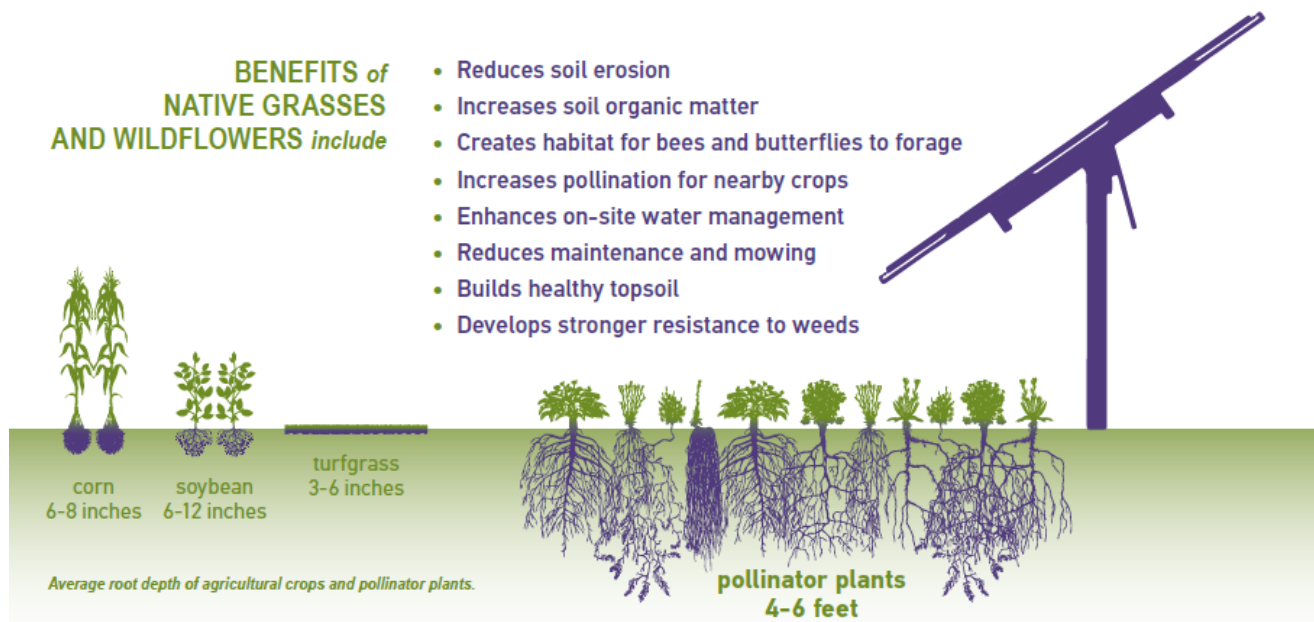
Exhibit 3 – Environmental Protections

Given the nature of our business, protecting the environment is of utmost importance when designing our projects. A common question about solar projects is the safety of the panels for the area of the site. One of the best ways to confirm that all components of a solar project are safe is to require the materials to pass the “Toxicity Characteristic Leaching Procedure” (TCLP) test.

TCLP is an analytical test method used to determine whether or not waste is hazardous by determining the mobility of organic and inorganic substances in liquids, solids, and metaphasic waste. Under the US Government’s Resource Conservation and Recovery Act RCRA of 1976, the TCLP was established by the US Environmental Protection Agency as a test method protocol to characterize industrial and other wastes. TCLP testing is used to determine if waste meets the US Environmental Protection Agency EPA’s Toxicity definition by testing it for 40 contaminants. If a waste product fails one or more of the contaminant tests, it’s considered a hazardous waste.

We are proposing a condition to require that all equipment associated with the proposed solar project passes the TCLP test and that those results be provided to the county before land disturbance can commence. This will guarantee that no hazardous materials are used for the project and that the surrounding environment will continue to enjoy the many benefits of the project.

Our previous submission included a condition that required native pollinators within the project’s ground cover to benefit the surrounding agricultural area. As seen from the environmental consultants at SWCA, this approach has many localized environmental benefits, even compared to active farming.



The Virginia Department of Conservation and Recreation agrees with this evaluation, stating:

“Native plant meadows are much better than turf grass at capturing atmospheric carbon and returning it to the soil, thus reducing a solar operation's carbon footprint. Native plants effectively minimize soil and water runoff. Providing pollinator habitat also greatly benefits surrounding agriculture by enhancing pollinator populations.”

We have included an exhibit from Rural Solar Stories, a project of the Environmental Law & Policy Center that further explores the positive impact of establishing native, pollinating meadow under a solar array for the surrounding area.

In addition to the proposed condition of a Pollinator Smart seed mix for the projects ground cover, we are proposing that any grasses be selected from an approved list by the USDA's Farm Service Agency Conservation Reserve Program. This proven program recognizes the local environmental benefits of taking some acres of land out of active farming for a period of time and will be an important 3rd party expert in ensuring the best in class selection of the most environmentally beneficial cover. The CRP's most recent factsheet is included in our packet.

To further ensure that the project remains a positive environmental actor throughout its useful life, we would welcome a proposed condition that requires a refresh of the Phase 1 Environmental Site Assessment every 10 years while the project is in operation. This report could be required for submission to the county for confirmation of the continued health of the local surrounding environment.



*Stories about rural electric cooperatives
that have championed solar energy for
their community.*

Stories Farm-Friendly Solar Solar Value
Strategies Principles Resources

Search

Benefits for Agriculture

Many solar farms are built in rural areas where agriculture is the dominant industry. As a result, there are concerns about how solar farms interact with agriculture and the agricultural economy. Farm-friendly solar can benefit agriculture in many ways.

"This is an alternative kind of farming. In a way we're farming energy, we're farming pollinators, we are providing a place for native plants to exist. So, again there's so many benefits, so many win-win-wins, this is potentially really exciting," said Ron Bowen of Prairie Restorations, Inc.

Farm-friendly strategies for solar assist soil and water conservation and increase pollinator habitat — goals supported by many in the agricultural community.

Pollinators Benefit Agriculture

The agricultural community widely supports efforts to protect and enhance pollinator habitat because of the essential role of pollinators. A [Cornell University study](#) estimated that crops "pollinated by honeybees and other insects contributed \$29 billion to farm income." With over 90 crops dependent on insect pollination, many [farm groups](#) recognize the problems of population decline.

Pollinators bring direct economic benefit to many agricultural sectors that require pollination to grow fruit, vegetables, nuts and even some row crops. Whether provided by contract pollinators who bring hives to fields and orchards or by wild pollinators — pollinators are essential.

Protection of pollinator habitat is especially important given the fact that so many pollinator species are threatened today. Reversing declines in populations helps to avoid pollinators becoming endangered species which could result in farmers facing



requirements for other actions. For example, providing habitat with solar farms can reduce pressure to provide habitat from working farmlands.

Pollinator Habitat that

Generates Income

In addition to the direct benefits from pollination, pollinator-friendly on solar farms will help meet goals shared by numerous agricultural groups such as the expansion of habitat. The federal Pollinator Health Task Force recommended restoring or enhancing 7 million acres of land for pollinators.

Solar prairies provide pollinator habitat while allowing farmers and land owners to earn income from solar lease payments or land sales. [Solar pastures](#) and solar beekeeping allow for the complete integration of solar generation with agricultural land uses.

Soil benefits

[Prairie plants](#) limit soil erosion from wind and water flows over the landscape. The roots of the plants help to bind the soil in place much the same way soil clumps to roots when plants are pulled out. The above-ground plant also protects soil from water and wind erosion, avoiding soil loss or the creation of gullies.

Pollinator plants also enhance soil health as the deep-rooted plants build organic matter and release nutrients. This boosts the productivity and health of the soil over the long term. [Prairie solar](#) results in healthier soils; this enhances potential agricultural production in the future and increases land value after the life of the solar project.

"One of the many questions that we've gotten early on in the process is, OK, what are the soils going to be like after 25 years and the solar array is decommissioned? Do you know what's going to be left behind for the farmers at that point?

And the good news is there's a lot of research that the soil is going to be better than it was before." – Mike Evenocheck

Stormwater Reduction and Water Conservation Benefits

Farmers and solar project developers must concern themselves with the volume and quality of water runoff from their properties. [Low impact site development](#) as

reflected in prairie solar reduces downstream stormwater risks and project costs. [The EPA has found](#) that low impact development reduces costs compared to conventional methods by 15 to 80 percent across multiple project types.

Managing stormwater flows affects project finances in many ways including infrastructure requirements, permitting costs and maintenance. With conventional ground cover, such as gravel or turf grass, more water runs off due to soil compaction and reduced permeability. This results in higher stormwater management costs for structures such as retention basins, swales or drainage infrastructure.

The deep roots of pollinator plants, some greater than 6 feet deep, create a permeable ground surface, allowing more stormwater (3-4 times as much) to infiltrate into the ground where it falls. Depending upon local and state laws, this can result in a significant reduction in stormwater management



development and maintenance costs compared to more impervious surfaces. These savings should be factored into cost comparisons among alternatives.

The nearby community also benefits from low impact development. When less stormwater is discharged from the site to surface waters, the risk of flooding downstream is reduced.

When more water infiltrates into the ground it helps to recharge groundwater, which can benefit farmers. The quality of water that is discharged from prairie solar fields is higher than that from other agricultural fields because they are not fertilized or treated with pesticides and they filter sediments from the water.

Water quality and availability is essential to agriculture. Pollinator habitat increases groundwater quality and reduces stormwater runoff that can harm local waters and contribute to flooding.

Find a Story

Contact Us



Farm Service Agency

Conservation Reserve Program

FACT SHEET
February 2022

Overview

USDA Farm Service Agency's (FSA) Conservation Reserve Program (CRP) is a voluntary program that contracts with agricultural producers so that environmentally sensitive agricultural land is not farmed or ranched, but instead devoted to conservation benefits. CRP participants establish long-term, resource-conserving plant species, such as approved grasses or trees (known as "covers") to control soil erosion, improve water quality and develop wildlife habitat. In return, FSA provides participants with rental payments and cost-share assistance. Contract duration is between 10 and 15 years.

CRP is authorized by the Food Security Act of 1985 and was reauthorized by the Agricultural Improvement Act of 2018 (the 2018 Farm Bill). The program is also governed by regulations published in 7 CFR, part 1410. The program is implemented by FSA on behalf of USDA's Commodity Credit Corporation.

Program Administration

FSA administers CRP while technical support functions are provided by: USDA's Natural Resources Conservation Service (NRCS); State forestry agencies; Local soil and water conservation districts and; Non-federal technical assistance providers.

Benefits

CRP protects more than 20 millions of acres of American topsoil from erosion and is designed to safeguard the nation's natural resources. By reducing water runoff and sedimentation, CRP protects groundwater; helps improve the condition of lakes, rivers, ponds and streams; and is a major contributor to increased wildlife populations in many parts of the country.



USDA photo

General Enrollment

Under general enrollment, producers have the opportunity to offer land for CRP general enrollment annually during announced enrollment periods. Offers for CRP contracts are ranked according to the Environmental Benefits Index (EBI). FSA uses the following EBI factors to assess the environmental benefits for the land offered:

- Wildlife habitat benefits resulting from covers on contract acres;
- Water quality benefits from reduced erosion, runoff and leaching;
- On-farm benefits from reduced erosion;
- Benefits that will likely endure beyond the contract period;
- Air quality benefits from reduced wind erosion and;
- Cost.

Further information on CRP general signup is available in the FSA fact sheet "**Conservation Reserve Program General Signup.**"

**AGRICULTURAL AND FORESTAL DISTRICT-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. Buzz Becker, Pivot Energy, Inc.

Landowners: D & S Chong, LLC

Proposal: Withdrawal of ± 10 acres of the 105.82 total acre parcel from the Hill Pleasant Farm Agricultural and Forestal District (AFD)

Location: 7294 Richmond Road

Tax Map/Parcel No. 2410100004

Parcel Size: ± 105.82 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Economic Opportunity (EO)

Primary Service Area (PSA): Outside

Staff Contact: John Risinger, Senior Planner

PUBLIC HEARING DATES

AFD Advisory Committee: October 20, 2022, 4:00 p.m.

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

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

FACTORS FAVORABLE

1. The request would not cause damage or disruption to the existing District.

FACTORS UNFAVORABLE

1. Request does not fully meet all four criteria set forth in the Board's policy.

SUMMARY STAFF RECOMMENDATION

The adopted Board of Supervisors' policy governing withdrawal of property from AFDs states that "it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts." This withdrawal request was submitted approximately one month after the most recent renewal of the Hill Pleasant Farm AFD on September 13, 2022. Additionally, staff finds that the use of this site would not serve a public purpose. Staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board's policy. Therefore, staff recommends that the Board of Supervisors deny this withdrawal application.

AFD ADVISORY COMMITTEE RECOMMENDATION

At its October 20, 2022, meeting, the AFD Advisory Committee voted 7-0 to recommend approval of the withdrawal request to the Planning Commission and the Board of Supervisors.

PLANNING COMMISSION RECOMMENDATION

At its November 2, 2022, meeting, the Planning Commission voted 5-2 to recommend approval of the withdrawal request to the Board of Supervisors.

**AGRICULTURAL AND FORESTAL DISTRICT-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

CHANGES SINCE PLANNING COMMISSION MEETING

None.

DISTRICT HISTORY

- The Hill Pleasant Farm AFD was created in 1986 for a term of four years and originally consisted of two parcels totaling $\pm$ 504 acres.
- The District was renewed in 1990, 1994, 1998, 2002, 2006, 2010, 2014, 2018, and 2022, for periods of four years, during which time various withdrawals and additions took place.
- The District currently consists of $\pm$ 304.34 acres. During the 2022 AFD renewal process, 42 acres of the property located at 7294 Richmond Road were withdrawn to allow for a Special Use Permit (SUP) proposal for the development of a solar farm on the property. Should this withdrawal be approved, the District would consist of $\pm$ 294.34 acres.

DISTRICT DESCRIPTION

Except for a few residences, all acreage in this District is in agricultural or forestal uses. The properties have been managed in the past for food or fiber production and have the potential to support significant agriculture and commercial timber operations. All the land in this District is zoned A-1, General Agricultural, and is located outside of the PSA. The majority of the land in this District is designated EO by the adopted Comprehensive Plan, with the remainder designated Rural Lands.

WITHDRAWAL REQUESTS/WITHDRAWAL ANALYSIS

Mr. Buzz Becker, Pivot Energy, Inc., on behalf of the owners of the property located at 7294 Richmond Road, has requested to withdraw 10 acres of their 105.82 total acre parcel from the AFD (Attachment No. 6). The requested withdrawal is to allow for a proposed SUP (SUP-22-0015) for a 4.75-megawatt alternate current (MWac) solar farm. Per Hill Pleasant Farm AFD Condition No. 3c (Attachment No. 3), no SUP shall be issued except for agricultural, forestal, or other activities and uses consistent with the Virginia Agricultural and Forestal District Act.

During the 2022 AFD renewal process, 42 acres of the property were withdrawn from the Hill Pleasant Farm AFD to allow for the proposed SUP. After the District was renewed on September 13, 2022, as part of the ongoing SUP review, the applicant provided a revised master plan for the proposed solar farm (Attachment No. 8) which includes 10 acres of the property which were not withdrawn from the AFD during the 2022 renewal process.

On September 28, 2010, the Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels outside of renewal periods. That policy is enclosed (Attachment No. 4) and the withdrawal criteria are listed below with staff comments following in italics.

- A. The request is caused by a change in circumstances that could not have been anticipated at the time the application was made for inclusion in the District.

Historically, a change in circumstances has been interpreted to include "death of a property owner," as stated in the State Code, but has not included new opportunities for development of a property. The withdrawal policy, as adopted by the Board of Supervisors, states that it is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.

**AGRICULTURAL AND FORESTAL DISTRICT-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

- B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.

Although the proposed solar farm would potentially provide a community benefit by supplying green energy to the adjacent communities, staff finds that this does not fulfill the requirement of Criteria B. Staff interprets “public purpose” as using the land for a public facility such as a school or fire station.

- C. The request would not cause damage or disruption to the existing District.

With this withdrawal, the District will include a total of 294.34 acres, and will thus continue to meet minimum acreage requirements.

- D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place, the new land use would be in conformance with the Comprehensive Plan.

The 2045 Comprehensive Plan designates this parcel as EO. Lands designated EO are intended primarily for economic development, increased non-residential tax base, and the creation of jobs. Suggested primary uses for the Mooretown Road/Hill Pleasant Farm Area include industrial, light industrial, and office uses. Solar farms are not specifically identified as a compatible use in the EO designation; however, they may serve as a transitional land use until market forces determine a more intense economic use.

SURROUNDING ZONING AND DEVELOPMENT

Adjacent properties to the north, east, and west are zoned A-1, General Agricultural, and designated EO and Rural Lands on the 2045 Comprehensive Plan Land Use Map. Properties across Richmond Road are zoned B-1, General Business; LB, Limited Business; R-2,

General Residential; and PL, Public Lands; and designated Low Density Residential, Community Commercial and Federal, State, or County Land on the 2045 Comprehensive Plan Land Use Map.

STAFF RECOMMENDATION

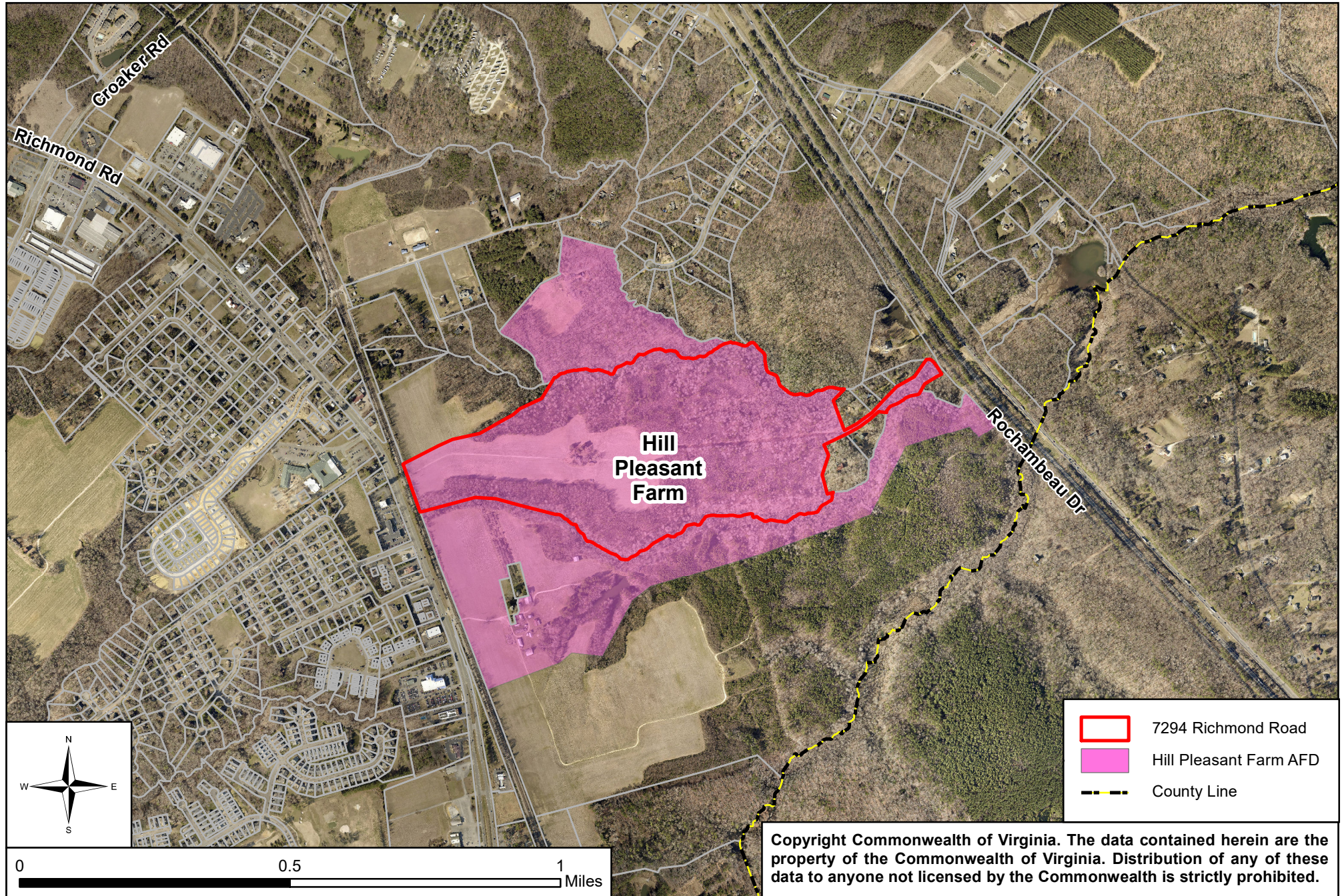
The adopted Board of Supervisors’ policy governing withdrawal of property from AFDs states that “it is the policy of the Board to discourage the withdrawal of properties from AFDs during the terms of those districts.” This withdrawal request was submitted approximately one month after the most recent renewal of the Hill Pleasant Farm AFD on September 13, 2022. Additionally, staff finds that the use of this site would not serve a public purpose. Staff cannot support this request for withdrawal due to it not fully meeting all four of the criteria set forth in the Board’s policy. Therefore, staff recommends that the Board of Supervisors deny this withdrawal application.

JR/ap
AFD22-17_7249RichRd

Attachments:

1. Ordinance
2. Location Map
3. Hill Pleasant Farm AFD 2022 Renewal Ordinance and Staff Report
4. Policy Governing the Withdrawals of Property from AFDs
5. AFD Withdrawal Request Letter
6. Letter from Property Owner
7. Map Showing Extent of Withdrawal Request
8. Proposed Solar Farm Master Plan
9. Unapproved Minutes of the October 20, 2022, AFD Advisory Committee Meeting
10. Unapproved Minutes of the November 2, 2022, Planning Commission Meeting

JCC AFD-22-0017, 7294 Richmond Rd. Hill Pleasant Farm AFD Withdrawal



ADOPTED

SEP 13 2022

ORDINANCE NO. 165A-14

Board of Supervisors
James City County, VA

AGRICULTURAL AND FORESTAL DISTRICT-22-0010

HILL PLEASANT FARM 2022 RENEWAL

WHEREAS, James City County has completed a review of the Hill Pleasant Farm 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.

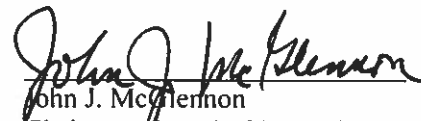
NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia, that:

1. The Hill Pleasant Farm 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>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
D&S Chong, LLC	2410100004	63.82
Hill Pleasant Farm, Inc.	2410100005	208.24
Wayne A. Moyer Revocable Trust	2410100015D	<u>32.28</u>
Total:		<u>304.34</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 (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.


John J. McGlennon
Chairman, Board of Supervisors

ATTEST:


Teresa J. Saeg
Deputy Clerk to the Board

ICENHOUR
HIPPLE
LARSON
SADLER
MCGLENNON

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 13th day of September, 2022.

AFD22-10HillPIFmRen-res

AGRICULTURAL AND FORESTAL DISTRICT-22-0010. Hill Pleasant Farms 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>
D&S Chong, LLC	2410100004	63.82*
Hill Pleasant Farm, Inc.	2410100005	208.24
Wayne A. Moyer	2410100015D	32.28
TOTAL ACRES		304.34
<i>*Requesting a partial withdrawal</i>		

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands
Economic Opportunity

Primary Service Area
(PSA): Outside

Staff Contact: Suzanne Yeats, Planner

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 Hill Pleasant Farms AFD was created in 1986 for a term of four years and originally consisted of two parcels totaling ± 504 acres.
- The District was renewed in 1990, 1994, 1998, 2002, 2006, 2010, 2014, and 2018 for periods of four years, during which time various withdrawals and additions took place.
- On November 15, 2019, the Board of Supervisors approved the withdrawal of approximately 192.76 acres (Hill Pleasant Farm, Inc., Parcel ID No. 2410100005) as part of a Special Use Permit (SUP) (SUP-19-0017) for Hill Pleasant Solar Farm.

DISTRICT DESCRIPTION

Except for a few residences, all acreage in this District is in agriculture or forestal uses. The properties have been managed in the past for food

AGRICULTURAL AND FORESTAL DISTRICT-22-0010. Hill Pleasant Farms Renewal

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

and fiber production and have the potential to support significant agriculture and commercial timber operations. All the land in this District is zoned A-1, General Agricultural, and is located outside of the PSA. The majority of the land in this District is designated Economic Opportunity by the adopted 2045 Comprehensive Plan, with Mr. Moyer's parcel and a small portion of a parcel located northeast of the Interstate 64 right-of-way, both designated Rural Lands.

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 owner of the property located at 7294 Richmond Road (Parcel ID No. 2410100004) has requested a partial withdrawal of 42 acres (Attachment No. 3). With this withdrawal, the District will encompass 304.34 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

Most of the surrounding land to the north of the District is zoned A-1, General Agriculture. The property to the west of the District is a mixture of businesses, residences, and developed property within the PSA zoned LB, Limited Business; B-1, General Business; R-2, General Residential; and MU, Mixed Use. The property to the south of the District is zoned A-1, General Agriculture and M-1, Limited

Business/Industrial. Although this AFD lies within the vicinity of existing commercial development along Richmond Road, the District is separated from Richmond Road by the CSX Railway. The District borders York County to the east.

COMPREHENSIVE PLAN

The 2045 Comprehensive Plan designates these parcels as Economic Opportunity and 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 District (AFD) programs to the maximum degree allowed by the *Code of Virginia*."

STAFF RECOMMENDATION

Staff finds the Hill Pleasant 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

AFD22-10HillPIFm

Attachments:

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

RESOLUTION

POLICY GOVERNING THE WITHDRAWALS OF PROPERTY FROM AGRICULTURAL

AND FORESTAL DISTRICTS (AFDs)

WHEREAS, the Board of Supervisors has determined that Agricultural and Forestal Districts (AFDs) are a valuable tool to help protect the agricultural and forestal lands and industry in James City County; and

WHEREAS, premature withdrawals of land from the Districts is contrary to the intent of the Board in allowing the establishment of these Districts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following policy relating to the withdrawal of lands from AFDs during the terms of those Districts. This policy in no way supersedes the provisions for withdrawal by right under Sections 15.2-4311 or 15.2-4314D of the Code of Virginia.

1. It is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.
2. The criteria for withdrawal during the terms of the districts are as follows:

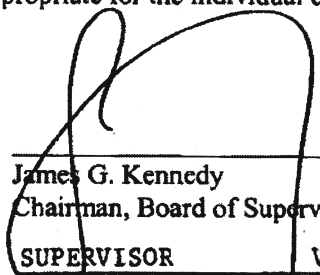
In order to establish "good and reasonable cause," a landowner requesting to withdraw property from an AFD must submit written information to demonstrate compliance with the following criteria:

- A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.
- B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.
- C. The request would not cause damage or disruption to the existing district.
- D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever other criteria as it deems appropriate for the individual case.

ATTEST:


Robert C. Mindaugh
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCGLENNON	AYE
GOODSON	AYE
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFDsPolWdraw_res

September 28, 2022

James City County
John Risinger, Senior Planner
101 Mounts Bay Road
Building A
Williamsburg, VA 23187

Dear Mr. Risinger,

Pivot Energy VA LLC and Pivot Energy VA 2 LLC, on behalf of D & S Chong LLC, request that a ten (10) acre portion of property owned by D & S Chong LLC be withdrawn from the Hill Pleasant Farm Agricultural and Forestal District (AFD). In order to establish good and reasonable cause for the proposed withdrawal, below we demonstrate compliance with the required criteria outlined in the Policy Governing the Withdrawals of Property from the Agricultural and Forestal Districts (AFDs).

A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.

When we submitted for a partial AFD withdrawal during the “renewal period” in July 2022, our goal was to keep as much acreage in the AFD as possible while allowing for the construction of the proposed solar project. To inform our solar site’s design, we relied upon the relevant use permit conditions as adopted by the Board of Supervisors during their most recent solar project permit approval in March 2022 (Racefield Solar).

After our submission for partial withdrawal from the AFD, we received draft conditions from the County on August 29th 2022 that were meaningfully different from what had been approved for Racefield Solar. Adhering to these proposed conditions will require us to use more area of the subject parcel than was originally withdrawn from the AFD. Given our desire to proceed with the project and the substantially different proposed conditions that were introduced after our previous application, we are seeking this relief—requesting the additional acreage in question be withdrawn from the AFD.

B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.

If approved, this withdrawal request would allow for the consideration of a Special Use Permit for a two-phase, 4.75 megawatt solar energy array. Not only would this project bring clean, locally sourced energy to James City County, it would serve as a form of land conservation while providing a marked uptick in tax revenue to the county.

As the project intends to secure Shared Solar capacity for its production, there is both a public purpose and a timeliness factor to consider. With regard to public purpose, our aim to develop this project as a Shared Solar array would allow local Dominion residential customers in James City County to subscribe to the project for a 20% discount off their current bill. We are particularly interested in subscribing low to moderate income customers who most acutely feel the budget pinch of increased energy costs.

While this Shared Solar program is an exciting opportunity that Pivot Energy is uniquely qualified to pursue—as an experienced community solar developer with our own proprietary customer subscription management platform, SunCentral—it is not an unlimited program through Dominion.

The current total capacity of the program is only 200MW. Our ability to secure this capacity, and deliver meaningful utility bill savings to James City County residents, depends on a timely progression through all stages of local permitting.

C. The request would not cause damage or disruption to the existing district.

Approving the withdrawal of ten (10) acres would allow the AFD to remain well above the requisite 200-acre minimum identified in the Hill Pleasant Farm Renewal document. Furthermore, the Chong family has indicated a willingness to return to the AFD committee in January to propose a new inclusion of eight (8) acres into the AFD to partially offset this withdrawal request—as seen in their signed request letter (provided in this packet).

D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

The request for withdrawal is in conjunction with a proposed solar array as found in SUP-22-0015. The SUP application includes an in-depth analysis of James City County's *Engage 2045 – Our County, Our Shared Future* Comprehensive Plan as it relates to this proposal. As seen in the James City County Staff Report for our originally scheduled September 7th, 2022 Planning Commission hearing, Staff recommended both the approval of the proposed SUP and that the Planning Commission find the SUP application consistent with the Code of Virginia Section 15.2-2232. This report is also provided in this packet.

We appreciate your consideration of this withdrawal request. In addition to the previously referenced exhibits, we have included a conceptual site plan of our proposed solar project that outlines both the recently withdrawn AFD acres and the proposed incremental acres for withdrawal consideration. Our understanding is that this conceptual site plan fully adheres to the most recent set of proposed permit conditions from James City County staff.

Sincerely,



Buzz Becker | Director, Project Development
bbecker@pivotenergy.net
918.346.9542

D & S Chong, LLC
3920 Hester Drive
Virginia Beach, VA 23456

September 27, 2022

James City County Community Development
101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784

Re: 7294 Richmond Road (James City County PIN: 2410100004)

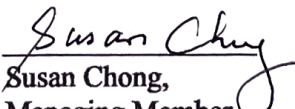
Greetings Community Development,

Please acknowledge this letter as the formal withdrawal request for our property at 7294 Richmond Rd (PIN 2410100004) from the Hill Pleasant Farm AFD. This is a partial withdrawal request for the approximately ten (10) acres as seen in the revised master site plan for a proposed solar development.

Our goal in our previous withdrawal was to maintain the maximum possible acres in the AFD while pursuing a solar development. After our previous withdrawal submission, new stormwater conditions were proposed that meaningfully impacted the required site area for the project. As a gesture of good will, we plan on following this request with a separately proposed inclusion of approximately eight (8) new acres into the AFD from the adjoining property at 7296 Richmond Rd (PIN 2320100025) to mostly offset this requested withdrawal. Please let us know what else is needed to quickly withdraw from the AFD.

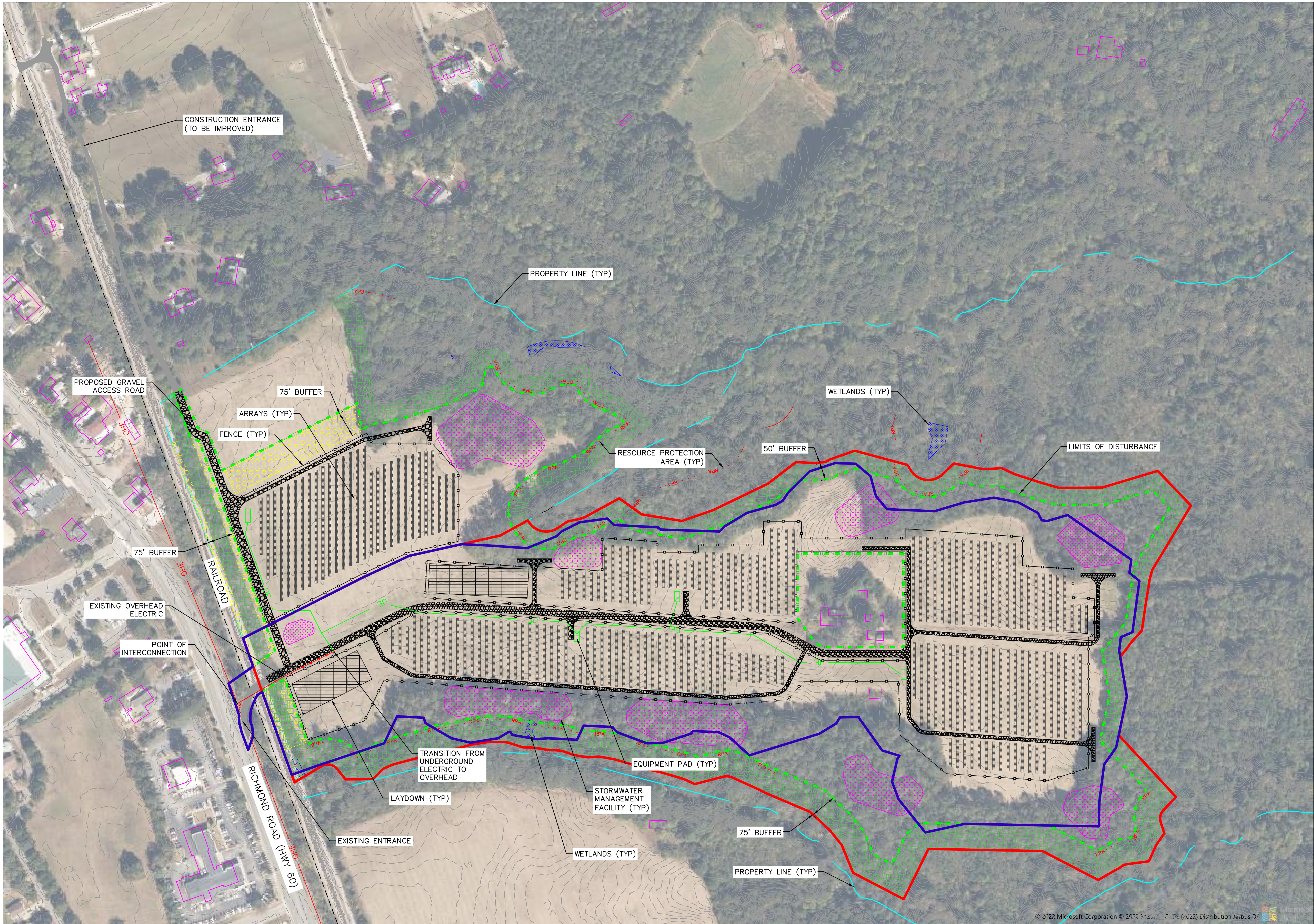
Sincerely,
D & S Chong, LLC

By: 
Dae Chong,
Managing Member

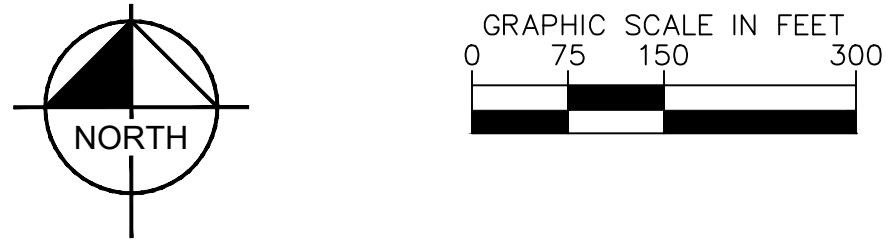
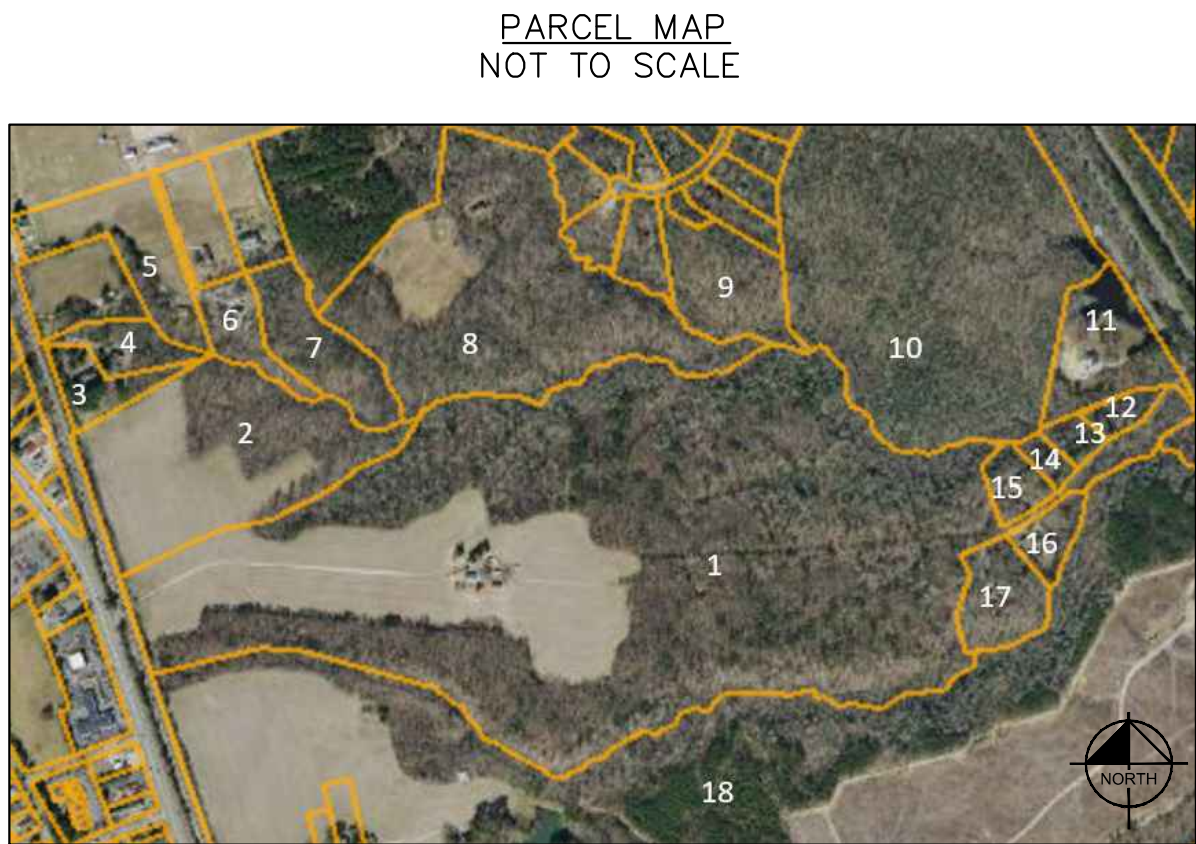
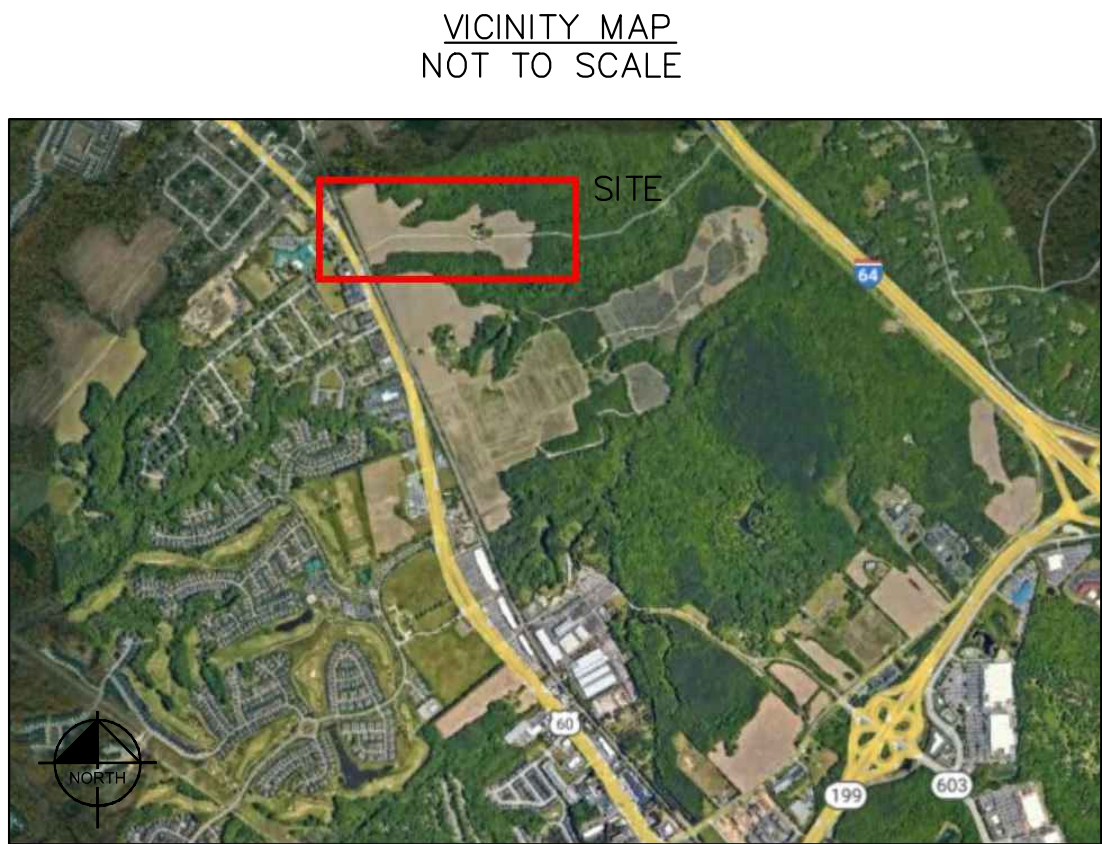
By: 
Susan Chong,
Managing Member

cc: Buzz Becker, Pivot Energy

Plotted By:Robertson, Nicholas Sheet Set:Kha Layout:Layout1 October 24, 2022 09:46:47am K:\VIC-DWA\113545000 - Pivot Energy VA Solar - James City County, VA\OAD\References\XTB.dwg K:\VIC-DWA\113545000 - Pivot Energy VA Solar - James City County, VA\OAD\References\XTB.dwg This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



LEGEND			
EXISTING		PROPOSED	
PROPERTY LINES	---	LIMITS OF AFD WITHDRAWAL	---
ADJ. PROPERTY LINES	---	PREVIOUS LIMITS OF AFD WITHDRAWAL	---
CONTOURS	---	LIMITS OF DISTURBANCE	---
WETLANDS	---	GRAVEL ROAD	---
RPA LIMITS	---	LAYDOWN	---
VEGETATION TO REMAIN	---	FENCE LINE	---
OVERHEAD WIRES	---	PANEL ARRAY	---
BUILDING	---	STORMWATER MANAGEMENT FACILITY	---
ACCESS ROAD	---	BUFFER	---
		EQUIPMENT PAD	---
		POWER POLE	---
		UNDERGROUND ELECTRIC	---
		OVERHEAD ELECTRIC	---



	OWNER	PARCEL ID	ZONING
1	D&S CHONG LLC	2410100004	A1
2	CHONG, DAE IK & SUSAN	2320100025	A1
3	CAMPBELL, ARMOND B & LINDA C	2320100024A	A1
4	CAMPBELL, GARY D & JENNIFER L	2320100024B	A1
5	AMOS, KENNETH E & CAROLINE M	2320100022	A1
6	AMOS, SAMANTHA LEIGH & FARMER, MICHA	2410100014E	A1
7	AMOS, MICHAEL K	2410100014D	A1
8	MOYER, WAYNE A	2410100015D	A1
9	PARKER, JAMES E & VIOLET	2410100012	A1
10	MARTIN, HUGH L ESTATE	2410100002	A1
11	PINNEY, DANIEL ROBERT	2420100001	A1
12	STEVENS, JOHN ROBERT TRUSTEE	2420100029	A1
13	STEWART, DIANA F	2420100030	A1
14	STEWART, DIANA F	2420100031	A1
15	STEVENS, JOHN ROBERT TRUSTEE	2410100032	A1
16	HADEN, SUNNY CREECH	2420100034	A1
17	WORMAN, WALTER, III & KATHLEEN S	2410100003	A1
18	HILL PLEASANT FARM, INC	2410100005	A1

SITE DATA:

PARCEL ID #: 2410100004 & 2320100025

OWNERS: D & S CHONG LLC

CHONG, DAE IK & SUSAN

CURRENT ZONING: A-1

CURRENT LAND USE: AGRICULTURE/WOODED

PARCEL ACREAGE: 129.19

LEASED ACREAGE: APPROXIMATELY 64.9

SITE ADDRESS: 7294 & 7296 RICHMOND ROAD,
WILLIAMSBURG, VA 23188

PROPOSED USE: SOLAR ENERGY FACILITY

- STANDARD NOTES:**
1. THE PURPOSE OF THIS PLAN IS FOR A SPECIAL USE PERMIT APPLICATION FOR REVIEW AND APPROVAL BY JAMES CITY COUNTY. ALL INFORMATION IS FOR PLANNING PURPOSES ONLY.
 2. WETLANDS WERE DELINEATED AND RPA LIMITS WERE DETERMINED BY TETRA TECH IN AUGUST 2021 AND MAY 2022.
 3. PROJECT AREA WILL BE CLEARED AND GRUBBED AS NECESSARY, RETAINING PRE-DEVELOPMENT DRAINAGE PATTERNS. MINOR GRADING WILL OCCUR AROUND INVERTER AREAS TO DIVERT SURFACE DRAINAGE. AREAS SUBJECT TO RUTTING DURING CONSTRUCTION WILL BE TEMPORARILY STABILIZED WITH GRAVEL THAT WILL REMAIN AFTER CONSTRUCTION. SOIL CONDITIONS AND EQUIPMENT LOADS WILL DETERMINE FINAL DESIGN.
 4. ACCESS ROAD ENTRANCE WILL BE APPROVED BY VDOT PRIOR TO BEGINNING CONSTRUCTION.
 5. INTERNAL CABLING WILL BE BURIED IN UNDERGROUND TRENCHES, WHENEVER POSSIBLE.
 6. DISTURBED AREAS REQUIRING RESEEDING WILL BE SEEDED WITH APPROPRIATE POLLINATOR-FRIENDLY NATIVE PLANTS AFTER CONSTRUCTION.
 7. FENCING WILL NOT EXCEED 8' IN HEIGHT, WILL BE BLACK OR OTHER NEUTRAL COLOR, AND WILL NOT HAVE BARBED WIRE.
 8. PANELS SHALL NOT EXCEED 16' IN HEIGHT.
 9. STORMWATER MANAGEMENT FACILITIES WILL BE SEDIMENT BASINS CONVERTED TO PERMANENT BASINS TO COMPLY WITH VSMP REGULATIONS.
 10. THE PHASING OF THE DRAINAGE DESIGN WILL INCLUDE A TWO PHASE EROSION AND SEDIMENT CONTROL PLAN, WITH THE FINAL PHASE AS PERMANENT BASINS SHOWN HEREIN.
 11. STREAMS AND ASSOCIATED BUFFERS ARE NOT WITHIN THE PROPOSED PROJECT SHOWN HEREIN.

No.	REVISIONS	DATE	BY

Kimley»Horn

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2035 MAYWILL ST., SUITE 200, RICHMOND, VA 23230
PHONE: 804-673-3882
WWW.KIMLEY-HORN.COM

NICHOLAS ROBERTSON
Lic. No. 040302204
10/24/2022
PROFESSIONAL SEAL

KHA PROJECT	113545000
DATE	OCTOBER 2022
SCALE	AS SHOWN
DESIGNED BY	MLH
DRAWN BY	MLH
CHECKED BY	NLR

SUP SITE PLAN

PIVOT ENERGY VA I & II
PREPARED FOR
PIVOT ENERGY VA, LLC

JAMES CITY COUNTY VA

SHEET NUMBER
EXHIBIT 1

**Approved Minutes of the October 20, 2022
Agricultural and Forestal District Advisory Committee Regular Meeting**

AFD-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal

Mr. Risinger stated that Mr. Buzz Becker from Pivot Energy has applied to withdraw a 10-acre portion of the 105.82-acre parcel within the Hill Pleasant Farm AFD, on behalf of the property owner. Mr. Risinger noted that the parcel is located at 7294 Richmond Road, is zoned A-1, General Agricultural, and is designated Economic Opportunity (EO) on the 2045 Comprehensive Plan Land Use Map. He said that the Hill Pleasant Farm AFD currently consists of a total of 304.34 acres across three properties.

Mr. Risinger told the Committee that 42 acres of this property were withdrawn from the AFD during the 2022 renewal process. He explained that during the review of a Special Use Permit (SUP) application for a proposed solar farm on the property, a revised master plan of the solar farm required 10 additional acres which were not part of the 42 acres already withdrawn. Mr. Risinger stated that the additional 10 acres must be withdrawn from the AFD before the SUP application can be approved for that portion of the property.

Mr. Risinger stated that AFD withdrawal requests outside of the renewal period are considered per the criteria listed in the Board of Supervisors' Policy Governing the Withdrawal of Properties from AFDs. He listed the four criteria (and staff interpretation): (i) the request is caused by a change in circumstances that could not have been anticipated at the time the application was made for inclusion in the district (change in circumstances historically interpreted as death of a property owner); (ii) the request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD (public purpose interpreted as using the land for a public facility such as a school or fire station); (iii) the request would not cause damage or disruption to the existing district (the AFD would continue to meet the minimum acreage requirements if this withdrawal is approved); and (iv) if the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than what was currently in place on the property, the new land use would be in conformance with the Comprehensive Plan (solar farms are not specifically identified as a compatible land use in the EO designation but may serve as a transitional land use until market forces determine a more intense economic use).

Mr. Risinger told the Committee that staff determined the application would not cause a disruption to the AFD, and the proposed land use would be a transitional use within the EO designation. He noted, however, that staff determined the proposal is not caused by an unforeseen change in circumstances, and the request would not serve a public purpose. Mr. Risinger summarized that staff recommends the Committee recommend denial of this application to the Planning Commission and the Board of Supervisors based on evaluation of the criteria. He noted that Mr. Becker was in attendance and had a presentation available.

Mr. Bradshaw said he disagreed with staff's interpretation of the first criteria, that the change in circumstance could have been anticipated at the time of the application. He said the applicant

withdrew what was believed to be the necessary acreage for the proposed solar farm, but an additional withdrawal of 10 acres was deemed required by County staff upon site plan review. Mr. Bradshaw said the applicant could not have foreseen that requirement, and therefore the current AFD withdrawal application did meet all criteria.

Mr. Bradshaw motioned to recommend Approval of withdrawing the proposed 10 acres located at 7294 Richmond Road from the Hill Pleasant Farm AFD.

Mr. Taylor invited Mr. Becker, Director of Project Development for Pivot Energy, to speak to the Committee.

Mr. Becker displayed his presentation and said there were only a few points on which he and staff disagreed. He said the proposed withdrawal would not affect the minimum 200-acre requirement for the AFD. He added that the property owner is willing to enroll into the district six to eight acres from their abutting parcel to the north, as a sign of good faith and to offset the additional withdrawal. Mr. Becker noted that the letter indicating the property owner's intent was included in the withdrawal application.

Mr. Becker stated he would expand the definition of public purpose and said that staff's definition is limited to a public facility such as a school or fire station. Mr. Becker noted that public purpose is defined in federal regulations under the Recreation and Public Purposes Act as "the purpose of providing facilities or services for the benefit of the public in connection with, but not limited to, public health, safety or welfare." Mr. Becker argued the proposed project would deliver infrastructure investment with clean, local energy to the County, and it would offer meaningful utility bill savings to County residents, particularly those of low to moderate income.

Mr. Becker then addressed the criteria related to unanticipated change in circumstance. He said he disagrees with staff accepting only one viable circumstance change as the death of a property owner. He explained the goal in withdrawing during the enrollment window was to maintain as many acres in the district as possible and still pursue the project. Mr. Becker said it was not until the end of the AFD renewal period when the County issued comments and proposed conditions which significantly impacted the required permit area for the project. He noted that his project team then conducted multiple meetings with County staff to understand the new standard and to see if the project could proceed without additional acreage withdrawal from the district. He said his project team revised designs to meet the requirements even as regulatory guidance from Virginia Department of Environmental Quality is not finalized.

Mr. Becker argued that because new standards from staff were provided after the window in which necessary acres could be withdrawn, this meets the criteria and constitutes a change in circumstance that could not have been anticipated at the time the application was made for inclusion in the district.

Mr. Abbott asked about the purpose of the additional 10 acres to be withdrawn.

Mr. Becker said the 10 acres withdrawn were for buffer requirements as well as stormwater management. He said the initial proposal was based on conditions for the recent Racefield Solar Project, but he understood that standards change.

With no additional questions by the Committee, Mr. Abbott seconded the motion made earlier by Mr. Bradshaw to recommend approval of the withdrawal.

On a voice vote, the motion was approved 7-0.

The Committee thanked Mr. Becker for attending the meeting and speaking with them.

**Approved Minutes of the November 2, 2022
Planning Commission Regular Meeting**

AFD-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal

This application was presented and reviewed in tandem with SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project. Discussion is combined and recorded with Special Use Permit (SUP) application.

Mr. Polster made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of AFD-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal. (5-2)

SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project

Mr. Thomas Wysong, Senior Planner, stated that Mr. Buzz Becker of Pivot Energy, Inc. has applied for an SUP to construct a solar farm on an approximately 64.9-acre portion of parcels located at 7294 and 7296 Richmond Road. Mr. Wysong stated that the parcels are zoned A-1, General Agricultural and designated Economic Opportunity (EO) on the 2045 Comprehensive Land Use Map and located outside the Primary Service Area (PSA).

Mr. Wysong stated that the property located at 7296 Richmond Road is not located within an Agricultural and Forestal District (AFD); however, the property located at 7294 Richmond Road is currently within the Hill Pleasant Farm AFD. Mr. Wysong stated that as part of the 2022 AFD renewal process, the owner withdrew 42 acres of that property from the AFD. Mr. Wysong further stated that after the renewal period closed, the applicant recognized the need to withdraw an additional 10 acres from the AFD for stormwater facilities and this withdrawal proposal does require Board approval because it occurred after the renewal period closed.

Mr. Wysong stated that withdrawal requests outside of the renewal period are considered per the criteria listed in the Board of Supervisor's Policy governing the withdrawal of properties from AFDs. The criteria are:

- The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district. (This has historically been interpreted as death of a property owner.)
- The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD. (Staff interprets a public purpose as using the land for a public facility such as a school or fire station.)
- The request would not cause damage or disruption to the existing district. (The AFD would continue to meet the minimum acreage requirements if this withdrawal is approved.)

- If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

Mr. Wysong stated that Solar Farms are not specifically identified as a compatible land use in the EO Zoning District, but they may serve as a transitional land use until market forces determine a more intense economic use.

Mr. Wysong stated that staff finds that this application would not cause a disruption to the AFD and that the proposed land use would be a transitional use within the EO Zoning District; however, staff finds that this proposal is not caused by an unforeseen change in circumstances and that the request would not serve a public purpose. Mr. Wysong stated that since it does not meet all the criteria of the Board's withdrawal policy, staff recommends denial of this withdrawal request to the Board of Supervisors.

Mr. Wysong stated that at its October 20, 2022, meeting, the AFD Advisory Committee unanimously recommended approval of this withdrawal request by a vote of 7-0.

Mr. Wysong stated that the proposed solar farm facility will consist of ground-mounted arrays of solar panels mounted on single-axis trackers to orient the arrays toward the direction of the sun. Mr. Wysong stated that all new utilities will be placed underground and the solar farm will connect to existing overhead utility lines on the property. Mr. Wysong stated that the lease will be for 21 years with an option to extend for an additional 10 years.

Mr. Wysong stated that staff has proposed conditions to mitigate impacts from this proposal. Mr. Wysong further stated that these proposed conditions will require access to the facility during construction to be from the existing easement along the railroad connecting to Peach Street. Mr. Wysong stated that once the site construction is complete, normal sized vehicles can access the site from Richmond Road, but oversized vehicles will still be required to utilize the Peach Street entrance. Mr. Wysong stated that construction activities such as pile driving, clearing, and grading have limited hours per the SUP conditions. Mr. Wysong stated that a 50-foot vegetated buffer is shown along the perimeter of the development, with the buffer being increased to 75 feet along areas nearest to Richmond Road.

Mr. Wysong stated that the 2045 Comprehensive Plan Land Use Map designates the property EO. Mr. Wysong stated that the Comprehensive Plan does not specifically identify solar farm as a compatible use in EO; therefore, staff has reviewed this application as a transitional use given the limited lease of the property.

Mr. Wysong stated that according to Virginia Code Section 15.2-2232, unless a utility facility is shown on the adopted Comprehensive Plan or other master plans for the County, the local Planning Commission and a governing body shall review the facility to determine whether the location, character, and extent of the project is substantially in accord with the adopted Comprehensive Plan.

Mr. Wysong stated that staff recommends the Planning Commission find this application consistent with the 2045 Comprehensive Plan and recommend approval of the SUP to the Board of Supervisors subject to the proposed conditions and approval of the withdrawal request from the AFD.

Mr. O'Connor opened the floor for questions from the Commission.

Mr. Krapf requested more information on the reason for requesting the additional 10 acres.

Mr. Wysong stated that during staff review, it was determined that more acreage was needed for the stormwater facilities and a small expansion to the footprint of the solar arrays.

Mr. Krapf inquired if this could be considered a circumstance beyond the applicant's control that would meet one of the withdrawal criteria.

Mr. Wysong stated that staff did not interpret it as meeting the criteria.

Mr. Krapf inquired about the access to the site during construction and the impact of the existing utility lines on the access.

Mr. Holt stated that in the interim, as follow up on the stormwater management piece, there has been updated guidance from the state on calculating impervious cover for solar farms. Mr. Holt stated that the panels are now considered impervious cover which increases the amount of area needed for treatment of stormwater. Mr. Holt further stated that there is also a cap on the amount of forested land that can be credited to stormwater management. Mr. Holt stated that this accounts for the withdrawal of the additional land from the AFD.

Mr. Wysong provided an overview of the construction access road to the property.

Mr. Krapf inquired if any road improvements would be required.

Mr. Wysong stated that there is a condition that the applicant would have to do an existing conditions assessment and calculate what the repairs would be. Mr. Wysong stated that those repairs would need to be completed after construction once the site is finished.

Mr. Krapf inquired if this would include the overhead utilities.

Mr. Wysong confirmed.

Mr. Holt stated that Peach Street and Peninsula Street are in the VDOT secondary system for maintenance. Mr. Holt stated that on the other side of the railroad tracks, it becomes a shared easement. Mr. Holt stated that much of the private easement may need to be improved.

Ms. Null stated that this is her concern as well. Ms. Null inquired if the site could be accessed from Rochambeau Drive or from Route 60. Ms. Null noted that there could be huge impacts to the CSX operations if a vehicle was stuck on the track crossing.

Mr. Holt stated that access from Rochambeau Drive for this site is distinctly different from the other solar farm to the south because the route passes a number of residential units on one end and is encumbered by environmentally sensitive land at the other end.

Mr. Krapf inquired about a bond to ensure appropriate decommissioning of the panels at the end of their life.

Mr. Wysong stated that there is a condition for a surety bond to decommission the panels and remediate the site in the event the applicant is no longer in business.

Mr. Polster stated that part of the condition for the surety bond is to reevaluate it periodically to ensure it will cover any increase in costs over the years.

Mr. O'Connor opened the Public Hearing.

Mr. Buzz Becker, Director of Project Development, Pivot Energy, Inc., made a presentation to the Commission in support of the application.

Mr. Polster inquired about the use of the property between the buffer and the boundary line with the adjacent property owner.

Mr. Becker stated that the property owner will be reimbursed for that property so that it can be open space; most likely a meadow with pollinating plants.

Mr. Polster inquired about the ground cover under the solar panels.

Mr. Becker stated that the plan is for a native pollinator seed mix with up to quarterly mowing or maintenance.

Mr. Polster inquired about the size of the largest vehicles bringing in equipment.

Mr. Becker stated that the solar panels would be delivered on a tractor trailer. Mr. Becker further stated that the vast majority of the vehicles would not be that large.

Mr. Polster inquired about whether the tractor trailer would have difficulty crossing the railroad tracks and navigating the turn.

Mr. Becker stated that it would not be a problem.

Mr. Polster inquired about the buffering along the road adjacent to the neighboring property.

Mr. Becker stated that they are working with the adjacent property owner to establish a satisfactory mix of plantings.

Dr. Rose inquired about the subscription service for low-to-moderate-income customers.

Mr. Becker stated that they have a manager of subscriptions that reaches out to the community to find potential subscribers.

Dr. Rose inquired if the subscriber opportunity was limited to residents near the solar farm.

Mr. Becker stated that it was not limited by proximity.

Mr. Rodgers inquired if the project could move forward without the additional 10 acres.

Mr. Nick Robertson, Kimley-Horn and Associates, Inc., stated that without the additional acreage, it would be necessary to reduce the number of panels or not go forward with the project. Mr. Robertson stated that a reduction in the panels may affect support from Dominion Energy.

Mr. Polster inquired if staff did the stormwater calculations.

Mr. Roberson stated that Kimley-Horn did the calculations.

Mr. Polster inquired if the Stormwater Division supported those calculations.

Mr. Robertson stated that staff supported the calculations.

Mr. Polster inquired if there were any alternative.

Mr. Roberson stated that there is no alternative except reducing the number of panels which the applicant cannot do.

Mr. O'Connor inquired if any other portion of the property could be used for stormwater management.

Mr. Robertson stated that the location of the retention ponds is determined by topography; the ponds must be placed where water will drain. Mr. Robertson stated that it would not be possible to move sufficient panels to another area or be detrimental to the adjacent property owner.

Mr. Polster inquired if he is correct that the calculations for impervious cover are based on the amount of water coming off the panels and where it drains to which is why the retention ponds must be located where they are.

Mr. Becker confirmed that this is correct.

Mr. Gary Campbell, 230 Peach Street, 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. Jack Haldeman stated that he plans to support the application. Mr. Haldeman stated that he finds that the AFD withdrawal does meet the criteria for a change in circumstance and further it also meets the criteria of being for a public purpose. Mr. Haldeman stated that this does meet a goal of the Comprehensive Plan as well as stated and federal goals to decarbonize energy production.

Mr. Rich Krapf stated that he also finds that the criteria for AFD withdrawal are met. Mr. Krapf stated that he believes the applicant would have removed the acreage during the renewal period if the stormwater information had been available at that time. Mr. Krapf stated that he would like to recommend that Condition No. 5 be amended to include that Item B read: The majority of evergreen shrubs and trees should be native species. Mr. Krapf further stated that he would recommend that Condition No. 6 be amended to read: Site ground cover that includes native pollinators and native grasses. Mr. Krapf further stated that he is in favor of solar and other power; however, he is concerned about the impact on the EO zone.

Mr. O'Connor stated that he has concerns about this use of the property in the EO zone. Mr. O'Connor stated that he did not support the other neighboring solar farm and does not intend to support this application.

Mr. Polster made a motion to recommend approval of the application with conditions as proposed by staff and with the recommended amendments.

On a roll call vote, the Commission voted to recommend approval of SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project. (5-2)

Mr. Polster made a motion to adopt the resolution finding the project to be in substantial accord with the Comprehensive Plan.

On a roll call vote, the Commission voted to find the application in substantial accord with the Comprehensive Plan. (5-2)

ITEM SUMMARY

DATE: 3/14/2023

TO: The Board of Supervisors

FROM: John Risinger, Senior Planner

SUBJECT: SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	1. Resolution	Resolution
☐	2. Exhibit A Vehicular Access	Backup Material
☐	3. Supplemental Materials Provided by the Applicant	Backup Material
☐	4. Letter from the Colonial Soil and Water	Backup Material
☐	5. Staff Report from the December 13, 2022, Board of Supervisors Meeting	Backup Material
☐	6. Location Map	Backup Material
☐	7. Applicant Narrative	Backup Material
☐	8. Master Plan	Backup Material
☐	9. Proposed Landscape Buffer	Backup Material
☐	10. Adopted Resolution for Consistency with Section 15.2-2232	Backup Material
☐	11. Approved Minutes of the November 2, 2022, Planning Commission Meeting	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	3/1/2023 - 11:57 AM
Development Management	Holt, Paul	Approved	3/1/2023 - 11:58 AM
Publication Management	Pobiak, Amanda	Approved	3/1/2023 - 1:08 PM
Legal Review	Kinsman, Adam	Approved	3/7/2023 - 4:56 PM
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 4:57 PM
Board Secretary	Purse, Jason	Approved	3/7/2023 - 4:57 PM
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 4:58 PM

**SPECIAL USE PERMIT-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
Staff Report for the March 14, 2023, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant:	Mr. Buzz Becker, Pivot Energy, Inc.
Landowners:	D & S Chong, LLC Mr. Dae Ik and Ms. Susan Chong
Proposal:	Development and construction of a solar panel facility for electrical power generation, storage, transmission, and associated activities.
Locations:	7294 Richmond Road 7296 Richmond Road
Tax Map/Parcel Nos.:	2410100004 2320100025
Project Acreage:	± 64.9 acres
Zoning:	A-1, General Agricultural
Comprehensive Plan:	Economic Opportunity
Primary Service Area:	Outside
Staff Contact:	John Risinger, Senior Planner

PUBLIC HEARING DATES

Planning Commission:	September 7, 2022, 6:00 p.m. (Postponed) October 5, 2022, 6:00 p.m. (Postponed) November 2, 2022, 6:00 p.m.
Board of Supervisors:	December 13, 2022, 5:00 p.m. February 14, 2023, 5:00 p.m. (Postponed)

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

The applicant has provided supplemental materials (Attachment No. 3) for the Board's consideration. These materials include additional information pertaining to vehicular access to the site for construction traffic. This includes information regarding the railroad crossing, a turn radius analysis for the Norge Lane and Peach Street intersection and the CSX railroad crossing, and procedures for vehicles crossing the CSX railroad. The supplemental materials also include information pertaining to "Toxicity Characteristic Leaching Procedure" (TCLP) testing for the proposed solar panels and information for pollinator plantings.

Staff has revised conditions per the information and suggested revisions provided by the applicant. Condition Nos. 3, 12, and 13 have been revised so that construction traffic to the site may only access the site from the Norge Lane and Richmond Road as shown on Exhibit A provided by the applicant (Attachment No. 2). Condition No. 6 has been revised to reference the USDA Farm Service Agency's Conservation Reserve Program regarding pollinator plantings. Condition No. 11 has been revised to require additional information regarding construction traffic to be included in the Construction Management and Mitigation Plan.

Condition No. 28 has been added to require Environmental Site Assessments to be completed every 10 years during the operation of the solar farm. Environmental Site Assessments are studies which determine if any Recognized Environmental Conditions (REC) exist on a property. RECs are defined as "The presence or likely presence of any hazardous substances or petroleum products on a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.". Should a study

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-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
Staff Report for the March 14, 2023, Board of Supervisors Public Hearing**

determine that RECs are present on the property, the owner of the facility would be required to remediate the REC.

With consultation from the County Attorney's Office, Condition No. 29 has been revised so that the owner of the facility will pay the greater of the machinery and tool tax or the amount which would be required through a Revenue Share Ordinance annually to support construction of public improvements.

Condition No. 30 has been revised to reference the TCLP testing as a method to confirm that the solar panels for the project are considered non-regulated waste in accordance with the Resource Recovery Act.

Finally, non-substantive revisions have been made to various conditions for consistency and clarification.

Staff has also discussed this application with the Colonial Soil and Water Conservation District (CSWCD). CSWCD provided input regarding the application and solar farms generally which is included as Attachment No. 4. This input included considerations of impacts to soil health, the presence prime farmland or farmland of statewide importance on the property, and the Skimino Creek Watershed Management Plan.

STAFF RECOMMENDATION

Should the Board of Supervisors approve Case No. AFD-22-0017, staff recommends that the Board of Supervisors approve the proposed Special Use Permit, subject to the proposed conditions.

JR/ap
SUP22-15RichRdSol

Attachments:

1. Resolution
2. Exhibit A Vehicular Access
3. Supplemental Materials Provided by the Applicant
4. Letter from the Colonial Soil and Water Conservation District
5. Staff Report from the December 13, 2022, Board of Supervisors Meeting
6. Location Map
7. Applicant Narrative
8. Master Plan
9. Proposed Landscape Buffer
10. Adopted Resolution for Consistency with Section 15.2-2232
11. Approved Minutes of the November 2, 2022, Planning Commission Meeting

RESOLUTION

CASE NO. SUP-22-0015. 7294 AND 7296 RICHMOND ROAD

PIVOT ENERGY SOLAR PROJECT

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, Mr. Buzz Becker of Pivot Energy, Inc., on behalf of D & S Chong, LLC, and Mr. Dae Ik and Ms. Susan Chong, the owners of property located at 7294 and 7296 Richmond Road, respectively, and further identified as James City County Tax Map Parcel Nos. 2410100004 and 2320100025, respectively (collectively, the “Properties”), has applied for an SUP to allow for the construction of a solar electrical generation facility on the Properties as shown on a plan titled “Pivot Energy VA I & II Prepared for Pivot Energy VA, LLC” and sealed October 24, 2022; and

WHEREAS, the Planning Commission, following its public hearing on November 2, 2022, recommended approval of Case No. SUP-22-0015 by a vote of 5-2; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-22-0015; 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 Properties.

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-22-0015 as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the construction of a photovoltaic solar electrical generation facility (the “Facility”), electrical substations with a capacity of 5,000-kilovolt amperes or more serving the Facility, and electrical transmission lines capable of transmitting 69 kilovolts or more serving the Facility (all together, the “Project”) on property located at 7294 and 7296 Richmond Road and further identified as James City County Real Estate Tax Map Nos. 2410100004 and 2320100025, respectively (collectively, the “Properties”). The Properties shall be developed and the Project constructed substantially in accordance with the Master Plan titled “Pivot Energy VA I & II Prepared for Pivot Energy VA, LLC” prepared by Kimley-Horn, and sealed October 24, 2022 (the “Master Plan”), with any deviations considered per Section 24-23(a)(2) of the James City County Code, as amended (“County Code”).
2. Boundary Line Extinguishment. Prior to final approval of any site plan, a subdivision plat that extinguishes the lot lines separating the Properties shall be recorded.

3. *Vehicular Access.* Vehicular access to and from the Facility during construction and decommissioning shall only be from the intersection of Norge Lane and Richmond Road to Peach Street as shown on the Master Plan and the exhibit titled “Exhibit A Vehicular Access” and dated February 22, 2023 (“Exhibit A”). Vehicular access to and from the Facility during regular operations and maintenance activities, except for oversized vehicles as defined in Section 13-36.1(b) of the County Code, may access the site from Richmond Road. No vehicles associated with the construction, operation, maintenance, or decommissioning of the Facility shall be permitted to park or queue along Richmond Road.
4. *Nutrient Management Plan.* The Facility operator shall provide a nutrient management plan (NMP) prepared by a nutrient management planner certified in the Commonwealth of Virginia for all of the area within the defined limits of work (disturbance) for the Properties. The purpose of the NMP is to provide for long-term establishment and maintenance of turf grass, pasture, rangeland, or other similar type vegetative cover which preserve the long-term soil health for potential future farming purposes. The NMP shall have a component which specifically identifies and maintains and protects designated Prime Farmland soil mapping units consistent with the Soil Survey of James City County Counties and the City of Williamsburg Virginia (April 1985) and the County’s Comprehensive Plan. The NMP shall be submitted for review and approval by the County’s Director of Stormwater and Resource Protection prior to approval of any final site plan for the Project. Upon approval of the NMP, the Facility operator shall be responsible for ensuring that any nutrient applied in the area within the defined limits of work is in strict accordance with the NMP.
5. *Vegetated Buffer.* Prior to final approval of any site plan, the Planning Director or designee shall review and approve a landscape plan for the Project. The landscape plan shall provide a 50-foot landscaped buffer (the “Perimeter Buffer”) along the perimeter of the Project site. The Perimeter Buffer shall be increased to 75 feet in the following locations: (i) along approximately 1,154 feet of the western perimeter that faces Richmond Road, (ii) along approximately 645 feet of the northern perimeter, and (iii) along approximately 2,862 feet of the southern perimeter to screen the Project as shown on the Master Plan. The Perimeter Buffer shall be shown on the site plan. The Perimeter Buffer shall be provided by one of the three treatment options listed below:
 - a. In areas of the Perimeter Buffer that are currently comprised of mature forest, as determined by the Planning Director or designee, the buffer shall be left undisturbed in its natural state.
 - b. In areas of the Perimeter Buffer that are not completely comprised of mature forest, as determined by the Planning Director or designee, supplementation with native evergreen shrubs and trees shall be required in accordance with Condition No. 5c.
 - c. In areas of the Perimeter Buffer where little or no vegetation exists, as determined by the Planning Director or designee, the buffer shall be landscaped to the provisions of Section 24-96 of the County Code for General Landscape Areas except that the required evergreen tree and shrub mixture shall be increased from 35% to at least 50%.

6. *Native Pollinators.* Disturbed areas requiring reseeding shall be seeded with a seed mix for site groundcover that includes native pollinators and native grasses which bloom in spring and/or summer as identified by the Virginia Department of Conservation and Recreation's Virginia Solar Site Native Plant Finder or the USDA Farm Service Agency's Conservation Reserve Program. A landscaping plan showing the areas being reseeded, including a detailed list of plant species included in the seed mix, shall be reviewed and approved by the Planning Director or designee prior to final site plan approval.
7. *Lighting.* If any lighting of the Project is proposed, the Planning Director or designee shall review and approve a lighting plan prior to final site plan approval. Any exterior site or building lighting on the Properties shall be shielded and directed downward. No glare, defined as 0.1-foot-candle or higher, shall extend outside the boundaries of the Properties. Lights shall be operated by a motion detector or be able to be turned on as needed by the Facility operator and shall not be routinely illuminated at night. No light poles shall exceed a height of 16 feet above finished grade unless otherwise approved in writing by the Planning Director prior to final site plan approval.
8. *Signage.* Unless otherwise exempt by Section 24-74 of the County Code, no outdoor signage related to the Project shall be permitted on the Properties.
9. *Fencing.* Any fence on the Properties shall be black or other neutral color and shall not exceed a height of 8 feet above finished grade and not consist of barbed wire. Prior to final approval of any site plan, the Planning Director or designee shall review and approve a detail of any proposed fencing on the Properties for consistency with this condition.
10. *Emergency Management Plan.* The Facility operator shall prepare and maintain an Emergency Management Plan (EMP) to address situations that may require response from James City County public safety personnel, including, without limitation, fire safety and emergency response personnel. The EMP shall:
 - Be developed in conjunction with and approved by the County Fire Chief and County Police Chief or their designees prior to final approval of any site plan.
 - Provide a mutually agreed-upon schedule for the Facility operator to provide information sessions and training for James City County public safety personnel relative to possible emergency response situations at the Facility.
 - Provide pertinent contact numbers for the Facility operator emergency personnel.
 - Provide that all emergency contact information will be posted on access gates.
11. *Construction Management and Mitigation Plan.* Prior to final approval of any site plan, the owner of the Facility shall provide a Construction Management and Mitigation Plan (CMMP) for review and approval of the Planning Director or designee. The owner of the Facility shall be responsible for ensuring compliance with the CMMP. The CMMP shall include those items listed below, including the methods used to ensure compliance for those items, to the satisfaction of the Planning Director or designee:
 - a. *Construction Management:*
 - Designated parking areas.
 - All pile driving activity on the Properties shall be limited to the hours of 8 a.m. to 6 p.m., Monday through Friday.

- Other construction activities, including clearing, grading, and tree trimming of the Properties and access route shall be limited to the hours of 7 a.m. to 7 p.m., Monday through Friday.
 - Construction traffic for the Project shall not be allowed during pick-up/drop-off times for surrounding schools.
 - Construction traffic for the Project shall not exceed 5 mph on the Properties and along the access route where there are no posted speed limits.
 - The railroad crossing procedures described in Exhibit A.
 - Appropriate methods for the storage, transportation, and disposal of any waste and/or hazardous materials.
- b. Construction Mitigation:
- Dust mitigation, such as water trucks, mulch, or similar methods.
 - Smoke and burn mitigation, such as containments or similar methods, in the event burning is required.
12. Construction Traffic Mitigation Plan. A Construction Traffic Mitigation Plan (CTMP) shall be submitted to the Virginia Department of Transportation (VDOT) and the Planning Director, or designee, for review and approval prior to the issuance of a land disturbing permit for the Facility. The CTMP shall identify all existing conditions along Peach Street and Norge Lane, provide a plan to address all necessary repairs required as a result of damage from construction traffic, and provide a timeline for completion of repairs. All road repairs as required by the approved CTMP shall be completed within six months of the Facility becoming operational.
13. Off-Site Parking. Prior to issuance of a land disturbing permit, an Off-Site Parking Plan (OPP) shall be submitted to the Planning Director, or designee, for review and approval. The off-site parking area shall be used by construction workers who shall be transported to the Properties via a shuttle van and/or bus. The OPP and parking area shall conform to all Zoning Ordinance requirements and shall identify elements such as, but not limited to, the number of off-site parking spaces provided and the location of the off-site parking area. In order to reduce the amount of construction-related traffic along Peach Street and Norge Lane and to ensure that construction workers are parking their vehicles at the off-site parking area, no more than 20 vehicles may be parked on the construction site at any time except for trucks, as defined by the Zoning Ordinance, and delivery vehicles. No on-street parking for the Project shall be allowed. The OPP shall identify the need for additional Erosion and Sediment Control measures and Stormwater measures generated by the off-site parking area and those needs be approved through an erosion and sediment control plan prior to issuance of land disturbance permit for the Facility.
14. Spill Prevention Control and Countermeasure Plan. Prior to approval of any site plan, the Facility operator shall submit a Spill Prevention Control and Countermeasure (SPCC) plan for the Project to the County Director of Stormwater and Resource Protection or designee for review and approval. The SPCC plan shall outline measures and procedures necessary for the operation of the Facility until decommissioning.

15. Decommissioning and Restoration Plan and Agreement. Prior to final approval of any site plan, a Decommissioning and Restoration Plan (DRP) shall be submitted to the Planning Director or designee for review and approval. The DRP shall outline the required steps for removal of above and below-ground Project components, disposal and/or recycling of wastes and materials, soil stabilization, and the revegetation and restoration of native habitat of the Properties. At the time of decommissioning of the Facility, the stormwater facilities on the Properties must be evaluated for continued need and the final DRP must include the close-out or remediation of stormwater facilities. The DRP shall be enforceable by a written Decommissioning Agreement in accordance with and subject to the terms of Virginia Code section 15.2-2241.2(B). To ensure sufficient funds are available to the County to conduct the DRP, a surety in an amount sufficient for decommissioning the Facility and remediating the Properties shall be posted with James City County in a form acceptable to the County Attorney. The Decommissioning Agreement shall be executed prior to approval of a site plan for the Project.
16. Height Limitation. The maximum height of all structures in the Project, including the photovoltaic solar panel mounts, shall not exceed 16 feet above finished grade.
17. Glare. All photovoltaic solar panels on the Properties shall be made of or be coated with anti-reflective materials to prevent glare.
18. Discing. After areas to be topsoiled have been brought to grade, and immediately prior to dumping and spreading the topsoil, the subsoil shall be loosened by discing to a depth of at least two inches to ensure bonding of the topsoil and subsoil. A geotechnical report showing completion of discing for the Project shall be submitted to the Stormwater and Resource Protection Director or designee at the time of submitting a Stormwater Final As-Built application.
19. Resource Protection Area. Impacts to the Resource Protection Area shall be limited to required stormwater management facility outfalls. There shall be no clearing of trees to allow for sunlight access to panel arrays.
20. Stormwater Management Facility Design. All stormwater management facilities shall meet or exceed the criteria of the appropriate Virginia Department of Environmental Quality (DEQ) Best Management Practice Clearinghouse design standard.
21. Best Management Practice Facility Access Roads. Best Management Practice (BMP) facility access roads shall be a 12-foot wide paved or gravel surface with sufficient means for ingress and egress as determined by the Planning Director or designee. The use of grass pavers shall be prohibited. The BMP facility access roads shall be shown on the site plan for the Project and approved by the Planning Director prior to final site plan approval.
22. Panel Cover. Solar panels are to be considered unconnected impervious areas when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulations. Solar panels are to be considered impervious areas when performing post-development water quality calculations using the Virginia Runoff Reduction Method. The applicant may propose and use alternative methods, provided it is demonstrated to the satisfaction of the Stormwater and Resource Protection Director or designee, in their sole discretion, that such alternative methods provide equivalent or improved water quantity and/or water quality performance measures and remain consistent with DEQ guidance, regulations, and standards as specified by DEQ.

23. Virginia Runoff Reduction Method. The Forested Open Space (FOS) land use category may be used to account for a maximum of 25% of the required water quality treatment associated with the Project. The purchase of off-site nutrient credits toward needed water quality treatment associated with the Project will not be allowed. FOS shall meet the criteria set forth in the DEQ BMP Clearinghouse Specification No. 2, "Sheet Flow to A Vegetated Filter Strip or Conserved Open Space." FOS area shall treat sheet flow from the development. FOS disconnected from any drainage patterns of the Project shall not be used to account for water quality treatment associated with the Project.
24. Special Stormwater Criteria. Special Stormwater Criteria (SSC) measures shall be required for the Project. Specific SSC measures may be deemed unsuitable for the type of development as determined by the Stormwater and Resource Protection Director or designee.
25. Channel Protection. The stormwater management design shall provide channel protection for the 1-year, 24-hour storm event per energy balance, as defined in 9 VAC 25-870-66(B)(3)(a), for all outfall and discharge locations for the Project.
26. Flood Protection. The stormwater management design shall provide flood protection through attenuation of the 10-year, 24-hour storm event, per 9 VAC 25-870-66(C)(2)(b).
27. Erosion and Sediment Control Inspection.
 - a. The person responsible for carrying out the Erosion and Sediment Control Plan on the Properties shall be responsible for monitoring and inspecting the land disturbing activity in accordance with Section 8-6(a) of the County Code. All inspection documentation shall be submitted to the Stormwater and Resource Protection Division for review and approval in accordance with Chapter 8 of the County Code. Prior to the issuance of a land disturbance permit, the Facility operator and any third-party inspector shall conduct a pre-construction meeting with the Stormwater and Resource Protection Division to discuss schedule, submittal requirements, and other necessary items to complete the monitoring and inspections.
 - b. At the County's sole discretion, the County may engage the services of County-contracted inspectors for inspections required by Section 8-6(b) of the County Code, or as deemed appropriate by the County to ensure compliance with applicable codes and Ordinances. The Facility operator shall be financially responsible for the costs of any inspections contracted for by the County for the Facility or the Properties.
28. Environmental Site Assessments. The owner of the Facility shall conduct and submit a Phase I Environmental Site Assessment for the Project to the Planning Director or designee on or before July 1 every 10 years following the date of adoption of this resolution during the Facility's operation. For any REC identified in the Phase I Environmental Site Assessment, the owner of the Facility shall conduct and submit a Phase II Environmental Site Assessment to the Planning Director or designee. The owner of the Facility shall prepare and submit a plan for remediation of the REC(s) incorporating the findings of the Phase II Environmental Site Assessment to the Planning Director or designee for review on or before November 1 of the same year. Remediation of the REC(s) shall be completed on or before July 1 of the following year or such other time approved in advance by the Director of Planning.

29. Project Revenue for Public Improvements. The owner of the Facility agrees to pay to the County the greater of: (A) the machinery and tool tax obligation assessed per the County Code or (B) that which would be due under a Revenue Share Ordinance adopted pursuant to Virginia Code Section 58.1-2636. Upon completion of the Project, the Facility owner will provide final capital expenditures to the County. The Facility owner agrees to make the payments due pursuant to this condition to the County on or before July 1 of each year to support construction of public improvements, the necessity of which need not be generated solely by the issuance of this SUP.
30. Solar Panel Details. As part of the site plan review, the owner of the Facility shall provide documentation that the selected panels are non-regulated waste under Resource Conservation Recovery Act classification (e.g., certification of compliance with Toxicity Characteristic Leaching Procedure Test). Furthermore, the owner of the Facility shall provide documentation that the selected panels are “Tier 1” modules as established by the most recent “PV Module Tier 1 List” issued by BloombergNEF or a similar third-party analysis widely accepted in the solar industry.
31. Commencement. The Facility shall be operational within 48 months from the date of adoption of this resolution authorizing the SUP, or this SUP shall automatically be void. The Facility operator shall submit a signed letter to the Planning Director prior to 48 months from the issuance of this SUP to confirm the operational status of the Facility.
32. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

BE IT FURTHER RESOLVED by the Board of Supervisors of James City County, Virginia, that SUP-22-0015 authorized herein shall not be effective and no site plan may be approved until the area shown on the Master Plan for the Project is withdrawn from the Hill Pleasant Farm Agricultural and Forestal District enacted by Ordinance No. 165A-14 adopted on September 13, 2022.

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 14th day of March, 2023.

SUP22-15_RichRdSol-res

EXHIBIT A

VEHICULAR ACCESS

2/22/2023

For delivery trucks to navigate to and across the Peach St crossing, we look at the proposed route and specific protocols once at the CSX crossing.



This route as the commercial entrance utilizes a signalized turn to a robust path that does not interfere with residential properties.

We have consulted the Commercial Driver's License Handbook for the most stringent standards of railroad crossing procedures. These protocols, typically reserved for school bus operators, are the proposed required method for crossing the CSX railroad at Peach St.

Crossing Procedures as Outlined in CDL Handbook:

- 1) Approaching the Crossing:
 - a) Slow down, including shifting to a lower gear in a manual transmission vehicle, and test your brakes.
 - b) Activate hazard lights approximately 200 feet before the crossing. Make sure your intentions are known.
 - c) Scan your surroundings and check for traffic behind you.
 - d) Stay to the right of the roadway if possible. Choose an escape route in the event of a brake failure or problems behind you.

- 2) At the Crossing:
 - a) Stop no closer than 15 feet and no farther than 50 feet from the nearest rail, where you have the best view of the tracks.
 - b) Place the transmission in Park, or if there is no Park shift point, in Neutral and press down on the service brake or set the parking brakes.
 - c) Turn off all radios and noisy equipment and silence any passengers.
 - d) Confirm with lead flagger (west of crossing) that East and West Scout locations are confirmed for no trains.
 - e) Establish verbal and eye contact with secondary flagger (east of crossing) for final clearance to cross.
- 3) Crossing the Track:
 - a) When you are sure no train is approaching on any track, proceed across all the tracks until you have completely cleared them.
 - i) Cross the tracks in a low gear.
 - ii) Do not change gears while crossing.
 - iii) Keep hands on the steering wheel as the vehicle crosses the tracks.
 - iv) Do not stop while any part of your vehicle is proceeding across the tracks.
 - v) Four-way flashers should be deactivated after the vehicle crosses the tracks.
 - vi) Continue to check mirrors and traffic.



February 21, 2023

James City County
Paul Holt, Director of Community Development
101 Mounts Bay Road
Building A
Williamsburg, VA 23187

Dear Mr. Holt,

Please let this letter and subsequent exhibits serve as the supplementary materials for SUP-22-0015 and AFD-22-0017. The respective materials are summarized below.

- 1) Spring 2022 Memos from DEQ that show the regulatory guidance that informed the system design and permit application. This is directly related to the premise of the AFD withdrawal and is expounded upon below.
- 2) Further details about the safe CSX crossing at Peach St. These include the commercial entry route from signalized turn at Norge Ln, crossing procedures as identified from CDL Handbook, locations of flaggers and scouts to ensure clearance for crossing, turn radius analysis along entry route of largest proposed vehicle (lowboy), and Federal Railway Administration data on daily train traffic at location.
- 3) More information about the positive environmental health impacts of a pollinator smart solar project design and additional protections to ensure the ongoing environmental safety throughout the life of the project.

Sincerely,

Buzz Becker | Director, Project Development
bbecker@pivotenergy.net
918.346.9542

Exhibit 1 – DEQ Memos

Attached are the two DEQ memos that serve as the regulatory guidance which informed the stormwater design for our proposed site.

As you will see in the initial memo (dated March 29, 2022), these are the provisions that inform the county staff's proposed stormwater conditions, as first communicated to the applicant on August 29, 2022. What these proposed conditions fail to consider is DEQ's immediate implementation follow up memo on April 14, 2022 that states:

"The Department recognizes the contractual, financial, and other obligations with many utility-scale or community solar projects currently in design—especially for those in advanced stages of design or implementation. Therefore, any solar project that does not obtain an interconnection approval by a regional transmission organization or electric utility by December 31, 2024 must comply with the requirements detailed in the Department's March 29, 2022, memorandum, which will be further clarified in an agency guidance document."

Given that our project's initial interconnection approval was secured in August 2022 and the secondary (and final) interconnection approval is anticipated in Q2 of 2023, it is clear by the DEQ's own implementation guidance that our project would be evaluated under the previous stormwater provisions. This detail was communicated to county staff during the applicant's development roundtable on April 25th.

Our SUP packet, AFD calculations, and system design continued under this understanding through May and June with the original AFD withdrawal request submitted on May 10th and the initial digital submission of the SUP packet on June 21st. These were finalized on July 25th (SUP Application Completeness) and July 27th (AFD withdrawal) respectively while the new proposed stormwater conditions—markedly different from the approved stormwater conditions for Racefield Solar in March 2022—were not provided to the applicant until August 29, 2022.

What is clear throughout this timeline is that the property owner and SUP applicant could have easily withdrawn the entire parcel from the AFD during the enrollment window if there was any concern about development footprint mismatching AFD acreage. The partial withdrawal showed a good faith effort to minimize impact to the AFD while still pursuing a development. Furthermore, the applicant continued to work with county staff to meet the proposed stormwater provisions even though DEQ's own policy implementation guidance indicates that the project should not be subjected to the new rules. Because these proposed conditions were not provided to the applicant until after the closing of the AFD enrollment window and after the SUP packet completeness determination, this fully meets the "Unanticipated Change in Circumstances" criteria within the AFD policy.

As a further act of good faith, should the Board approve the AFD withdrawal request and associated SUP, the next item you will receive from the landowner/applicant is a request to submit additional acres from the neighboring property to the Hill Pleasant Farm AFD to offset this withdrawal. Hopefully this makes the intent of respecting the AFD clear in the eyes of the Board.



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: All Members of the Stormwater Management Development/Design Community,
All Local Virginia Stormwater Management Program Administrators

From: Michael S. Rolband, PE, PWD, PWS Emeritus
Director, Department of Environmental Quality

A handwritten signature in blue ink, appearing to read "M. Rolband".

Date: March 29, 2022

Subject: Post-development Stormwater Management at Solar Projects

Dear All:

To date, the Department of Environmental Quality (DEQ) has not required solar projects that are subject to Virginia Stormwater Management Program (VSMP) requirements to account for the imperviousness of the solar panels when applying the Commonwealth's post-development stormwater management technical criteria. When performing water quantity (rainfall-runoff) calculations, DEQ's practice has been to consider only the solar panel support posts and beams as impervious areas. However, this approach has the potential to underestimate the post-development runoff volume or runoff rate from solar panel arrays, which in turn has the potential to negatively impact downstream waterways or properties. Additionally, the Environmental Protection Agency's (EPA) Chesapeake Bay Program considers the solar panels to be impervious areas for the purposes of performing water quality modeling/calculations for the Chesapeake Bay Total Maximum Daily Load.

To safeguard the protection of downstream waterways and properties as well as ensure consistency with EPA's Chesapeake Bay Program, DEQ will be implementing a stronger post-development stormwater management policy for solar projects that are subject to VSMP requirements. The new policy will go into effect **immediately** (i.e., the policy applies to all stormwater management plans not approved prior to the date of this memorandum regardless of the stage of design), and is as follows:

1. **Water Quantity.** Solar panels are to be considered unconnected impervious areas when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulation, 9VAC25-870-72. Current information regarding the application of unconnected impervious areas can be found in Chapter 9 (Hydrologic Soil-Cover Complexes), Part 630 (Hydrology) of the Natural Resource Conservation Service's National Engineering Handbook.
2. **Water Quality.** Solar panels are to be considered impervious areas when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM). To account for the disconnection of the solar panels from the overall drainage system, the area of the solar panels may be entered into the applicable "Simple Disconnection" stormwater best management practices section of the VRRM compliance spreadsheet (i.e., 2a – Simple Disconnection to A/B Soils or 2b – Simple Disconnection to C/D Soils).
3. **Alternative Methods.** This policy does not prohibit any alternative method. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with the appropriate laws and regulations.

DEQ staff are currently preparing an agency guidance document to provide additional clarity on the implementation of this memorandum. Until the guidance document is finalized, please feel free to contact Drew Hammond (Andrew.Hammond@deq.virginia.gov or 804-698-4101) or Erin Belt (Erin.Belt@deq.virginia.gov or 757-374-4621) should you have any questions.



Commonwealth of Virginia

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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: All Members of the Stormwater Management Development/Design Community
All Local Virginia Stormwater Management Program Administrators

From: Mike Rolband
Director, Department of Environmental Quality

A handwritten signature in blue ink, appearing to read "M. Rolband".

Date: April 14, 2022

Re: Implementation of the March 29 Memorandum regarding Post-Development
Stormwater Management for Solar Projects

Background

This memorandum provides additional details regarding the implementation of the Department of Environmental Quality (DEQ or Department) requirement that the surface area of solar panels are subject to the Virginia Stormwater Management Program (VSMP) and are considered impervious surfaces when applying the Commonwealth's post-development stormwater technical criteria to solar projects.

The Department's March 29, 2022, memorandum provided clarification to the regulated community that existing regulations for solar projects regarding impervious surfaces includes the solar panels as well as the base posts. This memorandum applies to *water quantity* when performing post-development water quantity calculations using the hydrologic methods specified in the Virginia Stormwater Management Program Regulation, 9VAC25-870-72. This memorandum also applies to *water quality* when performing post-development water quality calculations using the Virginia Runoff Reduction Method (VRRM).

The prior memorandum noted that this does not prohibit any alternative method that might achieve the regulatory aims of DEQ and federal regulations. Please refer to the Department's March 29, 2022, memorandum in its entirety for full context.

Implementation

The Department recognizes the contractual, financial, and other obligations with many utility-scale or community solar projects currently in design—especially for those in advanced stages of

design or implementation. Therefore, any solar project that does not obtain an interconnection approval by a regional transmission organization or electric utility by December 31, 2024 must comply with the requirements detailed in the Department's March 29, 2022, memorandum, which will be further clarified in an agency guidance document.

After the agency guidance document is approved, solar projects submitted to DEQ and accepted for evaluation or those projects completed prior to March 29, 2022, may submit adjusted design criteria for an expedited review process from the DEQ to certify compliance with state and federal regulations for no additional fee (when DEQ is the VSMP Authority).

Additionally, DEQ recognizes that the primary issue related to the VSMP is the length of time required to receive a permit. The Department is committed to a significant reduction of the time required to receive a permit, and DEQ will develop details for further implementation of federal and state regulations and an expedited review process with the stakeholder community in conjunction with the guidance document process and future additional actions. The Department reserves the right, following additional conversations with stakeholders and an evaluation of all relevant factors, to update guidance documents and relevant regulations to achieve the public policy goals of the Commonwealth.

Current Requirements

DEQ reminds all parties that:

1. This memorandum does not relieve any party from compliance with existing local, state, or federal laws and regulations—including 9VAC25-840-40 Minimum Standards,¹ and in particular Minimum Standard 19, which requires that: “Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff ...”, (ii) Virginia’s Phase III Watershed Implementation Plan goals on the Chesapeake Bay TMDL; and (iii) other local, state, or federal water quality criteria standards.
2. Early compliance with the March 29, 2022, memorandum to the extent practicable (as determined by the applicant) is encouraged as the DEQ expedites plan reviews given current staff and budget constraints.

As noted in the Department’s March 29, 2022, memorandum, DEQ staff are currently preparing an agency guidance document pursuant to Va. Code § 2.2-4101 and § 2.2-4007.2. The guidance document process provides interested parties an opportunity to comment prior to the start of public comment published in the Virginia Register. Please feel free to contact Drew Hammond (Andrew.Hammond@deq.virginia.gov; 804-698-4101) or Erin Belt (Erin.Belt@deq.virginia.gov; 757-374-4621) should you have questions.

¹ Statutory authority: Va. Code § 62.1-44.15:52. Former 4VAC50-30-40 derived from VR625-02-00 § 4; eff. September 13, 1990; amended, Virginia Register Volume 11, Issue 11, eff. March 22, 1995; Volume 29, Issue 4, eff. November 21, 2012; amended and renumbered, Virginia Register Volume 30, Issue 2, eff. October 23 2013; amended, Virginia Register Volume 31, Issue 24, eff. August 26, 2015; Volume 33, Issue 4, eff. November 17, 2016.

Exhibit 2 – CSX Crossing at Peach St

In providing more details about the safety of the proposed CSX crossing at Peach St, there were two key lines of effort: a) determine the scope of train traffic at Peach St and b) outline the detailed procedures and controls to ensure safe operations during construction.

To identify daily estimates of train traffic during the potential hours of construction delivery, we submitted for a DOT Federal Railroad Administration Crossing Inventory Form. This report is provided in the following pages. As you can see from the outline, the DOT estimates 4 trains per day through the crossing from 6am to 6pm. In discussing with neighboring abutters of both the railroad and the applicant property, we believe 8 is a more conservative estimate. Based on published Amtrak itineraries, 3 of the estimated 8 are Amtrak trains with known arrival/departure times. To deconflict these 3 trains, we propose a condition that deliveries may not cross Peach St 20 minutes before or after the scheduled departure or arrival of an Amtrak train to Williamsburg Transportation Center.

For delivery trucks to navigate to and across the Peach St crossing, we look at the proposed route and specific protocols once at the CSX crossing.



This route as the commercial entrance utilizes a signalized turn to a robust path that does not interfere with residential properties.

U. S. DOT CROSSING INVENTORY FORM

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

OMB No. 2130-0017

Instructions for the initial reporting of the following types of new or previously unreported crossings: For public highway-rail grade crossings, complete the entire inventory Form. For private highway-rail grade crossings, complete the Header, Parts I and II, and the Submission Information section. For public pathway grade crossings (including pedestrian station grade crossings), complete the Header, Parts I and II, and the Submission Information section. For Private pathway grade crossings, complete the Header, Parts I and II, and the Submission Information section. For grade-separated highway-rail or pathway crossings (including pedestrian station crossings), complete the Header, Part I, and the Submission Information section. For changes to existing data, complete the Header, Part I Items 1-3, and the Submission Information section, in addition to the updated data fields. Note: For private crossings only, Part I Item 20 and Part III Item 2.K. are required unless otherwise noted. An asterisk * denotes an optional field.

A. Revision Date (MM/DD/YYYY) 08 / 21 / 2020	B. Reporting Agency ☒ Railroad ☐ Transit ☐ State ☐ Other	C. Reason for Update (Select only one) ☒ Change in Data ☐ New Crossing ☐ Closed ☐ Re-Open ☐ Date Change Only ☐ Change in Primary Operating RR ☐ No Train Traffic ☐ Quiet Zone Update ☐ Admin. Correction	D. DOT Crossing Inventory Number 224242R
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Part I: Location and Classification Information

1. Primary Operating Railroad CSX Transportation [CSX]		2. State VIRGINIA		3. County JAMES CITY	
4. City / Municipality ☐ In ☒ Near WILLIAMSBURG		5. Street/Road Name & Block Number PRIVATE ROAD (Street/Road Name) * (Block Number)		6. Highway Type & No. PRIVATE	
7. Do Other Railroads Operate a Separate Track at Crossing? ☐ Yes ☒ No If Yes, Specify RR			8. Do Other Railroads Operate Over Your Track at Crossing? ☒ Yes ☐ No If Yes, Specify RR ATK		
9. Railroad Division or Region ☐ None SOUTHERN EAST		10. Railroad Subdivision or District ☐ None PENINSULA		11. Branch or Line Name ☒ None	
12. RR Milepost CA 0044.600 (prefix) (nnnn.nnn) (suffix)		13. Line Segment * 946590			
14. Nearest RR Timetable Station * RICHMOND		15. Parent RR (if applicable) ☒ N/A		16. Crossing Owner (if applicable) ☒ N/A	
17. Crossing Type ☐ Public ☒ Private		18. Crossing Purpose ☒ Highway ☐ Pathway, Ped. ☐ Station, Ped.		19. Crossing Position ☒ At Grade ☐ RR Under ☐ RR Over	
20. Public Access (if Private Crossing) ☐ Yes ☒ No		21. Type of Train ☒ Freight ☒ Intercity Passenger ☐ Commuter		22. Average Passenger Train Count Per Day ☐ Less Than One Per Day ☒ Number Per Day 2	
23. Type of Land Use ☐ Open Space ☒ Farm ☐ Residential ☐ Commercial ☐ Industrial ☐ Institutional ☐ Recreational ☐ RR Yard					
24. Is there an Adjacent Crossing with a Separate Number? ☐ Yes ☒ No If Yes, Provide Crossing Number			25. Quiet Zone (FRA provided) ☒ No ☐ 24 Hr ☐ Partial ☐ Chicago Excused Date Established		
26. HSR Corridor ID ☒ N/A		27. Latitude in decimal degrees (WGS84 std: nn.nnnnnnn) 37.3691640		28. Longitude in decimal degrees (WGS84 std: -nnn.nnnnnnn) -76.7687140	
29. Lat/Long Source ☒ Actual ☐ Estimated					
30.A. Railroad Use *			31.A. State Use *		
30.B. Railroad Use *			31.B. State Use *		
30.C. Railroad Use *			31.C. State Use *		
30.D. Railroad Use *			31.D. State Use *		
32.A. Narrative (Railroad Use) *			32.B. Narrative (State Use) *		
33. Emergency Notification Telephone No. (posted) 800-232-0144		34. Railroad Contact (Telephone No.) 904-366-3051		35. State Contact (Telephone No.) 804-786-2822	

Part II: Railroad Information

1. Estimated Number of Daily Train Movements				
1.A. Total Day Thru Trains (6 AM to 6 PM) 2	1.B. Total Night Thru Trains (6 PM to 6 AM) 4	1.C. Total Switching Trains 2	1.D. Total Transit Trains 0	1.E. Check if Less Than One Movement Per Day How many trains per week? ☐
2. Year of Train Count Data (YYYY) 2020		3. Speed of Train at Crossing 3.A. Maximum Timetable Speed (mph) 79 3.B. Typical Speed Range Over Crossing (mph) From 50 to 79		
4. Type and Count of Tracks Main 2 Siding 0 Yard 0 Transit 0 Industry 0				
5. Train Detection (Main Track only) ☐ Constant Warning Time ☐ Motion Detection ☐ AFO ☐ PTC ☐ DC ☐ Other ☒ None				
6. Is Track Signaled? ☒ Yes ☐ No		7.A. Event Recorder ☐ Yes ☒ No		7.B. Remote Health Monitoring ☐ Yes ☒ No



Northbound on Norge Ln before 1st Turn



Turn from Norge onto Peach St



Clear view down Peach St



Peach St out of eastern treeline, before CSX



Peach St near staging before crossing



Head on view of Peach St CSX Crossing



Northern sightline for trains



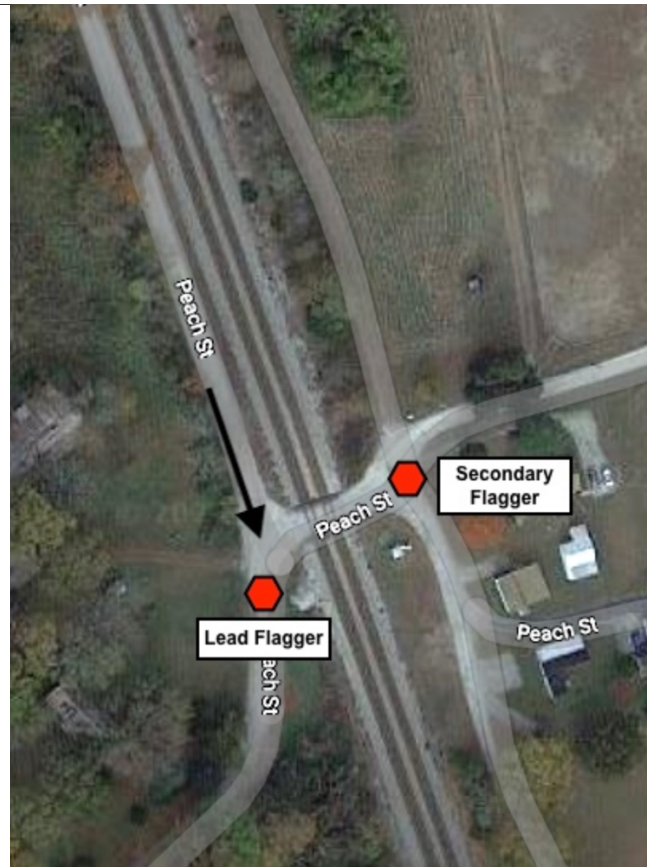
Southward view of remaining access after crossing

To confirm that this route is navigable with our largest proposed delivery trucks (lowboys, approximate 60' throughout 13 weeks of construction), we commissioned Kimley Horn to conduct a turn radius analysis. These sets are included in this submission. As you can see, even our largest proposed vehicle is able to safely navigate the CSX crossing at Peach St.

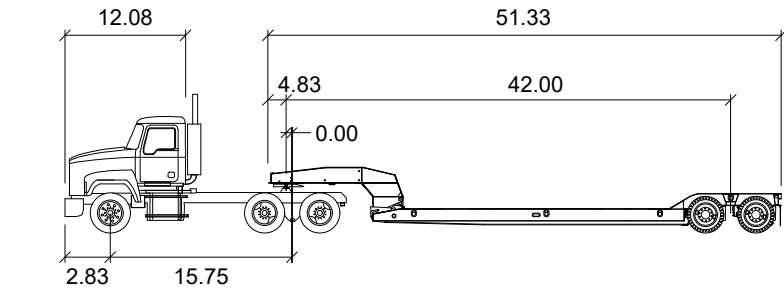
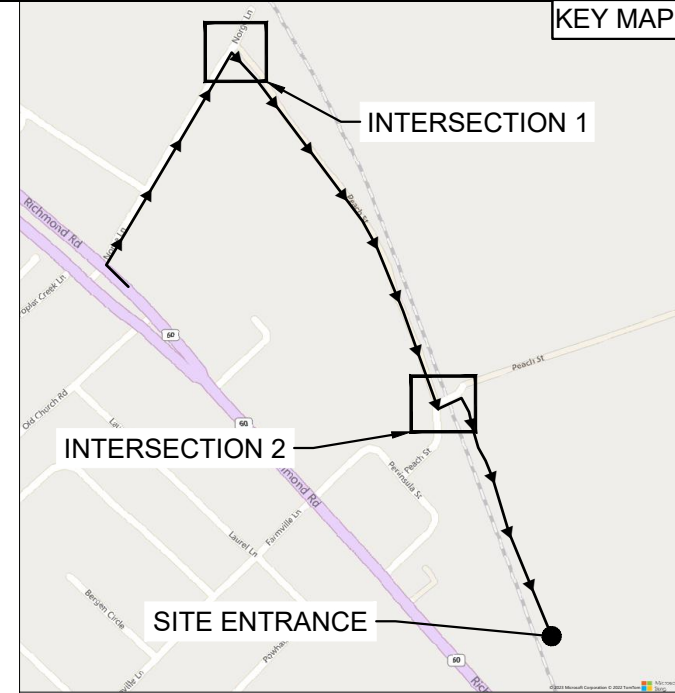
Safe operations are paramount in everything that we do, and we have consulted the Commercial Driver's License Handbook for the most stringent standards of railroad crossing procedures. These protocols, typically reserved for school bus operators, are the proposed required method for crossing the CSX railroad at Peach St.

Crossing Procedures as Outlined in CDL Handbook:

- 1) Approaching the Crossing:
 - a) Slow down, including shifting to a lower gear in a manual transmission vehicle, and test your brakes.
 - b) Activate hazard lights approximately 200 feet before the crossing. Make sure your intentions are known.
 - c) Scan your surroundings and check for traffic behind you.
 - d) Stay to the right of the roadway if possible. Choose an escape route in the event of a brake failure or problems behind you.
- 2) At the Crossing:
 - a) Stop no closer than 15 feet and no farther than 50 feet from the nearest rail, where you have the best view of the tracks.
 - b) Place the transmission in Park, or if there is no Park shift point, in Neutral and press down on the service brake or set the parking brakes.
 - c) Turn off all radios and noisy equipment and silence any passengers.
 - d) Confirm with lead flagger (west of crossing) that East and West Scout locations are confirmed for no trains.
 - e) Establish verbal and eye contact with secondary flagger (east of crossing) for final clearance to cross.
- 3) Crossing the Track:
 - a) When you are sure no train is approaching on any track, proceed across all the tracks until you have completely cleared them.
 - i) Cross the tracks in a low gear.
 - ii) Do not change gears while crossing.
 - iii) Keep hands on the steering wheel as the vehicle crosses the tracks.
 - iv) Do not stop while any part of your vehicle is proceeding across the tracks.
 - v) Four-way flashers should be deactivated after the vehicle crosses the tracks.
 - vi) Continue to check mirrors and traffic.



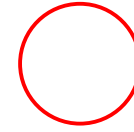
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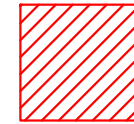
Low-Boy Trailer 53 feet

	feet		
Tractor Width	: 8.50	Lock to Lock Time	: 6.0
Trailer Width	: 8.50	Steering Angle	: 22.3
Tractor Track	: 8.50	Articulating Angle	: 70.0
Trailer Track	: 8.50		

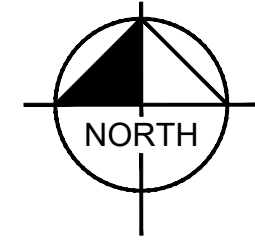
LEGEND



CONFLICT POINTS



VEHICLE PATH



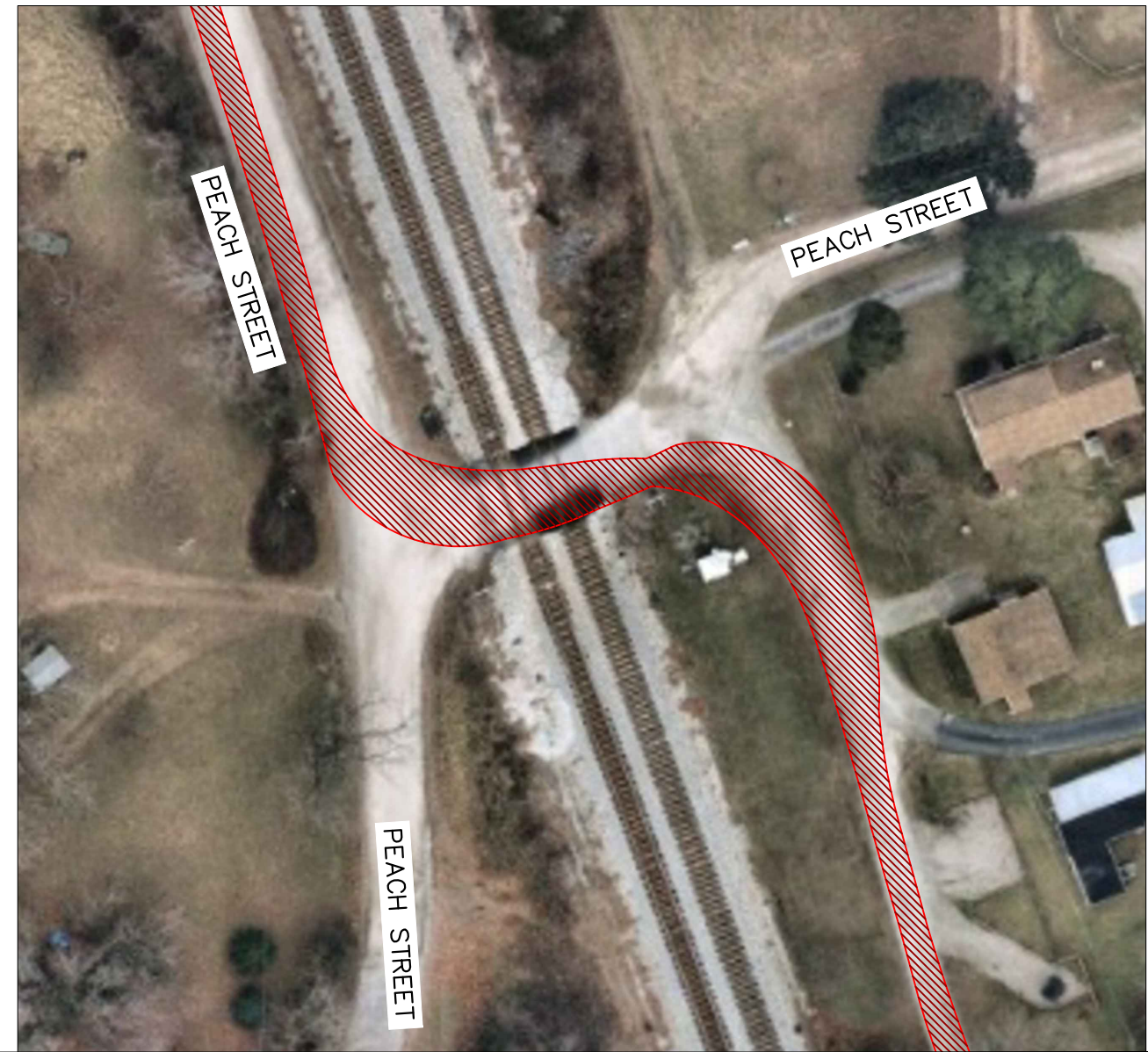
GRAPHIC SCALE IN FEET



0 25 50 100

INTERSECTION 1
NORGE LANE AND PEACH STREET

INTERSECTION 2
PEACH STREET



Kimley»Horn
© 2023 KIMLEY-HORN AND ASSOCIATES, INC.
2035 MATTHEW ST., SUITE 200, RICHMOND, VA 23250
TEL: 804.771.1882
WWW.KIMLEY-HORN.COM

**NOT FOR
CONSTRUCTION**

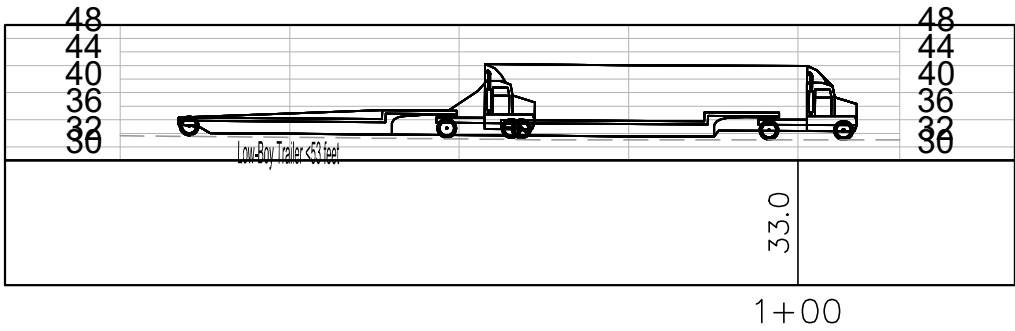
113545000	DATE	SCALE	AS SHOWN	DESIGNED BY	JLT	DRAWN BY	JLT	CHECKED BY	MLH
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TURNING MOVEMENT
EXHIBIT
(LOW-BOY)

PIVOT ENERGY VA I & II
PREPARED FOR
PIVOT ENERGY VA, LLC

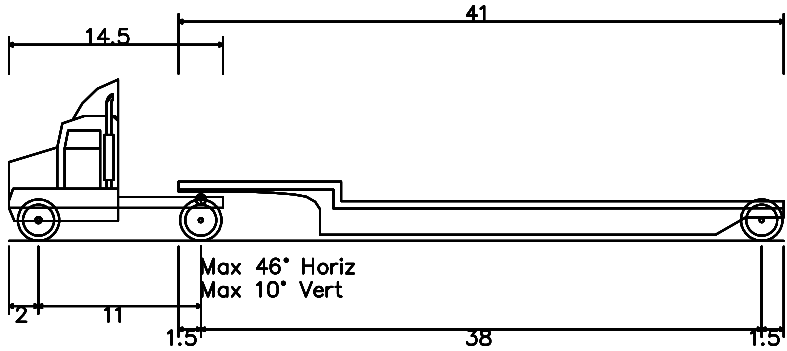
SHEET NUMBER
EX-1

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RR X-ING LOWBOY

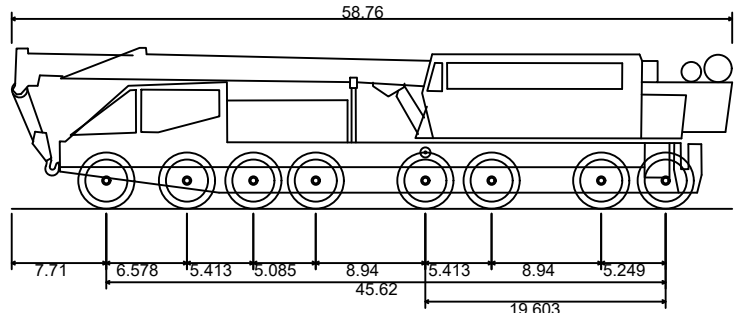
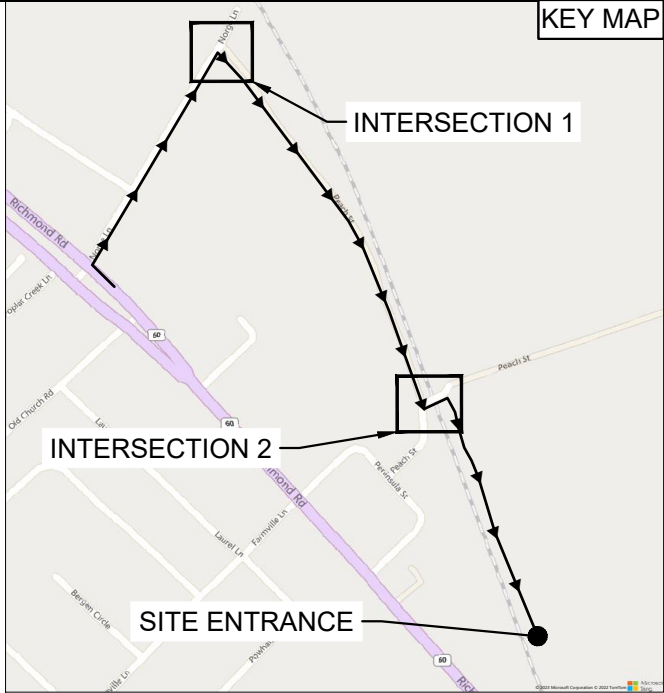
SCALE: 1" = 40' H
1" = 40' V



Low-Boy Trailer <53 feet	52.499ft
Overall Length	8.000ft
Overall Width	10.925ft
Overall Body Height	0.417ft
Min Body Ground Clearance	8.000ft
Track Width	4.00s
Lock-to-lock time	39.900ft
Curb to Curb Turning Radius	

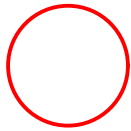
KHA PROJECT 113545000	DATE JANUARY 2023	SCALE AS SHOWN	DESIGNED BY JLT	DRAWN BY JLT	CHECKED BY MLH	VERTICAL CLEARANCE EXHIBIT (LOW-BOY)	PIVOT ENERGY VA I & II PREPARED FOR PIVOT ENERGY VA, LLC	JAMES CITY COUNTY VIRGINIA	SHEET NUMBER EX-1	Kimley»Horn © 2023 KIMLEY-HORN AND ASSOCIATES, INC. 2035 MAYWILL ST SUITE 200, RICHMOND, VA 23230 PHONE: 804-673-3882 WWW.KIMLEY-HORN.COM	NOT FOR CONSTRUCTION	No.	REVISIONS	DATE	BY

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Liebherr LTM 1800 Mobile Crane
Overall Length 58.760ft
Overall Width 9.843ft
Overall Body Height 13.123ft
Min Body Ground Clearance 1.312ft
Track Width 9.843ft
Lock-to-lock time 4.00s
Wall to Wall Turning Radius 51.673ft

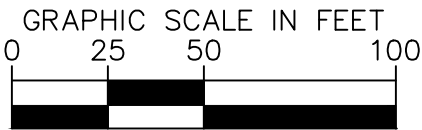
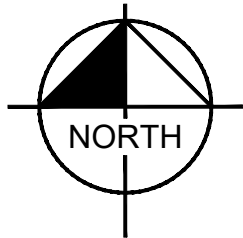
LEGEND



CONFLICT POINTS

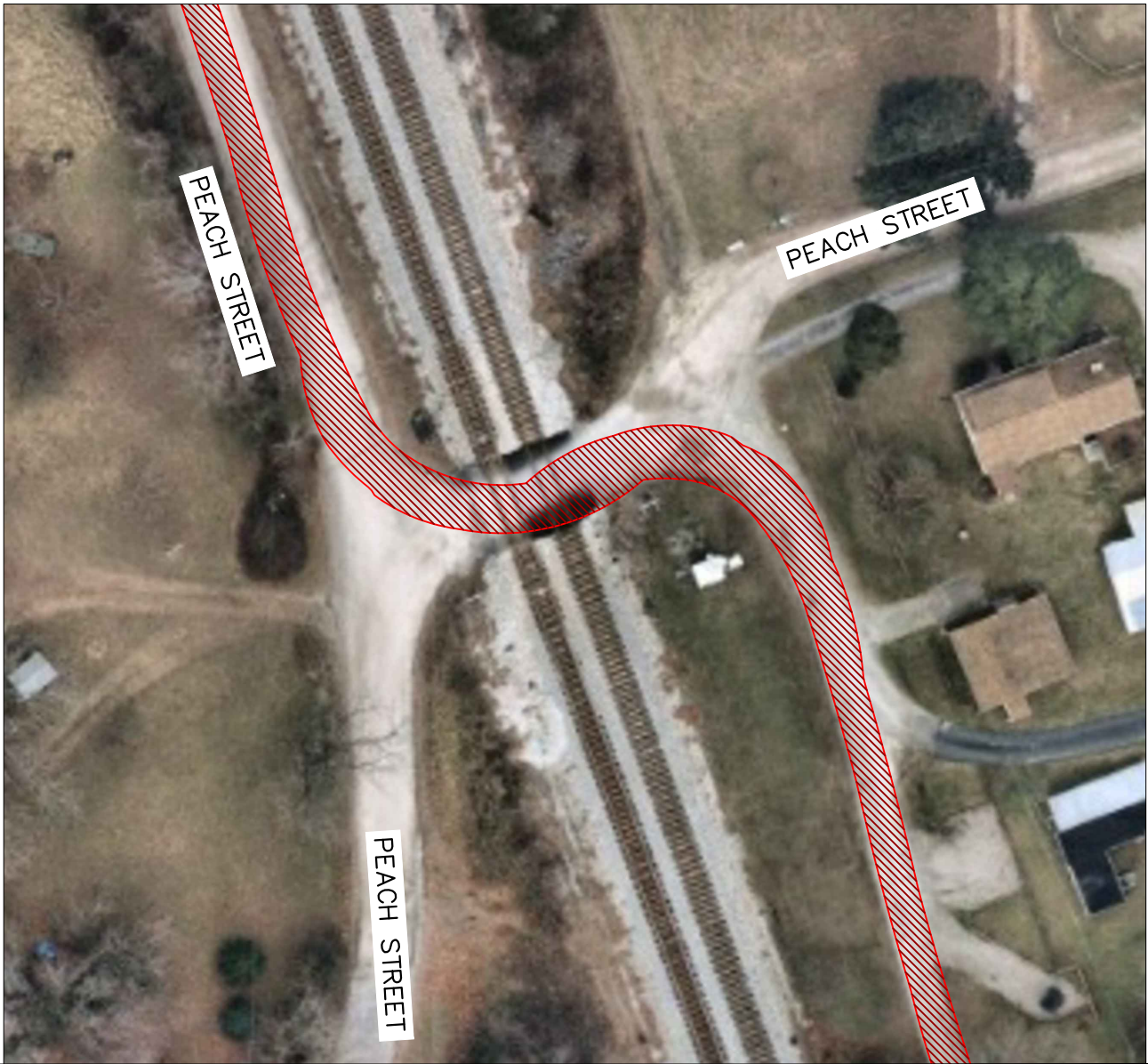


VEHICLE PATH



INTERSECTION 1
NORGE LANE AND PEACH STREET

INTERSECTION 2
PEACH STREET



KHA PROJECT 113545000		DATE JANUARY 2023		SCALE AS SHOWN		DESIGNED BY JLT		DRAWN BY JLT		CHECKED BY MLH	
TURNING MOVEMENT EXHIBIT (CRANE)						PIVOT ENERGY VA I & II PREPARED FOR PIVOT ENERGY VA, LLC					
JAMES CITY COUNTY						VIRGINIA					
SHEET NUMBER EX-1						No. REVISIONS DATE BY					

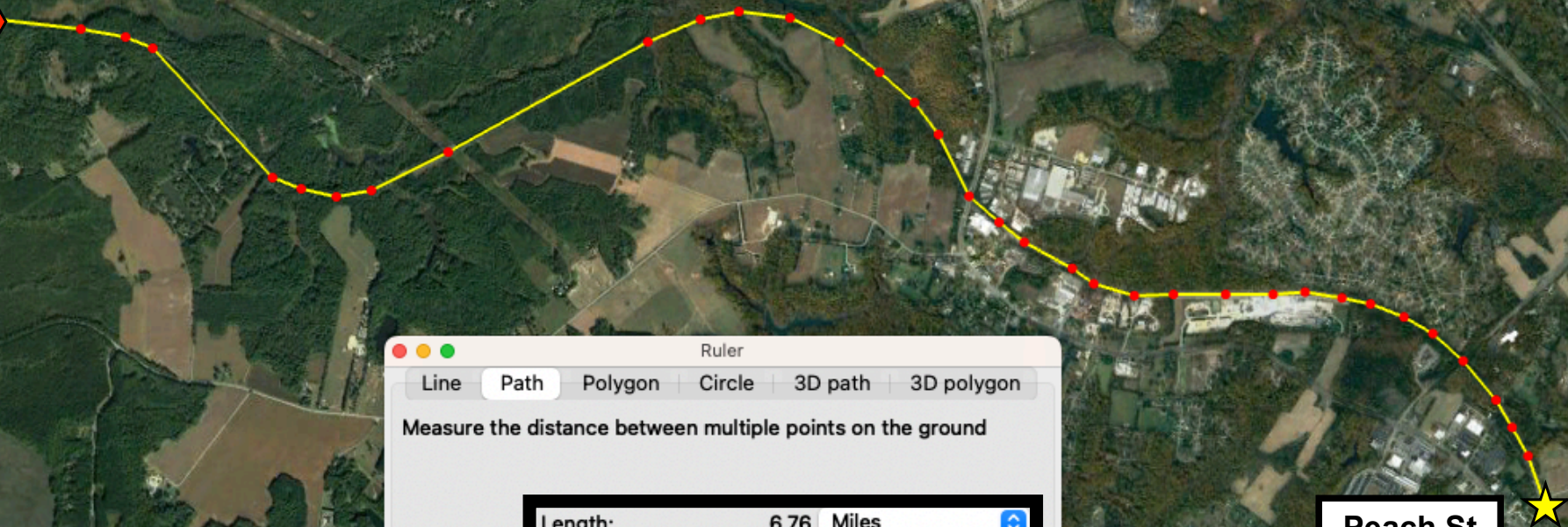
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2035 MAYWILL ST. SUITE 200, RICHMOND, VA 23230
PHONE: 804-673-3882
WWW.KIMLEY-HORN.COM

These crossing will be further deconflicted by the two scout positions we are proposing approximately 7 miles to the west and south of the Peach St crossing. These locations are identified in the maps provided.

Assuming a train is moving 55mph, this means that the scout location--approximately 7 miles away--can give clearance for a crossing at Peach St that would allow over 6 minutes and 20 seconds to execute a crossing. Furthermore, with an estimated 175 total vehicles over the 13 week construction period, we are evaluating less than 3 vehicles per day on average to make the crossing.

Given the few number of daily trains, the strong control measures proposed, and the relatively few number of total crossings proposed over the construction period, the risk for any possible incident at the Peach St Crossing is incredibly low.

West Scout
Position at VA603



Peach St
Crossing



Ruler

Line Path Polygon Circle 3D path 3D polygon

Measure the distance between multiple points on the ground

Length:

6.76 Miles

☐ Show Elevation Profile

☒ Mouse Navigation

Save

Clear

Peach St
Crossing

Ruler

Line Path Polygon Circle 3D path 3D polygon

Measure the distance between multiple points on the ground

Length: 7.26 Miles

☐ Show Elevation Profile

☒ Mouse Navigation

Save Clear

East Scout Position at
Transportation Center

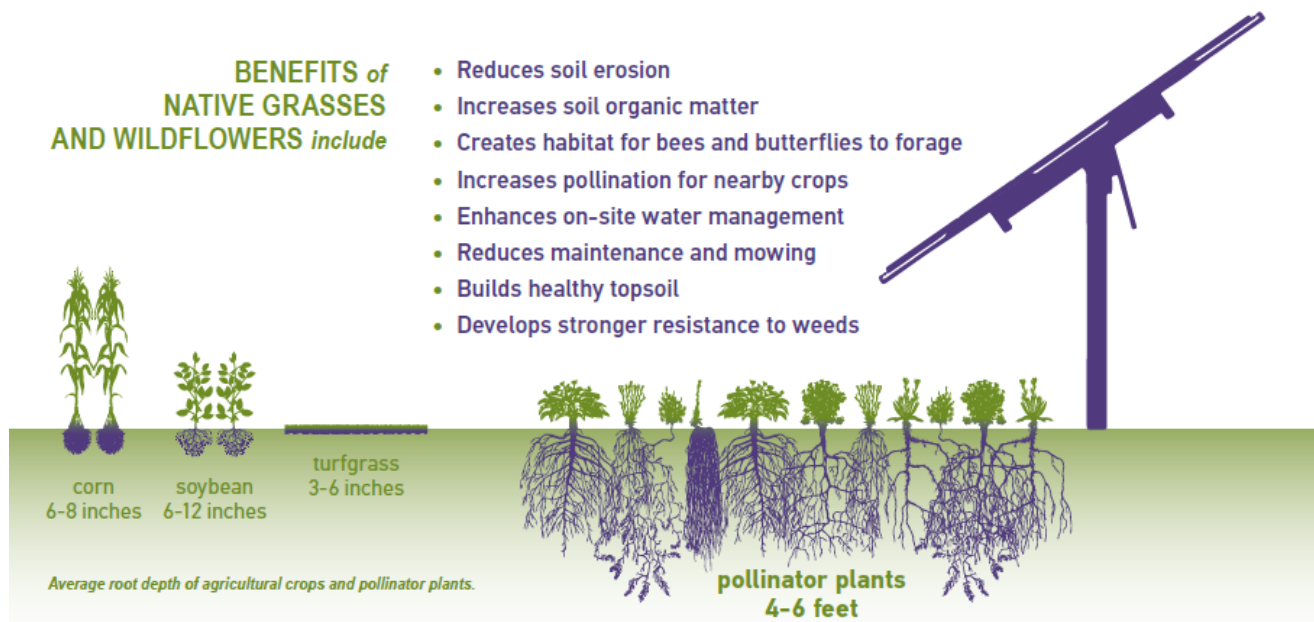
Exhibit 3 – Environmental Protections

Given the nature of our business, protecting the environment is of utmost importance when designing our projects. A common question about solar projects is the safety of the panels for the area of the site. One of the best ways to confirm that all components of a solar project are safe is to require the materials to pass the “Toxicity Characteristic Leaching Procedure” (TCLP) test.

TCLP is an analytical test method used to determine whether or not waste is hazardous by determining the mobility of organic and inorganic substances in liquids, solids, and metaphasic waste. Under the US Government’s Resource Conservation and Recovery Act RCRA of 1976, the TCLP was established by the US Environmental Protection Agency as a test method protocol to characterize industrial and other wastes. TCLP testing is used to determine if waste meets the US Environmental Protection Agency EPA’s Toxicity definition by testing it for 40 contaminants. If a waste product fails one or more of the contaminant tests, it’s considered a hazardous waste.

We are proposing a condition to require that all equipment associated with the proposed solar project passes the TCLP test and that those results be provided to the county before land disturbance can commence. This will guarantee that no hazardous materials are used for the project and that the surrounding environment will continue to enjoy the many benefits of the project.

Our previous submission included a condition that required native pollinators within the project’s ground cover to benefit the surrounding agricultural area. As seen from the environmental consultants at SWCA, this approach has many localized environmental benefits, even compared to active farming.



The Virginia Department of Conservation and Recreation agrees with this evaluation, stating:

“Native plant meadows are much better than turf grass at capturing atmospheric carbon and returning it to the soil, thus reducing a solar operation's carbon footprint. Native plants effectively minimize soil and water runoff. Providing pollinator habitat also greatly benefits surrounding agriculture by enhancing pollinator populations.”

We have included an exhibit from Rural Solar Stories, a project of the Environmental Law & Policy Center that further explores the positive impact of establishing native, pollinating meadow under a solar array for the surrounding area.

In addition to the proposed condition of a Pollinator Smart seed mix for the projects ground cover, we are proposing that any grasses be selected from an approved list by the USDA's Farm Service Agency Conservation Reserve Program. This proven program recognizes the local environmental benefits of taking some acres of land out of active farming for a period of time and will be an important 3rd party expert in ensuring the best in class selection of the most environmentally beneficial cover. The CRP's most recent factsheet is included in our packet.

To further ensure that the project remains a positive environmental actor throughout its useful life, we would welcome a proposed condition that requires a refresh of the Phase 1 Environmental Site Assessment every 10 years while the project is in operation. This report could be required for submission to the county for confirmation of the continued health of the local surrounding environment.



*Stories about rural electric cooperatives
that have championed solar energy for
their community.*

Stories Farm-Friendly Solar Solar Value
Strategies Principles Resources

Search

Benefits for Agriculture

Many solar farms are built in rural areas where agriculture is the dominant industry. As a result, there are concerns about how solar farms interact with agriculture and the agricultural economy. Farm-friendly solar can benefit agriculture in many ways.

"This is an alternative kind of farming. In a way we're farming energy, we're farming pollinators, we are providing a place for native plants to exist. So, again there's so many benefits, so many win-win-wins, this is potentially really exciting," said Ron Bowen of Prairie Restorations, Inc.

Farm-friendly strategies for solar assist soil and water conservation and increase pollinator habitat — goals supported by many in the agricultural community.

Pollinators Benefit Agriculture

The agricultural community widely supports efforts to protect and enhance pollinator habitat because of the essential role of pollinators. A [Cornell University study](#) estimated that crops "pollinated by honeybees and other insects contributed \$29 billion to farm income." With over 90 crops dependent on insect pollination, many [farm groups](#) recognize the problems of population decline.

Pollinators bring direct economic benefit to many agricultural sectors that require pollination to grow fruit, vegetables, nuts and even some row crops. Whether provided by contract pollinators who bring hives to fields and orchards or by wild pollinators — pollinators are essential.

Protection of pollinator habitat is especially important given the fact that so many pollinator species are threatened today. Reversing declines in populations helps to avoid pollinators becoming endangered species which could result in farmers facing



requirements for other actions. For example, providing habitat with solar farms can reduce pressure to provide habitat from working farmlands.

Pollinator Habitat that

Generates Income

In addition to the direct benefits from pollination, pollinator-friendly on solar farms will help meet goals shared by numerous agricultural groups such as the expansion of habitat. The federal Pollinator Health Task Force recommended restoring or enhancing 7 million acres of land for pollinators.

Solar prairies provide pollinator habitat while allowing farmers and land owners to earn income from solar lease payments or land sales. [Solar pastures](#) and solar beekeeping allow for the complete integration of solar generation with agricultural land uses.

Soil benefits

[Prairie plants](#) limit soil erosion from wind and water flows over the landscape. The roots of the plants help to bind the soil in place much the same way soil clumps to roots when plants are pulled out. The above-ground plant also protects soil from water and wind erosion, avoiding soil loss or the creation of gullies.

Pollinator plants also enhance soil health as the deep-rooted plants build organic matter and release nutrients. This boosts the productivity and health of the soil over the long term. [Prairie solar](#) results in healthier soils; this enhances potential agricultural production in the future and increases land value after the life of the solar project.

"One of the many questions that we've gotten early on in the process is, OK, what are the soils going to be like after 25 years and the solar array is decommissioned? Do you know what's going to be left behind for the farmers at that point?

And the good news is there's a lot of research that the soil is going to be better than it was before." – Mike Evenocheck

Stormwater Reduction and Water Conservation Benefits

Farmers and solar project developers must concern themselves with the volume and quality of water runoff from their properties. [Low impact site development](#) as

reflected in prairie solar reduces downstream stormwater risks and project costs. [The EPA has found](#) that low impact development reduces costs compared to conventional methods by 15 to 80 percent across multiple project types.

Managing stormwater flows affects project finances in many ways including infrastructure requirements, permitting costs and maintenance. With conventional ground cover, such as gravel or turf grass, more water runs off due to soil compaction and reduced permeability. This results in higher stormwater management costs for structures such as retention basins, swales or drainage infrastructure.

The deep roots of pollinator plants, some greater than 6 feet deep, create a permeable ground surface, allowing more stormwater (3-4 times as much) to infiltrate into the ground where it falls. Depending upon local and state laws, this can result in a significant reduction in stormwater management



development and maintenance costs compared to more impervious surfaces. These savings should be factored into cost comparisons among alternatives.

The nearby community also benefits from low impact development. When less stormwater is discharged from the site to surface waters, the risk of flooding downstream is reduced.

When more water infiltrates into the ground it helps to recharge groundwater, which can benefit farmers. The quality of water that is discharged from prairie solar fields is higher than that from other agricultural fields because they are not fertilized or treated with pesticides and they filter sediments from the water.

Water quality and availability is essential to agriculture. Pollinator habitat increases groundwater quality and reduces stormwater runoff that can harm local waters and contribute to flooding.

Find a Story

Contact Us



Farm Service Agency

Conservation Reserve Program

FACT SHEET
February 2022

Overview

USDA Farm Service Agency's (FSA) Conservation Reserve Program (CRP) is a voluntary program that contracts with agricultural producers so that environmentally sensitive agricultural land is not farmed or ranched, but instead devoted to conservation benefits. CRP participants establish long-term, resource-conserving plant species, such as approved grasses or trees (known as "covers") to control soil erosion, improve water quality and develop wildlife habitat. In return, FSA provides participants with rental payments and cost-share assistance. Contract duration is between 10 and 15 years.

CRP is authorized by the Food Security Act of 1985 and was reauthorized by the Agricultural Improvement Act of 2018 (the 2018 Farm Bill). The program is also governed by regulations published in 7 CFR, part 1410. The program is implemented by FSA on behalf of USDA's Commodity Credit Corporation.

Program Administration

FSA administers CRP while technical support functions are provided by: USDA's Natural Resources Conservation Service (NRCS); State forestry agencies; Local soil and water conservation districts and; Non-federal technical assistance providers.

Benefits

CRP protects more than 20 millions of acres of American topsoil from erosion and is designed to safeguard the nation's natural resources. By reducing water runoff and sedimentation, CRP protects groundwater; helps improve the condition of lakes, rivers, ponds and streams; and is a major contributor to increased wildlife populations in many parts of the country.



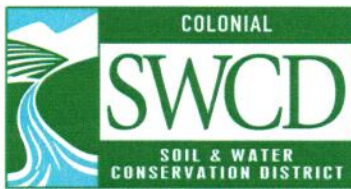
USDA photo

General Enrollment

Under general enrollment, producers have the opportunity to offer land for CRP general enrollment annually during announced enrollment periods. Offers for CRP contracts are ranked according to the Environmental Benefits Index (EBI). FSA uses the following EBI factors to assess the environmental benefits for the land offered:

- Wildlife habitat benefits resulting from covers on contract acres;
- Water quality benefits from reduced erosion, runoff and leaching;
- On-farm benefits from reduced erosion;
- Benefits that will likely endure beyond the contract period;
- Air quality benefits from reduced wind erosion and;
- Cost.

Further information on CRP general signup is available in the FSA fact sheet "**Conservation Reserve Program General Signup.**"



Colonial Soil and Water Conservation District
205 Bulifants Blvd, Suite C
Williamsburg, Virginia 23188
Phone: (757) 645-4895
www.colonialswcd.org

February 16, 2023

James City County Board of Supervisors
PO Box 8784
Williamsburg, VA 23187

Dear James City County Board of Supervisors,

Colonial Soil and Water Conservation District has been asked to advise the board on the environmental impacts of solar projects across the Colonial SWCD service area and more specifically the proposed solar project at 7294 and 7296 Richmond Road. In general, the Colonial SWCD endorses land management practices that support soil and water ecology, and which enhance the inherent functionality of nature in our district. Unfortunately, in the case of solar energy generation, we often consider the benefits of increased energy output to come at too great a cost to the natural soil function.

In its natural state, soil functions as a medium to support plant growth, which in turn binds and feeds the soil in a symbiotic relationship, subsequently creating a natural and sustainable reservoir of water and nutrients for plants and microorganisms. Working together, soil, plants, and microorganisms naturally store carbon, absorb stormwater, and provide a functional, as well as an aesthetic setting, from which we all benefit. Throughout the process of constructing a solar farm, soils are often adulterated; the topsoil is scraped and stockpiled, subsoils are compacted—sometimes intentionally and other times inadvertently by heavy equipment—and stormwaters carry loosened soil particles downstream. Local ordinances target environmental stewardship during development and attempt to mitigate these effects, but once the soil's function is lost it may take decades or centuries for it to be restored. Furthermore, the plant colonies that flourish in the resulting low quality, low-functioning soils tend to be noxious weeds and invasive species. The shade and impervious areas created by solar panels compound the effects of soil compaction and loss of soil function — resulting in an environment with a limited ability to support the diverse colony of plant species that are necessary to stabilize the site after construction.

Per the USDA's Web Soil Survey, the specific area proposed for the construction of the solar panel project (at 7294 and 7296 Richmond Road), contains approximately 19.8 acres of soils identified by USDA as *prime farmland* or *farmland of statewide importance*, so these soils have been identified as being extremely productive for agricultural purposes. Once manipulated, regaining the productive qualities of these soils will be a long and laborious task — one which will likely impact the owners of these properties long into the future.

Other soils located on this project site are characterized by high rates of permeability and steep slopes. When combined with the construction-induced disturbance, compaction, and the increased impervious area created by the solar panels, our concern lies in the integrity and ability of the stormwater infrastructure to function properly over time. The [April 2020 Skimino Creek Watershed Management Plan](#) identified the Fenton Mill sub watershed, in which the subject parcels are located, as having the highest level of impervious surface found in the county's York River basin. The plan also noted that the watershed has already experienced a high degree of in-stream sediment deposition, which has been

exacerbated by local development along the Richmond Road corridor. The plan concluded that these factors lower in-stream habitat quality and depreciate vegetation protection. Considering regulatory initiatives such as Total Maximum Daily Loads (TMDLs) and the Watershed Improvement Plan (WIP 3), land use conversions to more intensive uses, such as the one proposed, make compliance more difficult. As an alternative, this property could take advantage of Colonial SWCD programs (to establish perennial vegetation in the crop fields, for example) that would help to maintain soil function and protect downstream habitat. Additionally, the landowner(s) could pursue conservation easements or development rights purchase programs to offset lost opportunity costs.

In summary, when considering the on-site characteristics coupled with the watershed management plan's assessment of the area, it is our professional opinion that the proposed land use will significantly reduce the soil's natural ability to absorb stormwater, store carbon, and support a diverse plant population — all of which will negatively impact local habitat and water quality. As such, we recommend rejecting this project and suggest that you consider selecting sites for future solar projects that will not have the potential to negatively impact prime farmland or natural soil function and that can tie into existing stormwater infrastructure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Wallace". The signature is written in dark ink and is positioned above the printed name.

Jim Wallace
District Manager, Colonial Soil and Water Conservation District

**SPECIAL USE PERMIT-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant: Mr. Buzz Becker, Pivot Energy, Inc.

Landowners: D & S Chong, LLC
Mr. Dae Ik and Ms. Susan Chong

Proposal: Development and construction of a solar panel facility for electrical power generation, storage, transmission, and associated activities

Locations: 7294 Richmond Road
7296 Richmond Road

Tax Map/Parcel Nos.: 2410100004
2320100025

Project Acreage: ± 64.9

Zoning: A-1, General Agricultural

Comprehensive Plan: Economic Opportunity

Primary Service Area: Outside

Staff Contact: John Risinger, Senior Planner

PUBLIC HEARING DATES

Planning Commission: September 7, 2022, 6:00 p.m. (Postponed)
October 5, 2022, 6:00 p.m. (Postponed)
November 2, 2022, 6:00 p.m.

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

FACTORS FAVORABLE

1. Staff finds the proposal consistent with the 2045 Comprehensive Plan.
2. Staff finds the proposal will not negatively impact surrounding development.
3. Impacts: See Impact Analysis on Pages 4-6.

FACTORS UNFAVORABLE

1. Should the Board of Supervisors deny the applicant's Agricultural and Forestal District (AFD) withdrawal request, then this use would not be consistent with the terms of the AFD.
2. Impacts: See Impact Analysis on Pages 4-6.

SUMMARY STAFF RECOMMENDATION

Should the Board of Supervisors approve Case No. AFD-22-0017, staff recommends that the Board of Supervisors approve the proposed Special Use Permit (SUP) subject to the proposed conditions.

PLANNING COMMISSION RECOMMENDATION

At its November 2, 2022, meeting, the Planning Commission voted 5-2 to recommend approval of the SUP request to the Board of Supervisors with amendments to Condition Nos. 5b and 6 to address using native shrubs and trees within the vegetated buffer and native grasses for site groundcover. The Planning Commission also approved, by a vote of 5-2, a resolution to find the proposal consistent with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (Attachment No. 6).

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-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING

At its November 2, 2022, meeting, the Planning Commission recommended amending Condition No. 5b to address using native shrubs and trees within the vegetated buffer. Furthermore, staff has corrected a typo in Condition No. 5b so that it correctly references Condition No. 5c. The complete revised language of Condition No. 5b states:

“In areas of the Perimeter Buffer that are not completely comprised of mature forest, as determined by the Planning Director or designee, supplementation with native evergreen shrubs and trees shall be required in accordance with Condition No. 5c.”

The Planning Commission also recommended amending Condition No. 6 to address the use of native grasses as site groundcover in addition to native pollinators. Accordingly, Condition No. 6 has been revised to state:

“Disturbed areas requiring reseeding shall be seeded with a seed mix for site groundcover that includes native pollinators and native grasses which bloom in spring and/or summer as identified by the Virginia Department of Conservation and Recreation’s Virginia Solar Site Native Plant Finder. A landscaping plan showing the areas being reseeded, including a detailed list of plant species included in the seed mix, shall be reviewed and approved by the Planning Director or designee prior to final site plan approval.”

Finally, Condition No. 28 has been revised to be consistent with previous solar farm applications. This revision clarifies the public improvements which may be supported by the payments. No changes were made to the payment amount. The revised language of Condition No. 28 states:

“Pursuant to Code of Virginia § 15.2-2288.8(B), a payment of \$1,400 per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Facility, shall be made to the County on July 1 of each year following the Facility being operational to support construction of public improvements (including but not limited to transportation infrastructure, facilities for provision of public safety, etc.), the need for which is not generated solely by the Facility, but are reasonably related to it.”

PROJECT DESCRIPTION

Mr. Buzz Becker, Pivot Energy, Inc., has applied for an SUP for a 4.75-megawatt alternate current (MWac) solar farm located at 7294 and 7296 Richmond Road. If approved, the proposed solar farm will be developed on approximately 64.9 acres of the total 129.19 acres of the properties and would connect to existing overhead utility lines on-site.

In general, this property has limited visibility from surrounding properties and roadways given the topography of the railroad tracks and existing vegetation. Much of the properties boundaries are located within Resource Protection Areas (RPAs). The master plan shows a proposed 50-foot-wide perimeter landscape buffer that will be comprised of evergreen trees, ornamental deciduous trees, and deciduous shade trees to provide screening. The perimeter buffer is increased to 75 feet along Richmond Road and the boundaries with properties to the north and south. The applicant has indicated that disturbed areas on-site will be reseeded with groundcover seed mixes containing native pollinator friendly plants.

The applicant has stated that the lease with the property owners would be for 21 years with an option to extend for an additional 10 years. Following the end of the use of the solar farm, the facility would be decommissioned, and the site would be restored.

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-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

7294 Richmond Road is currently within the Hill Pleasant Farm AFD. During the 2022 AFD renewal process, the property owners submitted a request to withdraw 42 acres of the property from the Hill Pleasant Farm AFD to allow the development of the solar farm. Because that AFD withdrawal request occurred within the District renewal timeframe, that withdrawal does not need to be acted upon by the Board of Supervisors. Following the September 7, 2022, Planning Commission Meeting, the applicant submitted a request, Case No. AFD-22-0017, to withdraw 10 additional acres from the AFD to accommodate additional stormwater management facilities.

PLANNING AND ZONING HISTORY

- 7294 Richmond Road has been included in the Hill Pleasant Farm AFD since the creation of the AFD. Forty-two acres were withdrawn from the AFD during the 2022 AFD renewal process.

SURROUNDING ZONING AND DEVELOPMENT

- Properties across Richmond Road are zoned B-1, General Business, LB, Limited Business, R-2, General Residential, and PL, Public Lands. On the 2045 Comprehensive Plan Land Use Map, the properties are designated Low Density Residential, Community Commercial and Federal, State, or County Land.
- The properties to the north are zoned A-1, General Agricultural and are designated Economic Opportunity (EO) and Rural Lands on the 2045 Comprehensive Plan Land Use Map.
- The properties to the south are zoned A-1, General Agricultural and are designated EO on the 2045 Comprehensive Plan Land Use Map.

- The properties to the east are zoned A-1, General Agricultural and are designated Rural Lands on the 2045 Comprehensive Plan Land Use Map.

FINDING OF CONSISTENCY

Section 15.2-2232 of the Code of Virginia requires that unless a utility facility is shown on the adopted Comprehensive Plan or other master plan for the County, the local planning commission and a governing body shall review the facility to determine whether the location, character, and extent of the project is substantial in accords with the adopted Comprehensive Plan. The proposed solar electrical generation facility is not currently shown on the County's adopted Comprehensive Plan and, therefore, requires this additional level of review by the Planning Commission and the Board of Supervisors.

At its November 2, 2022, meeting, the Planning Commission approved, by a vote of 5-2, a resolution to find the proposal consistent with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia.

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-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
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>Mitigated</u>	- The new solar farm would not exceed 100 peak hour trips. - Access to the properties is proposed to utilize an easement along the railroad which connects to the north of the properties. The easement connects to Peach Street which connects to Richmond Road via Peninsula Street and Norge Lane. - Condition Nos. 12 and 13 address the potential damage to the existing roadways and limiting the number of employee vehicles parking on-site during construction.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	- Bicycle and pedestrian accommodations are not required for this proposal.
<u>Public Safety</u>	<u>Mitigated</u>	- Fire Station 1 on Forge Road serves this area of the County, approximately 3.7 miles from the proposed solar farm. - Staff finds this project does not generate impacts that require mitigation to the County's Fire Department facilities or services. - Condition No. 10 requires the Facility operator to prepare and maintain an Emergency Management Plan to address situations that may require response from public safety personnel.
<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 does not receive public water and sewer. The solar farm would not need water or sewer services.

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-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
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> Project is located in the Skimino Creek Watershed.	<u>Mitigated</u>	- The Master Plan shows a conceptual layout for stormwater management facilities. - This project will need to demonstrate full compliance with environmental regulations at the development plan stage, but no other specific environmental impacts have been identified for mitigation. Condition No. 15 requires that stormwater management facilities be addressed in the decommissioning plan. - Condition Nos. 4 and 14 address a nutrient management plan and spill prevention control and countermeasures plan, respectively. - The Stormwater and Resource Protection Division provided additional SUP Conditions (Condition Nos. 18-27) to address discing of the subsoil, impacts to the RPA, stormwater facility design and computations, off-site nutrient credits, special stormwater criteria, channel protection, flood protection, stream channel restoration, and erosion and control inspections.
<u>Cultural/Historic</u>	<u>Mitigated</u>	- Per Section 24-145 of the Zoning Ordinance, an archaeological study and natural resource inventory will be required at the development plan stage.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	- Condition No. 5 requires a vegetated buffer to screen the development from adjacent properties. - Condition No. 7 prohibits lighting from crossing property lines as well as limiting the height of light poles. The project will also need to demonstrate full compliance with lighting and landscaping regulations in the Zoning Ordinance at the development plan stage. - Condition Nos. 16 and 17 also limit the height of the panels and address use of materials to prevent glare. - Condition No. 11 requires a construction management and mitigation plan which is intended in part to address impacts to nearby properties during the construction stage. - Condition No. 9 limits the height and the color of the perimeter fence.

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-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
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>Community Character</u> The project is located along the Richmond Road Community Character Corridor (CCC). Buffering along a CCC is required to be an average width of 50 feet. The project is also within the Norge Community Character Area (CCA).	<u>Mitigated</u>	- Condition No. 5 requires a 75-foot vegetated buffer along Richmond Road to mitigate visual impacts to the CCC and CCA.
<u>Covenants and Restrictions</u>	<u>No Mitigation Required</u>	- The applicant has verified that he is not aware of any covenants or restrictions on the property that prohibit the proposed use.

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

**SPECIAL USE PERMIT-22-0015. 7294 and 7296 Richmond Road Pivot Energy Solar Project
Staff Report for the December 13, 2022, Board of Supervisors Public Hearing**

2045 COMPREHENSIVE PLAN

The site is designated EO-Mooretown Road/Hill Pleasant Farm Area on the 2045 Comprehensive Plan Land Use Map. Lands designated EO are intended primarily for economic development, increased non-residential tax base, and the creation of jobs. The lands should be at strategic locations in the County relative to transportation, utilities infrastructure, and adjacent uses, and the lands should only be developed consistent with comprehensive area/corridor master plans for the EO area.

For the Mooretown Road/Hill Pleasant Farm Area, the primary suggested uses include industrial, light industrial, and office uses. Development in this area should refer to the Commercial/Industrial Development standards which state that uses should be located adjacent to compatible or similar uses, have a limited impact on adjacent residential areas, be located where public services, utilities and facilities are adequate to support the use, and protection of environmentally sensitive resources, watersheds, historic and archaeological resources, designated CCCs and CCAs, and other sensitive resources by utilizing design features, including building and site design, buffers, and screening to protect the resource.

The Comprehensive Plan does not specifically identify solar farms as a compatible use; however, given that this proposal includes a lease with the property owners, this use may serve as a transitional land use until market forces determine a more intense economic use. The site is also located adjacent to an approved solar farm development. With the proposed conditions, the development is anticipated to have a limited impact on adjacent residential properties. The development is not anticipated to have an impact on public services. Proposed conditions are intended to mitigate impacts to sensitive resources.

The site is located along a CCC. Buffering along a CCC is required to be an average width of 50 feet. A portion of the site is also located within the Norge CCA. For areas within the Norge CCA that are designated EO, protecting the viewshed around the central core of the CCA and along the railroad should be a primary consideration. With the proposed master plan and conditions, the required buffering is anticipated to mitigate any visual impacts to the Norge CCA.

With the proposed conditions, staff finds the proposal consistent with the 2045 Comprehensive Plan.

STAFF RECOMMENDATION

Should the Board of Supervisors approve Case No. AFD-22-0017, staff recommends that the Board of Supervisors approve the proposed SUP subject to the proposed conditions.

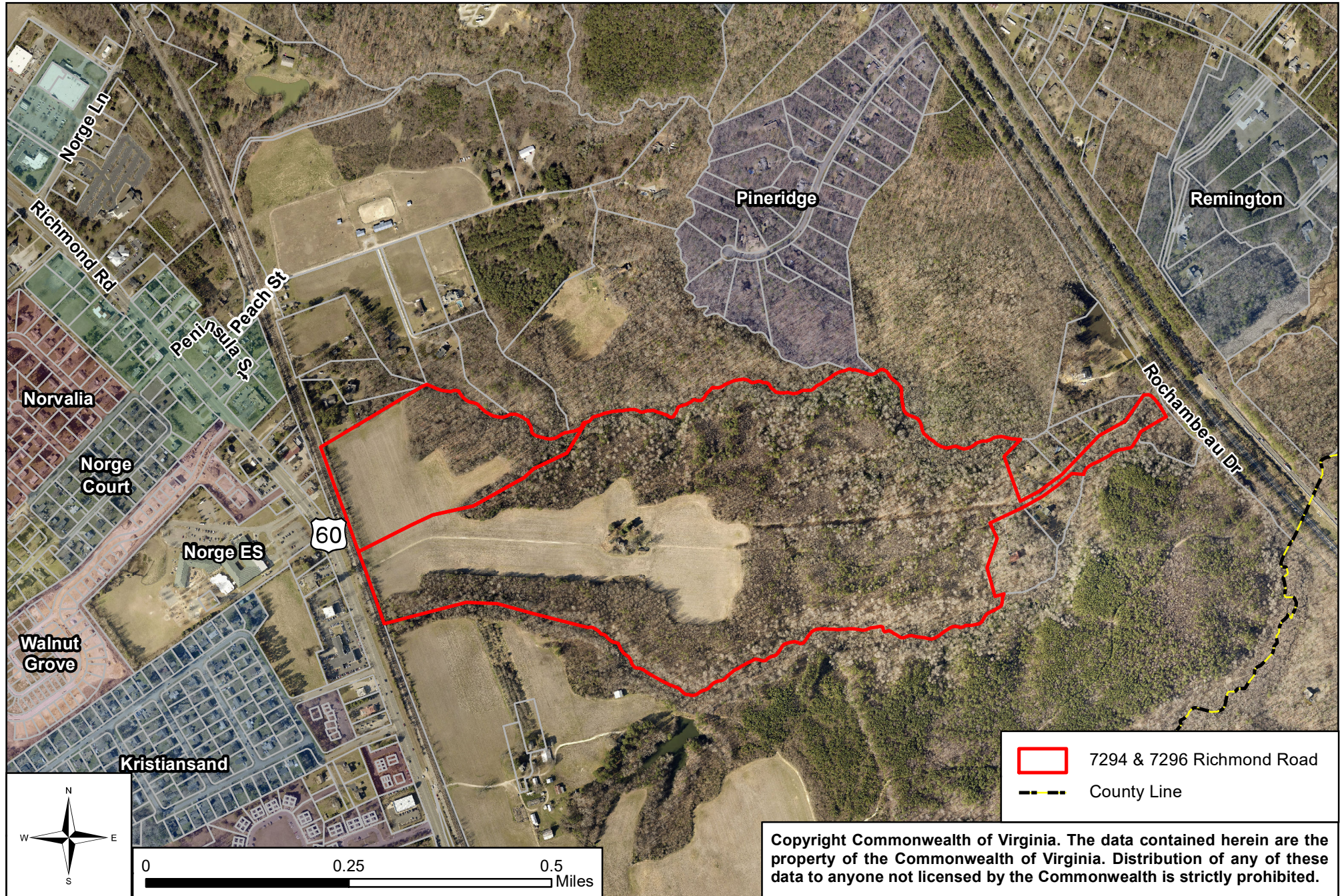
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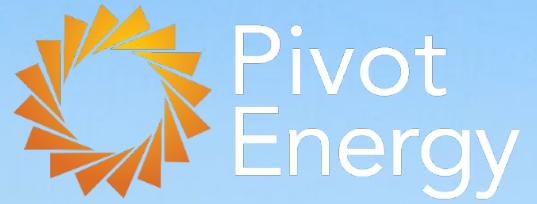
Attachments:

1. Resolution
2. Location Map
3. Applicant Narrative
4. Master Plan
5. Proposed Landscape Buffer
6. Adopted Resolution for Consistency with Section 15.2-2232
7. Unapproved Minutes of the November 2, 2022, 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.

JCC SUP-22-0015, 7294 & 7296 Richmond Rd. Pivot Energy Solar Project





Special Use Permit Application for: Pivot Energy Virginia, Pivot Energy Virginia 2



Pivot Energy

1750 15th St., Ste. 400
Denver, CO 80202

Buzz Becker - (918) 346-9542 - bbecker@pivotenergy.net

June 20, 2022

James City County
Paul Holt, Director of Community Development
101 Mounts Bay Road
Building A
Williamsburg, VA 23187

Dear Mr. Holt,

Please let this letter serve as the introduction for Pivot Energy's SUP application for our proposed multi-phase solar project at PINs 2320100025 and 2410100004 respectively. In the following community impact statement, you will see a thoughtfully designed project that has already undergone significant site diligence. This proposed project offers meaningful value to the landowner and county alike while ensuring thorough compliance with the comprehensive plan.

This submission formally requests waivers to the following submittal requirement sections as seen in Zoning Ordinance Section 24-23.a.1:

- (a) **Traffic Impact Analysis** – As seen in previously submitted Trip Generation Memo, only 56 peak hour trips to and from the site are expected during construction of the facility.
- (b) **Water and Sewer Impact Study** – No additional use of county water or sewer from proposed development.
- (c) Environmental information is included in the SUP application—***no waiver requested***
- (d) **Public Facilities Report** – The proposed solar array creates no impact on the county's locally-financed public facilities and requires no services from county resources.
- (e) **Additional Public Facilities** – No new public facilities would be required because of the proposed solar array.
- (f) **Phase 1A Archaeological Study** – Properties are not in an ultra or highly-sensitive area as determined in the James City County archaeological assessment.
- (g) Preliminary Natural Resource Inventory is included in the SUP application—***no waiver requested***
- (h) **Fiscal Impact Analysis** – No residential units proposed.
- (i) **Parks and Recreation Information** – No impact to county parks and recreation system.

Sincerely,

Buzz Becker

Buzz Becker | Director, Project Development
bbecker@pivotenergy.net
918.346.9542

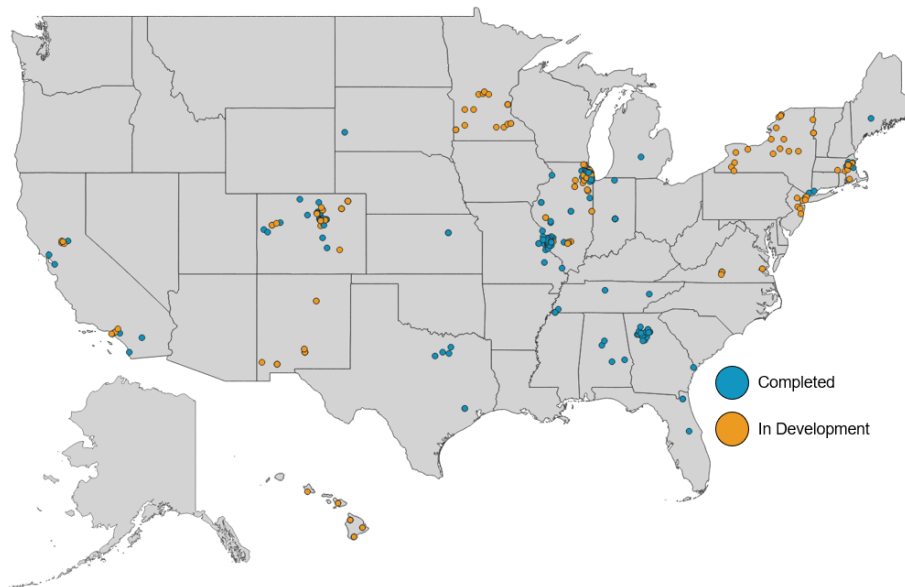
Executive Summary

Pivot Energy is pleased to apply for a Special Use Permit (SUP) from James City County for Pivot Energy Virginia/Pivot Energy Virginia 2 (PEVA/PEVA2) (the Project). This two-phase Project represents a small, solar photovoltaic (PV) facility of one (1) megawatt (MW) and three-and-three-quarters (3.75) megawatts in capacity as measured in alternating-current (AC). The proposed Project would be at PINs 2320100025 and 2410100004 respectively, east of Richmond Road and approximately 1 mile south of James City County Library. The Project will be sited on approximately 31 acres (the Site) of the approximately 129-acre host property (the Property) located in the General Agricultural (A1) zoning district. The Project has been designed in full compliance with James City County code.

This project will positively impact the local community by employing local labor, decarbonizing the local grid, and providing increased resources to the county over the life of the project. Pivot's lead developer on this project, Buzz Becker, is based in Virginia and has previous experience permitting similar solar projects in eastern Virginia. With a strong development and customer relationship background in small utility, commercial, and community solar projects, Pivot continues to expand its offerings throughout the solar industry by working with low-income communities, residential renters and homeowners, agricultural customers, local businesses, & local government organizations.

Prior Solar Development Success:

Recently Completed and Ongoing Projects



Development Experience, Including Solar Gardens

Background on Pivot Energy

Pivot Energy is a turnkey solar developer of commercial and industrial solar projects founded in 2009 and headquartered in Denver, Colorado. Pivot has become a national leader in commercial and industrial solar projects, with hundreds of successful projects completed for many small, mid-sized and Fortune 500 companies, as well as for nonprofit, government, and military organizations.

Pivot Energy has built or developed the most community solar projects of any developer in Colorado and has expanded to build projects nationwide over the last several years. Our development team works in conjunction with our EPC team to plan a project for success from the beginning and execute in a timely manner. Pivot will provide turnkey development of the community solar garden, from initial site planning and engineering to system design, construction, commissioning, and customer subscriptions.

Pivot Energy is a certified B Corps, using a triple bottom line approach to measure our progress on more than just a financial basis. Our goal is to achieve balance between three, sometimes opposing, ends of People, Planet, and Profit. B Corps, or Benefit Corporations, are redefining success in business to include benefits to workers, society, and the environment. We aim to balance these measures in all aspects of our projects to bring widespread benefit to multiple areas of the community.

Certified



Corporation

Experience with Developing and Operating Similar Solar Facilities

Pivot Energy has invested heavily in both the Colorado community solar market as well as community and commercial solar nationally. Our company also has community solar projects either under construction or in development in states including Minnesota, Illinois, New York, New Mexico, Virginia, and more totaling well over 150MW.

In Colorado Pivot has become the largest community solar developer having built or in process of developing more than 70 MW of community solar. Pivot Energy is also one of the only developers to never abandon a community solar project with a 100% success rate post-bid. As noted in the project examples, our community solar projects range in size and type from small urban rooftops to medium and large-scale ground mounts. Our team's experience is deeply rooted in Colorado development having built many of the early projects at previous companies and then coming together as a team of industry experts to accelerate community solar development, construction, and customer adoption throughout the state and country.

Pivot Energy's SunCentral team has also become the largest and most all-encompassing subscription manager in Colorado with thousands of residential customers and serving more than 16MW of low-income customer capacity throughout Colorado. We are proud that our SunCentral management platform is so widely used by the market – especially in Colorado. Our team regularly communicates with MPEI to not only manage customers within the market but also look for ways to improve how utilities and developers can communicate and operate to continuously provide better experiences to the end customer and bring projects to successful completion.

Pivot Energy Acquisition by ECP

As of June 1, 2021 Pivot Energy is wholly owned by Energy Capital Partners (ECP)¹. Founded in 2005, ECP is a leading investor across energy transition, electrification and decarbonization infrastructure assets, including power generation, renewables and storage solutions, environmental infrastructure and efficiency & reliability assets facilitating the energy transition. The ECP team, comprised of 53 people with 500 years of collective industry experience, deep expertise and extensive relationships, has consummated more than 60 transactions over the last 10 years, representing more than \$45 billion of enterprise value.



More information on the acquisition available at: <https://www.prnewswire.com/news-releases/ecp-announces-acquisition-of-pivot-energy-301303505.html>

ECP has extensive experience in energy infrastructure with portfolio companies including Sunnova and Calpine. The investment in Pivot Energy by ECP allows for Pivot to not only develop solar assets and manage customers through our SunCentral platform but to maintain ownership of the assets through their full life. Additionally, Pivot Energy is a part of ECP's continued commitment to Environmental, Social, and Governance (ESG) goals and their expansion into renewable energy. Pivot Energy is ECP's first certified B Corporation and, as noted in their 2021 ESG Report highlights ECP's "ability to source attractive investments that have positive benefits from both a social justice and environmental standpoint."²

More information on ECP's ESG goals available at: https://www.ecpgp.com/system/uploads/fae/file/asset/136/ECP_ESG_Report_2021_Web.pdf

In addition to the funding from ECP, Pivot Energy is nearing closing with both our tax equity partner and back leverage partner for our 2023 project portfolio that this project would be placed into. Pivot Energy is in final negotiations with a single tax equity partner that we have chosen as well as a single back leverage partner which are allowing us to get industry leading terms and cost of capital to make these projects very financially efficient.

¹ PR Newswire – ECP Announces Acquisition of Pivot Energy: <https://www.prnewswire.com/news-releases/ecp-announces-acquisition-of-pivot-energy-301303505.html>

² Energy Capital Partners (ECP) – ESG Report: https://www.ecpgp.com/system/uploads/fae/file/asset/136/ECP_ESG_Report_2021_Web.pdf

Selected Customer List

Our customer list includes small, midsize, and Fortune 500 companies, as well as utilities, nonprofits, governments, and military institutions.



Project Design

Pivot Energy seeks to develop PEVA/PEVA2 with a collective nameplate capacity up to 4.75MWac. The clean energy generated by the solar array will be delivered to Dominion's grid (the Grid) at 34.5kV distribution line along Richmond Road. The Project has been shortlisted by Dominion Energy to acquire the power generated from the Project to serve local customers.

PEVA/PEVA2 will be comprised of approximately 9,528 solar PV panels from Tier 1 manufacturers. Standard additional equipment includes single axis tracker components, DC to AC inverters, medium-voltage transformers and control cabinets, project switchgear, meters, and the attachment facilities to the current local grid.

These panels will be mounted to a single-axis tracking (SAT) system designed to maximize the panel production by following the rising and setting of the sun. This SAT system includes linked horizontal steel support beams known as torque tubes, with a centrally located drive train system. The rows will be 21 feet apart (center-to-center) and the square footage of the panels will account for approximately 29% of the total Project acreage. PEVA/PEVA2's racking system will be affixed to pile-driven metal beams at a depth of approximately 10 feet. At full tilt, the maximum height of any panel will be under sixteen feet (16').

The solar panels in each row will be wired together into a circuit. There will be a DC to AC string inverter for approximately every 3 rows, typically mounted on a piling adjacent to the tracker structure. Once the inverter converts the panels DC power to AC, this power will be transmitted from the string inverters via three-phase direct-buried cables (at a depth of approximately 4.5 feet) and aggregated at the AC collection switch gear before moving to the medium-voltage transformer. This transformer will be mounted on a concrete slab alongside project switchgear and control cabinet. After the transformer steps up the electric power voltage to match the existing Grid, the power is transmitted to the Project's protective recloser and metering equipment before connecting with Dominion's powerlines.

An internal access drive made from all-weather aggregate base will provide access to the array. This Site access will be restricted by a perimeter security fence in compliance with Federal and State regulations. Manual swing gates will be built at the main entrance and other required entry points as determined by maintenance crews and/or safety personnel. National Electric Code Standards for safety and signage will be met or exceeded.

The project will be obscured from view with a vegetative buffer, as seen in the provided Landscaping Plan. The buffering mix includes 50/50 evergreen shrubs and a tree composition of 50% evergreen, 30% shade, and 20% ornamental. The layout and density of the buffer will meet or exceed the standards as outlined in the James City County landscaping ordinance. PEVA/PEVA2 will seek input from county staff and neighboring residents on species selection within our vegetative buffer. To best preserve the existing natural aesthetic, we will seek out native species that have been utilized in comparable Project vegetative buffers. To ensure adequate screening from the beginning of the Project, evergreen trees within the northern bufferyard will be no less than 8 feet (8') tall at the time of planting.

Environmental and Cultural Impact

Wetlands

The site is enveloped by wooded wetlands to the north and the south as identified in the wetlands delineation and field assessment. This delineation and report were conducted by qualified professionals from Tetra Tech, Inc and is included in the application submission. These wetlands will be verified by the US Army Corps of Engineers prior to construction while the project is designed to avoid any impact on wetlands or resource protection areas (RPAs).

Wildlife Habitats

The applicant has commissioned Tetra Tech, Inc to conduct an environmental inventory report on rare, threatened, and endangered species for the Property. The report utilizes 8 different state and federal databases to evaluate the potential for habitat occurrence and preliminarily proposed mitigation efforts for the project development. This report is included in the application submission.

The environmental inventory report identifies three threatened species that could exist within the vicinity of the project: Northern Long-eared Bat (NLEB), Small Whorled Pogonia, and Canebrake Rattlesnake. Using the DWR Winter Habitat and Roost Trees Map, we confirmed that there are no known roost habitats for NLEB within a 50-mile radius. Under the USFWS 4(d) rule, no further study is required given the DWR map result. While our report shows a moderate chance of occurrence for the Small Whorled Pogonia and Canebrake Rattlesnake, there are no previously documented sightings of either species on the property in the USFWS critical habitat database. Furthermore, it is exceedingly unlikely that either species would be located within the site given the mutual preference for maintaining proximity to hardwood trees within swampy areas and the previous use of the site area for agriculture. All local, state, and federal laws shall be followed if one of the species are encountered during Project construction.

Cultural and Historical Resources

Tetra Tech Inc conducted a preliminary desktop analysis of cultural and historical resources on the property through the Virginia Department of Historic Resources' (DHR) Virginia Cultural Resource Information System (V-CRIS). No known historic resources were identified within the Property limits while two eligible resources within the Area of Potential Effects (APE) were identified. The analysis is provided within the application submission.

We additionally sought comments from staff at DHR on potential impacts on the historical resources as a result of the proposed development. In DHR's response letter (provided with the application submission), staff indicated that a viewshed analysis from the historic resources and proposed site area would be necessary for further evaluation. This indication of viewshed as the primary concern bodes well for the project's mitigated impact, given the robust proposed vegetative buffer within the development plan. DHR also recommended a Phase I cultural resources survey within the APE. This survey and subsequent DHR concurrence are included as a proposed permit condition in our submitted list.

Environmentally Sensitive Areas

PEVA/PEVA2 has been reviewed by the Virginia Department of Conservation and Recreation (VADCR) for environmentally sensitive areas—as seen in our environmental inventory report. VADCR confirmed that the only known natural heritage resource within the York River-Skimino Creek subwatershed (in which our Property is located) is the previously referenced Small Whorled Pogonia. As mentioned above, it is exceedingly unlikely that this species would be located within the site given its preference for maintaining proximity to hardwood trees within swampy areas and the previous use of the site area for agriculture. All local, state, and federal laws shall be followed if the species is encountered during Project construction.

Construction

Based on the current project schedule, construction is tentatively planned for late Spring 2023. We estimate construction to last approximately three months, depending on the weather. Submitted within the proposed conditions are limits on general construction hours from 7am-7pm Monday-Friday and further limits on pile-driving activities from 8am-6pm Monday-Friday. After construction is complete, the Project will work with Dominion Energy for testing and commissioning verification and is expected to begin commercial operations in Fall 2023.

Ground disturbance will be minimal during the construction process. Ingress and egress related to construction will be restricted to Richmond Road. PEVA/PEVA2 has included a preliminary transportation plan as a part of its permit submission. Prior to land disturbance permit, the Applicant shall submit a Construction Traffic Mitigation Plan to VDOT and the Planning Director for approval. This measure is included in our submitted proposed conditions.

The final site plan will include an in-depth erosion and sediment control plan. Such measures will be implemented to prevent runoff from entering the surrounding environment and typically include straw bales, silt fencing, run-off channels, sediment basins, and hay coil logs. The Applicant has commissioned Kimley Horn to produce preliminary stormwater calculations for this conceptual phase of permitting and has included that work in the submission.

After construction, natural vegetation will be established throughout the Site to ensure erosion and sediment control. This ground cover will include native pollinator seed mix with multi-season bloom composition as identified through the Virginia Department of Conservation and Recreation's Pollinator-Smart program and affirmed in our proposed conditions.

Operations and Maintenance

After construction is complete, we anticipate minimal site access requirements for Project maintenance activities. At a minimum, the Project will undergo two annual preventative maintenance checks, once in the spring (~April) and once in the fall (~August). While all products installed on site are of the highest quality per industry standard testing practices & classifications, occasional dispatch to site may be required to correct outages on an as needed basis. Corrective activities such as this may add two to four site access instances each year.

As the long-term owners & operators of the proposed Project, our team will also actively monitor site performance 24/7 and will address any issues in a timely manner; based on performance impact, our contracted O&M providers will respond within 24, 48, or 72 hours depending on the outage type. Average rainfall in James City County is anticipated to be adequate for natural cleaning of the panels. Vegetative ground cover will be managed during the growing season in compliance with local

requirements, including but not limited to land use permit specifications, water management plans, and site access agreements. The method of vegetation management will include pollinator-friendly vegetation plantings with one mechanical mow per season after plants have gone to seed.

Impacts and Mitigations

Water – No on-site source of potable water will be required during construction or operations for PEVA/PEVA2. If any on-site water source is required during construction or operation, it will be supplied by the host Project and sourced offsite. No new well will be dug for this project. Please see the request above for the waiver request regarding Water and Sewer Impact Study.

Sound – The majority of sound associated with the proposed Project will occur during construction. This is expected to be the result of material deliveries to the Property and support beam installation for the array. Impacts from noise are mitigated from a selected site that requires minimal ground disturbance and restricted hours of construction operations as seen in our proposed conditions.

Once operational, PEVA, PEVA2 will be practically inaudible. At a distance of 3ft from the security fence, our inverters and racking equipment create a sound comparable to a home HVAC unit. These sound measurements fall to less than 30dB at only 50ft from the perimeter—equivalent to background noise in the county. Given the nearest abutting residence is approximately 500ft from the array, no sound impact is expected.

Glare – No glare hazard is expected during construction or operations. Our Tier I panels are treated with anti-glare coating and are designed to absorb as much sunlight as possible. The large setbacks and robust vegetative screening from neighbors will further obscure any visual impact of the proposed Project. Furthermore, we have submitted the proposed development to the Federal Aviation Administration and secured a Determination of No Hazard to Air Navigation. This formal notice is included in our permit application.

Odor – Our EPC team will store, collect, and dispose of any solid construction material waste to prevent any odors from the Site, mitigating any impact on neighboring properties. No detectable odors are produced from the solar array components during operations.

Dust – Possible dust occurrence during operations is most likely to result from delivery or construction trucks on the Site. This will be mitigated by spraying water on dry dirt and enforcing a 5 MPH speed limit within the construction area. Minimal vehicle or foot traffic during operations and vegetative groundcover will naturally mitigate against concerns for dust.

Security and Access – The perimeter fence around the array will be no taller than 8 feet in height and contain no barbed wire. This fence will be black or another neutral color with final design approval to be sought from the Planning Director. The gates within the fence will remain locked while access will be coordinated through our operations and maintenance personnel. Our Site will provide a “Knox Box” to provide 24/7 access for local emergency personnel. The Applicant will ensure suitable access from Richmond Road is maintained for fire or other emergency vehicles.

Removal

At the end of the Project's life, it will be decommissioned and removed from the Property. Formal notice of end of operations will be sent to James City County via Certified Mail. The Project will then be completely removed from the Property and reasonably restored to previous condition within 365 days of receipt of notice. PEVA/PEVA2 has included a proposed condition of county approval of our decommissioning plan prior to final site approval. We have commissioned Tetra Tech Inc to develop a preliminary plan for such decommissioning and have included it within our application submission.

Economic Development

Jobs

To the extent possible, PEVA/PEVA2 will source local materials and labor for the construction and maintenance of the project and have committed to hosting jobs fairs in James City County as seen in our proposed conditions. We estimate that this project will create approximately 30 new construction positions and 1-2 operations positions. Operations jobs will be focused on facility upkeep with responsibilities such as vegetation management, equipment repair, and component maintenance. Typical cadence for site maintenance is every two to three months.

Increased County Revenue

PEVA/PEVA2 will increase the site acreage tax revenue to nearly 7x the current land use rate. This increase is a product of increased assessment of the host acreage and the proposed annual voluntary payment.

The 5-acre portion of land from PIN 2320100025 in PEVA/PEVA2 will increase in assessment from \$8,999.38/acre (Agricultural) to \$15,000/acre (Solar). The 26-acre portion of land from PIN 240100004 will increase in assessment from \$5,390.57/acre (AFD-abated Agricultural) to \$15,000/acre (Solar).

	Assessment Rate	Assessed Value (Acres x Assessment Rate)	Real Property Tax Rate	Annual Real Property Tax (Assessed Value x Real Property Tax Rate)	30 Year Revenue
Current (31 Acres)	\$8,999.38 / acre (5 acres) + \$5,390.57/ acre (26 acres)	\$185,142 (Assessed, full property)	\$0.84 / \$100 assessed value	\$1,555 / year	\$46,656
Project (31 Acres)	\$15,000 / acre	\$465,000	\$0.84 / \$100 assessed value	\$3,906 / year	\$117,180

Voluntary Payment

As PEVA/PEVA2 in aggregate comprises less than 5MW, the Project offers a voluntary annual payment of \$1,400 per MW for the life of the project to the County's Public Works department to support construction of public improvements such as transportation infrastructure or various public safety facilities. Over a 30-year period, revenue stream would bring provide an additional \$199,500 to James City County. This payment is included as a proposed condition in our permit application.

Regulatory Conformance

Virginia Code § 15.2-2232 requires that the Planning Commission makes a determination as to whether or not the general location, character, and extent of a proposed solar energy facility is in substantial accord with the locality's adopted comprehensive plan *Engage 2045 – Our County, Our Shared Future*.

Location

The location of PEVA/PEVA2 is substantially in accord with the County's Comprehensive Plan. The Project is located east of Richmond Road in the Mooretown Road/Hill Pleasant Farm Area Economic Opportunity designation. According to the Land Use section of the 2045 Comprehensive Plan, principal uses in this area should "encourage development types that have certain attributes, principally that they have a positive fiscal contribution, provide quality jobs, enhance community values, are environmentally friendly, and support local economic stability." PEVA/PEVA2 is the type of development that meets these attributes and satisfies goals LU 1.1, LU 4.7, and PF 4.5 in its Economic Opportunity siting with robust buffering and topographical obscuration.

In spite of being in the area designated for "Economic Opportunity," the project location is outside the Primary Service Area (PSA), which makes this location particularly well suited for this project. The PSA has traditionally been the demarcation between areas planned for growth and development that require public water, sewer and high levels of public services and those areas reserved for conservation, preservation, and limited growth. This project is unique in that it meets the goals of the Economic Opportunity designation, as noted above, *and* is in keeping with the type of growth and development allowed outside the PSA: it requires no public water and sewer, will generate minimal traffic, and does not generate demand for schools, libraries or human services.

Character and Extent

The character and extent of PEVA/PEVA2 is substantially in accord with the County's Comprehensive Plan. The Project will provide clean, locally sourced energy to nearby Dominion customers while investing in county infrastructure improvements. The minimal trips to the site generated by the development meets the guidance of T 1.2 while the growing demand of electric vehicles and the subsequent need for clean electricity addresses T 3.6.

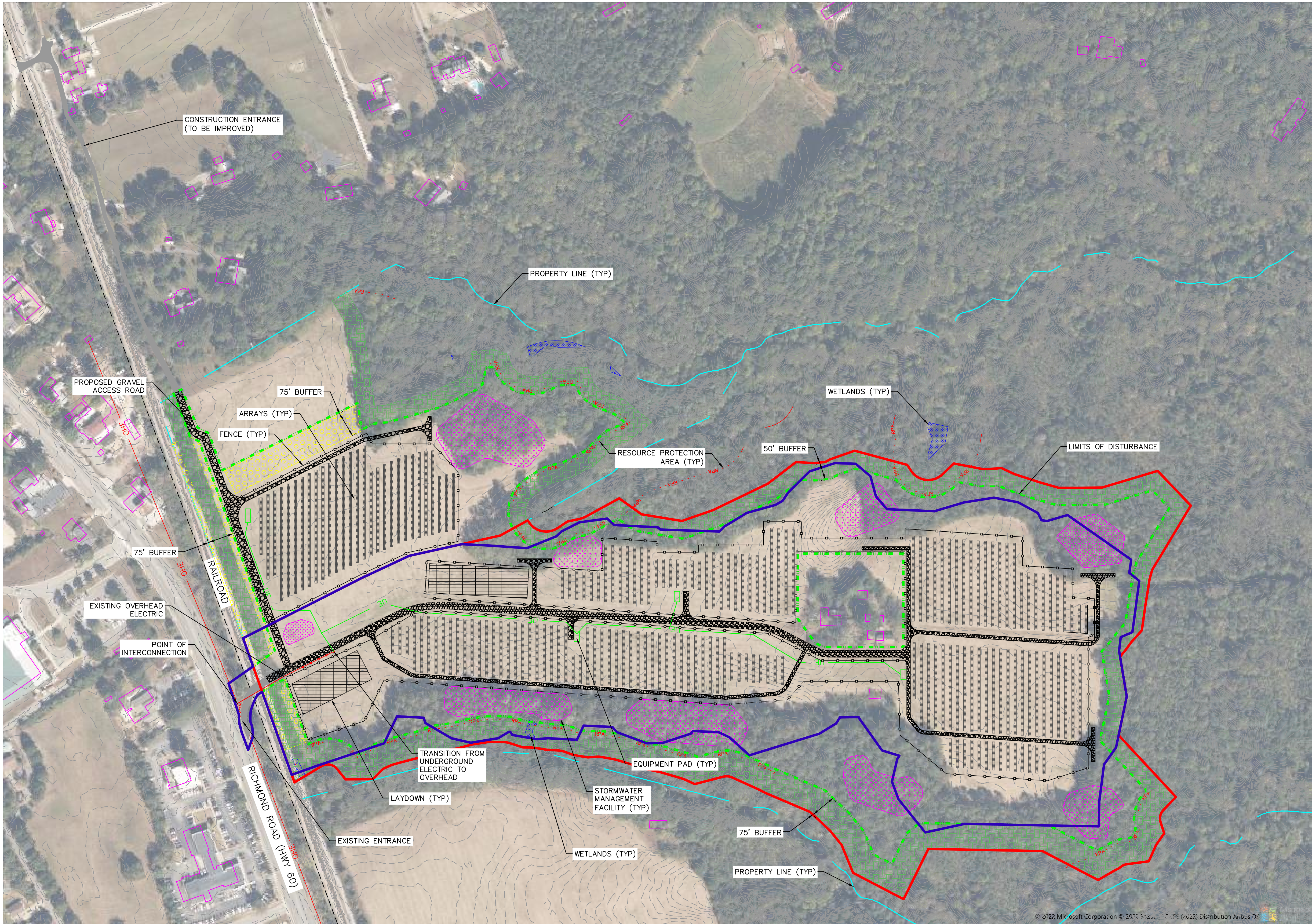
The unique siting of the project site and the passive, low impact nature of the use facilitates no changes to the current viewshed or intensity of development along Richmond Road. This verified viewshed maintenance—and even augmentation with robust, native vegetative buffering as seen in the provided renderings—address CC 1.1 and CC 3.2. PEVA/PEVA2 assert in the proposed condition that DHR concurrence for any resource impact mitigation will be achieved, by cultural survey if

required. This meets CC 6.1. By the nature of the proposed development, PEVA/PEVA2 meets PF 2.3 while the proposed siting on already cleared land with native pollinators included in the ground seed mix address ENV 4.6.1 and ENV 4.6.2.

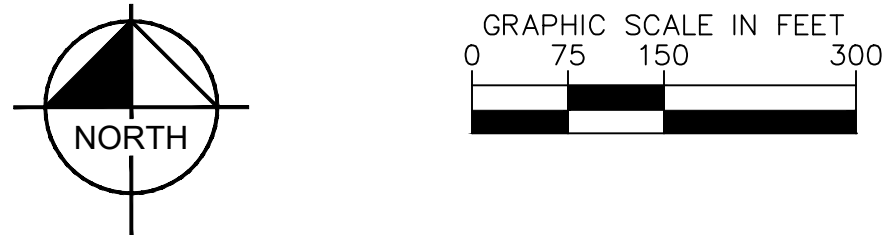
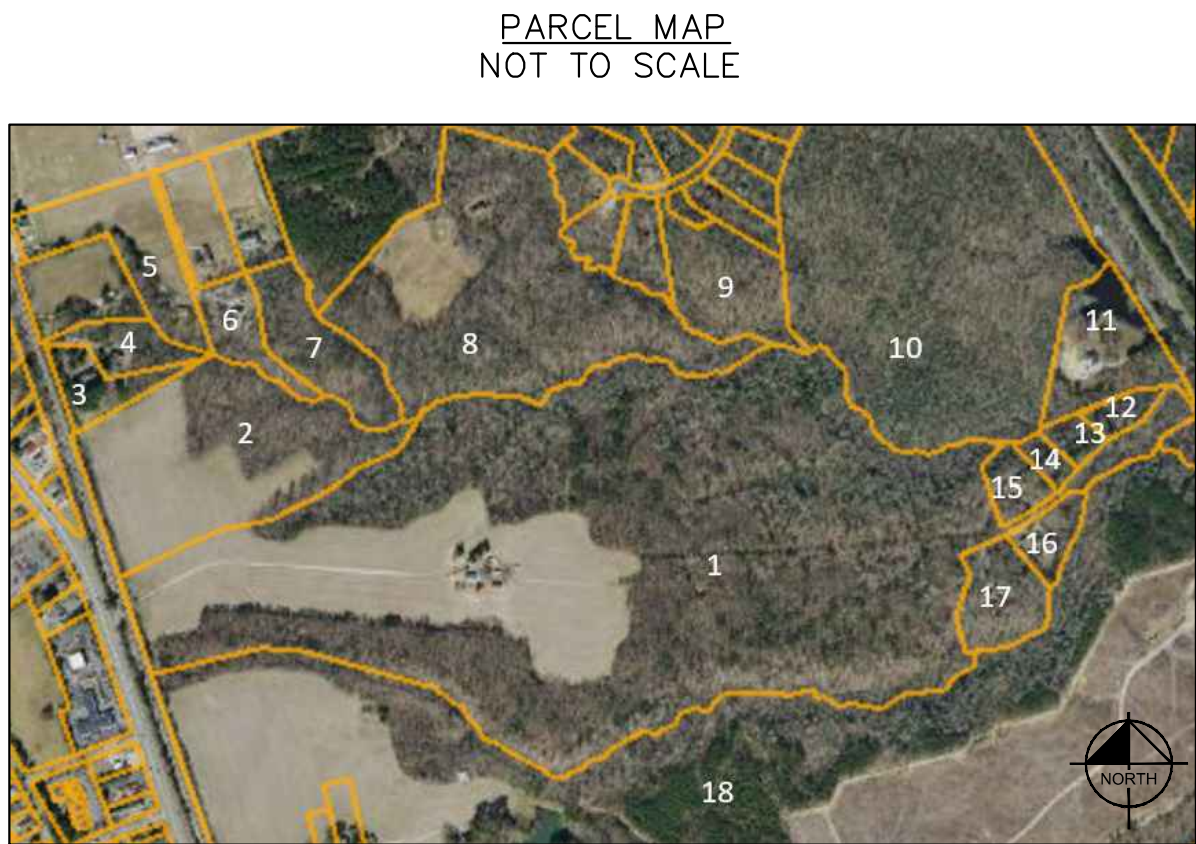
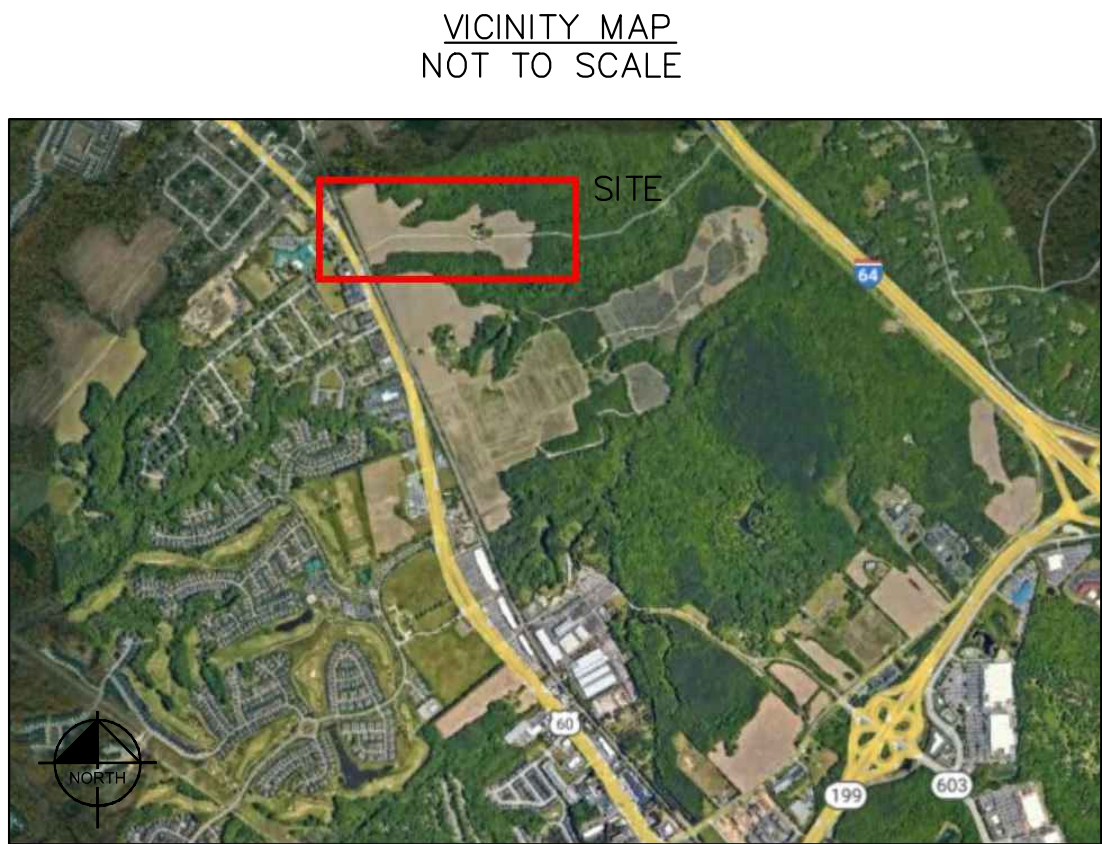
PEVA/PEVA2 provides an opportunity to bring infrastructure investment and low-intensity development to James City County while preserving the proud community character thanks to its thoughtful siting. PEVA/PEVA2 shows a fiscal-positive example of a project that helps JCC meet its climate goals and deliver cost-savings to local Dominion customers who wish to subscribe.

Lastly, Comprehensive Plan section LU 6.1.4 states that the County should “(a)s resources allow, support implementation of the recommendations in the Strategy for Rural Economic Development to maintain and create viable economic options for rural landowners.” The leases associated with this project provide a valuable revenue stream to these landowners, one which may offset or eliminate the need to pursue other, less desired options for monetizing the Property. Once the Project is decommissioned, the land is available for continued agricultural or other valuable uses.

Plotted By:Robertson, Nicholas Sheet Set:Kha Layout:Layout1 October 24, 2022 09:46:47am K:\VIC-DWA\113545000 - Pivot Energy VA Solar - James City County, VA\OAD\References\XTB.dwg K:\VIC-DWA\113545000 - Pivot Energy VA Solar - James City County, VA\OAD\References\XTB.dwg This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



LEGEND			
EXISTING		PROPOSED	
PROPERTY LINES	--- --	LIMITS OF AFD WITHDRAWAL	---
ADJ. PROPERTY LINES	---	PREVIOUS LIMITS OF AFD WITHDRAWAL	---
CONTOURS	---	LIMITS OF DISTURBANCE	---
WETLANDS	---	GRAVEL ROAD	---
RPA LIMITS	---	LAYDOWN	---
VEGETATION TO REMAIN	---	FENCE LINE	---
OVERHEAD WIRES	---	PANEL ARRAY	---
BUILDING	---	STORMWATER MANAGEMENT FACILITY	---
ACCESS ROAD	---	BUFFER	---
		EQUIPMENT PAD	---
		POWER POLE	---
		UNDERGROUND ELECTRIC	---
		OVERHEAD ELECTRIC	---



	OWNER	PARCEL ID	ZONING
1	D&S CHONG LLC	2410100004	A1
2	CHONG, DAE IK & SUSAN	2320100025	A1
3	CAMPBELL, ARMOND B & LINDA C	2320100024A	A1
4	CAMPBELL, GARY D & JENNIFER L	2320100024B	A1
5	AMOS, KENNETH E & CAROLINE M	2320100022	A1
6	AMOS, SAMANTHA LEIGH & FARMER, MICHA	2410100014E	A1
7	AMOS, MICHAEL K	2410100014D	A1
8	MOYER, WAYNE A	2410100015D	A1
9	PARKER, JAMES E & VIOLET	2410100012	A1
10	MARTIN, HUGH L ESTATE	2410100002	A1
11	PINNEY, DANIEL ROBERT	2420100001	A1
12	STEVENS, JOHN ROBERT TRUSTEE	2420100029	A1
13	STEWART, DIANA F	2420100030	A1
14	STEWART, DIANA F	2420100031	A1
15	STEVENS, JOHN ROBERT TRUSTEE	2410100032	A1
16	HADEN, SUNNY CREECH	2420100034	A1
17	WORMAN, WALTER, III & KATHLEEN S	2410100003	A1
18	HILL PLEASANT FARM, INC	2410100005	A1

SITE DATA:

PARCEL ID #: 2410100004 & 2320100025

OWNERS: D & S CHONG LLC

CHONG, DAE IK & SUSAN

CURRENT ZONING: A-1

CURRENT LAND USE: AGRICULTURE/WOODED

PARCEL ACREAGE: 129.19

LEASED ACREAGE: APPROXIMATELY 64.9

SITE ADDRESS: 7294 & 7296 RICHMOND ROAD, WILLIAMSBURG, VA 23188

PROPOSED USE: SOLAR ENERGY FACILITY

- STANDARD NOTES:**
1. THE PURPOSE OF THIS PLAN IS FOR A SPECIAL USE PERMIT APPLICATION FOR REVIEW AND APPROVAL BY JAMES CITY COUNTY. ALL INFORMATION IS FOR PLANNING PURPOSES ONLY.
 2. WETLANDS WERE DELINEATED AND RPA LIMITS WERE DETERMINED BY TETRA TECH IN AUGUST 2021 AND MAY 2022.
 3. PROJECT AREA WILL BE CLEARED AND GRUBBED AS NECESSARY, RETAINING PRE-DEVELOPMENT DRAINAGE PATTERNS. MINOR GRADING WILL OCCUR AROUND INVERTER AREAS TO DIVERT SURFACE DRAINAGE. AREAS SUBJECT TO RUTTING DURING CONSTRUCTION WILL BE TEMPORARILY STABILIZED WITH GRAVEL THAT WILL REMAIN AFTER CONSTRUCTION. SOIL CONDITIONS AND EQUIPMENT LOADS WILL DETERMINE FINAL DESIGN.
 4. ACCESS ROAD ENTRANCE WILL BE APPROVED BY VDOT PRIOR TO BEGINNING CONSTRUCTION.
 5. INTERNAL CABLING WILL BE BURIED IN UNDERGROUND TRENCHES, WHENEVER POSSIBLE.
 6. DISTURBED AREAS REQUIRING RESEEDING WILL BE SEEDED WITH APPROPRIATE POLLINATOR-FRIENDLY NATIVE PLANTS AFTER CONSTRUCTION.
 7. FENCING WILL NOT EXCEED 8' IN HEIGHT, WILL BE BLACK OR OTHER NEUTRAL COLOR, AND WILL NOT HAVE BARBED WIRE.
 8. PANELS SHALL NOT EXCEED 16' IN HEIGHT.
 9. STORMWATER MANAGEMENT FACILITIES WILL BE SEDIMENT BASINS CONVERTED TO PERMANENT BASINS TO COMPLY WITH VSMP REGULATIONS.
 10. THE PHASING OF THE DRAINAGE DESIGN WILL INCLUDE A TWO PHASE EROSION AND SEDIMENT CONTROL PLAN, WITH THE FINAL PHASE AS PERMANENT BASINS SHOWN HEREIN.
 11. STREAMS AND ASSOCIATED BUFFERS ARE NOT WITHIN THE PROPOSED PROJECT SHOWN HEREIN.

No.	REVISIONS	DATE	BY

Kimley»Horn

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2035 MAYMILL ST., SUITE 200, RICHMOND, VA 23230
PHONE: 804-673-3882
WWW.KIMLEY-HORN.COM

NICHOLAS ROBERTSON
Lic. No. 040302204
10/24/2022
PROFESSIONAL SEAL

KHA PROJECT	113545000
DATE	OCTOBER 2022
SCALE	AS SHOWN
DESIGNED BY	MLH
DRAWN BY	MLH
CHECKED BY	NLR

SUP SITE PLAN

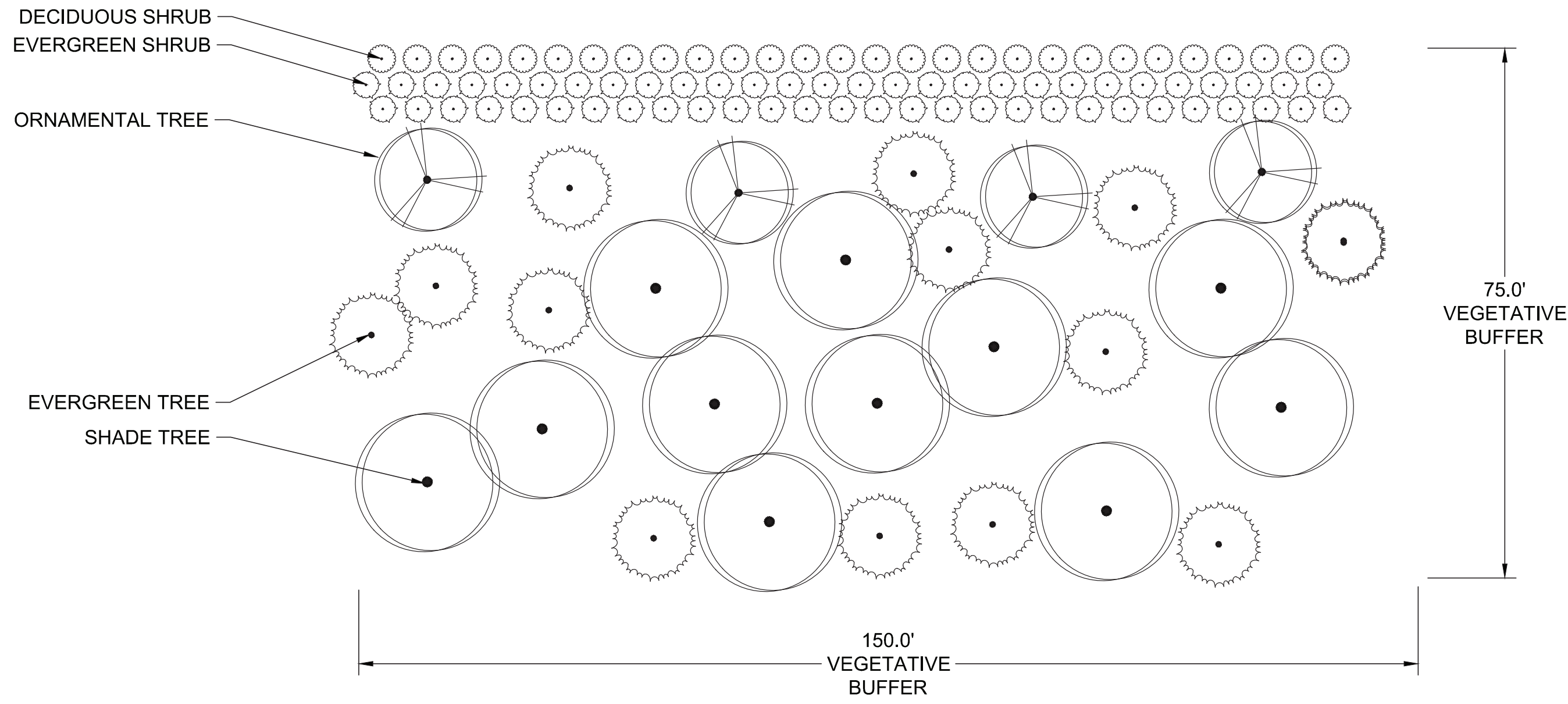
PIVOT ENERGY VA I & II
PREPARED FOR
PIVOT ENERGY VA, LLC

JAMES CITY COUNTY VA

SHEET NUMBER
EXHIBIT 1



KEY PLAN



PROPOSED LANDSCAPE BUFFER | VIEW 1



EXISTING CONDITIONS | VIEW 1



PROPOSED PANELS WITHOUT LANDSCAPE BUFFER | VIEW 1



KEY PLAN



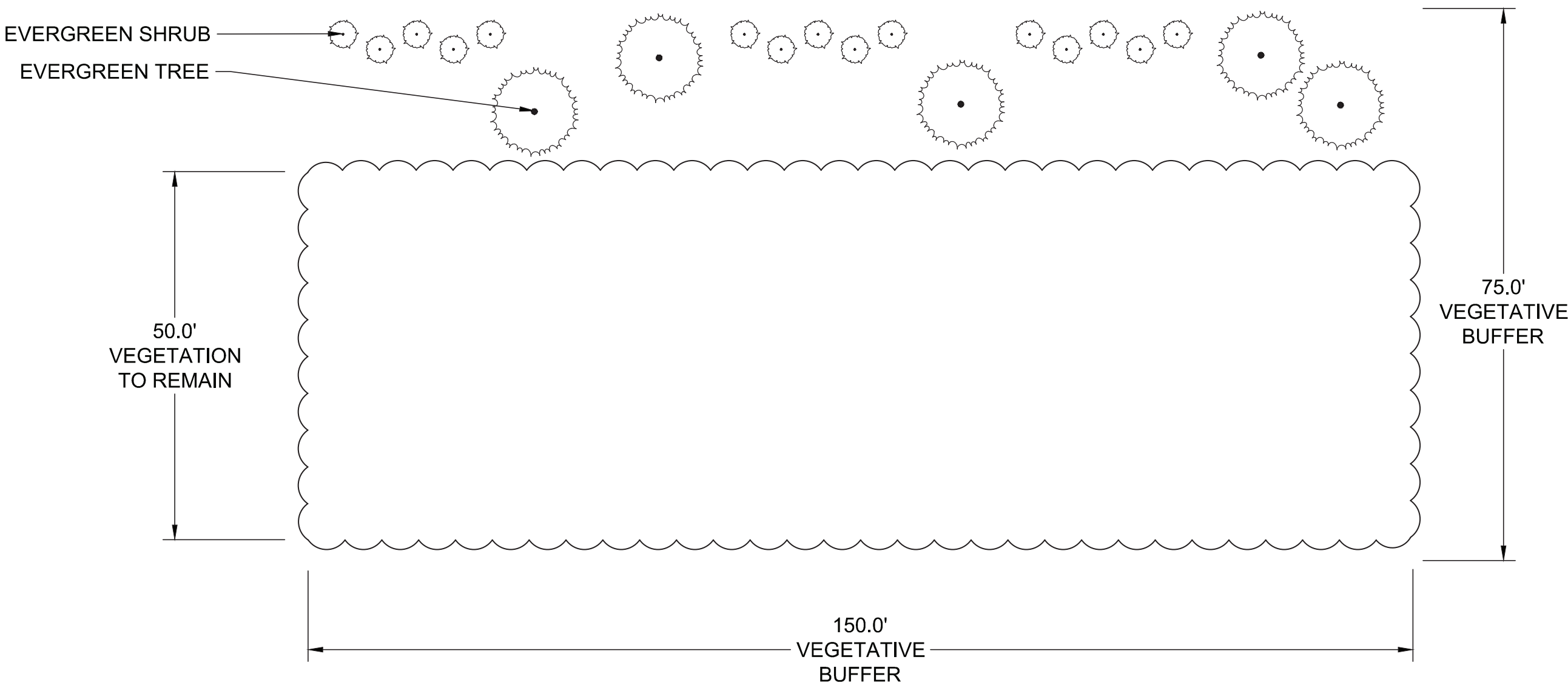
PROPOSED LANDSCAPE BUFFER - ESTIMATED TIME OF PLANTING | VIEW 1



PROPOSED LANDSCAPE BUFFER - ESTIMATED 10 YEAR GROWTH | VIEW 1



KEY PLAN



PROPOSED LANDSCAPE BUFFER | VIEW 2



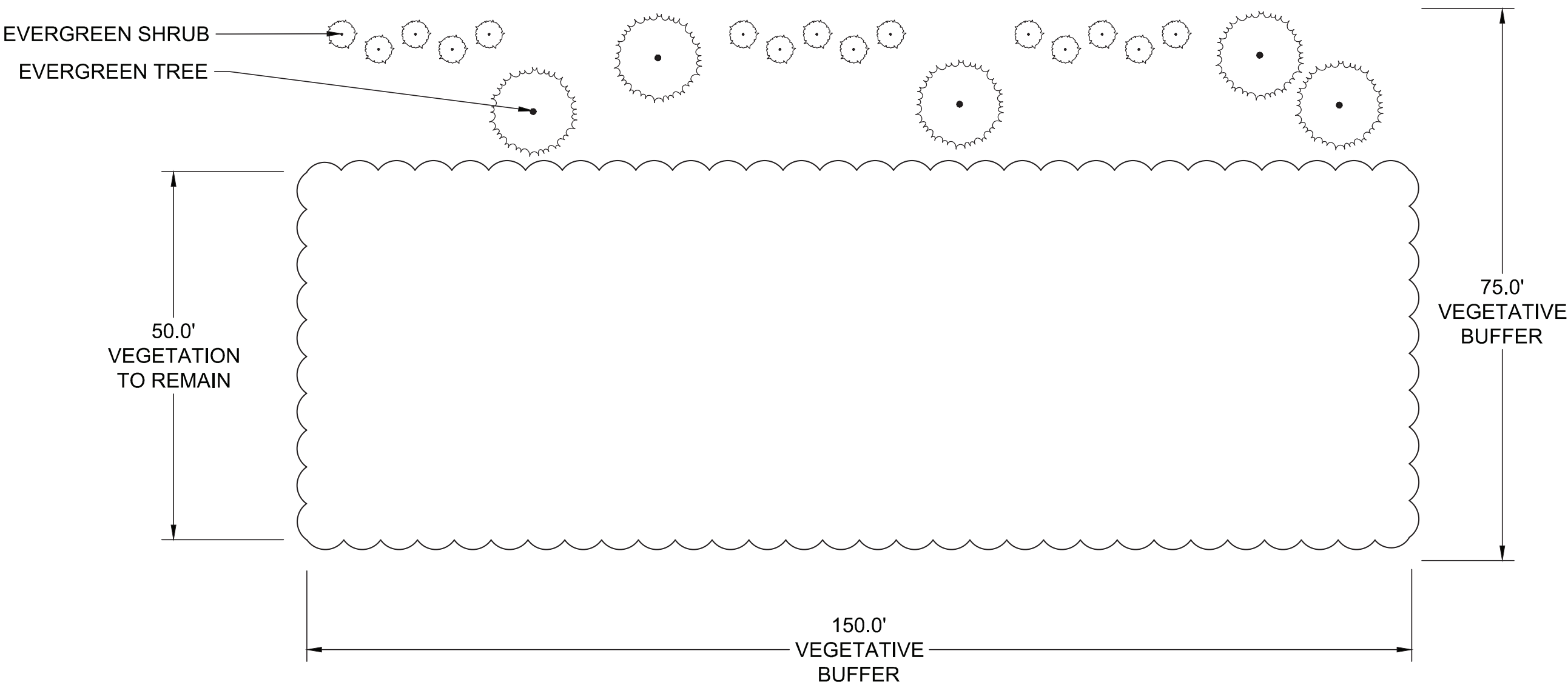
EXISTING CONDITIONS | VIEW 2



PROPOSED LANDSCAPE BUFFER - ESTIMATED 10 YEAR GROWTH | VIEW 2



KEY PLAN



PROPOSED LANDSCAPE BUFFER | VIEW 3



EXISTING CONDITIONS | VIEW 3



PROPOSED LANDSCAPE BUFFER - ESTIMATED 10 YEAR GROWTH | VIEW 3



PIN OAK



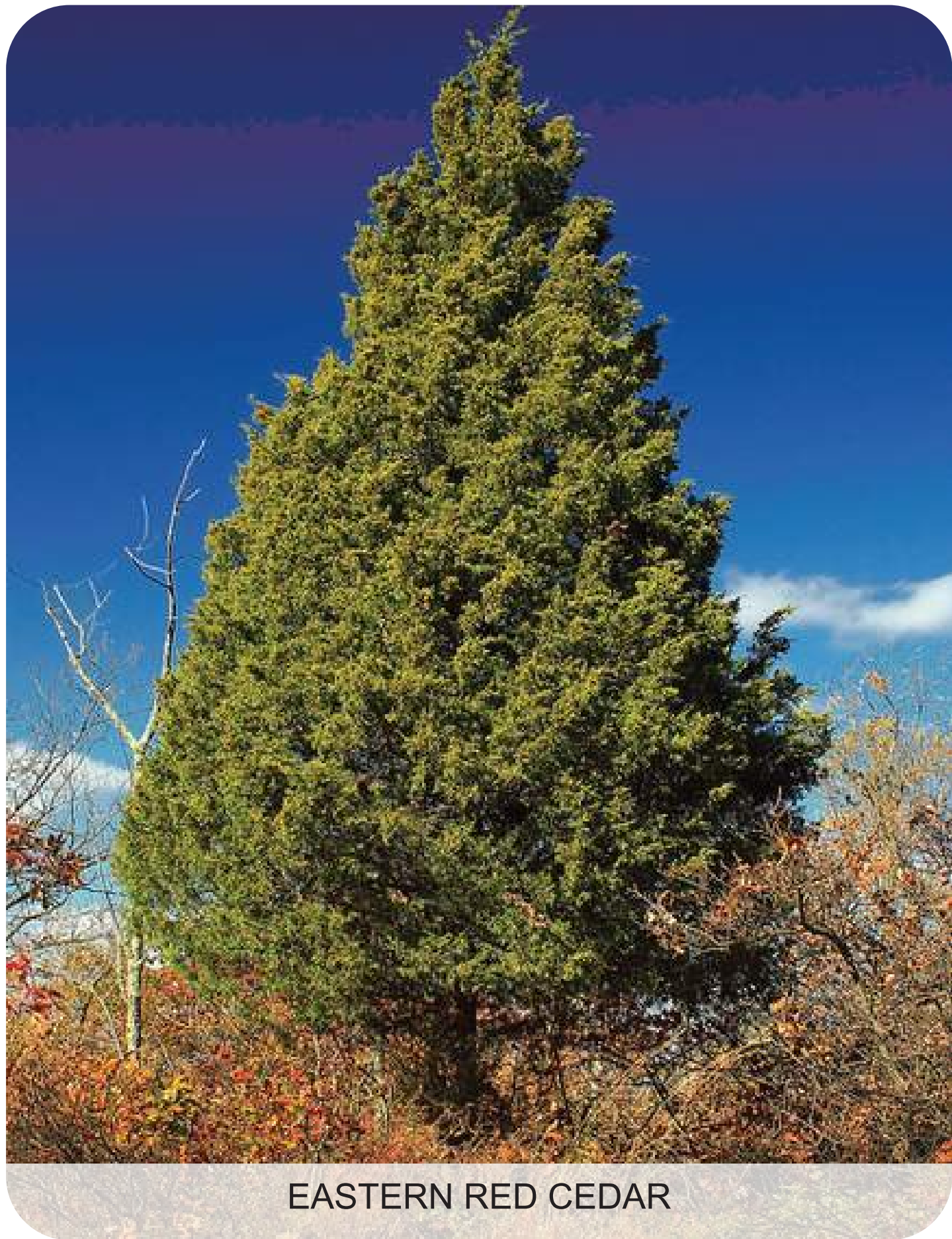
RED SUNSET RED MAPLE



FLOWERING DOGWOOD



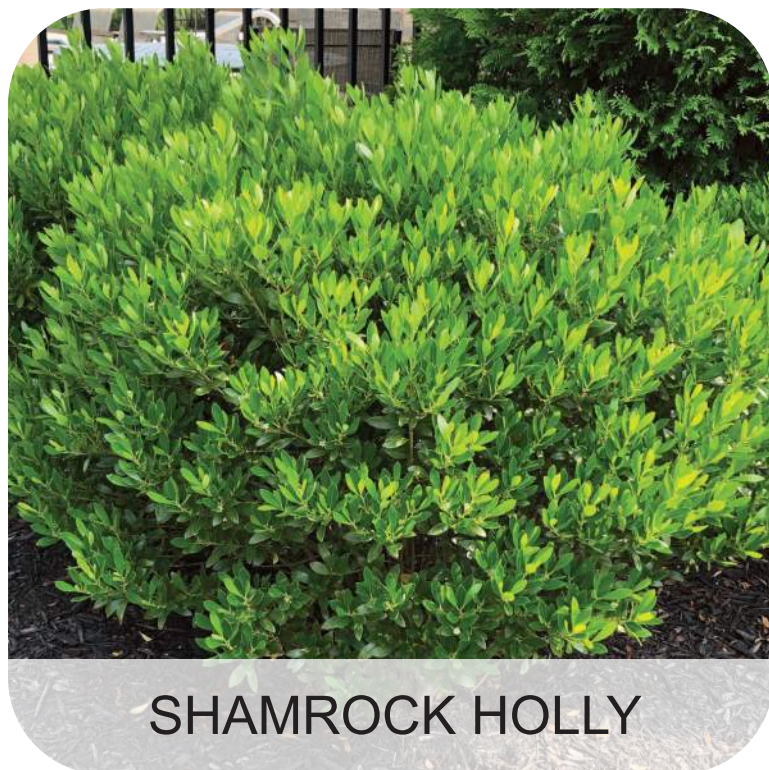
WINTER KING HAWTHORNE



EASTERN RED CEDAR



GREEN GIANT ARBORVITAE



SHAMROCK HOLLY



DON'S DWARF WAX MYRLE



RED TWIG DOGWOOD



WINTERBERRY HOLLY

PLANT PALETTE

DECIDUOUS TREES

QUERCUS PALUSTRIS (PIN OAK)

HEIGHT: 50-70 FT
SPREAD: 40-60 FT
GROWTH RATE: $\pm 1-2$ FT/YEAR

ACER RUBRUM 'RED SUNSET'

HEIGHT: 40-50 FT
SPREAD: 30-40 FT
GROWTH RATE: ± 2 FT/YEAR

DECIDUOUS SHRUBS

CORNUS STOLONIFERA 'ARTIC FIRE'

HEIGHT: 3-5 FT
SPREAD: 3-5 FT

ILEX VERTICILLATA 'NANA'

HEIGHT: 3-12 FT
SPREAD: 3-12 FT

EVERGREEN TREES

JUNIPERUS VIRGINIANA (EASTERN RED CEDAR)

HEIGHT: 30-65 FT
SPREAD: 8-25 FT
GROWTH RATE: $\pm 1-2$ FT/YEAR

THUJA PLICATA 'GREEN GIANT'

HEIGHT: 40-60 FT
SPREAD: 12-15 FT
GROWTH RATE: $\pm 2-3$ FT/YEAR

ORNAMENTAL TREES

CORNUS FLORIDA (FLOWERING DOGWOOD)

HEIGHT: 15-30 FT
SPREAD: 15-30 FT
GROWTH RATE: $\pm 1-2$ FT/YEAR

CRATAEGUS VIRIDIS 'WINTER KING'

HEIGHT: 25-35 FT
SPREAD: 25-35 FT
GROWTH RATE: $\pm 1-2$ FT/YEAR

EVERGREEN SHRUBS

MYRICA CERIFERA 'DONS DWARF'

HEIGHT: 3-4 FT
SPREAD: 4-6 FT

ILEX GLABRA 'SHAMROCK'

HEIGHT: 3-4 FT
SPREAD: 3-4 FT

NOTE: TREES SHALL BE INSTALLED AT 8' HEIGHT MINIMUM. SHRUBS SHALL BE INSTALLED AT 24-30" HEIGHT MINIMUM. THE PROPOSED VEGETATION DEPICTED IN THIS EXHIBIT ARE FOR CONCEPT PURPOSES ONLY. FINAL PLANT SPECIES WILL BE DETERMINED WITH FINAL DESIGN.

RESOLUTION

VIRGINIA CODE SECTION 15.2-2232 ACTION ON CASE NO. SUP-22-0015.

7294 AND 7296 RICHMOND ROAD PIVOT ENERGY SOLAR PROJECT

- WHEREAS, in accordance with Section 15.2-2232 of the Code of Virginia, a public utility facility, whether publicly or privately owned, shall not be constructed, established, or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted Comprehensive Plan or part thereof; and
- WHEREAS, D & S Chong, LLC, and Mr. Dae Ik and Ms. Susan Chong (collectively, the "Owners"), own property located at 7294 and 7296 Richmond Road, further identified as James City County Real Estate Tax Map Parcel Nos. 2410100004 and 2320100025, respectively, (collectively, the "Properties") and zoned A-1, General Agricultural; and
- WHEREAS, Mr. Buzz Becker of Pivot Energy, Inc., on behalf of the Owners, has applied for a Special Use Permit (SUP) to allow for the construction of a solar electrical generation facility on the Properties as shown on a plan titled "Pivot Energy VA I & II Prepared for Pivot Energy VA, LLC" sealed October 24, 2022; and
- WHEREAS, in accordance with Section 15.2-2204 of the Code of Virginia and Section 24-9 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing scheduled for Case No. SUP-22-0015.
- NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, for the reasons expressed in the written minutes which shall be transmitted to the Board of Supervisors, finds that the general or approximate location, character, and extent of the public utility facility shown in Case No. SUP-22-0015 is substantially in accord with the adopted Comprehensive Plan and applicable parts thereof.

ATTEST:



Paul D. Holt, III
Clerk to the Board


Tim O'Connor
Chairman, Planning Commission

Adopted by the Planning Commission of James City County, Virginia, this 2nd day of November, 2022.

SUP22-15_RichRdPESPUdp-res

**Approved Minutes of the November 2, 2022
Planning Commission Regular Meeting**

AFD-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal

This application was presented and reviewed in tandem with SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project. Discussion is combined and recorded with Special Use Permit (SUP) application.

Mr. Polster made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of AFD-22-0017. 7294 Richmond Road Hill Pleasant Farm AFD Withdrawal. (5-2)

SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project

Mr. Thomas Wysong, Senior Planner, stated that Mr. Buzz Becker of Pivot Energy, Inc. has applied for an SUP to construct a solar farm on an approximately 64.9-acre portion of parcels located at 7294 and 7296 Richmond Road. Mr. Wysong stated that the parcels are zoned A-1, General Agricultural and designated Economic Opportunity (EO) on the 2045 Comprehensive Land Use Map and located outside the Primary Service Area (PSA).

Mr. Wysong stated that the property located at 7296 Richmond Road is not located within an Agricultural and Forestal District (AFD); however, the property located at 7294 Richmond Road is currently within the Hill Pleasant Farm AFD. Mr. Wysong stated that as part of the 2022 AFD renewal process, the owner withdrew 42 acres of that property from the AFD. Mr. Wysong further stated that after the renewal period closed, the applicant recognized the need to withdraw an additional 10 acres from the AFD for stormwater facilities and this withdrawal proposal does require Board approval because it occurred after the renewal period closed.

Mr. Wysong stated that withdrawal requests outside of the renewal period are considered per the criteria listed in the Board of Supervisor's Policy governing the withdrawal of properties from AFDs. The criteria are:

- The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district. (This has historically been interpreted as death of a property owner.)
- The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD. (Staff interprets a public purpose as using the land for a public facility such as a school or fire station.)
- The request would not cause damage or disruption to the existing district. (The AFD would continue to meet the minimum acreage requirements if this withdrawal is approved.)

- If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

Mr. Wysong stated that Solar Farms are not specifically identified as a compatible land use in the EO Zoning District, but they may serve as a transitional land use until market forces determine a more intense economic use.

Mr. Wysong stated that staff finds that this application would not cause a disruption to the AFD and that the proposed land use would be a transitional use within the EO Zoning District; however, staff finds that this proposal is not caused by an unforeseen change in circumstances and that the request would not serve a public purpose. Mr. Wysong stated that since it does not meet all the criteria of the Board's withdrawal policy, staff recommends denial of this withdrawal request to the Board of Supervisors.

Mr. Wysong stated that at its October 20, 2022, meeting, the AFD Advisory Committee unanimously recommended approval of this withdrawal request by a vote of 7-0.

Mr. Wysong stated that the proposed solar farm facility will consist of ground-mounted arrays of solar panels mounted on single-axis trackers to orient the arrays toward the direction of the sun. Mr. Wysong stated that all new utilities will be placed underground and the solar farm will connect to existing overhead utility lines on the property. Mr. Wysong stated that the lease will be for 21 years with an option to extend for an additional 10 years.

Mr. Wysong stated that staff has proposed conditions to mitigate impacts from this proposal. Mr. Wysong further stated that these proposed conditions will require access to the facility during construction to be from the existing easement along the railroad connecting to Peach Street. Mr. Wysong stated that once the site construction is complete, normal sized vehicles can access the site from Richmond Road, but oversized vehicles will still be required to utilize the Peach Street entrance. Mr. Wysong stated that construction activities such as pile driving, clearing, and grading have limited hours per the SUP conditions. Mr. Wysong stated that a 50-foot vegetated buffer is shown along the perimeter of the development, with the buffer being increased to 75 feet along areas nearest to Richmond Road.

Mr. Wysong stated that the 2045 Comprehensive Plan Land Use Map designates the property EO. Mr. Wysong stated that the Comprehensive Plan does not specifically identify solar farm as a compatible use in EO; therefore, staff has reviewed this application as a transitional use given the limited lease of the property.

Mr. Wysong stated that according to Virginia Code Section 15.2-2232, unless a utility facility is shown on the adopted Comprehensive Plan or other master plans for the County, the local Planning Commission and a governing body shall review the facility to determine whether the location, character, and extent of the project is substantially in accord with the adopted Comprehensive Plan.

Mr. Wysong stated that staff recommends the Planning Commission find this application consistent with the 2045 Comprehensive Plan and recommend approval of the SUP to the Board of Supervisors subject to the proposed conditions and approval of the withdrawal request from the AFD.

Mr. O'Connor opened the floor for questions from the Commission.

Mr. Krapf requested more information on the reason for requesting the additional 10 acres.

Mr. Wysong stated that during staff review, it was determined that more acreage was needed for the stormwater facilities and a small expansion to the footprint of the solar arrays.

Mr. Krapf inquired if this could be considered a circumstance beyond the applicant's control that would meet one of the withdrawal criteria.

Mr. Wysong stated that staff did not interpret it as meeting the criteria.

Mr. Krapf inquired about the access to the site during construction and the impact of the existing utility lines on the access.

Mr. Holt stated that in the interim, as follow up on the stormwater management piece, there has been updated guidance from the state on calculating impervious cover for solar farms. Mr. Holt stated that the panels are now considered impervious cover which increases the amount of area needed for treatment of stormwater. Mr. Holt further stated that there is also a cap on the amount of forested land that can be credited to stormwater management. Mr. Holt stated that this accounts for the withdrawal of the additional land from the AFD.

Mr. Wysong provided an overview of the construction access road to the property.

Mr. Krapf inquired if any road improvements would be required.

Mr. Wysong stated that there is a condition that the applicant would have to do an existing conditions assessment and calculate what the repairs would be. Mr. Wysong stated that those repairs would need to be completed after construction once the site is finished.

Mr. Krapf inquired if this would include the overhead utilities.

Mr. Wysong confirmed.

Mr. Holt stated that Peach Street and Peninsula Street are in the VDOT secondary system for maintenance. Mr. Holt stated that on the other side of the railroad tracks, it becomes a shared easement. Mr. Holt stated that much of the private easement may need to be improved.

Ms. Null stated that this is her concern as well. Ms. Null inquired if the site could be accessed from Rochambeau Drive or from Route 60. Ms. Null noted that there could be huge impacts to the CSX operations if a vehicle was stuck on the track crossing.

Mr. Holt stated that access from Rochambeau Drive for this site is distinctly different from the other solar farm to the south because the route passes a number of residential units on one end and is encumbered by environmentally sensitive land at the other end.

Mr. Krapf inquired about a bond to ensure appropriate decommissioning of the panels at the end of their life.

Mr. Wysong stated that there is a condition for a surety bond to decommission the panels and remediate the site in the event the applicant is no longer in business.

Mr. Polster stated that part of the condition for the surety bond is to reevaluate it periodically to ensure it will cover any increase in costs over the years.

Mr. O'Connor opened the Public Hearing.

Mr. Buzz Becker, Director of Project Development, Pivot Energy, Inc., made a presentation to the Commission in support of the application.

Mr. Polster inquired about the use of the property between the buffer and the boundary line with the adjacent property owner.

Mr. Becker stated that the property owner will be reimbursed for that property so that it can be open space; most likely a meadow with pollinating plants.

Mr. Polster inquired about the ground cover under the solar panels.

Mr. Becker stated that the plan is for a native pollinator seed mix with up to quarterly mowing or maintenance.

Mr. Polster inquired about the size of the largest vehicles bringing in equipment.

Mr. Becker stated that the solar panels would be delivered on a tractor trailer. Mr. Becker further stated that the vast majority of the vehicles would not be that large.

Mr. Polster inquired about whether the tractor trailer would have difficulty crossing the railroad tracks and navigating the turn.

Mr. Becker stated that it would not be a problem.

Mr. Polster inquired about the buffering along the road adjacent to the neighboring property.

Mr. Becker stated that they are working with the adjacent property owner to establish a satisfactory mix of plantings.

Dr. Rose inquired about the subscription service for low-to-moderate-income customers.

Mr. Becker stated that they have a manager of subscriptions that reaches out to the community to find potential subscribers.

Dr. Rose inquired if the subscriber opportunity was limited to residents near the solar farm.

Mr. Becker stated that it was not limited by proximity.

Mr. Rodgers inquired if the project could move forward without the additional 10 acres.

Mr. Nick Robertson, Kimley-Horn and Associates, Inc., stated that without the additional acreage, it would be necessary to reduce the number of panels or not go forward with the project. Mr. Robertson stated that a reduction in the panels may affect support from Dominion Energy.

Mr. Polster inquired if staff did the stormwater calculations.

Mr. Roberson stated that Kimley-Horn did the calculations.

Mr. Polster inquired if the Stormwater Division supported those calculations.

Mr. Robertson stated that staff supported the calculations.

Mr. Polster inquired if there were any alternative.

Mr. Roberson stated that there is no alternative except reducing the number of panels which the applicant cannot do.

Mr. O'Connor inquired if any other portion of the property could be used for stormwater management.

Mr. Robertson stated that the location of the retention ponds is determined by topography; the ponds must be placed where water will drain. Mr. Robertson stated that it would not be possible to move sufficient panels to another area or be detrimental to the adjacent property owner.

Mr. Polster inquired if he is correct that the calculations for impervious cover are based on the amount of water coming off the panels and where it drains to which is why the retention ponds must be located where they are.

Mr. Becker confirmed that this is correct.

Mr. Gary Campbell, 230 Peach Street, 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. Jack Haldeman stated that he plans to support the application. Mr. Haldeman stated that he finds that the AFD withdrawal does meet the criteria for a change in circumstance and further it also meets the criteria of being for a public purpose. Mr. Haldeman stated that this does meet a goal of the Comprehensive Plan as well as state and federal goals to decarbonize energy production.

Mr. Rich Krapf stated that he also finds that the criteria for AFD withdrawal are met. Mr. Krapf stated that he believes the applicant would have removed the acreage during the renewal period if the stormwater information had been available at that time. Mr. Krapf stated that he would like to recommend that Condition No. 5 be amended to include that Item B read: The majority of evergreen shrubs and trees should be native species. Mr. Krapf further stated that he would recommend that Condition No. 6 be amended to read: Site ground cover that includes native pollinators and native grasses. Mr. Krapf further stated that he is in favor of solar and other power; however, he is concerned about the impact on the EO zone.

Mr. O'Connor stated that he has concerns about this use of the property in the EO zone. Mr. O'Connor stated that he did not support the other neighboring solar farm and does not intend to support this application.

Mr. Polster made a motion to recommend approval of the application with conditions as proposed by staff and with the recommended amendments.

On a roll call vote, the Commission voted to recommend approval of SUP-22-0015. 7294 & 7296 Richmond Rd. Pivot Energy Solar Project. (5-2)

Mr. Polster made a motion to adopt the resolution finding the project to be in substantial accord with the Comprehensive Plan.

On a roll call vote, the Commission voted to find the application in substantial accord with the Comprehensive Plan. (5-2)

ITEM SUMMARY

DATE: 3/14/2023

TO: The Board of Supervisors

FROM: Terry Costello, Senior Planner

SUBJECT: SUP-22-0007. Branscome Resource Recovery and Aggregate Storage

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Resolution	Resolution
▣	Staff Report Board of Supervisors Meeting November 8, 2022	Backup Material
▣	Location Map	Exhibit
▣	Master Plan	Exhibit
▣	Truck Traffic Counts	Backup Material
▣	Exhibit - Road Conditions	Backup Material
▣	DMME Permit	Backup Material
▣	SUP-18-0011 750 Blow Flats Road Borrow Pit SUP	Backup Material
▣	Approved Minutes from the October 5, 2022 Planning Commission Meeting	Minutes
▣	Approved Minutes from the November 8, 2022 Board of Supervisors Meeting	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	2/23/2023 - 1:30 PM
Development Management	Holt, Paul	Approved	2/23/2023 - 1:30 PM
Publication Management	Pobiak, Amanda	Approved	2/23/2023 - 1:38 PM
Legal Review	Kinsman, Adam	Approved	2/27/2023 - 1:55 PM
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 8:30 AM
Board Secretary	Purse, Jason	Approved	3/7/2023 - 4:42 PM
Board Secretary	Saeed, Teresa	Approved	3/7/2023 - 4:44 PM

**SPECIAL USE PERMIT-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the March 14, 2023, Board of Supervisors Meeting**

SUMMARY FACTS

Applicant: Mr. Julian Lipscomb

Landowner: Branscome Inc.

Proposal: There is an active borrow pit (i.e., surface mine) on the property that is subject to conditions of a previously approved Special Use Permit (SUP) (SUP-18-0011). However, concrete and other materials are also being brought to the site, crushed, and then utilized at the Branscome Asphalt Plant on Merrimac Trail or sold on-site to other contractors. A resource recovery and aggregate storage facility is a specially permitted use on property zoned M-2, General Industrial. The applicant has requested an SUP to be able to operate this portion of the business in compliance with the Zoning Ordinance.

Location: 750 Blow Flats Road

Tax Map/Parcel No.: 6030100002

Property Acreage: ± 281 acres

Zoning: M-2, General Industrial
Military Influence Overlay District

Comprehensive Plan: General Industry

Primary Service Area: Inside

Staff Contact: Terry Costello, Senior Planner

PUBLIC HEARING DATES

Planning Commission: October 5, 2022, 6:00 p.m.

Board of Supervisors: November 8, 2022, 5:00 p.m. (Postponed)

SUMMARY STAFF RECOMMENDATION

At its meeting on November 8, 2022, the Board postponed action on this item until the December 13, 2022, meeting. At its meeting on December 13, 2022, the Board postponed the application until March 14, 2023, pursuant to the applicant's request. The public hearing was closed at the initial meeting on November 8, 2022; therefore, this item is being reviewed as a consideration item.

There have been no updates or changes since the November 8, 2022, Board of Supervisors meeting. Therefore, staff continues to recommend denial. Should the Board of Supervisors approve this application, staff has included proposed conditions to mitigate a portion of the potential impacts that would result from this development (see Attachment No. 1).

TC/ap
SUP22-7_BrnscmDfr

Attachments:

1. Resolution
2. Staff Report Board of Supervisors Meeting November 8, 2022
3. Location Map
4. Master Plan
5. Truck Traffic Counts
6. Exhibit - Road Conditions

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

**SPECIAL USE PERMIT-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the March 14, 2023, Board of Supervisors Meeting**

7. DMME Permit
8. SUP-18-0011 750 Blow Flats Road Borrow Pit
9. Approved Minutes from the October 5, 2022, Planning Commission Meeting
10. Approved Minutes from the November 8, 2022, Board of Supervisors 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-22-0007. BRANSCOME RESOURCE RECOVERY

AND AGGREGATE STORAGE

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, Mr. Jay Lipscomb has applied on behalf of Branscome Inc. for an SUP to allow for the operation of a resource recovery and aggregate storage facility (the “Project”) on property located at 750 Blow Flats Road and further identified as James City County Real Estate Tax Map Parcel No. 6030100002 (the “Property”); which includes an existing borrow pit; and

WHEREAS, all mining and borrow pit operations on the Property are subject to a separate SUP and are not bound by the Master Plan for the Project; and

WHEREAS, the Planning Commission, following its public hearing on October 5, 2022, recommended approval of Case No. SUP-22-0007 by a vote of 5-0; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-22-0007; 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-22-0007 as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for a resource recovery and aggregate storage facility (the “Project”) on property located at 750 Blow Flats Road and further identified as James City County Real Estate Tax Map Parcel No. 6030100002 (the “Property”). This facility shall only be operated in those areas of the Property noted as “Resource Recovery Aggregate Storage,” as generally shown on the map submitted with the SUP request titled “SUP-22-0007, Parcel ID#6030100002 - Lee’s Pit, 750 Blow Flats Road Resource Recovery Branscome Inc.” and dated July 8, 2022 (the “Master Plan”), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.
2. Transitional Screening. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the Property. The transitional screening buffer shall be maintained in accordance with Chapter 24, Article 11, Division 4, Section 24-100 (a) *Transitional Screening* of the James City County Code, as amended.
3. Buffers. All buffer areas shall be flagged in the field and inspected by the Stormwater and Resource Protection Division prior to any new clearing.

4. Materials and Equipment Storage. All material and equipment storage, and stone and concrete processing activities shall be limited to the area defined on the Master Plan as the “Resource Recovery and Aggregate Storage.” Acceptable materials stored include concrete, aggregate, and asphalt. No wood or wood products shall be stored on the Property.
5. Stockpiles. Stockpiles shall not exceed 16 feet in height.
6. Sale of Products. No sale of concrete, aggregate, stone and/or stone products shall be offered for sale directly to the general public on the Property.
7. Stone and Aggregate Crusher Location. The stone and aggregate crusher shall be placed in the locations identified as “Demo Concrete & Crushing and Demo Asphalt Crushing” on the Master Plan.
8. Hours of Operation. Hours of operation, including the operating of the stone and aggregate crusher and associated equipment, shall be limited to 7 a.m.-7 p.m., Monday through Saturday.
9. Burning. No materials shall be burned on the Property.
10. Lighting. A lighting plan shall be reviewed and approved by the Director of Planning or their designee prior to final approval of the site plan. Any exterior site or building lighting shall be shielded and directed downward. No glare defined as 0.1 foot-candle or higher shall extend outside the Property lines. Lights shall be operated by a motion detector or able to be turned on as needed and shall not be routinely illuminated at night. No lighting shall be installed on structures at a height greater than 30 feet above finished grade. This condition shall not apply to any lighting required by federal or state regulations.
11. Operational Mitigation Plan. An Operational Mitigation Plan to address the impacts associated with the continued operation of the Project shall be reviewed and approved by the Director of Planning prior to final site plan approval. The plan shall address:
 - a. Dust mitigation, including, but not limited to, water trucks, mulch, or similar methods.
 - b. Noise mitigation, including but not limited to, the enforcement of hours of operation.
 - c. Road monitoring of the entrance of the private road access and Blow Flats Road, to include cleaning mud tracked onto Blow Flats Road from traffic associated with the Project.
12. On-Site Water Quality Treatment. The site plan must provide all water quality measures required by the Virginia Runoff Reduction Method on-site through structural Best Management Practices and/or manufactured treatment devices. Neither the purchase of offsite nutrient credits in accordance with 9VAC25-870-69, Offsite Compliance Options nor the use of Forested Open Space toward water quality will be accepted for this Project.
13. Site Plan Approval. A site plan shall be required for the Project. Final approval of the site plan for all or a portion of the Project shall be obtained with 24 months of issuance of this SUP, or the SUP shall become void.

14. 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:

		VOTES			
		<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ Teresa J. Saeed Deputy Clerk to the Board	SADLER	_____	_____	_____	_____
	ICENHOUR	_____	_____	_____	_____
	MCGLENNON	_____	_____	_____	_____
	LARSON	_____	_____	_____	_____
	HIPPLE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of March, 2023.

**SPECIAL USE PERMIT-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 2022, Board of Supervisors Public Hearing**

SUMMARY FACTS

Applicant:	Mr. Julian Lipscomb
Landowner:	Branscome Inc.
Proposal:	There is an active borrow pit (i.e., surface mine) on the property that is subject to conditions of a previously approved Special Use Permit (SUP) (SUP-18-0011). However, concrete, and other materials are also being brought to the site, crushed, and then utilized at the Branscome Asphalt Plant on Merrimac Trail or sold on-site to other contractors. A resource recovery and aggregate storage facility is a specially permitted use on property zoned M-2, General Industrial. The applicant has requested an SUP to be able to operate this portion of the business in compliance with the Zoning Ordinance
Location:	750 Blow Flats Road
Tax Map/Parcel No.:	6030100002
Property Acreage:	± 281 acres
Zoning:	M-2, General Industrial Military Influence Overlay District (MIOD)
Comprehensive Plan:	General Industry
Primary Service Area: (PSA)	Inside
Staff Contact:	Terry Costello, Senior Planner

PUBLIC HEARING DATES

Planning Commission: October 5, 2022, 6:00 p.m.

Board of Supervisors: November 8, 2022, 5:00 p.m.

FACTORS FAVORABLE

1. With the exception of traffic impacts to Blow Flats Road, staff finds the proposed conditions will mitigate expected impacts to surrounding properties and development.
2. Staff finds the proposal generally consistent with the *Our County, Our Shared Future: James City County 2045 Comprehensive Plan*. See Analysis on Pages 7-8.
3. Impacts: See Impact Analysis on Pages 4-6.

FACTORS UNFAVORABLE

1. The property and project site are accessed by a narrow, substandard local road. Further, the intersection of Blow Flats Road and Pocahontas Trail (U.S. Route 60) is also substandard. As such, staff finds that the roadway may not be suitable for the increase in heavy construction traffic that is associated with a resource recovery and aggregate storage facility.
2. Impacts: See Impact Analysis on Pages 4-6.

SUMMARY STAFF RECOMMENDATION

Staff recommends denial of this application. Should the Board of Supervisors approve this case, staff has included proposed conditions to mitigate a portion of the potential impacts that would result from this development.

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-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 2022, Board of Supervisors Public Hearing**

PLANNING COMMISSION RECOMMENDATION

At its October 5, 2022, meeting, the Planning Commission recommended approval of this application, with proposed conditions, by a vote of 5-0.

**PROPOSED CHANGES MADE SINCE THE PLANNING
COMMISSION MEETING**

None.

PROJECT DESCRIPTION

There is an active borrow pit (i.e., surface mine) on the property that is subject to conditions of a previously approved SUP (SUP-18-0011). There is also an active mining permit from the Virginia Department of Mines, Minerals, and Energy (DMME). All operational activities associated with the mine are regulated by the DMME. The mining activity produces topsoil, dirt, and clay that is sold to third parties. DMME does not monitor or regulate traffic impacts. DMME also does not regulate a resource recovery and aggregate storage facility.

Branscome Inc. also operates the Lee Hall Asphalt Plant on Merrimac Trail. Millings and recycled asphalt were being delivered to this site and stored until needed to manufacture new asphalt. These storage pilings became too tall to store at the asphalt plant. As of October 2005, these deliveries have been sent to the borrow pit site at 750 Blow Flats Road. However, a resource recovery and aggregate storage facility is a specially permitted use on property zoned M-2, General Industrial.

Concrete from various Branscome Inc. job sites as well as other contractors' job sites are also being delivered to the site at 750 Blow Flats Road. Concrete is then crushed at the same time as the asphalt, and then sold to contractors for base material.

According to the applicant, once the stockpiled material reaches approximately 10,000 tons, a crusher is then brought on-site to crush the asphalt to the grade that the product can be used. This material is then delivered to the Lee Hall Asphalt Plant. The area that will be used for the resource recovery and aggregate storage is a previously mined area that has been reclaimed.

This SUP application, if approved, would allow the owner to operate this portion of the business in compliance with the Zoning Ordinance.

Trucks entering and leaving the site are primarily 18-ton trucks. According to the applicant, the peak time for traffic is from 10 a.m.-2 p.m. although approved SUP conditions associated with the borrow pit allow for truck traffic and operations to occur any time during daylight hours. There are no limitations or restrictions in the borrow pit SUP regarding the number of vehicles allowed to or from the site. Staff has compiled a history of traffic with information that was provided by the applicant with his renewal cases for the borrow pit (Attachment No. 4).

PLANNING AND ZONING HISTORY

- The Board of Supervisors approved Case No. SUP-38-91 on September 8, 1992. This allowed for the continued operation of the borrow pit. A five-year limit was placed on the permit as a condition of approval in order to provide staff the opportunity to reevaluate the impacts of the operation.
- The Board of Supervisors approved Case No. SUP-31-97 on December 22, 1997. This was a renewal of the previous SUP that was issued in 1992. A three-year limit was placed on the permit.
- The Board of Supervisors approved renewal Case No. SUP-9-00 on October 10, 2000. A five-year limit was placed on the permit.

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-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 2022, Board of Supervisors Public Hearing**

- The Board of Supervisors approved renewal Case No. SUP-19-05 on October 10, 2005. A five-year limit was placed on the permit.
- The Board of Supervisors approved renewal Case No. SUP-0010-2010 on June 8, 2010. An eight-year limit was placed on the permit.
- The Board of Supervisors approved renewal Case No. SUP-18-0011 on November 13, 2018, for the continued operation of a borrow pit. An eight-year limit was placed on the permit.

SURROUNDING ZONING AND DEVELOPMENT

- Access to the site is provided by an on-site private road that is approximately 5,300 feet in length. This on-site road begins at the end of Blow Flats Road, which is a Virginia Department of Transportation (VDOT) maintained road located within a public right-of-way.
- The property is bordered on the east and south by Skiffes Creek while the USA Waste of Virginia, Inc. borrow pit property is located to the west of the site. Property to the north of the site is Walmart Distribution Center.
- All properties surrounding the site area zoned M-2, General Industrial.
- Residences along Blow Flats Road are zoned M-2, General Industrial.

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-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 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>Public Transportation: Vehicular</u>	<u>Not Mitigated</u>	- The resource recovery/aggregate storage facility will not exceed 100 peak hour trips. - Access to the property is taken from a private road, with access to the private road taken from an existing entrance located at the end of Blow Flats Road. - Staff finds that Blow Flats Road is a narrow road that does not meet current VDOT standards and is inadequate to accommodate the increased traffic from this Project. - Further, the intersection of Blow Flats Road and Pocahontas Trail (U.S. Route 60) is also substandard. - Staff finds that the roadway and intersection may not be suitable for the increase in heavy construction traffic that is associated with a resource recovery and aggregate storage facility. - Staff finds that traffic impacts from this proposal cannot be mitigated since off-site road improvements cannot be conditioned or required from the applicant.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	- Per the Adopted Regional Bikeways Map and Pedestrian Accommodations Master Plan, neither a bike lane nor pedestrian accommodations are required.
<u>Public Safety</u>	<u>No Mitigation Required</u>	- Fire Station 2 on Pocahontas Trail serves this area of the County and is approximately 2.8 miles from the property. - The Fire Department has reviewed the proposal and does not have concerns with the master plan.
<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 does not receive public water and sewer. The resource recovery and aggregate storage will not need water or sewer services.

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-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 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>Watersheds, Streams, and Reservoirs</u> Project is located in the Skiffes Creek Watershed and Skiffes Creek Reservoir	<u>Mitigated</u>	- The Stormwater and Resource Protection Division has reviewed this application and has no objections. - This project will need to demonstrate full compliance with environmental regulations at the development plan stage, but no other specific environmental impacts have been identified for mitigation. - There are special flood hazard and resource protection areas on the property. However, this project will be located outside of these areas. - A stormwater management plan will be required as part of the site plan process.
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	- The area on the property that this facility will be located has been previously disturbed and has no known cultural resources in this area.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	- Access to the site is taken from a private road approximately 5,300 feet in length. - This site is not visible from any residential properties and is surrounded by industrial sites. - A transitional screening buffer will be provided as specified in proposed Condition No. 2. - Materials and equipment storage are limited to the areas defined on the master plan in proposed Condition No. 4. - The project will need to demonstrate full compliance with lighting and landscaping regulations in the Zoning Ordinance at the development plan stage.
<u>Community Character</u>	<u>Mitigated</u>	- Blow Flats Road is not a designated Community Character Corridor (CCC). - Access to the site is taken from a private road approximately 5,300 feet in length and truck access to it is from an existing entrance at the end of Blow Flats Road. The site is not visible from any residential properties and is surrounded by industrial sites. - A transitional screening buffer will be provided as specified in proposed Condition No. 2.
<u>Covenants and Restrictions</u>	<u>No Mitigation Required</u>	- The applicant has verified that he is not aware of any covenants or restrictions on the property that prohibit the proposed use.

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

**SPECIAL USE PERMIT-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 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>Joint Base Langley Eustis (JBLE)</u>	<u>No Mitigation Required</u>	- This parcel is located within the MIOD on the 2045 Comprehensive Plan Land Use Map. JBLE personnel reviewed this proposal and raised no concerns regarding impacts on the mission of the base.

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-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 2022, Board of Supervisors Public Hearing**

Blow Flats Road is a 22-foot paved road with vary narrow gravel shoulders. According to VDOT, current minimum standards for a two-lane road should be 24 feet in width, with two feet of paved shoulders on each side for a total of 28 feet paved surface. This width is inadequate for trucks to safely pass to and from the site. There are also residences and other businesses along Blow Flats Road that must share the road with the truck traffic. Blow Flats Road intersects with Pocahontas Trail (U.S. Route 60) at an angle of less than 45 degrees. According to VDOT, the angle should be greater than 75 degrees. The pavement is deteriorating and there is damage to the shoulder area. Due to the current condition of this intersection, visibility is decreased. Representative photos of existing conditions can be found in Attachment No. 5.

Truck trip information has been received from the applicant as part of this SUP application. Trucks entering and leaving the site are primarily 18-ton trucks. According to the applicant, the peak time for traffic is from 10 a.m.-2 p.m. although approved SUP conditions associated with the borrow pit allow for truck traffic and operations to occur any time during daylight hours. There are no limitations or restrictions in the borrow pit SUP regarding the number of vehicles allowed to or from the site. Staff has compiled a history of traffic with information that was provided by the applicant with his renewal cases for the borrow pit. (Attachment No. 4)

From January 2022 to May of 2022, the average number of truck trips coming from the borrow pit operations and the resource recovery and aggregate storage facility collectively onto Blow Flats Road is 140 trips per day (i.e., 70 trucks coming and going per day). On a peak day, the number of truck trips is 250 trips per day (i.e., 125 trucks coming and going per day).

During the summer months (June 2022-August 2022), which is their peak time, the average number of truck trips were 174 trips (i.e., 87

trucks coming and going per day). On a peak day, the number of truck trips is 300 trips per day (i.e., 150 trucks coming and going per day).

From January 2022-May 2022, of the 140 average trips per day (70 trucks coming and going per day), 118 trips (59 trucks coming and going per day) were for the borrow pit operation, and 22 trips (11 trucks coming and going per day) were for the resource recovery and aggregate storage. From June 2022-August 2022, of the 174 average trips per day (87 trucks coming and going per day), 142 trips (71 trucks coming and going per day) were for the borrow pit operation and 32 (16 trucks coming and going per day) were for the resource recovery and aggregate storage operation.

VDOT's Annual Average Daily Traffic Volume Estimates for Blow Flats Road is 440 counts. Using VDOT's estimate for annual average daily traffic counts, and information provided by the applicant, and at the current average of 140 truck trips, the impact of these two uses constitutes 31.8% of the volume of traffic on Blow Flats Road (i.e., 140 trips/440 counts), and up to 56.8% on a peak day (250 trips/440 counts).

Traffic from previous years has been provided by the applicant and is included in Attachment No. 4.

In reviewing the SUP application, VDOT has the following recommendations:

- A commercial entrance should be installed at the intersection of Blow Flats Road and the private road.
- The shoulders should be paved to the maximum extent possible at the intersection of Blow Flats Road and Pocahontas Trail.
- An auto-turn analysis (to check the road design to ensure all types of vehicles can move safely and efficiently) should be provided for the intersection of Blow Flats Road and Pocahontas Trail.

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-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 2022, Board of Supervisors Public Hearing**

- A general site distance study for the intersection of Blow Flats Road and the private road.
- All shoulders should be graded back and stabilized to prevent damage resulting from the trucks.

Reduced visibility, shoulder damage, pavement damage, and deficient points of acceleration for trucks are all negative impacts that currently exist along Blow Flats Road and its intersection with Pocahontas Trail. The proposed application would add additional heavy truck traffic to these areas, thereby adding to the negative impacts. These additional impacts cannot be mitigated by the applicant.

2045 COMPREHENSIVE PLAN

The site is designated for General Industry on the 2045 Comprehensive Plan Land Use Map. General Industry designated properties are areas located within the PSA that are suitable for industrial uses which, because of their potential for creating dust, noise, odor, and other adverse environmental effects, require buffering from adjoining uses, particularly residential uses.

Uses proposed in areas designated General Industry usually require access to interstate and arterial highways, public water and sewer, adequate supply of electric power and other energy sources, access to a sufficient labor supply, and moderate to large sized sites with natural features such as soils, topography, and buffering suitable for intense development. Particular attention should be given to the following:

- i. Locate proposed commercial and industrial developments adjacent to compatible uses (public or other similar uses, etc.). Where a commercial or industrial development is proposed at a location near a sensitive area, the site should be designed so that transitional uses such as offices and/or buffers are located between conflicting uses. Emphasis should be placed on ensuring the

provision of open space; protection of the environment; historical and archaeological resources; and adjoining land uses; sufficient capacities of public facilities and services; quality and effectiveness of pedestrian circulation systems and facilities; and ability to meet the public needs of the development.

Staff finds the resource recovery and aggregate storage facility to be an appropriate industrial use and the proposed location is adjacent to a compatible use.

- ii. Permit the location of new uses only where public services, utilities, and facilities are adequate to support such uses. The need for public services (police, fire, education, recreation, etc.) and facilities generated by a development should be met or mitigated by that development.

Staff finds that the proposed use is not expected to have an impact on existing County services such as education or recreation; however, staff does find that impacts to roadway facilities are not mitigated and may add to VDOT's operations and maintenance costs. Further, since the roadway and intersection are substandard, any increase in accidents that might arise from an increase in the total truck traffic, may add to the demands of County first responders.

- iii. While a variety of market forces influence commercial and industrial development proposals, the maintenance of an acceptable Level of Service of roads and other public services and the availability and capacity of public utilities should be primary considerations.

The Project does not require public water and sewer.

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-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 2022, Board of Supervisors Public Hearing**

Staff finds that Blow Flats Road is inadequate for the current truck traffic as well as any increased traffic. The road pavement is approximately 22 feet in width. VDOT's current guidelines would require the road to be 24 feet with two-foot-wide paved shoulders on each side. This width is inadequate for trucks to safely pass to and from the site. There are also residences and other businesses along Blow Flats Road that must share the road with the truck traffic.

In addition to the inadequate pavement width, the turn angle is currently less than 45 degrees at the intersection of Blow Flats Road and Pocahontas Trail. According to VDOT's guidelines, the angle should be no less than 75 degrees. The pavement is deteriorating and there is damage to the shoulder area. Due to the current condition of this intersection, visibility is decreased.

According to the applicant the number of truck trips on an average day is 140, with a peak day being 250 truck trips. VDOT's Annual Average Daily Traffic Volume Estimates for Blow Flats Road is 440 counts. The activity on the Property is generating 31.8% (140/440) of the traffic on an average day, and up to 56.8% (250/440) on a peak day. The Resource Recovery and Aggregate Storage activity will increase the amount of truck traffic on a current substandard local road and intersection.

Given the deficiencies of the intersection of Blow Flats Road and Pocahontas Trail and the entire length of Blow Flats Road, staff finds that this proposal would increase the truck traffic and would cause the road to deteriorate even further. Any off-site road, visibility, or safety improvements cannot be conditioned or required, therefore the impacts to the road cannot be mitigated.

- iv. Protect environmentally sensitive resources including high-ranking Natural Areas and significant natural heritage resources, watersheds, historic and archaeological resources, designated CCCs and Community Character Areas, and other sensitive and utilizing design features, including building and site design, buffers, and screening to adequately protect the resource.

Staff finds that with conditions, the use will be sufficiently buffered in this location and is not expected to have an impact to adjacent properties. There is a Resource Protection Area and special flood hazard areas on the property. However, the Project is outside of these areas.

- v. Minimize the impact of development proposals on overall mobility, especially on major roads, by limited access points and providing internal, on-site collector and local roads, side street access, and joint entrances. Industrial and commercial areas should be planned and located to avoid traffic through residential and agricultural areas except in special circumstances where residential and nonresidential areas are both part of an overall master plan and special measures are taken to ensure that the residential or agricultural uses are adequately protected.

There are 11 residences and a small mobile home park on Blow Flats Road. Residents and other businesses must share the road with the truck traffic going to and from the site. Any off-site improvements cannot be conditioned or required, therefore the impacts to the road cannot be mitigated.

**SPECIAL USE PERMIT-22-0007. Branscome Resource Recovery and Aggregate Storage
Staff Report for the November 8, 2022, Board of Supervisors Public Hearing**

In addition to being designated for General Industry, the project site is located within the JBLE MIOD. Per the adopted 2045 Comprehensive Plan Land Use Map, the intent of the MIOD is “to protect the mission footprint of Joint Base Langley Eustis and to reduce potential encroachment issues related to existing development, new development, or potential redevelopment surrounding the installation within the County.”

Accordingly, this proposal was transmitted to JBLE personnel for review and evaluation of potential impacts the base’s missions. No impacts of concern were raised by JBLE personnel during this review.

STAFF RECOMMENDATION

Staff finds that the proposal is compatible with surrounding zoning and development and is generally consistent with the Comprehensive Plan and Zoning Ordinance. However, this proposal will add more truck traffic to a local road that is inadequate to manage the current truck traffic. Staff finds that the current width of Blow Flats Road at 22 feet does not meet VDOT’s current standards for a two-lane road and is inadequate for the current truck traffic; this width is inadequate for trucks to safely pass to and from the site and there are also residences and other businesses along Blow Flats Road that must share the road with the truck traffic.

Due to the angle of the turn at the intersection of Blow Flats Road and Pocahontas Trail, which is also substandard, there are issues with deteriorating pavement, damage to the shoulders, and a decrease in visibility causing safety concerns.

Reduced visibility, shoulder damage, pavement damage, and deficient points of acceleration for trucks are all negative impacts that currently exist along Blow Flats Road and its intersection with Pocahontas Trail. The proposed application would add additional heavy truck traffic to these areas, thereby adding to the negative impacts. These additional impacts cannot be mitigated by the applicant.

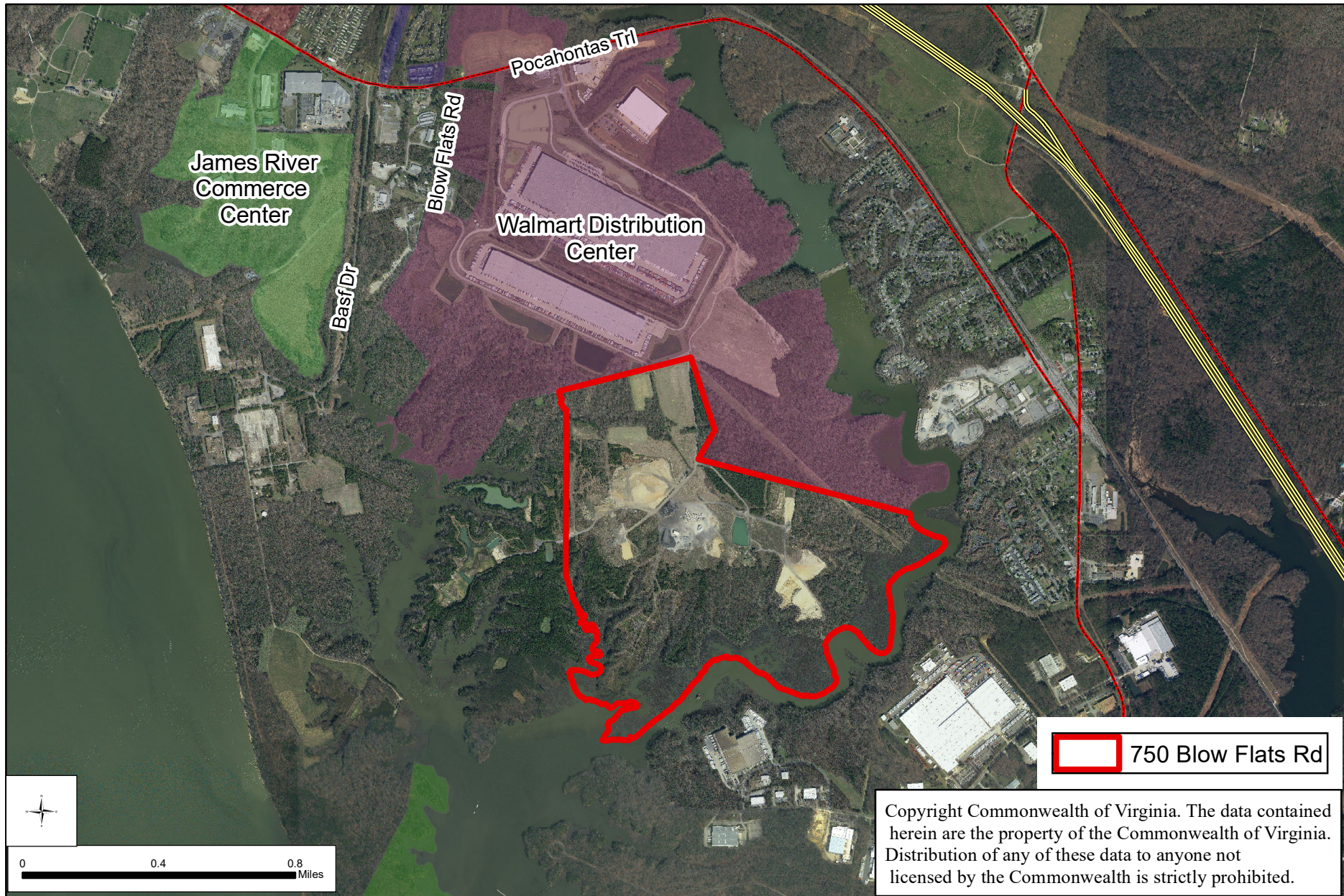
Therefore, staff recommends denial of this application. Should the Board of Supervisors approve this case, staff has included proposed conditions to mitigate a portion of the potential impacts that would result from this development (Attachment No. 1).

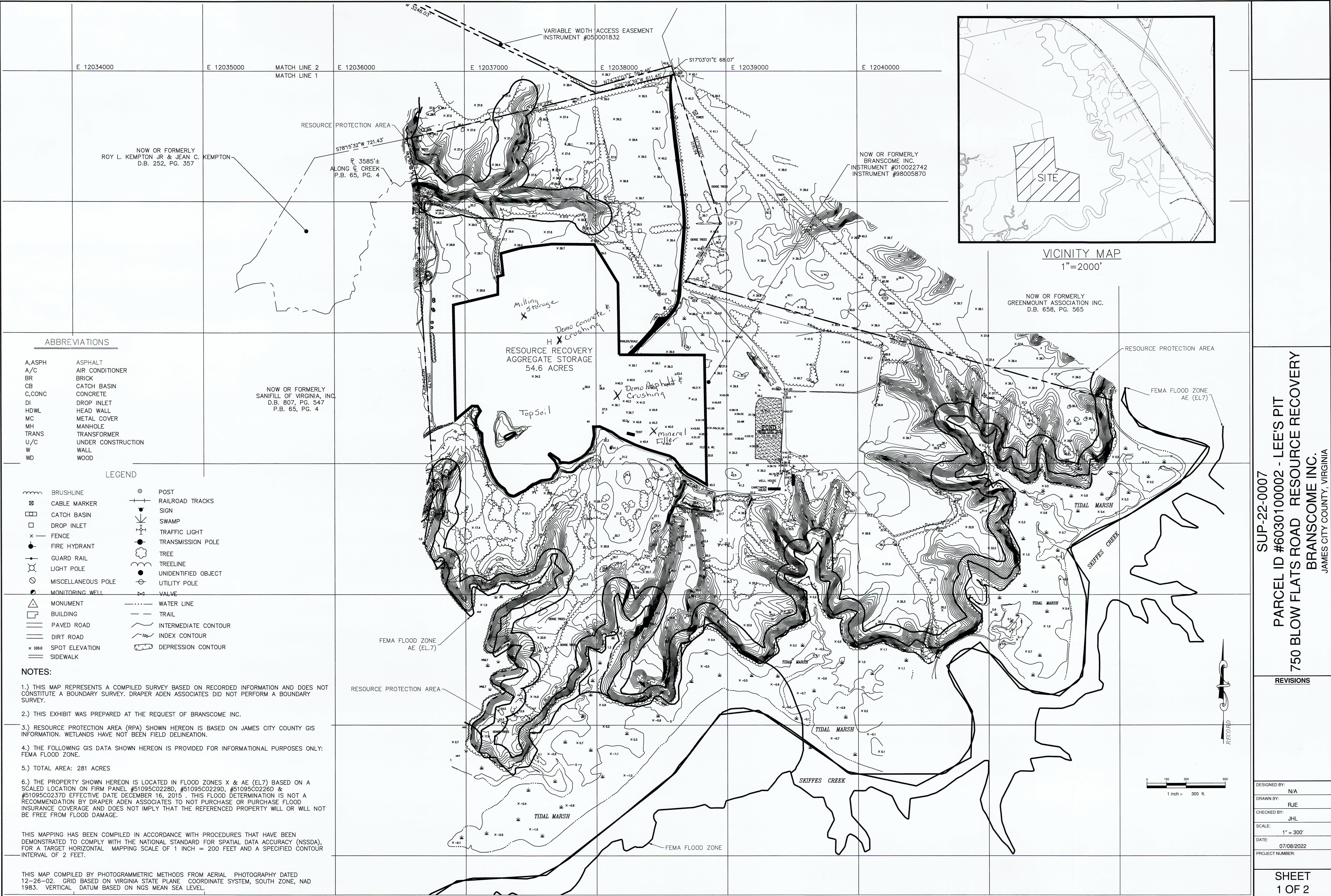
TC/ap
SUP22-7_BranscmRRAS

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Truck Traffic Counts
5. Exhibit - Road Conditions
6. DMME Permit
7. SUP-18-0011 750 Blow Flats Road Borrow Pit
8. Unapproved Minutes from the October 5, 2022, Planning Commission Meeting

SUP-22-0007, Branscome Resource Recovery and Aggregate Storage





ABBREVIATIONS

A,ASPH	ASPHALT
A/C	AIR CONDITIONER
BR	BRICK
CB	CATCH BASIN
C,CONC	CONCRETE
DI	DROP INLET
HDWL	HEAD WALL
MC	METAL COVER
MH	MANHOLE
TRANS	TRANSFORMER
U/C	UNDER CONSTRUCTION
W	WALL
WD	WOOD

LEGEND

	BRUSHLINE		POST
	CABLE MARKER		RAILROAD TRACKS
	CATCH BASIN		SIGN
	DROP INLET		SWAMP
	FENCE		TRAFFIC LIGHT
	FIRE HYDRANT		TRANSMISSION POLE
	GUARD RAIL		TREE
	LIGHT POLE		TREELINE
	MISCELLANEOUS POLE		UNIDENTIFIED OBJECT
	MONITORING WELL		UTILITY POLE
	VALVE		
	MONUMENT		WATER LINE
	BUILDING		TRAIL
	PAVED ROAD		INTERMEDIATE CONTOUR
	DIRT ROAD		INDEX CONTOUR
	SPOT ELEVATION		DEPRESSION CONTOUR
	SIDEWALK		

NOTES:

- 1.) THIS MAP REPRESENTS A COMPILED SURVEY BASED ON RECORDED INFORMATION AND DOES NOT CONSTITUTE A BOUNDARY SURVEY. DRAPER ADEN ASSOCIATES DID NOT PERFORM A BOUNDARY SURVEY.
 - 2.) THIS EXHIBIT WAS PREPARED AT THE REQUEST OF BRANSCOME INC.
 - 3.) RESOURCE PROTECTION AREA (RPA) SHOWN HEREON IS BASED ON JAMES CITY COUNTY GIS INFORMATION. WETLANDS HAVE NOT BEEN FIELD DELINEATION.
 - 4.) THE FOLLOWING GIS DATA SHOWN HEREON IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY: FEMA FLOOD ZONE.
 - 5.) TOTAL AREA: 281 ACRES
 - 6.) THE PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONES X & AE (EL7) BASED ON A SCALED LOCATION ON FIRM PANEL #51095C0228D, #51095C0229D, #51095C0226D & #51095C0237D EFFECTIVE DATE DECEMBER 16, 2015. THIS FLOOD DETERMINATION IS NOT A RECOMMENDATION BY DRAPER ADEN ASSOCIATES TO NOT PURCHASE OR PURCHASE FLOOD INSURANCE COVERAGE AND DOES NOT IMPLY THAT THE REFERENCED PROPERTY WILL OR WILL NOT BE FREE FROM FLOOD DAMAGE.
- THIS MAPPING HAS BEEN COMPILED IN ACCORDANCE WITH PROCEDURES THAT HAVE BEEN DEMONSTRATED TO COMPLY WITH THE NATIONAL STANDARD FOR SPATIAL DATA ACCURACY (NSSDA), FOR A TARGET HORIZONTAL MAPPING SCALE OF 1 INCH = 200 FEET AND A SPECIFIED CONTOUR INTERVAL OF 2 FEET.

THIS MAP COMPILED BY PHOTOGRAMMETRIC METHODS FROM AERIAL PHOTOGRAPHY DATED 12-26-02. GRID BASED ON VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983. VERTICAL DATUM BASED ON NGS MEAN SEA LEVEL.

SUP-22-0007
PARCEL ID #6030100002 - LEE'S PIT
750 BLOW FLATS ROAD
BRANSCOME INC.
JAMES CITY COUNTY, VIRGINIA

REVISIONS

DESIGNED BY:	N/A
DRAWN BY:	RJE
CHECKED BY:	JHL
SCALE:	1" = 300'
DATE:	07/08/2022
PROJECT NUMBER:	

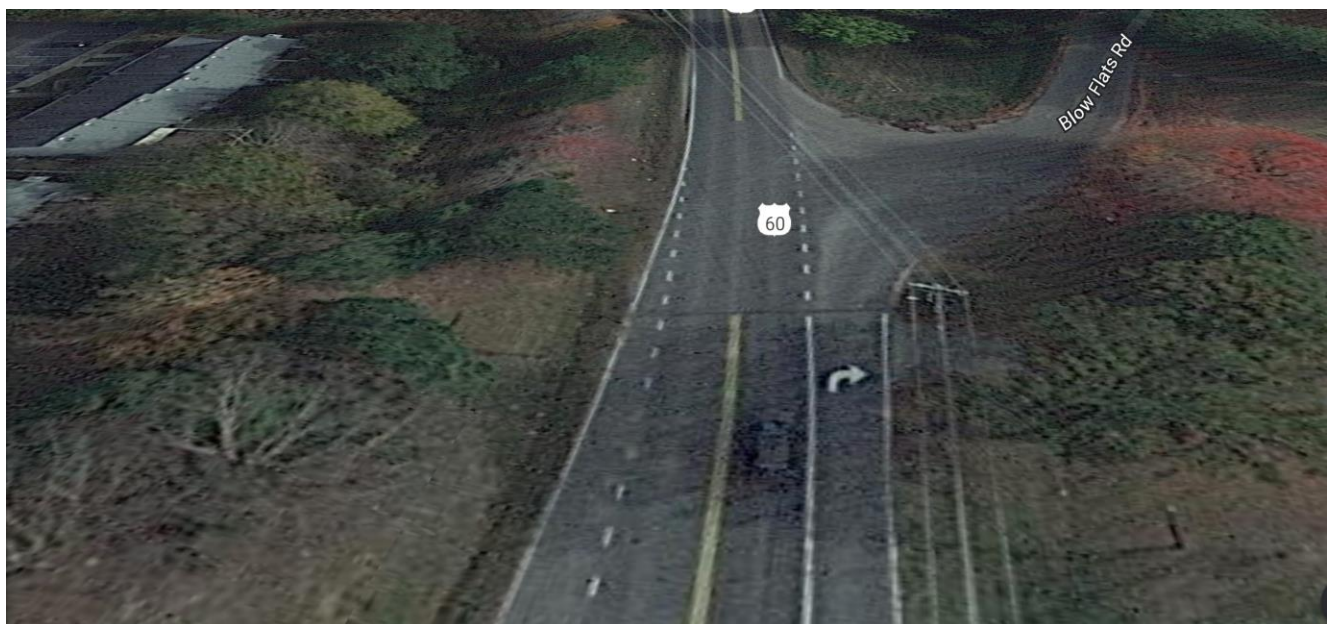
Truck Traffic						
	June 2022 - August 2022 (peak time of year)	Jan 1, 2022 - May 31, 2022	2018	2010	2005	2000
Truck trips on an average day	174 (142 for the borrow pit, 32 resource recovery*)	140 (118 for the borrow pit, 22 resource recovery*)	90	70	70	70
Truck trips on a peak day	300	250	200	120	120	160
Truck trips during the busiest month	5000	4000	4094	4000	4000	4000
Average truck trips during the busiest month	200	190	152	160	160	160

*Trip info for the resource recovery only
available for 2022

Existing Conditions (courtesy of Google Earth)



Intersection of Blow Flats Road and Pocahontas from the East (from Newport News)



Intersection of Blow Flats Road and Pocahontas Trail from the West (from Williamsburg)



Truck navigating a left turn from Pocahontas Trail onto Blow Flats Road (east from Newport News)



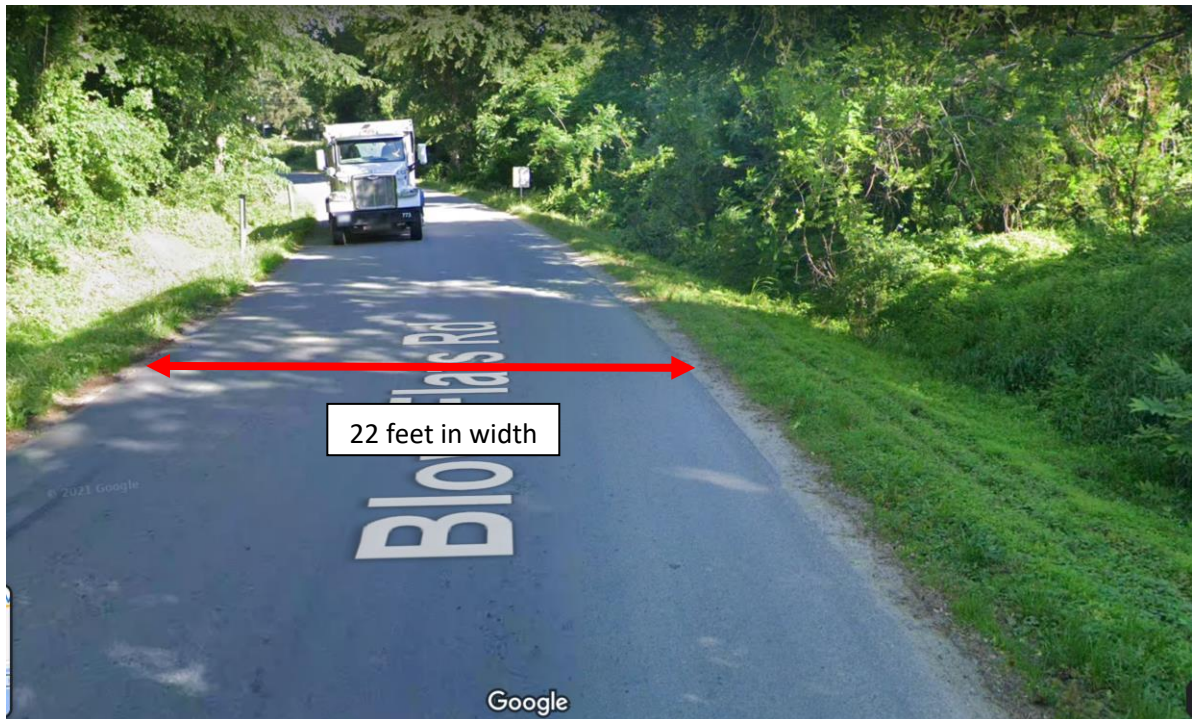
Truck turning onto Blow Flats Road from Pocahontas Trail (from the east, Newport News)



Blow Flats Road from an aerial view



Blow Flats Road looking away from Pocahontas Trail (Rt. 60)



Blow Flats Road looking towards Pocahontas Trail (Rt. 60)



Trucks traveling down Blow Flats Road away from Pocahontas Trail (Rt. 60)



Commonwealth of Virginia
Department of Energy
Mineral Mining
900 Natural Resources Drive, Suite 400
Charlottesville, VA 22903
Telephone: (434) 951-6310

PERMIT / LICENSE TO OPERATE A MINE

Permit/License Number: **10445AB**
Company issued to: **BRANSCOME INC - LEE/BICKFORD PIT**
Whose main office location is: **432 MCLAWS CIRCLE
WILLIAMSBURG, VA 23185**

For type of mineral(s): **SAND**
Mine Type: **OPEN PIT**
Exemption Type:
County of: **JAMES CITY**
Mine Type: **OPEN PIT**

Original Date Issued: **05/25/2001**
Covering: **Permitted: 222.43 Bonded: 153.17**
Issue Date: **04/15/2022**
Anniversary Date: **05/25/2023**
Receipt Number: **170672**
Effective Date: **04/18/2022**

THIS PERMIT IS ISSUED PURSUANT TO TITLE 45.2 CHAPTERS 1 AND 11, CODE OF VIRGINIA(1950),

AS AMENDED Being an Act to require permits/licenses for certain mining operations and to affix conditions for issuance thereof; to provide that certain safety and reclamation requirements be performed by mine operators and for inspection thereof; and to advise on satisfactory compliance; to require an annual update on the progress of reclamation and tonnage of mineral mined; to provide for the certification of mineral mine workers; to provide for the Director to seek injunctive relief; and to provide for appeals from rulings and decisions of Mineral Mining.

THIS PERMIT/LICENSE MUST BE POSTED NEAR THE MINE OFFICE

OFFICIAL COPY

RESOLUTION

CASE NO. SUP-18-0011. 750 BLOW FLATS ROAD BORROW PIT RENEWAL

(BRANSCOME, INC.)

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, Branscome, Inc. (the "Owner") owns the parcel of property located at 750 Blow Flats Road, further identified as James City County Real Estate Tax Map Parcel No. 6030100002 (the "Property"); and

WHEREAS, the borrow pit operation encompasses two properties, 700 Blow Flats Road and 750 Blow Flats Road (together, the "Site"); and

WHEREAS, on behalf of the Owner, Mr. Julian Lipscomb has applied to amend SUP-0010-2010 to allow for the continued operation of a borrow pit, as shown on the exhibit titled "Amendment Map Branscome, Inc. Lee's Pit U.S.G.S. Quadrangle: Hog Island," prepared by Drapen Aden Associates and dated October 5, 2018; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-18-0011; and

WHEREAS, the Planning Commission, following its public hearing on October 17, 2018, recommended approval of this application by a vote of 7-0.

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-18-0011 as described herein with the following conditions:

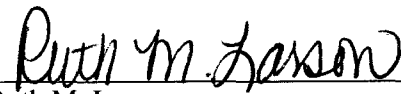
1. Master Plan. The SUP shall be valid for a borrow pit at 750 Blow Flats Road, further identified as James City County Real Estate Tax Map Parcel No. 6030100002 (the "Property"). The borrow pit shall only be operated in those areas of the Property covered by the State Department of Mines, Minerals and Energy Mining Permit No. 10445AB (the "State Mining Permit"), as generally shown on the map submitted with the SUP request titled "Amendment Map Branscome Inc. Lee's Pit U.S.G.S. Quadrangle: Hog Island," and dated October 5, 2018.
2. Erosion and Sediment Control. An erosion and sediment control plan shall be submitted to, and approved by, the Stormwater and Resource Protection Division Director, or their designee, prior to any new land disturbance occurring on the Property. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
3. Disturbance. No more than 60 acres of the site shall be disturbed at any one time.

4. Transitional Screening. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the Site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article 11, Division 4, Section 24-100 (a) *Transitional Screening* of the James City County Code, as amended.
5. Buffers. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Stormwater and Resource Protection Division.
6. Hours of Operation. The hours of operation shall be limited to daylight hours, Monday through Saturday.
7. Mining Elevation. No mining shall occur below an elevation of +10 feet above mean sea level in order to keep the Property viable for future economic development.
8. Reclamation. Only "inert material" shall be used as fill during the reclamation of the Property. For the purposes of the SUP, "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber or household waste be used as fill.
9. Archaeology. A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.
10. Annual Reporting. For as long as the SUP is valid, a report shall be prepared or verified by a licensed engineer or surveyor or permissible on-site verification by the Stormwater and Resource Protection Director, or their designee, documenting items A-H below. One such report shall be submitted to the Stormwater and Resource Protection Director, or their designee, between January 1 and January 31 of each year.

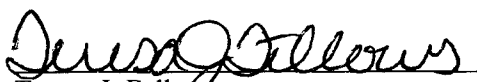
- a) The extent and depth of the area mined over the previous calendar year.
- b) The extent and depth of the area expected to be mined over the upcoming calendar year.
- c) A certification that no unauthorized encroachment has occurred into a Resource Protection Area (RPA), RPA buffer, the transitional screening buffer described above or any Natural Open Space easement.
- d) For areas that are wooded as of the date of issuance of this SUP, a delineation of any encroachment into such wooded areas.
- e) A certification as to the amount of disturbed acreage on-site.
- f) A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
- g) A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
- h) A delineation of the extent of the areas covered by the State Mining Permit.

11. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

12. Validity. This SUP shall be valid until December 31, 2028.


Ruth M. Larson
Chairman, Board of Supervisors

ATTEST:


Teresa J. Fellows
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of November, 2018.

SUP18-11-750BFRd-res

**Approved Minutes of the October 5, 2022
Planning Commission Regular Meeting**

SUP-22-0007. Branscome Resource Recovery and Aggregate Storage

Ms. Terry Costello, Senior Planner, stated that Mr. Jay Lipscomb has applied on behalf of Branscome, Inc. for a Special Use Permit (SUP) for a resource recovery and aggregate storage facility. Ms. Costello the parcel is located at 750 Blow Flats Road, zoned M-2, General Industrial, and is designated as General Industry on the 2045 Comprehensive Plan Land Use Map.

Ms. Costello stated that there is an active borrow pit on the property that is subject to conditions of a previously approved SUP. Ms. Costello stated that separate from the borrow pit use, concrete and other materials are also being brought to the site, crushed, and then utilized at the Branscome Asphalt Plant on Merrimac Trail or sold on-site to other contractors. Ms. Costello further stated that a resource recovery and aggregate storage is a specially permitted use in the M-2 Zoning District. Ms. Costello stated that the applicant has requested an SUP to be able to operate this portion of the business in compliance with the Zoning Ordinance.

Ms. Costello stated that access to the site is provided by a private road that begins at the end of Blow Flats Road. Ms. Costello further stated that Blow Flats Road is a narrow, sub-standard road and furthermore, the intersection of Blow Flats Road and Pocahontas Trail is also substandard. Ms. Costello stated that staff finds that the roadway may not be suitable for the heavy construction traffic associated with a resource recovery and aggregate storage facility.

Ms. Costello stated that staff finds that the proposal is compatible with surrounding zoning and development and is generally consistent with the 2045 Comprehensive Plan and Zoning Ordinance; however, this proposal will add more truck traffic to a local road that is inadequate to manage the current truck traffic.

Ms. Costello stated that due to the traffic impacts, staff recommends that the Planning Commission recommend denial to the Board of Supervisors. Ms. Costello stated that should the Planning Commission recommend approval of this case, staff has included proposed conditions to mitigate the potential impacts that would result from this project.

Mr. Haldeman inquired if the applicant is already crushing asphalt and concrete on the site.

Ms. Costello confirmed that the applicant is already crushing asphalt and concrete.

Mr. Haldeman inquired what additional activities are being proposed.

Ms. Costello stated that the applicant would like to expand the use to a larger portion of the property.

Mr. Haldeman inquired if Blow Flats Road is a public road.

Ms. Costello stated that it is a public road.

Mr. Haldeman inquired if the applicant or other property owners along the road were responsible for improvements or maintenance.

Ms. Costello stated that it is a state-maintained road.

Mr. Haldeman inquired if the recommendations from the Virginia Department of Transportation (VDOT) for improvements to the road could be included in the SUP conditions.

Ms. Costello stated that the only improvement that could be made a condition is the requirement for a commercial entrance where the private road connects with Blow Flats Road. Ms. Costello further stated that all the other improvements were off-site and could not be included in the conditions.

Mr. Haldeman inquired if VDOT was planning to act on any of the recommendations.

Ms. Costello stated that VDOT is requesting that the applicant to make the improvements.

Mr. Polster inquired if staff anticipated an increase in truck traffic.

Ms. Costello stated that she would defer to the applicant; however, with expansion of the operation more truck traffic would be likely.

Mr. Polster noted that he had asked staff if they had discussed the recommended improvements with VDOT and staff confirmed that there had been discussions with VDOT on whether VDOT would make any road improvements. Mr. Polster further stated that when he spoke with VDOT, it was noted that this road falls well below other County road priorities. Mr. Polster commented that he feels that the applicant is caught in a Catch 22. Mr. Polster inquired about the SUP condition for the road if the application is approved.

Ms. Costello stated that the condition is for the commercial entrance on the applicant's property, not for the road.

Mr. Haldeman inquired how the 11 residences came to exist in the M-2 Zoning District.

Ms. Costello stated that the homes were built in the 1940s and 1950s before the first Zoning Ordinance was adopted in 1969. Ms. Costello further stated that no new

residences could be built. Ms. Costello stated that the existing homes are legally nonconforming.

Ms. Null inquired if there had been any correspondence from those residential property owners about the traffic on Blow Flats Road.

Ms. Costello stated that there had been no complaints.

Mr. O'Connor opened the Public Hearing.

Mr. Julian Lipscomb, Jr., applicant, 432 McLaws Circle, addressed the Commission in support of the application. Mr. Lipscomb noted that the current specially permitted use of the borrow pit would be winding down as the material available to mine were almost exhausted. Mr. Lipscomb stated that the resource recovery and storage would ultimately become the primary use on the property.

Mr. Haldeman inquired how many more trucks would be added to the traffic on the road with the proposed use.

Mr. Lipscomb stated that he anticipates that the truck trips will decrease as much as 30% as the mining operation phases out.

Mr. Haldeman inquired if there was also benefit to the environment from the resource recovery.

Mr. Lipscomb stated that reusing the concrete and asphalt is quite valuable to the environment as it keeps these materials out of the landfills.

Mr. Polster inquired if the aggregate recover and storage would continue after the mining operation ended.

Mr. Lipscomb stated that it will take a number of years to reclaim and restore the property once the mining operation ended and that the aggregate storage and recovery would continue for some time.

Mr. Polster inquired what percentage of the truck traffic was actually for the resource recovery and storage.

Mr. Lipscomb stated that it was about 30% of their truck traffic.

Mr. Polster stated that based on the figures provided, once the mining operation ended the remaining traffic would be roughly 150 peak hour trips.

Mr. O'Connor inquired when the applicant anticipated the borrow pit operations would end.

Mr. Lipscomb stated that it's based on demand; however, it would probably wind down of the next two years.

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.

Ms. Null stated that she drove out to the property and observed traffic for roughly half an hour. Ms. Null stated that the traffic was very light. Ms. Null further stated the traffic figures provided will actually be reduced once the mining operations end. Ms. Null stated that she intends to support the application.

Mr. Haldeman stated that he also drove down Blow Flats Road and agrees with staff's assessment of the road. Mr. Haldeman further stated that there is the potential for more commercial traffic on the road if the remaining properties are developed. Mr. Haldeman stated that his only concern is the capacity of the road to handle additional traffic. Mr. Haldeman stated that he intends to support the application.

Mr. Polster stated that he believes that the applicant has been caught in a Catch 22 where staff cannot support the application because of the condition of the road and the road does not rank high enough on the County's road improvement priorities to be improved at this time. Mr. Poster further stated that if the properties along Blow Flats Road are to be developed for industrial uses in the future, the County would be wise to examine better ways to connect those properties to Pocahontas Trail and the Skiffes Creek Connector. Mr. Polster stated that there is potential in the long term for a solution to the road concerns and in the short term the truck traffic will diminish. Mr. Polster stated that he intends to support the application.

Mr. Rodgers inquired about the ramifications if the SUP were not approved.

Ms. Costello stated that all the aggregate resource recovery and storage activities would have to cease, and the stockpiles would have to be removed. Ms. Costello noted that the borrow pit would be able to continue to operate.

Mr. Rodgers stated that if the borrow pit will eventually run out of material to be mined, it would be beneficial to the County and the property owner for there to be a continuing use on the property. Mr. Rodgers stated that he intends to support the application.

Mr. O'Connor stated that the County designated the area for industrial development, and it is incumbent on the County to ensure that the support is place for these uses. Mr. O'Connor stated that considering the existing use and the future of the parcel, he is inclined to support the application.

Ms. Null made a motion to recommend approval of the application with the conditions recommended by staff.

On a roll call vote, the Commission voted to recommend approval of SUP-22-0007.
Branscome Resource Recovery and Aggregate Storage. (5-0)

MINUTES
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
November 8, 2022
5:00 PM

A. CALL TO ORDER

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

B. ROLL CALL

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

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

Mr. McGlennon mentioned it was Election Day, adding he took the opportunity to vote earlier today. Mr. McGlennon expressed his positive experience at the polling precinct. Mr. McGlennon indicated polling precincts were open until 7 p.m., adding accommodations would be made for individuals in line despite the 7 p.m. deadline. Mr. McGlennon explained the Commonwealth of Virginia now authorized Election Day registration and the ability to cast a provisional ballot. Mr. McGlennon expressed his condolences to Ms. Dianna Moorman, the County's Director of Elections and General Registrar, who experienced a significant medical issue recently. Mr. McGlennon extended wishes to Ms. Moorman on a quick recovery.

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - Fletcher Grizzle, a 4th grade student at J. Blaine Blayton Elementary School and a resident of the Jamestown District

Mr. Icenhour gave highlights of Fletcher's interests and activities.

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

E. PUBLIC COMMENT

1. Mr. Bob Tubbs, 4040 Colonial Crescent, noted he was present to discuss an opportunity to augment the voting process by creating a pet election. Mr. Tubbs mentioned collaborative

efforts with United Way of the Virginia Peninsula (UWVP) and PetSmart. Mr. Tubbs discussed PetSmart's annual Holiday Stuffed Animal Program. Mr. Tubbs explained the purchase of a plush toy from PetSmart's Chance & Friends Holiday Philanthropic Collection would permit those funds to go to PetSmart Charities to assist with grant opportunities for animal shelters and rescues nationwide. Mr. Tubbs mentioned the plush toys were donated to charities in the community such as House of Mercy, FISH, Inc., the Salvation Army, The Arc of Greater Williamsburg, etc. Mr. Tubbs introduced Ms. Nicole Martello, PetSmart Williamsburg Store Manager, and Ms. Charvalla West, UWVP Chief Organization Officer and Director of Community Impact, who were in attendance.

2. Ms. Nicole Martello, 8406 Addison Terrace, addressed the Board to elaborate further on the PetSmart's annual Holiday Stuffed Animal Program. Ms. Martello mentioned since 2018, the PetSmart Williamsburg location alone had collected approximately 12,000 plush toys to be donated to the local community. Ms. Martello noted UWVP aided in the distribution of the plush toys to local children. Ms. Martello explained for each PetSmart's Chance & Friends Holiday Philanthropic Collection purchase, \$1 was donated to the PetSmart Charities.

3. Ms. Charvalla West, 701 Madison Road, addressed the Board noting UWVP worked to bring the community together. Ms. West remarked the annual Holiday Stuffed Animal Program allowed joy and happiness to those less fortunate. Ms. West took a moment to thank PetSmart shoppers for donations, Mr. Tubbs for his volunteering efforts to ensure the plush toys were going to community organizations which served children, adults with disabilities, and the elderly, and Ms. Martello for her leadership at PetSmart to make this feasible. Ms. West turned the presentation back over to Mr. Tubbs.

Mr. Tubbs provided an information packet to the Board pertaining to the pet election. He stated a plush toy would be assigned to each district in the County with requested assistance from the County Administrator to take part in the process. Mr. Tubbs requested the Board members to manage campaigns for each of the six plush toys. Mr. Tubbs stated donation stations and polling places would be set up throughout the County. He added current locations included the Law Enforcement Center, Fire Administration Building, and the James City County Recreation Center. Mr. Tubbs discussed various documents included in the information packet he provided to the Board members. Mr. Tubbs recognized several community organization beneficiaries. Mr. Tubbs touched on various components such as a QR code for donation purposes, campaign updates on the Facebook page created, and a hashtag (#JCCPetElection) for monitoring progress purposes. Mr. Tubbs remarked the goal was to encourage donations and make it community-based. Mr. Tubbs mentioned Busch Gardens offered a couple hundred Christmas Town tickets to the PetSmart employees for their efforts with the program. Mr. Tubbs began passing out the plush toys to the Board members. Mr. Tubbs encouraged the Board to assist with helping drive the charitable initiative. Mr. Tubbs concluded the presentation and welcomed any questions the Board might have.

Mr. McGlennon thanked Mr. Tubbs, UWVP, and PetSmart for all efforts with this program. Mr. McGlennon mentioned Mr. Tubbs' dedication to animal rescue and adoption efforts.

Mr. Icenhour stated Mr. Tubbs was the reason he owned two Black Labrador Retrievers.

4. Ms. Alynn Parham, 634 Chelsea Place, Newport News, addressed the Board noting she was a Williamsburg-James City County Schools (WJCC) Social Studies teacher and President of the Williamsburg-James City Education Association (WJCEA). Ms. Parham indicated WJCEA represented educators, students, and educator support professionals. Ms. Parham mentioned an upcoming future joint meeting with the WJCC School Board, Williamsburg City Council, and the Board of Supervisors. The meeting would hold discussion on areas of need which would be reflected within the WJCC School Division budget proposal. Ms. Parham stated the WJCEA Executive Board would continue to advocate and highlight the

areas of need which would impact various factors of the WJCC School Division. Ms. Parham thanked the Board for its leadership in WJCC.

Mr. McGlennon thanked Ms. Parham.

F. CONSENT CALENDAR

Mr. McGlennon asked if any Board member wished to pull this item from the Consent Calendar for discussion or to make a motion to approve the Consent Calendar.

1. Grant Award - State Rental Assistance Program

A motion to Approve was made by Ruth Larson, the motion result was Passed.

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

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

G. PUBLIC HEARING(S)

1. SUP-22-0007. Branscome Resource Recovery and Aggregate Storage

A motion to Defer the Consideration of this Item until the December 13, 2022, Regular Meeting, was made by John McGlennon, the motion result was Passed.

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

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

Mr. McGlennon welcomed Ms. Terry Costello, Senior Planner, to the podium. He recognized Mr. Jack Haldeman, Planning Commission representative, in attendance.

Ms. Costello addressed the Board noting Mr. Julian Lipscomb had applied on behalf of Branscome Inc. for a Special Use Permit (SUP) for a resource recovery and aggregate storage facility. Ms. Costello stated the parcel was located at 750 Blow Flats Road, zoned M-2, General Industrial, and designated General Industry on the 2045 Comprehensive Plan Land Use Map. Ms. Costello indicated there was an active borrow pit on the property, which was subject to conditions of a previously approved SUP. Ms. Costello added concrete and other materials were also being brought to the site, crushed, and then utilized at the Branscome Asphalt Plant or sold on-site to other contractors. Ms. Costello noted the resource recovery and aggregate storage facility was a specially permitted use in this M-2 Zoning District, adding the applicant had requested an SUP to operate this portion of the business in compliance with the Zoning Ordinance. Ms. Costello further noted staff found that the width of Blow Flats Road did not meet the Virginia Department of Transportation (VDOT) standards for a two-lane road and was insufficient for truck traffic. Ms. Costello remarked the intersection of Blow Flats Road and Pocahontas Trail also did not meet current VDOT standards regarding the angle of the turn. Ms. Costello mentioned due to the road conditions, safety hazards, increased truck traffic, and other factors, staff recommended denial of this application. Ms. Costello stated at its October 5, 2022, meeting, the Planning Commission recommended approval of this application, subject to the proposed conditions by a vote of 5-0. Ms. Costello welcomed any questions the Board might have; in addition, the applicant was also available for questions.

Mr. McGlennon asked if this SUP should have been acquired in 2005 when the process initially began.

Ms. Costello confirmed yes.

Mr. McGlennon asked how the discrepancy was detected.

Ms. Costello replied as part of the previously approved SUP for the borrow pit County staff performed annual inspections every January. She mentioned at the time of the inspection staff noticed piles of concrete and other materials; however, staff was unaware that those materials were being used for a separate use, as concrete and other materials were permitted for the borrow pit component. Ms. Costello stated the applicant explained that the concrete and other material was for a separate use and desired to expand that particular use, which was when staff informed the applicant he would need to apply for a separate SUP.

Mr. McGlennon asked what the hours of operation were for the existing SUP.

Ms. Costello replied the existing SUP permitted business operation during daylight hours only as there was currently no lighting on-site.

Mr. McGlennon asked if there was any limitation on the amount of truck traffic which could be generated for either uses.

Ms. Costello replied staff did not put a limitation on it as it would be difficult to monitor and enforce.

Mr. McGlennon requested further insight on the Blow Flats Road and Pocahontas Trail intersection and if there were any similar instances in the past with heavy construction incident concerns.

Ms. Costello replied the intersection was approximately a 45-degree angle and current VDOT standards required it to be greater than 75 degrees. Ms. Costello mentioned staff had verified with the James City County Police Department and to date there were no recorded accidents.

Ms. Larson asked if County staff had conducted an annual inspection in January of 2022.

Ms. Costello confirmed for the borrow pit.

Ms. Larson asked if there was any prior speculation of other business-related endeavors on-site.

Ms. Costello reiterated that for the annual inspection of the borrow pit it allowed concrete and other material for borrow pit operation purposes; however, there was no apparent evidence of crushing of materials or material deliveries to validate an alternative use.

Ms. Larson question if the applicant was aware of the additional SUP requirement for other uses.

Ms. Costello replied the existing SUP was strictly for borrow pit operations only.

Mr. McGlennon asked if the business was adhering to the permitted daylight hours operation

Ms. Costello stated to date there had been no complaints. She added she had a conversation with the applicant and was informed there were deliveries of material made between the hours of 9 p.m.-5 a.m. Ms. Costello explained that Branscome Inc. had contracts with VDOT for interstate work and VDOT would only permit contractors to work within the hours of 9 p.m.-5 a.m.

Mr. McGlennon asked if Blow Flats Road included residents, he expressed as he understood

there was a small mobile home park off the private road.

Ms. Costello confirmed yes, adding there were approximately 11 residents within the mobile home park.

Mr. Hipple expressed he felt the applicant was very forthcoming with the information he provided to County staff.

Ms. Costello stated in January 2022 the applicant requested to expand the use, so when County staff spoke to him it became apparent the use was not for borrow pit purposes and that was when staff made him aware of the County requirements.

Mr. Hipple mentioned the uncertainty aspect between both the applicant and the County until recently.

Mr. McGlennon welcomed Mr. Haldeman to the podium.

Mr. Haldeman addressed the Board noting as Ms. Costello had previously mentioned the Planning Commission recommended approval of this application by a unanimous vote. Mr. Haldeman highlighted key factors to the Planning Commission's decision to approve the application which included adequate proposed conditions for mitigating potential impacts, the application was consistent with the 2045 Comprehensive Plan and Zoning Ordinance, borrow pit operations would diminish within 18-24-month timeframe which would reduce the amount of truck traffic, recycling asphalt and cement was considered eco-friendly. Mr. Haldeman mentioned the dilemma aspect of this application as the road did not meet current VDOT standards; however, it was ranked too low on the County's improvement priority list to make the necessary improvements. Mr. Haldeman welcomed any questions the Board might have.

Mr. McGlennon asked if the Planning Commission was aware of the material deliveries and the truck traffic in the overnight hours.

Mr. Haldeman replied no.

Mr. McGlennon opened the Public Hearing.

1. Mr. Vernon Geddy, 1177 Jamestown Road, addressed the Board noting Branscome Inc. was a very well-known local business as it had served the community for over 60 years to date. Mr. Geddy introduced Mr. Lipscomb, the applicant. Mr. Geddy highlighted the various beneficial factors of this application. Mr. Geddy informed the Board the company was unaware of the separate use requirement, reminding the Board of its compliance record.

2. Mr. Julian Lipscomb, 432 McLaws Circle, addressed the Board to provide a history overview of the site and the existing SUP. Mr. Lipscomb informed the Board the site had been used for mining purposes since the early 1970s and in 2005 concrete demolition began for aggregate base material. Mr. Lipscomb stated in 2010 Branscome Inc. was required to move its asphalt millings from the Lee Hall Asphalt Plant due to being stored under transmission lines and relocated to its current location at 750 Blow Flats Road. Mr. Lipscomb mentioned the various materials on-site which included concrete rubble, asphalt, and millings. Mr. Lipscomb stated he applied for an SUP for both an aggregate storage facility and a resource recovery facility as there were two different operations. Mr. Lipscomb mentioned in 2012 he applied for an SUP to add a tent covering to the property for mineral filler storage purposes as it was required for VDOT interstate operations. Mr. Lipscomb remarked that in 2017 Branscome Inc. added a scale on-site to monitor truck weight. Mr. Lipscomb pointed out the business' ongoing County compliance. Mr. Lipscomb mentioned the current location was ideal for the operation as it was situated on a 281-acre parcel, zoned M-2, General Industrial, with no

residents nearby or noise complaints.

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

Mr. McGlennon mentioned he had spoken with residents on Blow Flats Road and the concerns they had regarding the amount of truck traffic, delivery times, and the safety aspect at Blow Flats Road and Pocahontas Trail intersection. Mr. McGlennon expressed his concern of supporting this application if it were to negatively impact nearby residents. Mr. McGlennon recommended reviewing alternative measures prior to acting on this item.

Ms. Sadler suggested an alternative entrance access and requested written validation regarding delivery time parameters prior to acting on this item.

Mr. Hipple stated the organization had operated at this location for 17 years with no complaints of disturbances until recently. Mr. Hipple noted the application was consistent with the 2045 Comprehensive Plan. Mr. Hipple expressed he felt the main issue with this application was related to the road conditions and safety concerns. Mr. Hipple pointed out as the borrow pit operations diminish the amount of truck traffic would decrease. Mr. Hipple recommended collaborative efforts between community organizations, Economic Development Authority (EDA), and VDOT to determine a solution for future road improvement purposes. Mr. Hipple expressed positive remarks about the organization and its service to the County.

Mr. McGlennon reiterated his points regarding the application and wanted to clarify for public notification purposes he did not request to deny this application but requested an opportunity to investigate if an alternative access was feasible to appease addressed concerns prior to acting on this item.

Ms. Sadler asked if there would be modifications made to the application.

Mr. McGlennon stated he wanted to find out if there was enough momentum to potentially extend Green Mount Parkway.

Mr. Icenhour mentioned after reviewing the Board's Agenda Packet for this evening he noticed several different applications for Blow Flats Road. Mr. Icenhour stated the issue was with the current road conditions opposed to each individual application. Mr. Icenhour pointed out that Branscome Inc. was willing to eliminate nighttime truck traffic if necessary. Mr. Icenhour expressed his uncertainty with a short-term solution to this issue; however, he was willing to support the deferment. Mr. Icenhour expressed the importance of finding a solution to bring Blow Flats Road to current VDOT standards. Mr. Icenhour touched on the future development component and the need for a permanent solution for this road. Mr. Icenhour stated he was inclined to support this application.

Ms. Larson suggested an education opportunity for County staff to avoid future occurrences similar to this instance. Ms. Larson stated she supported the deferral. Ms. Larson expressed the importance of being cognizant and respectful of nearby residents.

Mr. McGlennon encouraged feedback from the applicant team.

Mr. Geddy stated the applicant team was willing to accommodate a deferral. Mr. Geddy suggested making a limitation to the SUP deadline.

Mr. McGlennon asked Mr. Kinsman if this request could be honored.

Mr. Kinsman stated sunset clauses were used for temporary uses only, which a borrow pit was considered a temporary use. Mr. Kinsman mentioned he supported the sunset clause for

this instance.

Ms. Sadler asked how that would work.

Mr. Hipple explained that the organization would operate for a certain amount of time and then the Board would reevaluate. He added collaborative efforts would continue to determine the necessary solution for Blow Flats Road. Mr. Hipple asked Mr. Lipscomb if the applicant team was willing to support this process.

Mr. Lipscomb confirmed yes, reiterating Branscome Inc. was willing to eliminate the material deliveries at nighttime. Mr. Lipscomb recommended collaborative efforts with the Walmart Distribution Center as there were beneficial factors for its organization as well. Mr. Lipscomb stated Walmart Distribution Center had to assist with an easement access to the site. Mr. Lipscomb mentioned if there was an access point from the property to Green Mount Parkway it would eliminate traffic behind the Walmart Distribution Center.

Mr. McGlennon recommended a month deferral on this item and then come back before the Board to determine if a limited approval for this SUP would be granted.

2. Disposition of County-Owned Property Located at 6145 and 6151 Old Mooretown Road and 130 Clark Lane

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

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

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

Mr. Vaughn Poller, Neighborhood Development Administrator, addressed the Board noting the County desired to dispose of three residual properties in the Powhatan District including 6145 and 6151 Old Mooretown Road, and 130 Clark Lane. Mr. Poller mentioned the County took possession of 6145 Old Mooretown Road and 130 Clark Lane as part of establishing the 50-foot-wide public right-of-way for Clark Lane and 6151 Old Mooretown was acquired as part of the same redevelopment project. Mr. Poller indicated Habitat for Humanity Peninsula (H4H) was pursuing ownership of the property located at 100 Clark Lane, which was situated between the County-owned parcels. He stated in partnership there was the potential to create up to nine new buildable lots. Mr. Poller added if H4H was successful in the purchase of 100 Clark Lane, the County would partner with H4H, as proposed in the Memorandum of Understanding, to re-subdivide the properties to create the nine new lots. Mr. Poller mentioned the created lots would be developed as single-family homes which were priced for those within the income guidelines as defined in the County's Workforce and Affordable Housing. Mr. Poller indicated the County parcels would not be sold to H4H; however, two of the newly created lots would be retained by the County for development and H4H would develop the remaining seven. Mr. Poller noted the County had been awarded grant funding with no local match required to assist with necessary costs. Mr. Poller welcomed any questions the Board might have.

Mr. McGlennon thanked Mr. Poller.

Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour commended staff for their effort on this item.

3. SUP-22-0010. 9201 and 9225 Pocahontas Trail - The Grease Outlet

A motion to Approve was made by Ruth Larson, the motion result was Passed.

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

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

Ms. Suzanne Yeats, Planner, addressed the Board noting Mr. Chip Haskell and Mr. Boyd Andrews of GreaseOutlet of Virginia, LLC, had applied for an SUP to permit the use of a grease waste collection, treatment, and transfer station on the properties. Ms. Yeats stated the parcels were located at 9201 and 9225 Pocahontas Trail, zoned M-2, General Industrial, designated General Industry on the 2045 Comprehensive Plan Land Use Map, and located within the Primary Service Area. The facility would include an industrial dome structure, four storage receiving tanks, processing equipment, and an office building. Ms. Yeats advised the GreaseOutlet received mixed waste collected by waste haulers from food service entities. She explained at the facility the waste was screened to separate trash, which was then diverted to a landfill, and the remaining grease waste was then separated into a solid byproduct and liquid. Ms. Yeats indicated the liquids were pre-treated and routed into the sanitary sewer collection system that connected to the Hampton Roads Sanitation District (HRSD) treatment plant. Ms. Yeats added the solid byproduct was transferred to a landfill or third-party composters. Ms. Yeats mentioned if approved, the property would be accessed by a narrow, substandard local road. She added the intersection of Blow Flats Road and Pocahontas Trail was also substandard which may not be suitable for the increase in truck traffic associated with the development. Ms. Yeats stated at its October 5, 2022, meeting, the Planning Commission voted 5-0 to recommend approval of this application to the Board of Supervisors, subject to the proposed conditions. Ms. Yeats stated staff recommended denial of this application to the Board. Ms. Yeats welcomed any questions the Board might have, adding the applicant was in attendance as well.

Ms. Sadler asked how many truck trips would be generated per day.

Ms. Yeats replied at peak hours a total of six trips per day.

Ms. Sadler asked if there were any nighttime truck trips.

Ms. Yeats replied no, hours of operation were from 5 a.m.-5 p.m.

Mr. McGlennon opened the Public Hearing.

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

Mr. Hipple asked about odor associated with the operation.

Ms. Yeats confirmed yes. She added staff had included SUP Condition No. 14 which required a fully enclosed building and the installation of an industrial odor control system to mitigate any odor concerns.

Mr. McGlennon requested further detail on the proposed modifications to Blows Flats Road.

Ms. Yeats replied SUP Condition No. 9 would improve the shoulder of Blow Flats Road to a width of four feet from the existing edge of roadway in the areas where the property fronted on Blow Flats Road.

Mr. Haldeman addressed the Board noting the road improvements were a beneficial aspect of this application. Mr. Haldeman reiterated that the Planning Commission voted 5-0 to recommend approval of this application. Mr. Haldeman noted the Commission favored the

entrance design for visibility purposes. Mr. Haldeman further noted this development would generate lower costs to local businesses and other beneficial factors. Mr. Haldeman welcomed any questions the Board might have.

Mr. McGlennon opened the Public Hearing.

1. Mr. Boyd Andrews, 2859 Cravey Trail, Atlanta, GA, addressed the Board noting he was one of the co-owners of GreaseOutlet and that he would be providing a PowerPoint presentation to the Board. Mr. Andrews recognized Mr. Joe VanSchaick, General Manager of GreaseOutlet, in attendance. Mr. Boyd thanked Planning staff for its guidance during this SUP process. Mr. Andrews mentioned the pre-existing facility in Raleigh, North Carolina, and the objective was to create a replica of that facility within the County. Mr. Andrews mentioned to date there were zero complaints of odor, the organization received clean inspection reports from all County and state officials, and a solid reputation within the industry. Mr. Andrews discussed grease traps which were plumbing devices that captured and retained fats, oils, grease, and food particles to prevent clogs from entering the sewer system. Mr. Andrews noted any business that had a commercial kitchen had grease traps present and were regulated by the Sewer System Authority and the state. Mr. Andrews further noted the sink, dishwasher, and floor drain flowed through an underground plumbing device. Mr. Andrews stated there were two flows out of the grease trap, one was a continuous flow which connected to the HRSD treatment plant and the other was periodic flows where the trap was serviced. Mr. Andrew explained waste hauler technicians used vacuum trucks to extract and haul grease trap waste to a licensed disposal facility. Mr. Andrews mentioned currently in the local area the materials were taken to an HRSD facility for pretreatment. Mr. Andrew discussed an alternative approach to this process allowing the vacuum trucks to deliver the grease trap waste to the GreaseOutlet for pretreatment, then discharge the pretreated water to the HRSD sewer system, and then the solids would be transported to a composter. Mr. Andrews mentioned collaborations with McGill Environmental Systems who was a composter with facilities located in Raleigh, North Carolina and Waverly, Virginia. Mr. Andrews displayed a timeline of events on the PowerPoint presentation. Mr. Andrews highlighted various details about the site. Mr. Andrews noted material deliveries would reflect HRSD delivery operations. Mr. Andrews further noted approximately five deliveries per day would be made to the site. Mr. Andrews displayed data regarding traffic counts for Blow Flats Road on the PowerPoint presentation. Mr. Andrews highlighted various beneficial aspects of this application for Board consideration. Mr. Andrews concluded the presentation and welcomed any questions the Board might have.

Mr. Icenhour asked if approved would GreaseOutlet take over all deliveries and pretreatment operations for HRSD.

Mr. Andrews replied he was uncertain; however, he believed the deliveries made to the Williamsburg facility would be transported to the site. Mr. Andrews mentioned the anticipated net benefit for HRSD as GreaseOutlet would become a rate payer, in addition to taking over various operations and costs.

Mr. McGlennon asked about the sizes of the trucks.

Mr. Andrews stated there would be two different types of vehicles, one being the vacuum truck which carried approximately 3,500 gallons and was approximately 33 feet long and the other vehicle would be a truck and a trailer which was approximately 43-45 feet long.

Mr. McGlennon inquired about any other traffic generated from the site.

Mr. Andrews noted the data reflected in the PowerPoint presentation only included commercial traffic generated. He further noted there were five employees which would be

added to the traffic counts.

2. Mr. Kade Lamon, 1608 Manufacture Drive, addressed the Board noting he was not in support of this application due to traffic related concerns. Mr. Lamon suggested the Board deny the application. Mr. Lamon requested the Board to not permit the proposed left turn at a blind corner. Mr. Lamon remarked the proposed road improvements were not adequate to mitigate the current road hazard. Mr. Lamon recommended the applicant consider moving the property entrance further to the west as it may be a more viable solution. Mr. Lamon requested the Board to consider having a traffic study conducted for Blow Flats Road. Mr. Lamon expressed his desire for the applicant to find a better access point for the property.

3. Mr. Tom Waltz, 134 Andrews Crossing, Yorktown, addressed the Board noting he was the commercial real estate broker who represented the owners and the sale of the subject property. Mr. Waltz requested the Board's support of this application as it was beneficial to the community and local businesses, in addition to the eco-friendly component. Mr. Waltz noted his support for this application.

Mr. McGlennon closed the Public Hearing.

Mr. McGlennon asked if there was an opportunity to address an alternative entrance for the property for safety purposes.

Ms. Yeats replied she had a conversation with Mr. Lamon yesterday, adding he was referencing an entry from Pocahontas Trail to the subject property not Blow Flats Road to the subject property. She added prior discussion with VDOT determined the potential entrance would be too close to the intersection of Blow Flats Road and Pocahontas Trail.

Mr. McGlennon thanked Ms. Yeats.

Mr. Hipple mentioned his support for GreaseOutlet; however, he expressed his concern with deferring the prior application due to the road concerns, but potentially approving this application. Mr. Hipple stated the road concerns was a County issue and it was vital to address and rectify, adding future development would continue.

Ms. Sadler stated the traffic generated from this application compared to the last was minimal. Ms. Sadler expressed her support for all businesses and all potential businesses in the County. Ms. Sadler touched on the benefits this organization would bring to the community, adding she was in support of this application.

Mr. McGlennon stated he was in support of this application due to the beneficial aspect of this application, in addition to the significant differences between considered applications for Blow Flats Road. Mr. McGlennon expressed the importance of determining a long-term and cost-effective solution for this issue, in addition to consideration of if the solution were to benefit other surrounding properties. Mr. McGlennon noted for public notification purposes Branscome Inc. would continue its operation during the deferral period.

H. BOARD CONSIDERATION(S)

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

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

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

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

Ms. Paxton Condon, Senior Planner, addressed the Board noting after the deferral at the Board of Supervisors October 11, 2022, Regular Meeting, staff had additional meetings with the applicant and his design team. Ms. Condon recognized the following personnel involved in the meeting: Planning staff, the Building Official, Fire Chief, Fire Marshal, and Mr. Todd Cannon, Hazardous Materials Officer of Virginia Department of Emergency Management (VDEM), in addition to a separate meeting held with the James City County Police Department. Ms. Condon noted staff had included three additional SUP Conditions to ensure enhanced protections. Ms. Condon discussed the additional conditions: 1) Condition No. 7: Fire Safety Measures which required additional safety measures to be incorporated into the design of the facility and must meet the 2018 Virginia Statewide Fire Prevention Code; 2) Condition No. 8: Hazard Mitigation Analysis required a Failure Modes and Effects Analysis be completed prior to site plan approval, in addition to being reviewed and approved by the Fire Official; and 3) Condition No. 11: Commissioning Report required and approved by the Fire Official prior to the final Certificate of Occupancy for the site. Ms. Condon noted staff proposed amendment to Condition No. 17 increased the number of months from 48 to 60 for the implementation timeline of the SUP. Ms. Condon welcomed any questions the Board might have, adding Lieutenant Hicklin and the applicant were in attendance. Ms. Condon turned the presentation over to Fire Chief Ashe.

Chief Ashe addressed the Board elaborating on Ms. Condon's overview. Chief Ashe stated there was not a standard Function Behavioral Assessment standard adopted; however, there was a draft included in the 2018 Virginia Statewide Fire Prevention Code. Chief Ashe mentioned there were several conditions included for this particular use which were included in the amendments for this SUP. Chief Ashe highlighted key components such as early detection systems, access to the site, emergency preparedness, and the appropriate resources/measures to contain and mitigate hazards. Chief Ashe advised there were smoke and heat detectors, in addition to gas detection on-site. Chief Ashe indicated any detection would trip the system, shut it down, and disconnect it from the grid. Chief Ashe stated there was also a fire suppression system, in addition to prevent thermal runaway from occurring the system had a water pipe system connected to each row of batteries, to which the Fire Department would have access.

Mr. McGlennon thanked Chief Ashe for the informative details and enhanced SUP conditions.

Mr. Icenhour asked if there were similar battery storage facilities in Virginia and what was the safety record on those facilities.

Chief Ashe replied to his knowledge there were a number of Pilot programs in various locations such as Hanover, New Kent, Loudon County, and Powhatan. Chief Ashe informed the Board the vast majority were associated with solar farms for tax credit purposes.

Mr. Icenhour asked how effective the water pipe system was and if there was a usage history or if it was a new technology.

Chief Ashe mentioned Mr. Cannon with VDEM had recently conducted a training for hazardous materials teams across the state in relation to lithium-ion batteries and the hazards associated. Chief Ashe stated the recommendations were cooling and submerging, in this instance flooding the lithium-ion storage and charging cabinet. Chief Ashe explained the chemical system in place breaks the chemical reaction to stop the fire; however, it did not offer a cooling component. Chief Ashe noted the importance of the Fire Department having access to flood the cabinets as the cooling ultimately stopped the thermal runaway. Chief Ashe stated there were a series of cabinets in each row that contained fireproofing agents in containers to prevent further spread from one bank to the next, adding the separation of rows allowed isolation if a thermal runaway were to occur. Chief Ashe indicated the best extinguishing agent for lithium-ion batteries was water.

Mr. McGlennon thanked Chief Ashe and staff for all efforts on this matter.

2. Grant Award – Virginia Association of Planning District Commissions - Virginia Housing Grant Award - \$300,000

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

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

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

Mr. Holt addressed the Board noting this item corresponded with the Public Hearing Item No. 1: Disposition of County-Owned Property Located at 6145 and 6151 Old Mooretown Road and 130 Clark Lane. Mr. Holt explained there was an 8-inch water line and an 8-inch sewer line which would not allow for development of the proposed lots in its current location. Mr. Holt noted Mr. Poller's efforts in obtaining a grant award from the Hampton Roads Planning District Commission (HRPDC) in the amount of \$300,000 to assist in the relocation of the water and sewer mains and support the development costs associated with nine new lots. Mr. Holt noted staff recommended approval, adding no local match was required.

Mr. Icenhour asked specifically where the water mains would be relocated.

Mr. Holt replied staff would work with James City Service Authority (JCSA) to establish the confirmed location.

Mr. Icenhour asked if these funds were sufficient to relocate the water and sewer mains.

Mr. Holt confirmed yes, adding discussions with JCSA helped establish the estimate.

Mr. Icenhour thanked Mr. Holt.

Mr. McGlennon remarked this was a great opportunity. Mr. McGlennon commended Mr. Poller and his staff for seeking these types of opportunities as there was a significant need for affordable housing within the County.

3. 2023 Legislative Agenda

A motion to Approve was made by Ruth Larson, the motion result was Passed.

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

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

Mr. Kinsman addressed the Board regarding the 2023 Legislative Agenda. Mr. Kinsman asked if the Board preferred discussion on new items for public notifications purposes.

Mr. McGlennon replied sure.

Mr. Kinsman noted four new items which included: Item No. 5 Grocery Tax, which the County encouraged the General Assembly to ensure any reduction in the grocery tax would include permanent replacement funding for local governments and school divisions; Item No. 6 Short-Term Rentals, which the County encouraged the General Assembly reject any attempt to usurp local zoning control of short-term housing rentals; Item No. 7: Virginia Retirement System (VRS), which the County recommended the General Assembly amend the VRS regulations to allow retired Police Officers and School Resource Officers to return from

retirement without affecting their VRS status; and Item No. 8: Colonial Behavioral Health Expansion, which the County encouraged the General Assembly to approve the Colonial Behavioral Health's request for funding to expand a building on its Merrimac campus to provide for crisis service operations. Mr. Kinsman mentioned there was one minor modification to the legislative programs in which the County also endorsed the HRPDC and the Hampton Roads Transportation Planning Organization. Mr. Kinsman welcomed any questions the Board might have. Mr. Kinsman recommended the Board adopt the resolution. Mr. Kinsman noted due to scheduling conflicts during the holidays the legislators would not be in attendance for the Board's next meeting; however, he would send written communication to the legislators on the Board's status on these items and request support.

Mr. McGlennon mentioned the County's position regarding short-term rentals, adding another jurisdiction felt the County's stance on short-term rentals was very restrictive. Mr. McGlennon commended Mr. Kinsman's efforts last year on highlighting a large number of residential units in the County to be short-term rentals via by-right, in addition to the County's record for approval rate of SUPs. Mr. McGlennon expressed his concern with misinformation.

Mr. Kinsman agreed.

Ms. Larson thanked Mr. Kinsman for his efforts on the legislative program. Ms. Larson expressed the importance of the County's presence in Richmond during the General Assembly. Ms. Larson reiterated her thanks to Mr. Kinsman for all efforts.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour stated he attended the Williamsburg Regional Library (WRL) meeting, adding it was well attended with lots of citizen engagement. He added he believed some constituents had a misconception of the current status in the process. Mr. Icenhour stated the City of Williamsburg was committed to renovating the WRL; however, the question was if a third library was the viable solution. Mr. Icenhour expressed the importance of engaging with constituents to ensure reliable information. Mr. Icenhour thanked Mr. McGlennon for written correspondence on behalf of the Board to Ms. Kimberly Laska, Executive Director of Heritage Humane Society, for her leadership over the last 10 years. Mr. Icenhour mentioned its significant role and service to the community.

Ms. Larson mentioned her inability to attend the library meeting; however, she expressed her gratitude to Mr. Icenhour for his attendance. Ms. Larson encouraged citizens to visit the James City County Library as the renovations completed on the library were phenomenal and touched on the kid-friendly component. Ms. Larson highlighted the importance of marketing County attractions. Ms. Larson expressed her frustration with the lack of bus stop shelters and benches regarding the Williamsburg Area Transit Authority (WATA) operations. Ms. Larson mentioned WATA did not permit the bus stop shelters and/or benches at bus stop locations due to potential relocation; however, the bus stop locations had not relocated in the past seven years. Ms. Larson expressed her desire to partner with community businesses to assist with this issue.

Ms. Sadler expressed her gratitude to the veterans within the community and nationwide. She mentioned her grandson's school, Providence Classical School, was hosting a Veteran's Day ceremony at 9 a.m. and welcomed the public to join her.

Mr. McGlennon stated he attended the 5th Anniversary of Billsburg Brewery, noting Ms. Larson's attendance as well. Mr. McGlennon mentioned it was a good turnout and he was thrilled to see a successful business thriving in that location.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Stevens mentioned he had one item to address which was to thank veterans nationwide. He stated the National Association of Counties and Virginia Association of Counties supported the Operation Green Light for Veterans and encouraged jurisdictions to participate to recognize and honor veterans. Mr. Stevens noted the Williamsburg/James City County General District Court would be lit up green in the evening to show the County's support for veterans from November 7-13, 2022.

Mr. Icenhour stated on Friday, November 11 at 10 a.m. there would be two Veteran's Day ceremonies. Mr. Icenhour mentioned the Combined Veterans Organization Committee of the Greater Williamsburg was hosting a Veteran's Day ceremony, which would take place at the Veterans Tribute Tower located along Discovery Park Boulevard. Mr. Icenhour added Colonial Williamsburg and the Sons of the American Revolutionary War were also hosting a Veteran's Day ceremony at 10 a.m. in front of the Governor's Palace, in addition to the Veterans March at 3 p.m. Mr. Icenhour welcomed the public to participate.

K. CLOSED SESSION

None.

L. ADJOURNMENT

1. Adjourn until 1 pm on November 22, 2022 for the Business Meeting

A motion to Adjourn was made by Michael Hipple, the motion result was Passed.
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

At approximately 7:09 p.m., Mr. McGlennon adjourned the Board of Supervisors.

ITEM SUMMARY

DATE: 3/14/2023

TO: The Board of Supervisors

FROM: Teresa Saeed, Deputy Clerk

SUBJECT: Adjourn until 8:30 am on March 17, 2023 for the Joint Meeting located at Room 127 in the Stryker Building, 412 N Boundary Street, Williamsburg, VA

REVIEWERS:

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