

A G E N D A
ISLE OF WIGHT COUNTY PLANNING COMMISSION
September 28, 2021

1. CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

2. ROLL CALL/DETERMINATION OF A QUORUM

BRIAN CARROLL, CHAIRMAN

BOBBY BOWSER, VICE-CHAIRMAN

CYNTHIA TAYLOR

JAMES FORD

THOMAS DUERIG

EDWARD HULICK

JENNIFER S. BOYKIN

GEORGE RAWLS

THOMAS J. DISTEFANO

GLENN SEAY

3. ACTION ON REQUESTS TO WITHDRAW OR TABLE PENDING AGENDA ITEMS

4. APPROVAL OF AGENDA

5. CONSENT AGENDA

A. SEPTEMBER 16, 2021 BOARD OF SUPERVISORS ACTION LIST

B. AUGUST 24, 2021 PLANNING COMMISSION'S REGULAR MEETING MINUTES

6. CITIZENS' COMMENTS

7. PUBLIC HEARINGS

A. JAMES RIVER CHRISTIAN ACADEMY CHILD CARE CENTER CUP REQUEST

Application of Benns Saint Luke, LLC, applicant and property owner, for a conditional use permit to allow a child care center located at 14353 Benns Church Boulevard with tax parcel number 32-01-093. The property is in the Conditional Suburban Residential zoning district.

8. OLD BUSINESS

9. NEW BUSINESS

A. PLANNING COMMISSION 2021 ANNUAL RETREAT

Planning Commission 2021 Annual Retreat Special Meeting

B. COUNTY ATTORNEY'S REPORT

C. PLANNING DIRECTOR'S REPORT

1. PROPOSED ORDINANCE REVISIONS DISCUSSION

Discussion on the Proposed Revisions to the Isle of Wight County Zoning, Subdivision, and Chesapeake Bay Preservation Area (CBPA) Ordinances

10. CLOSED MEETING

11. ADJOURNMENT

PLANNING REPORT

ATTACHMENTS:

Description	Type	Upload Date
SEPTEMBER 16, 2021 BOARD OF SUPERVISORS ACTION LIST	Cover Memo	9/20/2021

Action List
Board of Supervisors
September 16, 2021

1. APPROVAL OF AGENDA: Supervisor Rosie moved that the agenda be adopted with removal of the item entitled “Nike Park Road Extended” under (11) Unfinished/Old Business. The motion was adopted unanimously (5-0) with Supervisors Grice, Rosie, Acree, McCarty and Jefferson voting in favor and no Supervisors voting against the motion.

2. CLOSED MEETING

No action was taken following the closed meeting.

3. CITIZENS’ COMMENTS

Herb DeGroft of Mill Swamp Road spoke on the violation of Isle of Wight County Schools’ policies with respect to participation at School Board meetings by School Board Chairperson Carr during the August 12, 2021 Isle of Wight County School Board meeting and the negative effect on building public trust of officials.

4. CONSENT AGENDA

- A. Resolution to Amend the Budget and Appropriate Funding for the Virginia Tourism Corporation Drive 2.0 Grant

Assignment: S. Humphries

- B. Resolution to Amend the Budget and Appropriate Carryover for Operating Project as of June 30, 2021

Assignment: S. Humphries

- C. Resolution to Execute a Master Lease Purchase Agreement for the Purchase of New Vehicles

Assignment: S. Humphries

- D. Recognize and Congratulate Mr. Wadger Williams, Sr. on the Occasion of His 99th Birthday

E. Minutes of July 15, 2021 Work Session and July 15, 2021 Regular Meeting

Assignment: Storm

Supervisor Acree moved that the Consent Agenda be adopted. The motion was adopted unanimously (5-0) with Supervisors Grice, Rosie, Acree, McCarty and Jefferson voting in favor and no Supervisors voting against the motion.

5. REGIONAL REPORTS

- A. Hampton Roads Military Federal Facilities Alliance: Supervisor Rosie reported the Alliance is working on a healthcare clinic with four other proposed clinics in the area that will administer to veterans. Approval has been received for a 196,000 square foot facility to be built off Battlefield Boulevard and another facility in the Suffolk area. Over 60,000 veterans have been served by the Alliance this year of which 25% were related to mental health.
- B. Chairman Grice shared that Assistant County Administrator Robertson and himself visited with a regional senior group on transportation followed by a tour of a facility in the City of Franklin.

6. APPOINTMENTS

Supervisor McCarty asked that staff request VSAP to update its records to reflect the current County Administrator.

Assignment: Storm

7. SPECIAL PRESENTATIONS

- A. Jim Henderson, Treasurer of the Isle of Wight Historical Society, reported on the following: 1) Who/what is the Society; 2) key activities; 3) future archives; 4) old Circuit Court Clerk's office; and a recommendation for that organization to lease and partnership with the County.
- B. Isle of Wight County Schools/Hardy Elementary School Project:
 - . Supervisor McCarty inquired what the ten-year cost savings would be on building a new school versus renovating the old school

- . Chairman Grice recommended it be done by square foot
- . Supervisor Rosie requested a solar proposal
- C. Financial Status Report: Supervisor Acree asked County Administrator Keaton to investigate what the penalties would be for the County backing out of a bond.

Assignment: Keaton

8. COUNTY ATTORNEY'S REPORT

- A. Purchase of approximately two acres of land situated between Cary Street and James Street in Smithfield: Supervisor McCarty moved to authorize County Administrator Keaton to execute the finalized contract and any other documents necessary to move this transaction to a point where a public hearing can be held on the matter. The motion was adopted unanimously (5-0) with Supervisors Grice, Rosie, Acree, McCarty and Jefferson voting in favor and no Supervisors voting against the motion

Assignment: Jones

- C. Hunting with a Rifle: County Attorney Jones advised that it is illegal to use a rifle to hunt bear and deer and that he will continue to research this matter.

Assignment: Jones

9. PUBLIC HEARINGS

- A. Application of Cobb Land Limited Partnership, Alpha M. Cobb, Steven F. Cobb and Timothy I. Cobb, Property Owners, for a Change in Zoning Classification from Rural Agricultural Conservation (RAC) to Rural Residential (RR) to Create Three Single Family Residential Lots: Supervisor Rosie moved to approve the rezoning request. The motion was adopted unanimously (5-0) with Supervisors Grice, Rosie, Acree, McCarty and Jefferson voting in favor and no Supervisors voting against the motion

Assignment: Ring

- B. Ordinance to Amend and Reenact the Isle of Wight County Code by Amending and Reenacting Appendix D, Agricultural Districts, Section D1, District Establishment:

Supervisor Rosie moved to adopt the Ordinance. The motion was adopted unanimously (5-0) with Supervisors Grice, Rosie, Acree, McCarty and Jefferson voting in favor and no Supervisors voting against the motion

Assignment: Jones

- C. Proposed Revisions to the Tax on Consumers of Utility Services and Transient Occupancy Tax: Supervisor McCarty moved to adopt an ordinance to amend the County's current ordinance. The motion was adopted unanimously (5-0) with Supervisors Grice, Rosie, Acree, McCarty and Jefferson voting in favor and no Supervisors voting against the motion.

Chairman Grice asked County Administrator Keaton to put this item for discussion during the next budgeting period.

Assignment: Keaton

- D. Resolution to Amend the Budget and Appropriate Funding from the American Rescue Plan Act to the Isle of Wight County Schools (\$3,708,300): Supervisor Jefferson moved that the Resolution be adopted. The motion was adopted (4-1) with Supervisors McCarty, Jefferson, Acree and Grice voting in favor of the motion and Supervisor Rosie voting against the motion.

Note: Chairman Grice asked Superintendent Thornton to return with cost of folding tables and chairs. Supervisor Rosie requested the number of teaching positions.

10. COUNTY ADMINISTRATOR'S REPORT

- A. COVID-19 Vaccine/Testing Update by Assistant County Administrator Robertson.
- B. Unpaved Roads: Jamie Oliver, Transportation Planner, provided an update on unpaved County roads.
- C. Matters for the Board's Information by County Administrator Keaton.

11. Unfinished/Old Business

Nike Park Road Extended: (Removed under Approval of the Agenda).

12. NEW BUSINESS

Application of Isle of Wight County Public Works Department, applicant, for an exception to Section 6-1010.A.11 of the Highway Corridor Overlay (HCO) District regulations to allow a six-foot tall vinyl coated chain-link fence around the Wrenn's Mill Refuse and recycling center located at 8196 Old Stage Highway: Supervisor McCarty moved to approve the exception request. The motion was adopted unanimously (5-0) with Supervisors Grice, Rosie, Acree, McCarty and Jefferson voting in favor and no Supervisors voting against the motion.

Assignment: Wilson

PLANNING REPORT

ATTACHMENTS:

Description	Type	Upload Date
AUGUST 24, 2021 PLANNING COMMISSION'S REGULAR MEETING MINUTES	Cover Memo	9/21/2021

**MINUTES OF THE MEETING OF THE ISLE OF WIGHT COUNTY
PLANNING COMMISSION HELD ON THE TWENTY-FOURTH DAY OF
AUGUST IN THE YEAR TWO THOUSAND AND TWENTY-ONE**

CALL TO ORDER

Brian Carroll, Chairman, called the Isle of Wight County Planning Commission meeting to order at 6:00 PM on August 24, 2021, in the Board of Supervisors Room at the Isle of Wight County Courthouse, Isle of Wight, Virginia.

INVOCATION

Thomas Duerig delivered the Invocation.

PLEDGE OF ALLEGIANCE

Chairman Carroll invited everyone present to join in the Pledge of Allegiance.

ROLL CALL/DETERMINATION OF A QUORUM

PRESENT

Brian Carroll, Chairman
Bobby Bowser, Vice-Chairman
Cynthia Taylor
James Ford
Thomas Duerig
Jennifer S. Boykin
George Rawls

A quorum was determined.

ABSENT

Edward Hulick, Thomas Distefano, and Glenn Seay

ALSO, IN ATTENDANCE

Robert W. Jones, Jr., County Attorney
Don Robertson, Assistant County Administrator
Amy Ring, Community Development Director
Claire Jones, Assistant Director of Community Development, Planning and Zoning Division
Sandy Robinson, Zoning Coordinator
Amanda Landrus, Secretary

ACTION ON REQUESTS TO WITHDRAW OR TABLE PENDING AGENDA ITEMS

Chairman Carroll asked if there were any requests to table or withdrawal agenda items. Amy Ring, Community Development Director, stated there were no requests.

APPROVAL OF AGENDA

Chairman Carroll called for a vote to approve the agenda. Bobby Bowser made a motion to approve the agenda. Thomas Duerig seconded the motion. Chairman Carroll asked for all in favor to signify by saying aye. The motion passed unanimously.

APPROVAL OF CONSENT AGENDA

Chairman Carroll called for a vote to approve the consent agenda. Bobby Bowser made the motion to approve the agenda, and Thomas Duerig seconded the motion. Chairman Carroll asked for all in favor to signify by saying aye. The motion passed unanimously.

CITIZENS' COMMENTS

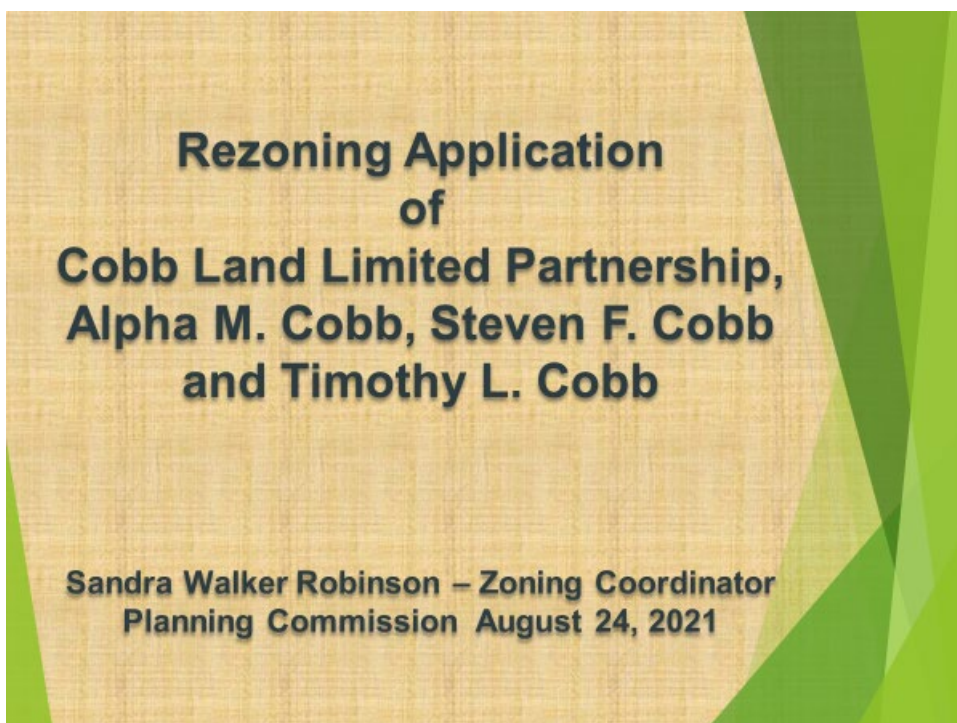
Chairman Carroll asked if there were any citizen comments. Chairman Carroll noted there were no citizen comments.

PUBLIC HEARINGS

Chairman Carroll called for the public hearing on the following application:

Application of Cobb Land Limited Partnership, Alpha M. Cobb, Steven F. Cobb and Timothy L. Cobb, property owners, for a change in zoning classification of a portion of tax parcel number 46-01-024 from Rural Agricultural Conservation (RAC) to Rural Residential (RR) to create three single family residential lots

Sandy Robinson, Zoning Coordinator, gave an overview of the application by giving the following PowerPoint presentation.



DETAILS

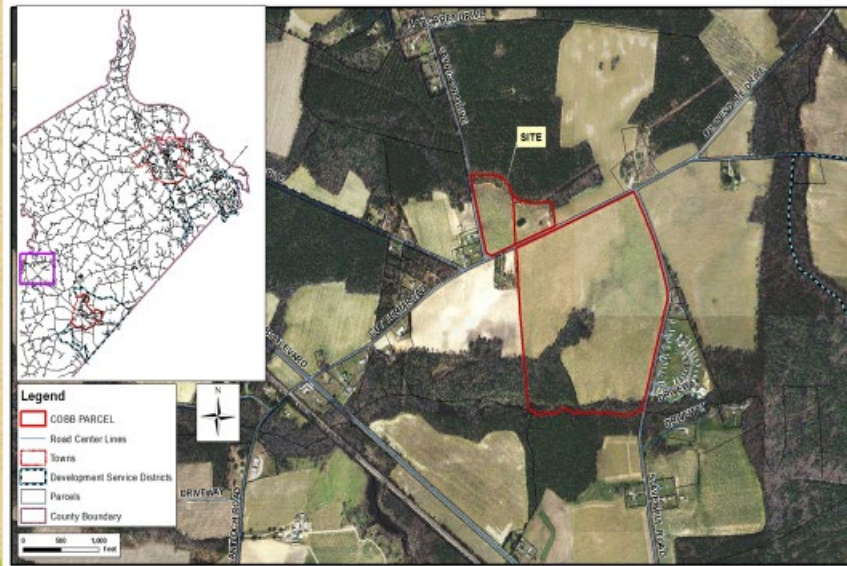
- ▶ Tax Map ID#: 46-01-024
- ▶ Location: Cut Thru Road and Garrison Drive
- ▶ Current Zoning: RAC
- ▶ Proposed Zoning: Rural Residential
- ▶ Election District: Carrsville
- ▶ Purpose: Rezone for three Rural Residential lots

BACKGROUND

- ▶ Proposed lots are part of a tract containing 100 acres.
- ▶ Current land uses are cultivated fields, forested land and pasture.
- ▶ Area to be rezoned is 9.56 acres and located on Cut Thru Road (Rte.638) and Garrison Drive (Rte. 646).
- ▶ Under the sliding scale option for Rural Residential (RR) District, these are the three possible rural residential lots from this farm, dependent on rezoning approval.

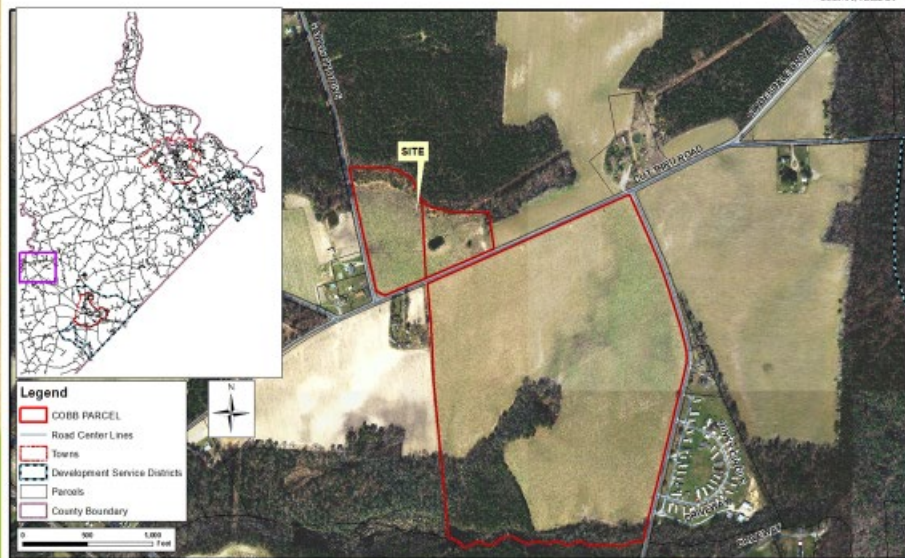
LOCATION MAP

ZA-05-21 Cobb Location Map



LOCATION MAP ENLARGEMENT

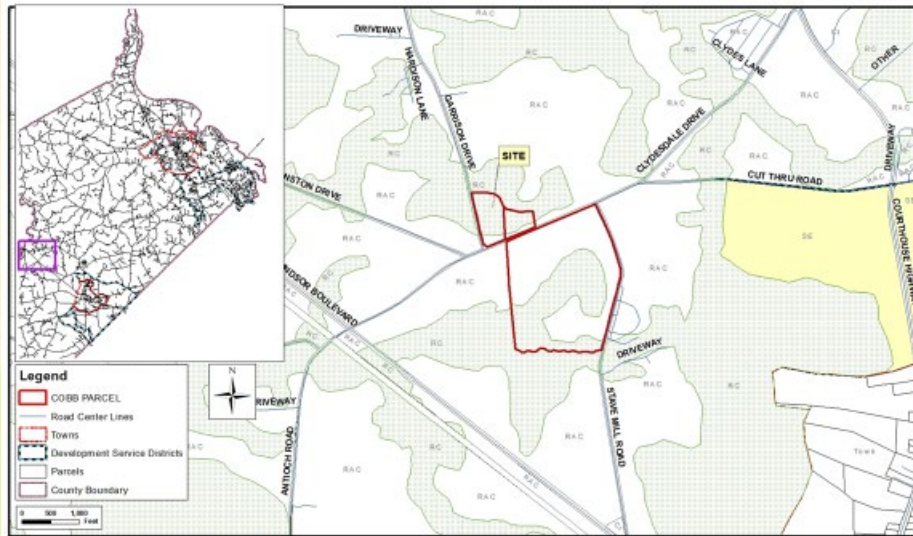
ZA-05-21 Cobb Enlarged Location Map



LAND USE MAP

ZA-05-21 Cobb Land Use Map

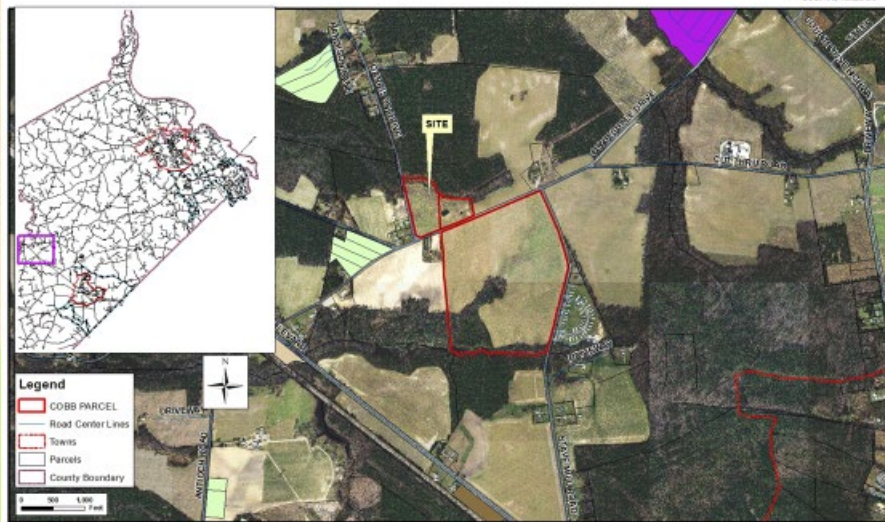
ISLE OF WIGHT
COUNTY, VIRGINIA



ZONING MAP

ZA-05-21 Cobb Zoning Map

ISLE OF WIGHT
COUNTY, VIRGINIA



[illegible]

Strengths:

- ▶ The proposal is consistent with County plans and ordinances.
- ▶ The application is compatible with the existing land uses in the vicinity and with the guidelines of the future Recommended Land Use Plan Designation.

- Staff has not identified any weaknesses at this time.

STAFF RECOMMENDATION

Staff recommends approval of the rezoning application.

NEXT STEP

A subdivision plat will be required to be submitted and approved contingent on approval of the rezoning application.

Following the presentation, Chairman Carroll opened the public hearing and invited the applicant to speak.

Barry Cobb stated he had no further information to offer and was available for questions.

Nikkol Wade, 9307 Cut Thru Road, Windsor, spoke against the application and read the following letter.

Dear Isle of Wight County Planning Commission,

I am writing to express my strong opposition to zoning application number ZA-05-2021, the proposed rezoning at Cut Thru Road/Stave Mill Road in Windsor. Nearly all residents are completely opposed to the rezoning of cropland. We Urge you to consider the severe impact to cropland that will be made due to making an approval to rezone the uses of prime soil and productive farmland for non-agricultural uses. We oppose the development of cropland for the following reasons:

- 1) Rezoning cropland will destroy prime soils & nutrients. The development of such soils is irretrievable.
- 2) Increase of the existing county taxes.
- 3) Possible rezoning could violate Agricultural Protection Zoning Regulations. These regulations are made to preserve availability of farmland and provide stability to the farm economy.
- 4) To protect agricultural land use and activities from incompatible residential, commercial, industrial development, or public facilities.
- 5) To lessen the likelihood of non-agricultural uses interfering with the effective operation of any agricultural operations.
- 6) To retain our towns rural character
- 7) Prevent Significant amounts of prime farmland from being removed by residential estates

Listed above are major areas of concern, I urge you to disapprove the proposed rezoning. In general, If Isle of Wight County continues to rezone farmland and develop the community, we will irreversibly no longer be a rural community. The area's traffic is continuing to increase and heavy traffic is already common at times which may not have been anticipated during the last rezoning approval on Cut Thru Rd called Montagna.

Any development to any of America's farmland's or alternate land use will be irrevesable to the world's productive, substantial sized contiguous farming areas. These farmland areas contain a high percentage of productive agricultural soils. By stopping the rezoning of remaining farmland we also create fewer oppurtunities for conflicts with non-farm uses and fewer obstacles, so farmers can perform farm activities efficiently. This will in turn support local business and state agencies such as the Coopertative Extension Service and Agricultural Preservation Boards. Thank you for your continued service and support of the farming economy and our communities.

Best,

08/25/21
Nikkol Wade

Nikkol Wade

(757)352-8101

Brian Keith Howell
9071 Cut Thru Road
Zuni, VA 23898

8-24-21

R.A. Howell
9085 Cut Thru Rd
Windsor, VA 23487

Marcia Pierce
22254 Garrison Dr.
Windsor, Va. 23487

Buddy Pierce
22254 Garrison Dr.
Windsor, Va. 23487

Bat Cantrell
21271 GARRISON DR?
WINDSOR, VA. 23487

Bat Cantrell
20479
Garrison Dr
Windsor, VA
B H Wade
9307 Cut Thru Rd
Windsor, VA 23487

There being no further public comments, Chairman Carroll closed the public hearing and called for discussion from the Commission.

Cynthia Taylor asked if the property was a part of an Agricultural and Forestal District.

Ms. Robinson responded no.

Thomas Duerig asked what the acreage requirement is for subdividing.

Ms. Robinson stated with one hundred acres, he has three development options with the rezoning to the RR district, and the applicant is applying for all three lots at this time.

Jennifer Boykin asked if there was a house once located on parcel C.

Ms. Robinson responded yes; the house was burned several years ago.

George Rawls asked what that leaves the lot on the corner.

Ms. Robinson responded RAC. She added both RR and RAC have compatible uses.

Mr. Duerig asked if a house could be built on parcel C.

Ms. Robinson responded yes, and it is the applicant's intention to do that. A wetlands delineation will be required prior to plat approval to show that the lot meets the net developable area.

Mr. Duerig then asked if the lot on the corner was a separate entity from the three lots being rezoned.

Ms. Robinson responded the rezoning is for lots A, B and C which is tract 24 and continues on the south end of the road. The corner lot is on tract 23 and is not required to be on this application.

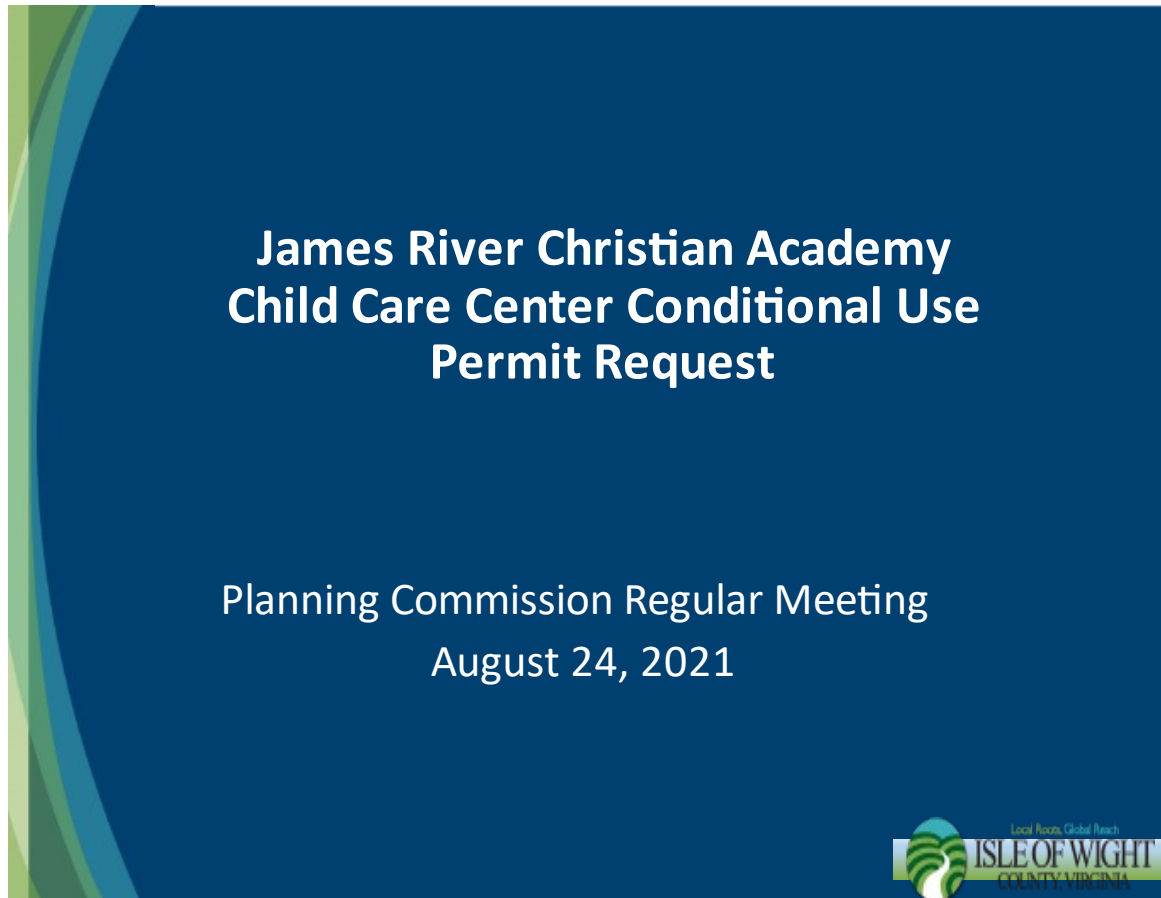
Bobby Jones confirmed 24 is a separate parcel from 23, and if lot 23 was sold off, the applicant could still come in and apply for the rezoning of these 3 lots.

Jennifer Boykin moved to recommend to the Board of Supervisors approval of the rezoning application. Ms. Taylor seconded the motion, which was adopted with the Commissioners Bowser, Taylor, Rawls, Ford, Boykin, Duerig and Carroll voting in favor of the motion, and no Commissioners voting against the motion. (7-0)

Chairman Carroll called for the public hearing on the following application:

Application of Vincent C. Carollo of Bennis Saint Luke, LLC, applicant and property owner, for a conditional use permit to allow a childcare center located at 14353 Bennis Church Boulevard with tax parcel number 32-01-093. The property is in the Conditional Suburban Residential zoning district.

Amy Ring, Community Development Director, gave an overview of the application by giving the following PowerPoint presentation.



DESCRIPTION

Location: 14353 Benns Church Blvd.
Parcel: 32-01-093
Zoning: Conditional Suburban Residential (C-SR)
Election District: Windsor
Purpose: To allow for a commercial day care, or child care center in an existing building



BACKGROUND

- Property is approximately 25 acres
- Former school facility built in 1970, 1972 and 1980
- School closed in 2007
- SR zoning district requires a CUP for a child care center
- Proposed child care center will utilize one of the three existing buildings on site up to 9,000 SF



COMPREHENSIVE PLAN REVIEW

- Appropriate nonresidential use types in future recommended SR designated areas include schools, churches, libraries, and similar uses which are supportive of the residential use and enhance development in close proximity.
- Plan also states that the lack of daycare facilities in the County creates a hardship for working families who find it difficult to live and work in the County.



James River Christian Academy Child Care Center CUP Request
Application Number CUP-04-21
14353 Benms Church Boulevard

VICINITY MAP



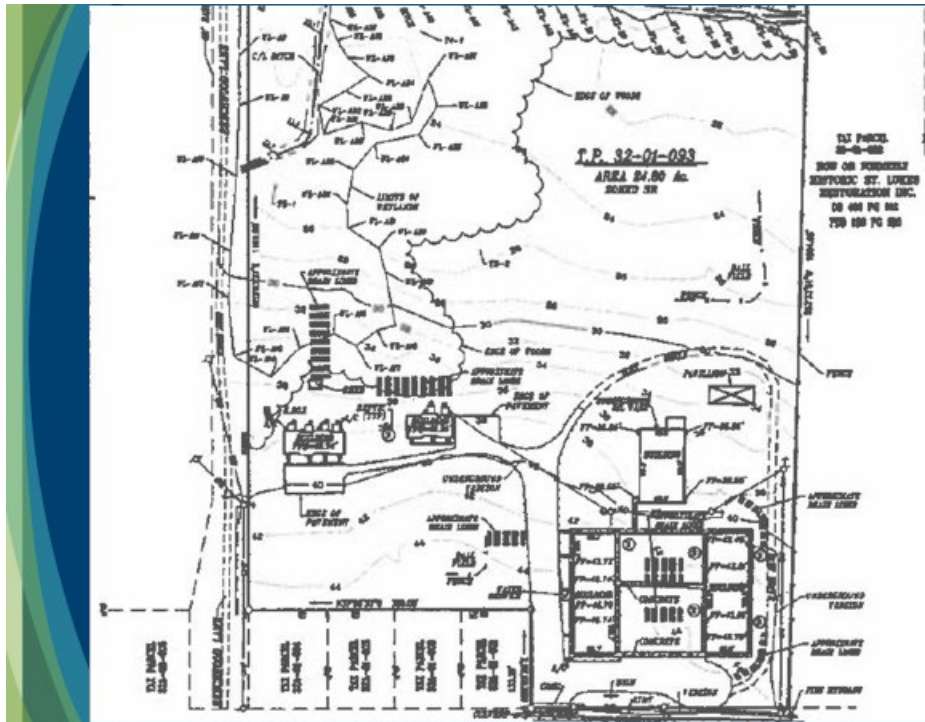
SOURCE: Isle of Wight County 2017 Aerial Photography and Parcel Data August 17, 2021





SOURCE: Isle of Wight County 2017 Aerial Photography and Parcel Data.
Created August 24, 2021





AGENCY REVIEW

- Utility Services - property served by existing public water and private wastewater systems.
- VDOT - Recommends a TIA be performed for any expansion of the proposed use over 9,000 square feet.
- Economic Development - Recommends approval of the proposed use with a maximum size of 9,000 square feet.
- Emergency Services - State they have no concerns.
- Transportation Manager - Supports VDOT's comments and recommendation with a size limit of 9,000 SF.
- Virginia Department of Health - If the CUP is approved, the applicant will have to provide projected usage information and an engineer's certification letter to the Health Department in order to be approved to use the existing drainfield.
- Inspections - Building plans for interior renovations are currently under review.

The Planning Commission and Board of Supervisors shall consider the following criteria before the granting of a CUP:

1. Will not be detrimental to or endanger the public health, safety, and general welfare;
2. Will not be injurious to the use and enjoyment of other nearby property for permitted uses, nor substantially impair the use of other property within the immediate proximity;
3. Adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements will be provided;
4. Ingress and egress so designed as to minimize traffic congestion on the public streets;
5. Does not conflict with the goals and objectives of the Isle of Wight County Comprehensive Plan;
6. Shall conform to all other applicable regulations of the zoning district classification in which it is located and to the special requirements established for the specific use; and
7. Will not result in a multiplicity or saturation of similar uses in the same general neighborhood of the proposed use.



Board may impose additional conditions or limitations on CUPs. Such conditions may include, but are not limited to:

1. Number of persons working on the site & proposed hours of operation;
2. Conditions, for roads, sidewalks, parking facilities, vehicle access, and peak periods of traffic,
3. Orderly growth of the community and the fiscal impact on the County;
4. Effect of odors, dust, gas, smoke, fumes, vibration, glare, and noise;
5. Impacts to public facilities and the ability of the County or persons to supply public services;
6. Consistency with acceptable engineering and planning practices;
7. Location of structures in the vicinity of schools, houses of worship, theaters, hospitals, and similar places of public use;
8. Consistency of the proposal with County ordinances and plans;
9. Environmental impacts and opportunities for recreation and open space; and
10. Preservation of cultural and historic resource landmarks.



STAFF ANALYSIS

Strengths:

- Project generally meets the goals and objectives of the comprehensive plan contingent upon the recommended condition of approval that the use be limited to no more than 9,000 square feet without a formal traffic impact analysis and the construction of any needed improvements.
- Proposed land use will result in an increase in revenues over time.
- Application proposes the reuse of an existing building for a daycare facility that was previously constructed for a school.

Weaknesses:

None identified.



STAFF RECOMMENDATION

Based on the strengths of the proposed Zoning Ordinance amendments, staff recommends approval with the condition that that the use be limited to no more than 9,000 square feet. Any future expansions of the use shall require a formal traffic impact analysis and the construction of any needed improvements.



Following the presentation, Chairman Carroll opened the public hearing and invited the applicant to speak.

Vincent Carollo, 22 Main Street Smithfield, stated that there is a big need for daycare in the area, and there is opportunity with this building to compliment this need. He added the potential daycare owner is present to help answer any questions.

There being no further public comments, Chairman Carroll closed the public hearing and called for discussion from the Commission.

Mr. Bowser asked if there was a church that currently meets in this building.

Mr. Carollo responded that Southside Vineyard Church has a month-to-month lease in the other building.

James Ford asked if there is currently work being done to the building.

Mr. Carollo confirmed work is being done. A canopy was demolished, and some aesthetic improvements are being made. He stated that because the existing building was a school previously, it is sufficient enough for the daycare to come into an existing building.

Mr. Bowser asked what days the church meets, and if it will cause any traffic impact when the daycare opens.

Mr. Carollo responded the church meets Sundays and office staff does clerical work a few days during the week. He added that there may be traffic on the weekend.

Ms. Taylor asked about the outside recreation area for the children.

Mr. Carollo stated there is ample outside space, and the future tenant would have to meet state and county requirements.

Mr. Duerig added that because this facility was a school previously, the traffic from a daycare would be similar.

Mr. Carollo stated the potential tenant has an existing daycare located on South Church Street and has a relationship with the bus services from the schools. This new proposed location would be better suited to receive the buses and children because of the existing school environment.

Mr. Rawls asked what the proposed hours would be.

Jamie Mintz, daycare owner, stated the hours would be Monday-Friday 6AM-6PM.

Mr. Ford asked if there was any other proposed expansion to the current facility.

Ms. Mintz and Mr. Carollo both stated no.

Mr. Ford asked if the school buses would be stopping on Highway 10 or turn into the facility.

Ms. Mintz stated the buses and other daycare traffic would pull into the parking lot.

Mr. Ford asked if the business would be separate business or an extension of the existing daycare center.

Ms. Mintz responded that it would be separate due to her license not allowing her to expand.

Mr. Rawls asked if she would be keeping her location on Church Street.

Ms. Mintz stated she would.

Chairman Carroll asked if there would be controlled areas outside for playground and fenced areas.

Mr. Carollo stated yes, there will be a fenced playground area required by the state and county, but that area has not been confirmed.

Ms. Taylor moved to recommend to the Board of Supervisors approval of the conditional use permit with the condition as attached by staff. Mr. Bowser seconded the motion, which was adopted with Commissioners Bowser, Taylor, Rawls, Ford, Boykin, Duerig and Carroll voting in favor of the motion, and no Commissioners voting against the motion. (7-0)

OLD BUSINESS

Ms. Ring confirmed there were no old business items.

NEW BUSINESS

Chairman Carroll called for appointment of Secretary for Planning Commission for the remainder of 2021.

Bobby Bowser moved to appoint Amanda Landrus as Secretary for the Planning Commission for the remainder of 2021. Mr. Duerig seconded the motion, which was adopted with Commissioners Bowser, Taylor, Rawls, Ford, Boykin, Duerig and Carroll voting in favor of the motion, and no Commissioners voting against the motion. (7-0)

Chairman Carroll called for the second new business item for consideration of the following:

Application of Isle of Wight County Public Works Department, applicant, for an Exception to Section 6-1010.A.11 of the Highway Corridor Overlay (HCO) District regulations to allow a six foot tall Vinyl Coated Chain-link Fence around the Wrenn's Mill Refuse and Recycling Center located at 8196 Old Stage Highway with tax map number 13-01-035.

Ms. Ring gave an overview by giving the following PowerPoint presentation.

Wrenn's Mill Refuse and Recycling Center Highway Corridor Overlay (HCO) Exception Request

Planning Commission Regular Meeting
August 24, 2021



DESCRIPTION

Location:	8196 Old Stage Hwy. (Rte. 10)
Parcel:	13-01-035
Zoning:	Rural Agriculture Conservation (RAC)
Election District:	Hardy
Purpose:	An exception request to Section 6-1010.A.11 of the HCO district regulations in order to allow a green or black vinyl coated chain link fence



BACKGROUND

- Existing convenience center site
- County Public Works Department plans to make site and traffic flow improvements
- New, 6 foot tall black or green vinyl coated fence is meant to replace older, uncoated 8 foot tall chain link fence.



Wrenn's Mill Refuse and Recycling Center HCO Exception Request
Application Number MISC-4-21
8196 Old Stage Highway

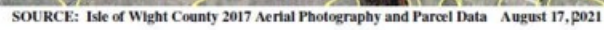
VICINITY MAP



SOURCE: Isle of Wight County 2017 Aerial Photography and Parcel Data August 17, 2021



LAND USE MAP



ZONING MAP



[illegible]

COMPREHENSIVE PLAN REVIEW

- The future land use designation for this property is Civic (CI)
- Recommended land uses for CI areas include a wide variety of government and institutional facilities.
- CI land use consists of government facilities such as offices and schools but also things like parks, museums, and County refuse centers.
- May be located inside or outside DSDs
- CI land use best located on major transportation routes, major intersections or other easily accessible sites.



Local Plans, Global Reach
ISLE OF WIGHT
COUNTY, VIRGINIA

ORDINANCE REVIEW

- Section 6-1010.A.11 specifically prohibits the use of chain link fences in the HCO district.
- Section 6-1015 allows the Board of Supervisors to grant exceptions to HCO requirements, following a recommendation by the Planning Commission, based on the following criteria:
 1. The exception shall be no less beneficial to the residents or occupants of the development, as well as neighboring property, than would be obtained under the applicable regulation;
 2. Exception is reasonable because of the high level of design and construction; and
 3. Exception will result in design and construction that meets engineering and building standards.



AGENCY REVIEW

- Application was distributed to the following departments and agencies for review and comment:
 1. County Utility Services Department
 2. Virginia Department of Transportation (VDOT)
- Both departments have expressed their approval of the request.



STAFF ANALYSIS

Strengths:

1. The potential visual impact of the black or green vinyl coated chain link fence has been minimized by locating it interior to the site and maintaining existing buffer landscaping around it.
2. The proposed fence type is consistent with its typical use of providing security fencing around public utility sites.

Weaknesses:

1. The exception request to use chain link fencing which is prohibited in the HCO district is not consistent with the goal of the district to assure respect for and to reduce incompatible and adverse impacts on the visual experience from the highway.



STAFF RECOMMENDATION

Based on the strengths of the application, staff recommends approval of the exception request to use a black or dark green vinyl coated chain link fence to secure the convenience center facilities.



Mr. Ford voiced his concern with the traffic at various times and asked if anything can be done about that while addressing the fence concerns.

Ms. Ring confirmed they are increasing the entrance size.

Don Robertson stated staff is looking at a redesign of the entire site to include better traffic management along with additional recycling capabilities.

Mr. Bowser asked for confirmation that this site is owned by VDOT, and if the County has tried to purchase the site.

Mr. Robertson stated this location is owned by VDOT, and they are not willing to sell the property. He added the county has a secure lease with them.

Mr. Bowser stated the proposal is for a six-foot vinyl coated chain link fence and a redesign of the layout, and asked where that is going to go.

Ms. Ring stated the full site plan package was attached to the staff report which shows the existing and proposed plan. The site is expanding a small amount. Ms. Ring added that on the Smithfield side, they are installing a BMP and the fence will be located on the other side of it. She also stated they are also showing an enhanced driveway with two lanes of traffic as well as separation between traffic entering and exiting the site, realignment of the dumpster pads and compactors and installing BMPs along the bypass and corner. Ms. Ring stated they are not getting in closer to Old Stage Hwy.

Mr. Bowser asked if a second compactor was going to be added.

Mr. Robertson stated yes, and by having that second compactor, they can reduce the number of containers on the site which allows for more space for traffic to navigate.

Mr. Ford voiced concern for the elderly population using the facility.

Mr. Robertson added the additional compactor will help alleviate that safety concern.

Chairman Carroll asked is the Highway Corridor District extends down old Route 10, and how would it affect residents there if they wanted to do the same thing.

Ms. Ring responded the process would be for them to apply to an exception to the Highway Corridor Overlay District, and staff would assess it based on the intent and purpose.

Chairman Carroll expressed concern that with this fence and the Hardy Elementary chain link fence exception, it would open it up for everyone on Route 10 to want to put up a chain link fence.

Ms. Ring stated with this application, a landscape buffer is installed so the fence is not visible from the road.

Mr. Bowser moved to recommend to the Board of Supervisors approval of the exception to the Highway Corridor Overlay District. Mr. Rawls seconded the motion, which was adopted with Commissioners Bowser, Taylor, Rawls, Ford, Boykin, Duerig and Carroll voting in favor of the motion, and no Commissioners voting against the motion. (7-0)

COUNTY ATTORNEY'S REPORT

Mr. Jones confirmed there was no county attorney's report.

PLANNING DIRECTOR'S REPORT

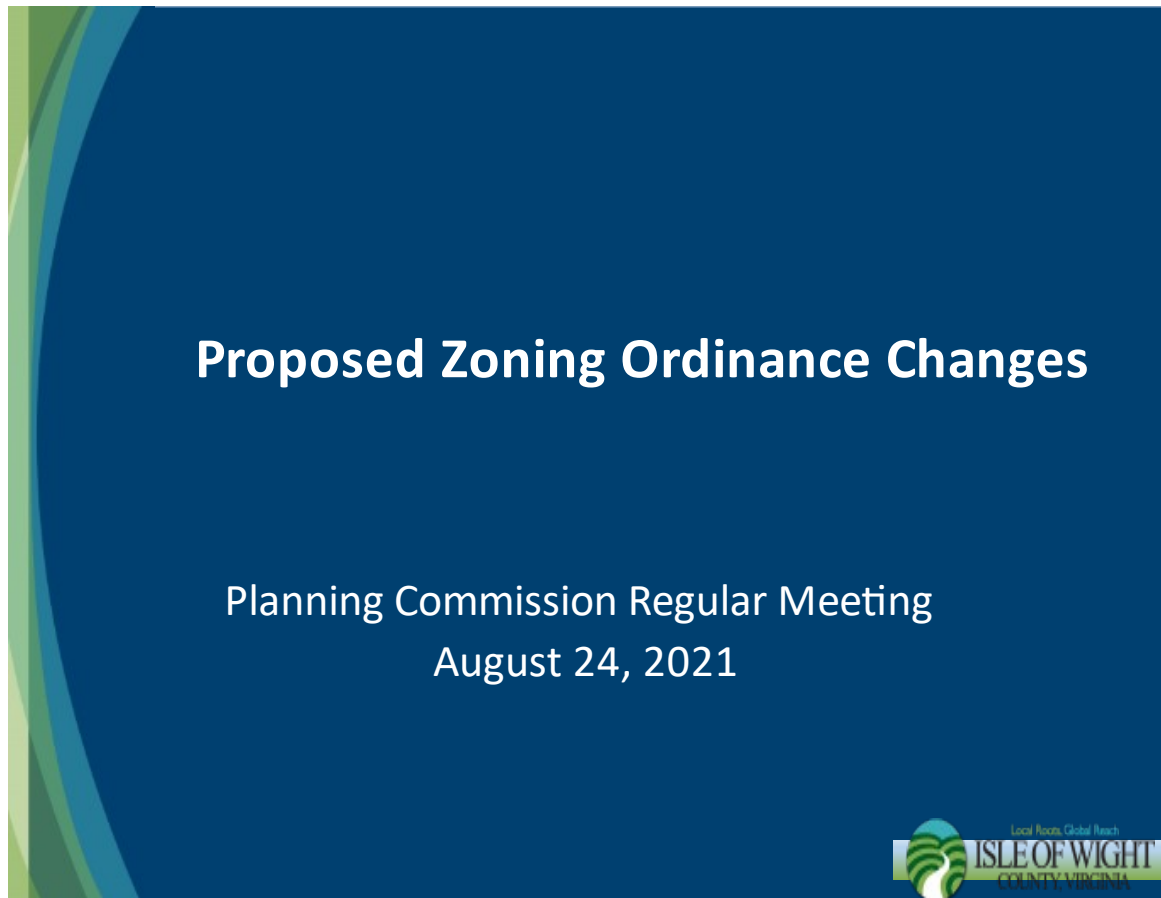
Chairman Carroll called for the discussion on the following:

Proposed Revisions to the Isle of Wight County Zoning Ordinances

Ms. Ring stated there will be more revisions to come and proposed that she give a quick summary of some of the changes tonight and discuss this further at the Planning Commission meeting in September.

Chairman Carroll approved this request.

Ms. Ring gave an overview by giving the following PowerPoint presentation.



Background

- Proposed changes are suggested by Planning and Zoning staff as a result of their annual review and daily administration of County Ordinances.



Article I – General Provisions

Add clarification that an environmental and historical resources impact analysis may be required for rezoning requests.

Section 1-1015.F. Community impact statement.

5. An assessment of the proposed development's impact on any of the County's environmental and historical resources on the site. A Phase I cultural resources survey may be required at the request of the zoning administrator, if the development will impact high or moderate sensitivity areas as shown in the County's archeological and architectural surveys.



Article III – Use Types

Add Short Term Rentals as a commercial use type in Article III, “Use Types.”

Sec. 3-6000. - Commercial use types.

Short Term Rental. \ the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than thirty consecutive days, in exchange for a charge for the occupancy. A short term rental operator shall be further defined as the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity



Article IV – Zoning District Regulations

Change Table of Permissible Uses in Article IV, “Zoning Districts:”

Changes to Section 4-1005:

- Add reptile breeding as a conditional use in the General Commercial district
- Add Short Term Rentals as a permitted use in all residential
- Add peddlers as permitted in the Village Center district unintentionally omitted during a previous update.



Article IV – Zoning District Regulations

Sec. 4-2006, “Bulk Regulations,” Rural Agricultural Conservation (RAC) Zoning District

Make the side yard setback requirement fifteen (15) feet for both sides to add flexibility, consistency and reduce confusion.

Sec. 4-5005. – “Bulk regulations,” Neighborhood Conservation (NC) Zoning District

Remove the different front yard setbacks for lots of different widths.



Article V – Supplemental Use Regulations

Add a time limit for construction dumpsters.

Sec. 5-1004. - Accessory uses.

C. Portable on demand storage (POD) units or dumpsters used for renovation or construction work shall be considered temporary structures. They are permitted for use for a total of sixty (60) days, after which a zoning permit must be obtained through the planning and zoning department for a period not to exceed six months.



Article V – Supplemental Use Regulations

- In item G, “Reptile Breeding,” remove the requirement for use of glass cages for reptile breeding facilities.
- In item H, “Private Sawmills,” replace “permanent or temporary” with “private” (as opposed to commercial elsewhere defined), eliminate the duplicative setback requirement, eliminate the one year time limit, and allow processing of timber from off-site for personal lumber use.



Article V – Supplemental Use Regulations

Add an item Q for residential zoning districts for short term rentals

1. A zoning permit is required. Permit information must include a local point of contact who is available to respond to and resolve complaints during the entire length of the rental period. Failure to respond and resolve complaints will result in the revocation of the permit.
2. Operators must obtain a business license and register for transient occupancy and state sales tax.
3. The locality may assess a penalty of up to \$500 per violation for failure to obtain required permits and may prohibit the rental of a property. Repeated violations may result in the prohibition on rental of applicable properties.
4. One off-street space per guest room is required in addition to the parking required for the house.
5. Rentals are limited to owner-occupied residences. No visible evidence of the conduct of a short-term rental is allowed on the outside of the property.
6. Event rentals are not permitted.



Article V – Supplemental Use Regulations

Add two new location requirements for utility scale solar facilities:

- Facilities shall not be located within the limits of the County's Development Service Districts.
- Facilities must be within a two mile radius of existing substations and high voltage transmission lines.



Article VI – Overlay Districts

- Increase limit from 5 to 20 parking spaces in HCO and NDSO districts which need to be paved with concrete, asphalt, or other similar material.
- Vehicular movement and parking areas requiring less than 20 spaces may be surfaced with gravel, slag, or other similar material
- Off street parking areas shall be clearly designated by the use of borders around the perimeter of these areas using fences, walls, wooden timbers, brickwork, or other similar treatment rather than curb and gutter.



Article VI – Overlay Districts

Article VI. Overlay Districts

Revise Section 6-2009.E. to clarify the intent of this section to reduce the required setback to no less than twenty-five feet.

Due to the already short building setbacks in the more intense zoning districts, staff recommends that front setbacks be reduced to no less than 25 feet subject to review and approval by the zoning administrator after consideration of necessary utility, landscaping and pedestrian corridors.



Following the presentation Ms. Ring stated a solar consultant was in the audience, and he has volunteered his technical expertise and was available for questions should the Planning Commission have any.

Chairman Carroll asked if the statement requiring facilities be within a two-mile radius of existing substations and high voltage transmission lines” should be “and/or” instead of just “and.”

Ms. Ring confirmed the statement as she understood it should be “and/or,” and staff can change it.

Chairman Carroll asked the difference between private and commercial sawmill.

Ms. Ring stated a commercial sawmill is defined as a commercial use, but she can double-check on that. This type of business can process lumber from off-site and wholesale it. Franklin Lumber is an example of a commercial sawmill. She added a private sawmill is for personal use only and cannot sell it.

Chairman Carroll asked for clarification for what the person who cleans up lots and processes the timber would be classified as.

Ms. Ring stated that if that if you’re the property owner and hire a contractor to process your timber, then it is a private sawmill.

Ms. Taylor asked for clarification of the thirty consecutive days definition in the short-term rental slide, if that meant per year or thirty consecutive days followed by a break for a couple of days then another thirty consecutive days.

Ms. Ring responded, yes, it could be done as thirty consecutive days followed by a short break and then rented again.

Ms. Taylor stated she would like to talk more about that at next month's meeting.

Ms. Ring clarified if rental was longer than thirty days then it would be considered long-term rental and would not fall under the short-term rental definition.

Mr. Jones stated he felt the concern was that if a house was rented out for twenty-eight days, take off a week, then rent it out again for another twenty-eight days, causing the house to be rented all year and still can be classified as a short-term rental.

Ms. Taylor responded that we should be mindful of the residential setting, and the residential type use should be protected.

Ms. Ring brought up the topic of the Planning Commission retreat in the fall, and asked Planning Commission members to look at their calendars for the October - early November time frame. Ms. Ring also asked if there were any suggestions for topics. She stated staff has some ideas that range from Village Center planning to agritourism activities. Ms. Ring suggested they consider any of the Fridays in October.

Mr. Duerig stated he felt the Friday, October 22nd would be a good date.

Ms. Taylor agreed.

Ms. Ring asked if Friday October 22nd worked for the other Planning Commission members.

Mr. Ford asked if there was a particular outline for the retreat.

Ms. Ring responded the thought was to find a small village that already has a successful master plan, since the county is going to undergo the Rushmere Village master plan process. Ms. Ring added staff is trying to strategize how to do this due to the travel time involved. Ms. Ring stated Chesterfield and Crozet are the closest villages that have actively implemented a village master plan. Ms. Ring stated the agrotourism activities are multiplying in the County, and it could be beneficial to visit one to talk about lessons learned and suggestions on how we can do things differently. Ms. Ring added another idea was to bring in a private engineering firm to do a site plan review presentation.

CLOSED MEETING

Chairman Carroll confirmed there were no items to discuss in closed meeting.

ADJOURNMENT

There being no further information to discuss, Chairman Carroll adjourned the meeting at 7:15 PM.

Adopted this _____ day of _____, 2021.

Chairman, Isle of Wight County Planning Commission

Attest: _____
Secretary

PLANNING REPORT

APPLICATION:

Application of Benns Saint Luke, LLC, applicant and property owner, for a conditional use permit to allow a child care center located at 14353 Benns Church Boulevard with tax parcel number 32-01-093. The property is in the Conditional Suburban Residential zoning district.

ELECTION DISTRICT:

Windsor

LOCATION:

The property is approximately 25 acres and is located at 14353 Benns Church Boulevard on the east side of Benns Church Boulevard (Rte. 10).

BACKGROUND:

The Planning Commission previously held a public hearing on this application at their August 24, 2021, regular meeting. The Planning Commission voted unanimously to recommend approval of the application as conditioned following the hearing.

Staff discovered an error in the advertisement for the public hearing following the Planning Commission meeting. In order to avoid the possibility of having the zoning change ruled void in the future, staff corrected the notice and re-advertised the application for another public hearing.

DESCRIPTION:

The property owner requests a conditional use permit to allow a commercial child care center, or daycare, in one of the existing, one story buildings with a total of 9,000 square feet. No other improvements are proposed with this application.

A copy of the full staff report from the August 24, 2021, Planning Commission is attached to this report.

STAFF RECOMMENDATION:

Planning Commission previously recommended approval of the application with

the condition recommended by staff at their August 24, 2021, regular meeting by a vote of seven in favor and none voting against. Staff recommends approval of the proposed child care facility with the condition that the use be limited to no more than 9,000 square feet. Any future expansions of the use shall require a formal traffic impact analysis and the construction of any needed improvements.

ATTACHMENTS:

Description	Type	Upload Date
JRCA Daycare PC Staff Rpt Aug 2021	Backup Material	9/14/2021
JRCA Daycare CUP application	Cover Memo	8/17/2021
JRCA Cup Project Narrative	Backup Material	8/17/2021
Concept Plan and Elevations	Backup Material	8/17/2021
VDOT comments	Backup Material	8/17/2021
Vicinity Map	Backup Material	8/17/2021
Future Land Use Map	Backup Material	8/17/2021
Zoning Map	Backup Material	8/17/2021
PC Resolution	Backup Material	8/17/2021

PLANNING REPORT

APPLICATION:

Application of Vincent C. Carollo of Bennis Saint Luke, LLC, applicant and property owner, for a conditional use permit to allow a child care center located at 14353 Bennis Church Boulevard with tax parcel number 32-01-093. The property is in the Conditional Suburban Residential zoning district.

ELECTION DISTRICT:

Windsor

LOCATION:

The property is approximately 25 acres and is located at 14353 Bennis Church Boulevard on the east side of Bennis Church Boulevard (Rte. 10). The property is approximately 175 feet to the northwest of St. Luke's Cemetery and 1,000 feet from the entrance to St. Luke's Church. Adjacent uses include a cemetery and single family detached housing. All adjacent property lies within the Rural Agricultural Conservation zoning district.

BACKGROUND:

The potential project site is in one of the former James River Christian Academy buildings. The property has a total of 24,000 square feet of brick, single story academic buildings and seven existing townhome units that were originally built as teacher housing. The property owner has the ability to construct three additional townhouse units by right. The school facility itself includes three separate buildings including two one-story brick buildings that house classrooms, office space, and a cafeteria as well as a gymnasium building.

The First Will Baptist Church was built on the property in 1970 followed by two classroom buildings built in 1970 and 1972. The gymnasium building was built in 1980. The property was rezoned in 1985 from A-1, the former Agricultural Limited zoning district, to conditional R-2, the conditional Residential General zoning district, to allow for the construction of ten townhouses. The James River Christian Academy closed in 2007.

DESCRIPTION:

The property owner requests a conditional use permit to allow a commercial child care center, or daycare, in one of the existing, one story buildings with a total of 9,000 square feet. No other improvements are proposed with this application. Because the daycare proposes to utilize an existing building with parking and commercial entrance, a formal Traffic Impact Analysis (TIA) was not requested. Utilizing the ITE Trip Generation manual (10th edition), a 9,000 square foot daycare facility would generate an average of 100 vehicle trips per day, which is less than the 200 average vehicle trip threshold for a TIA as required in the Newport Development Service Overlay (NDSO) district regulations.

COMPREHENSIVE LAND USE PLAN:

The property is designated as Mixed Use (MU) and Resource Conservation (RC) on the Future Recommended Land Use Map in the County Comprehensive Plan. The Plan describes MU areas as areas with housing mixed with office, commercial, and other uses. The MU land use designation consists of one or multiple detached or attached single family homes, multi-plex and apartment style housing options, along with office or commercial uses. The proposed use is consistent with the future recommended use, because the property already contains a mix of uses, including residential, recreational and civic uses. The applicant has provided a current wetland delineation and CBPA determination to refine the RC areas which will not be impacted by the application.

ORDINANCE REVIEW:

Section 4-7003.C of the Zoning Ordinance permits child care centers as a conditional use in the SR zoning

district. The Zoning Ordinance also requires supplemental use regulations for child care centers. The property also lies within the Chesapeake Bay Preservation Area, NDSO, and St. Luke's Historic Overlay districts. Any new improvements will need to meet the regulations applicable to these districts in addition to any zoning district requirements.

Section 1-1017 of the Zoning Ordinance provides the following criteria for review of a conditional use permit application that the Planning Commission and Board of Supervisors shall consider before granting the permit:

1. That the establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, and general welfare;
2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially impair the use of other property within the immediate proximity;
3. That adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements have been or will be provided;
4. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets;
5. That the proposed conditional use is not contrary to the goals and objectives of the Isle of Wight County Comprehensive Plan;
6. That the conditional use shall, in all other respects, conform to the applicable regulations of the zoning district classification in which it is located and to the special requirements established for the specific use; and
7. That the use(s) at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood of the proposed use.

In addition to the standards and other guidelines set forth in the Zoning Ordinance, the Board may impose reasonable conditions or limitations on any approval, including the posting of performance guarantees. Such conditions may include, but are not necessarily limited to:

1. The number of persons living or working in the immediate area and the proposed hours of operation, as may applicable;
2. Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities; the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future;
3. The orderly growth of the neighborhood and community and the fiscal impact on the County;
4. The effect of odors, dust, gas, smoke, fumes, vibration, glare, and noise upon the use of surrounding properties;
5. Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal, and the ability of the County or persons to supply such services;
6. The degree to which the development is consistent with generally accepted engineering and planning principles and practices;
7. The structures in the vicinity such as schools, houses of worship, theaters, hospitals, and similar places of public use;
8. The purposes set forth in this ordinance, the County's Comprehensive Plan, and related studies for land use, roads, parks, schools, sewers, water, population, recreation, and the like;
9. The environmental impact, the effect on sensitive natural features, and opportunities for recreation and open space; and
10. The preservation of cultural and historic resources or landmarks.

Staff's analysis of the project finds that the criteria for granting the conditional use permit, including protecting the health, safety, and welfare of the public from the effects of the project and ensuring that the use remains as unobtrusive as possible to adjoining properties, is met by the proposed use with the condition that the day care facility occupy no more than 9,000 square feet without a formal traffic impact analysis and the construction of any needed improvements.

AGENCY REVIEW:

Staff distributed the application to the following departments and agencies for their review and comment.

- Utility Services - The property is served by existing public water and private wastewater systems.
- Virginia Department of Transportation (VDOT) - Recommends a TIA be performed for any expansion of the proposed use over 9,000 square feet.
- Economic Development - Recommends approval of the proposed use with a maximum size of 9,000 square feet.
- Emergency Services - State they have no concerns.
- Transportation Manager - Supports VDOT's comments and recommendation with a size limit of 9,000 SF.
- Virginia Department of Health - If the CUP is approved, the applicant will have to provide projected usage information and an engineer's certification letter to the Health Department in order to be approved to use the existing drainfield.
- Inspections - Building plans for interior renovations are currently under review.

VDOT comments are attached for your information.

STAFF CONCLUSIONS:

Strengths:

1. The project generally meets the goals and objectives of the comprehensive plan contingent upon the recommended condition of approval that the use be limited to no more than 9,000 square feet without a formal traffic impact analysis and the construction of any needed improvements.
2. The proposed land use will result in an increase in revenues over time.
3. The application proposes the reuse of an existing building for a daycare facility that was previously constructed for a school.

Weaknesses:

1. Staff has not identified weaknesses with the application.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed child care facility with the condition that the use be limited to no more than 9,000 square feet. Any future expansions of the use shall require a formal traffic impact analysis and the construction of any needed improvements.

ATTACHMENTS:

Description	Type	Upload Date
JRCA Daycare CUP application	Cover Memo	8/17/2021
JRCA Cup Project Narrative	Backup Material	8/17/2021
Concept Plan and Elevations	Backup Material	8/17/2021
VDOT comments	Backup Material	8/17/2021
Vicinity Map	Backup Material	8/17/2021
Future Land Use Map	Backup Material	8/17/2021
Zoning Map	Backup Material	8/17/2021
PC Resolution	Backup Material	8/17/2021



Local Roots, Global Reach

ISLE OF WIGHT COUNTY, VIRGINIA

DEPARTMENT OF PLANNING AND ZONING

ORIGINAL

REC'D 7/16/21

SUBMITTAL CHECKLIST FOR CONDITIONAL / SPECIAL USE PERMIT APPLICATIONS

In conjunction with Section 1-1017, *Conditional Uses*, and Section 1-1018, *Special Uses Permits for Uses Not Provided For*, of the Isle of Wight County Zoning Ordinance, as amended, the following information shall be submitted for a Conditional / Special Use Permit Application. Please note that it is the applicant's responsibility to ensure that the application is in compliance with all Federal, State and County regulations.

No application for a Conditional / Special Use shall be certified as complete unless the following information is provided, unless the Zoning Administrator reduces the number of required copies.

- ☒ 1. Fifteen ~~(15)~~⁸ copies of the original, executed application and one (1) original executed application. Both the applicant(s) and the property owner(s) must have their signature(s) notarized on page No. 2 of the application.
- ☒ 2. The appropriate fees have been submitted with the application. Checks should be made payable to: Treasurer, Isle of Wight County.
- ☒ 3. Fifteen ~~(15)~~⁸ copies of a statement of the reasons for seeking such permit, and if applicable, a statement of conditions.
- ☒ 4. Fifteen ~~(15)~~⁸ copies of a narrative description of the property which shall include the Tax Parcel Identification Number.
- ☒ 5. One (1) copy of the most recent deed(s) for the property(s) associated with the application.
- ☐ 6. A concept plan of the property showing all existing and proposed physical improvements and such other information as is necessary to clearly indicate to the Planning Commission and Board of Supervisors that adequate provisions shall be made for compliance with all standards for that particular use and the extent of the property to be so used on a given parcel or parcels. Such document shall be drawn to scale and shall include the following information:
 - o A vicinity map at a scale of no less than one (1) inch equals two thousand (2,000) feet
 - o Title of drawing
 - o Date of drawing
 - o Existing wood line
 - o North arrow
 - o Scale bar
 - o Current zoning of parcel(s) to be rezoned, including tax map number(s) and owner(s)
 - o Current zoning of adjacent parcel(s), including tax map number(s) and owner(s)
 - o Street names including route number and width(s) of the right-of-way(s)
 - o Fifteen (15) full size copies, with one (1) reduced 11 inch X 17 inch copy shall be submitted
 - o Please note that additional information on the site layout may be requested by the Zoning Administrator during the review process in order to more effectively review the application and prepare the staff reports for the Planning Commission and Board of Supervisors.

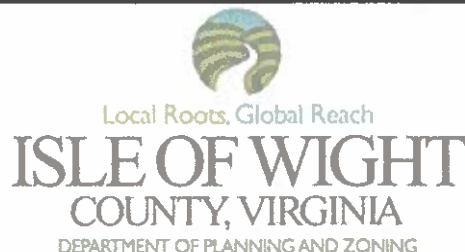
Existing Bldg is being used

7. Fifteen (15) copies of such supplemental material as may be necessitated by the proposal itself or the district in which located or proposed to be located, and in accordance with Section 5-5000, *Supplementary Use Regulations*, of the Isle of Wight County Zoning Ordinance.
8. All real estate taxes must be paid and current at the time of submittal; otherwise, the submittal will be refused at the counter. Proof of the most recent tax payment to the County must accompany the application.

I, the undersigned, certify that this application is complete, accurate and contains all required and requested information, documents and other submittals, and that all statements made herein are, to the best of my knowledge, true and correct. I further certify that I have exercised due diligence to obtain the most recent, complete and correct information available. I understand that any section not completed in its entirety may delay processing of this application and the date of the Planning Commission public hearing and that the submittal of a complete application does not guarantee the application will be placed on the next available Planning Commission agenda.

Vincent C. Carollo
Printed or Typed Name
Signature

July 15, 2021
Date



APPLICATION FOR CONDITIONAL / SPECIAL USE PERMIT

This application should be used to petition for a permit for certain uses which, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right, but which may, under the right set of circumstances and conditions be acceptable in certain specific locations. The following application requirements are consistent with the procedures set forth in Section 1-1017, *Conditional Uses*, and Section 1-1018, *Special Use Permits for Uses Not Provided For*, of the Isle of Wight County Zoning Ordinance, as amended.

A. APPLICATION FOR (CHECK ALL THAT APPLY):

☒ Conditional Use Permit (Are applicant proposed conditions attached?): ☒ Yes ☐ No

The proposed use or activity is listed as a conditional use in the SR zoning district as per Section 4-70003 in Article IV of the Isle of Wight County Zoning Ordinance.

☐ Special Use Permit (Are applicant proposed conditions attached?): ☐ Yes ☐ No

Proposed Use or Activity: _____

B. PROJECT DESCRIPTION:

Project Name: use of commercial child day care services in existing school building

Property Address (if any): 14353 benns church blvd. existing school buildings

Election District: Newport, Mr. Joel Acree

Comprehensive Plan Designation: mixed use plan district

The use permit will apply to 9,000 sq. ft of existing school bldg. acres out of 24.8 total acres

Tax Parcel Identification # 32-01-093 Number of acres to be effected: _____

Tax Parcel Identification # _____ Number of acres to be effected: _____

Tax Parcel Identification # _____ Number of acres to be effected: _____

Proposed Utilities (check all that apply): Public Water ☒ Private Well ☐

Public Sewer ☐ Private Septic ☒

C. APPLICATION INFORMATION:

Applicant(s) Name(s): benns saint luke, llc

Address: 14353 benns church blvd.

City, State, Zip Code: isle of wight county, virginia 23430

Phone No.: 757-357-0597 Email: vcarlolo@jvcholdingsllc.com Fax No.: _____

Property Owner(s) Name(s): vincent c. carollo

Address: 22 main street

City, State, Zip Code: smithfield, virginia 23430

Phone No.: 757-897-0185 Email: vcarlolo@jvcholdingsllc.com Fax No.: _____

Applicants/Owners Affidavit (including compliance with all deed restrictions and covenants)

This application must be signed by the owner(s) of the subject property or must have attached written evidence of the owner's consent, which may be in the form of a binding contract of sale with the owner's signature or a letter signed by the owner(s), containing written authorization to act with full authority on the owner(s) behalf in filing this use permit application. Signing this application shall certify the owner's compliance with all deed restrictions and covenants, and shall constitute the granting of authority of the County to enter onto the property for the purpose of conducting site analyses and compliance with Federal, State and County regulations.

Applicant: Vincent C. Carollo
Printed or Typed Name

Applicant: V. C. Carollo Date: July 15, 2021
Signature

County of Isle of Wight, Commonwealth of Virginia

Subscribed and sworn to before me Tina Louise Ozmer,
A Notary Public in and for the County of Isle of Wight,
Commonwealth of Virginia, this 15 day of July, 2021

Tina Louise Ozmer
Notary Public
Commission No. 7815116
My Commission Expires 10/01/2021

Owner: Vincent C. Carollo
Printed or Typed Name

Owner: V. C. Carollo Date: July 15, 2021
Signature

County of Isle of Wight, Commonwealth of Virginia

Subscribed and sworn to before me Tina Louise Ozmer,
A Notary Public in and for the County of Isle of Wight,
Commonwealth of Virginia, this 15 day of July, 2021

Tina Louise Ozmer
Notary Public
Commission No. 7815116
My Commission Expires 2/28/2023

Owner: _____
Printed or Typed Name

Owner: _____ Date: _____
Signature

County of Isle of Wight, Commonwealth of Virginia

Subscribed and sworn to before me _____,
A Notary Public in and for the County of Isle of Wight,
Commonwealth of Virginia, this ____ day of _____, 20__

Notary Public
My Commission Expires _____

Owner: _____
Printed or Typed Name

Owner: _____ Date: _____
Signature

County of Isle of Wight, Commonwealth of Virginia

Subscribed and sworn to before me _____,
A Notary Public in and for the County of Isle of Wight,
Commonwealth of Virginia, this ____ day of _____, 20__

Notary Public
My Commission Expires _____

NOTICE: THE ATTACHED CHECKLIST MUST BE COMPLETED, CERTIFIED, AND SUBMITTED OR THE APPLICATION WILL BE CONSIDERED INCOMPLETE.

Remit Application to: Isle of Wight County Central Permitting, 17140 Monument Circle, Suite 100
P. O. Box 80, Isle of Wight, Virginia 23397

FOR OFFICE USE ONLY:

Complete Application Received On: 7-16-2021 Fees Paid: \$1200
Tax Query: [] Current [] Delinquent Distribution Date: 7-19-21
Posted/Date to Post: _____

AGENCIES REFERRALS:

☐ Department of Conservation & Recreation	☒ Inspections
☒ Economic Development	☐ Sheriff's Office
☒ Emergency Services	☐ Town of Smithfield
☒ General Services	☐ Town of Windsor
☐ Environmental Planner	☒ VDOT
☒ Health Department	☐ Schools
☒ Transportation Manager	☐ Budget & Finance
☐ Commission of Revenue	☐ County Attorney
☐ Other _____	

Verified By: Angela M. Bui Date: 7-19-2021

benns church	Street	23430
City	State	Zip

Location or Address	Description
14353 benns church blvd.	formerly james river christian academy 24.8 acre

Name of Individuals Corporation/Partnership Business Association	Address

My Commission Expires _____

171441

PG 18 APR 03 2017

595305

PREPARED BY:

Allen C. Tanner, Jr., VSB#16174
Jones, Blechman, Woltz & Kelly, P.C.
701 Town Center Drive, Suite 800
Newport News, Virginia 23606

RETURN TO:

Jones and Jones PC
1600 S. Church Street
Smithfield, VA 23430

Title policy: Stewart Title Guaranty

Tax Map ID: 32-01-093

\$550,000.00
(assessed value \$ 1,474,900.00)

THIS DEED, made this 24TH day of March, 2017, by and between JASON KILGORE and STEVEN G. MORSE, Trustees of FIRST CHURCH MINISTRIES A/K/A FIRST FREE WILL BAPTIST CHURCH, GRANTOR, and BENNS SAINT LUKE, LLC Virginia limited liability company, GRANTEE, whose mailing address is 22 Main Street,
Smithfield, VA 23430.

WHEREAS, JVC Holding, LLC has assigned all of its right, title and interest in that certain contract dated December 14, 2016 with First Church Ministries a/k/a First Free Will Baptist Church for the property described herein to BENNS SAINT LUKE, LLC.

WITNESSETH: That for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the said Grantor does grant and convey with SPECIAL WARRANTY, unto the said Grantee, its successors and assigns, the following described property, to wit:

see attached legal description

It being the same property conveyed to Grantor by deed dated July 26, 1976 from Virginia National Bank, a national banking association, duly recorded in the aforesaid Clerk's Office in Deed Book 240, page 705.

Subject to restrictions, covenants, conditions and easements of record.

Together with all and singular the buildings and improvements thereon, rights and privileges, tenements, hereditaments, easements and appurtenances unto the said land belonging or in anywise appertaining.

WITNESS the following signatures and seals.

FIRST CHURCH MINISTRIES A/K/A FIRST FREE
WILL BAPTIST CHURCH

BY *Jason Kilgore* (SEAL)
JASON KILGORE, TRUSTEE

BY *Steven G. Morse* (SEAL)
STEVEN G. MORSE, TRUSTEE

STATE OF VIRGINIA
CITY OF NEWPORT NEWS, to wit:

The foregoing instrument was acknowledged before me this 27th
day March, 2017, by Jason Kilgore and Steven G. Morse, Trustees of the First
Church Ministries a/k/a First Free Will Baptist Church.

Teresa H. Arnold
Notary Public Registration No. 7015230

My commission expires: 7/31/18



EXHIBIT A

All of that certain tract, piece or parcel of land situate, lying and being near Benn's Church, in Newport Magisterial District, Isle of Wight County, Virginia, containing Twenty-five (25) acres, and shown and designated as Parcel A, on that certain plat of survey styled "Plat Showing Property to be Conveyed to Mt. Zion Christian Schools, Inc., Isle of Wight County, Virginia, Scale 1"=200' July 12, 1972, Baldwin and Gregg, Ltd., Engineers-Surveyors-Planners, Portsmouth, Virginia, Norfolk, Virginia", of record in the Clerk's Office of the Circuit Court of Isle of Wight County in Plat Book 5 at Page 230, bounded and described with reference to the said plat of survey, as follows: Beginning at a point in the Northeast Boundary line of U.S. Route 10, as shown on the said plat of survey, a corner for the said Parcel A hereby conveyed and the property of Harry Goodrich, and running thence up and along the said highway N. 31°02'00" W. 344.83 feet, to the point, a corner; thence N.58°58" E. 160.00 feet to a point, a corner; thence N. 31°02'00" W. 380.00 feet to a point; a corner; thence N.58°58'00" E. 1,161.88 feet to a point; a corner, thence S. 31°02'00" E. 1,387.48 feet to a point; a corner; thence S. 73°49'14" W. 238.84 feet to a point, a corner, thence N. 50°11'40" W. 179.64 feet to a point thence N. 37°52'48" W.247.08 feet to a point; thence N. 1°43'33" W.180.81 feet, to a point, a corner for the said Parcel A, hereby conveyed, and the property of Harry Goodrich; and thence running S. 60°28'24" W. 1,091.49 feet to a point in the Northeastern boundary of U. S. Route 10, a corner for the said Parcel A hereby conveyed and the property of Harry Goodrich, the point of beginning.

Less, Save and Except that portion of property conveyed to the Commonwealth of Virginia containing 0.26 acres recorded by Certificate recorded in Deed Book 218 at Page 159 and by Order recorded in Deed Book 219 at Page 360.

It being the same property conveyed to H. J. Carver, S. Milton McKinney and Don R. Pegram, Trustees of First Free Will Baptist Church (n/k/a First Church Ministries) by Deed from Virginia National Bank dated July 26, 1976 and recorded August 25, 1976 in Deed Book 240 at Page 705.

Return to:

 Jones and Jones, P.C.
1600 S. Church Street
Smithfield, VA 23430

INSTRUMENT # 170001441
RECORDED IN THE CLERK'S OFFICE OF
ISLE OF WIGHT COUNTY ON
APRIL 3, 2017 AT 03:08PM
\$1,475.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802
OF THE VA. CODE
STATE: \$737.50 LOCAL: \$737.50
SHARON N. JONES, CLERK
RECORDED BY: DDS



BENNIS SAINT LUKE
MANAGEMENT & DEVELOPMENT

**Re: Statement of Reason Prepared for Isle of
Wight County Department of Planning and
Zoning Application Special Use Permit.**

Wednesday, July 14, 2021

To the Isle of Wight County Department of Zoning and Planning,

Hello And Thank You Very Much For Being In Receipt Of. I Am Vincent C. Carollo, Principal Of Bennis Saint Luke, Llc. Management And Development. I Would Like To Present This Statement Of Reasons For Complimenting And Seeking The Conditional Use Permit Precise To Property Located 14353 Bennis Church Boulevard In Isle Of Wight County With Tax Parcel Identification Number 32-01-093.

My Purchase Of The Property In 2017, The Zoning Is Suburban Residential With Multiple Buildings In Existence To This Current Day. The Property Is Informally Known Today As The " Old Christian School" Consisting Of Two Academic Buildings Built In The Circa 1970-1972 And The Gymnasium Built In Circa 1982. Upon Commencement Of The School Enrollments Until 2007-2008, The School Was Fully Enrolled As A Private Academy With These Uses: A Private Academic Academy, Including Day Care On Premises. After The Academy In 2007-2008 Was Unsuccessful To Keep Enrollment At Operational Levels, The Academy Closed And Was Continued To Be Owned And Operated By Then Property Owners First Free Will Baptist Church Which Continued To Offer Day Care And Child Care Within The Same Building That Are Standing Today Which Southside Vineyards Church Currently The Tenant Profile Since Before My Company's Purchase In 2017.

In May 2021 The Board Of Supervisors Had Requested To Staff And Planning Commission A Text Edit Amendment To The Current Zoning To Include Commercial Day Care And Child Care Use. Currently, At This Time Of Letter Of Statement, The Planning Commission And Staff Has Recommended For Approval A Text Edit Amendment And Bring Forward To Board Of Supervisors. I Believe And Understand The Formal And Official Vote On The Text Edit Amendment To Include Use Of A Commercial Use Child Day Care Services Within The Existing School Building Located At 14353 Bennis Church Blvd. Building 100 Will Be For Board Of Supervisors To Vote On July 15, 2021.

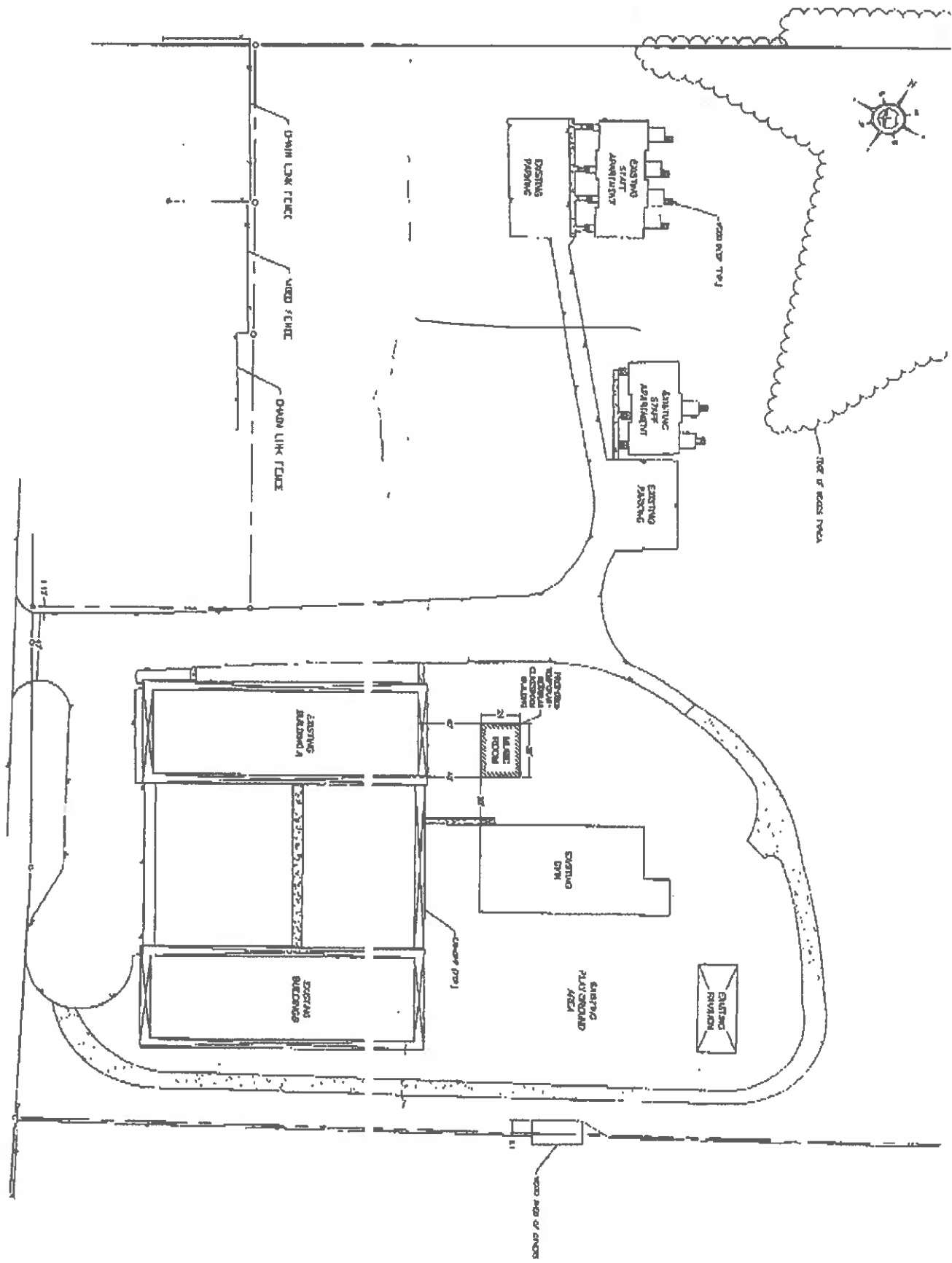
Thank You Very Much For Your Consideration,

**Vincent C. Carollo
Principal
Bennis Saint Luke, LLC.**

Property details

- ☒ 24.9 acres partially wooded with 18,600 sq.ft school & 6,000 sq.ft gymnasium brick and mortar buildings.
- ☒ City water on site and septic system currently for townhomes and former school facility
- ☒ Public sewer available at frontage route 10
- ☒ Currently zoned suburban residential
- ☒ New comprehensive plan 2020 approved to mixed use planning district zoning
- ☒ Suitable for private academy school, child daycare use
- ☒ Located on route 10, the corridor of all new commercial and residential development

HIGHWAY 10 - BENNIS CHURCH BOULEVARD



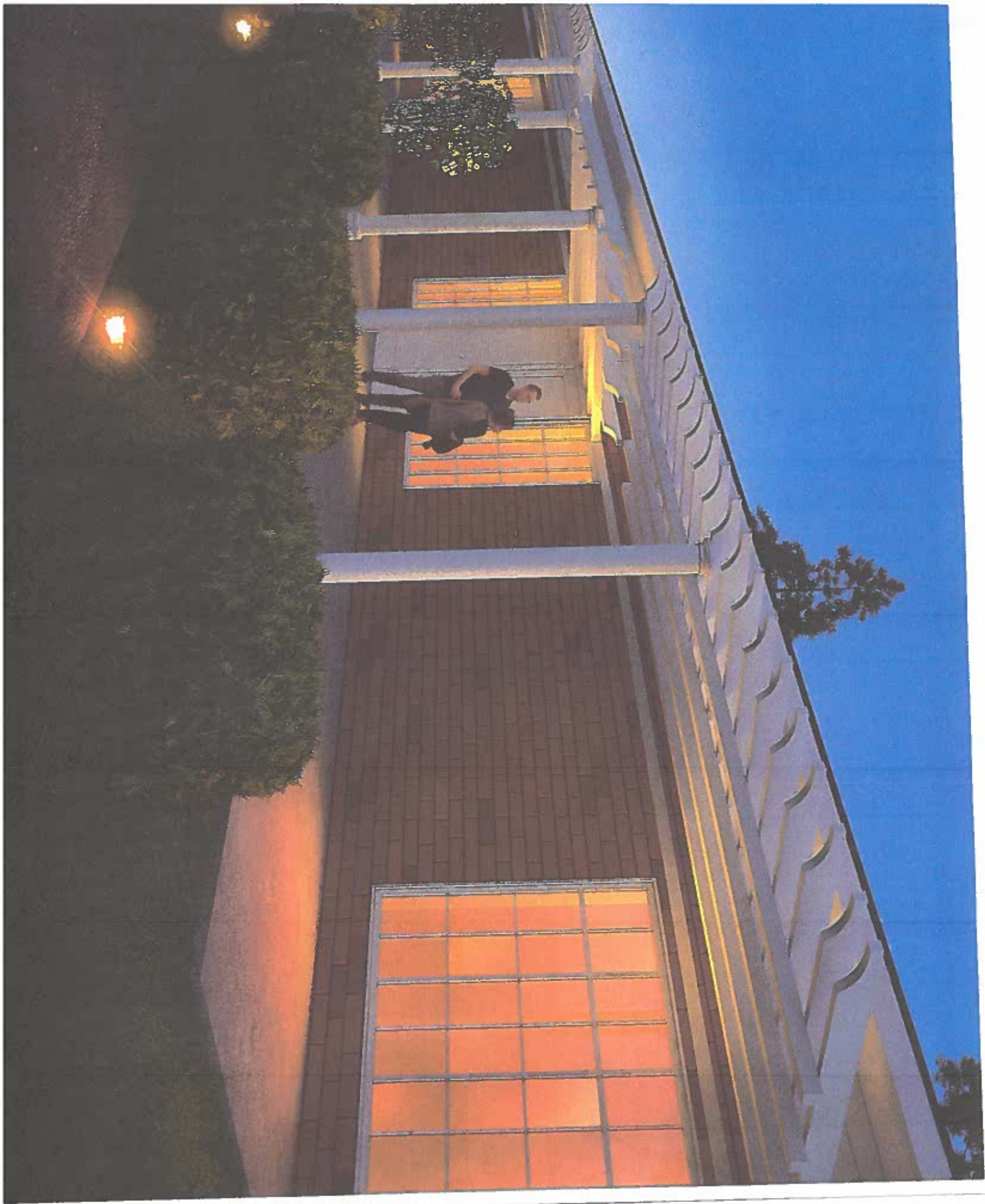
REVISIONS TO THIS PLAN
OR INFORMATION HEREON

**JAMES RIVER
CHRISTIAN ACADEMY
TEMPORARY MUSIC ROOM
SITE PLAN**

DATE	1/21/03
BY	W. J. B. / J. B. B.
CHECKED BY	W. J. B. / J. B. B.
APPROVED BY	W. J. B. / J. B. B.
DATE	1/21/03



Rickmond Engineering, Inc.
 1043 Montross Blvd. Norfolk, VA 23505
 Phone: (757) 725-1778 Fax: (757) 725-4863
 E-mail: info@rickmondeng.com
 Rickmond Engineering, Inc. is a subsidiary of
 1043 Montross Blvd. Norfolk, VA 23505
 Phone: (757) 725-1778 Fax: (757) 725-4863
 E-mail: info@rickmondeng.com



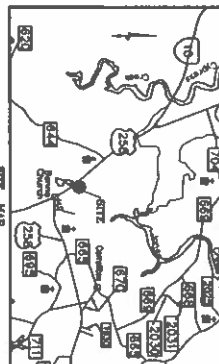
Existing Bldg. is being used.







7 Apartment Units – 1 Unfinished; 6 Leased / Occupied



Scales

EXISTING CONDITIONS DRAWINGS

14353 Bennis Church Blvd, Smithfield, VA 23430



OWNER:

AFC HOLDINGS, LLC
CONTACT: VINCENT CAROLLO
1887 SOUTH CHURCH STREET
SMITHFIELD, VA 23430
757-293-0887

SHEET INDEX:

T1.01	TITLE SHEET
A1.01	FLOOR PLANS
A1.02	ROOF PLAN
A1.03	ELEVATIONS
A1.04	BUILDING SECTIONS
A1.05	BUILDING SECTIONS

Drawn: DPM/AVT
Check: GAC/Chenah A/C
Date: 2/1/2018

T1.01

TITLE SHEET

REVISION SCHEDULE			
#	Description	Date	By

EXISTING CONDITIONS
DRAWINGS

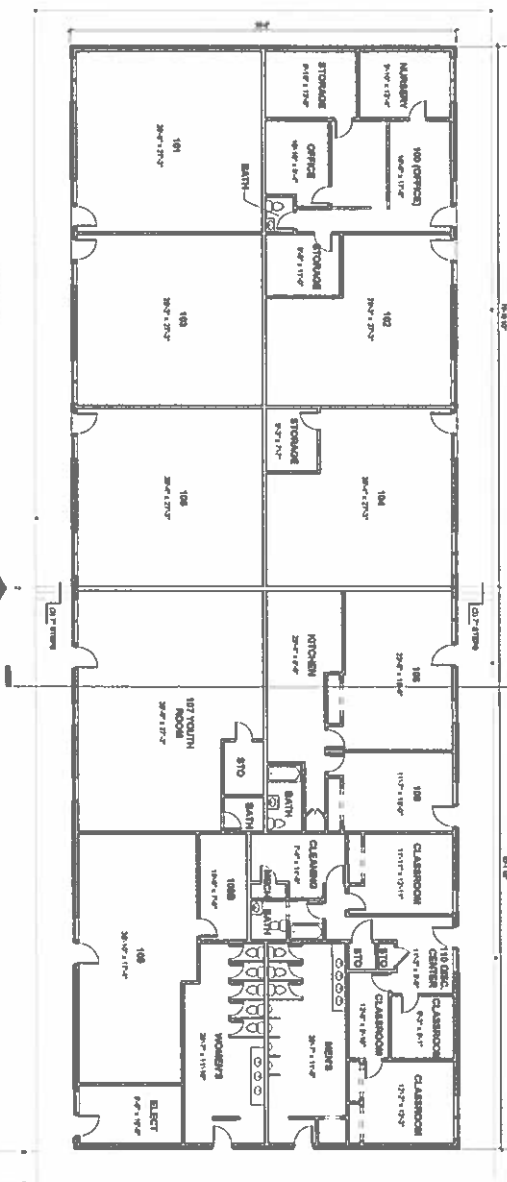
14353 Bennis Church Blvd, Smithfield, VA 23430


GuernseyTingle

757-220-8220 Williamsburg, VA
guernseytingle.com

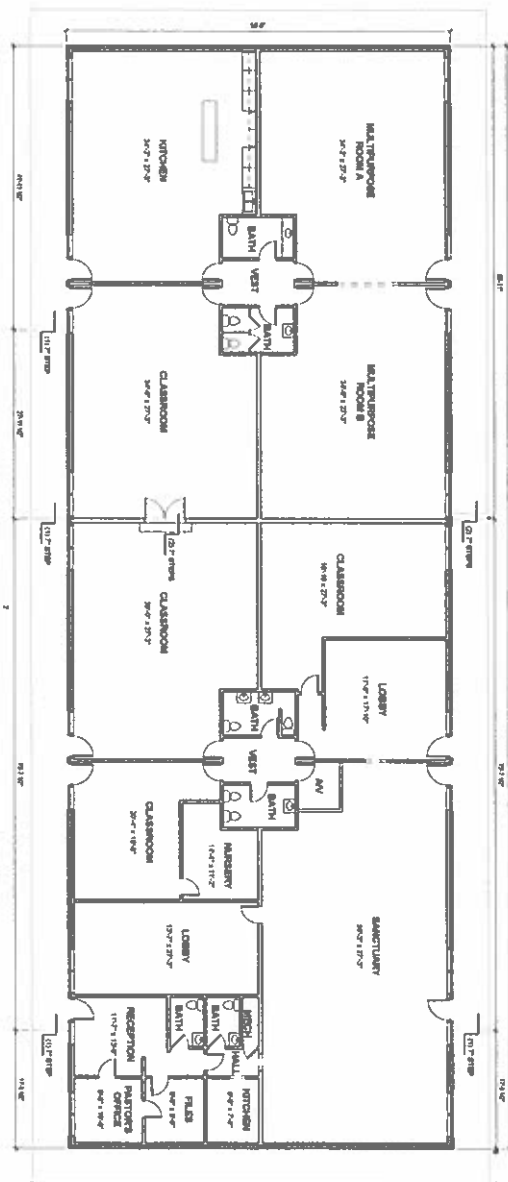
BUILDING #1 FLOOR PLAN

0.240 G. FT. 1000000



2 BUILDING #2 FLOOR PLAN
15' = 1'-0"

0.240 SQ. FT. (200065)



<u>REVISION SCHEDULE</u>			
S.	Coverage item	Date	Initial

Please remember, you can average across all groups at the end of each semester or year and still have excellent command of the material!

EXISTING CONDITIONS
DRAWINGS

14353 Benns Church Blvd, Smithfield, VA 23430



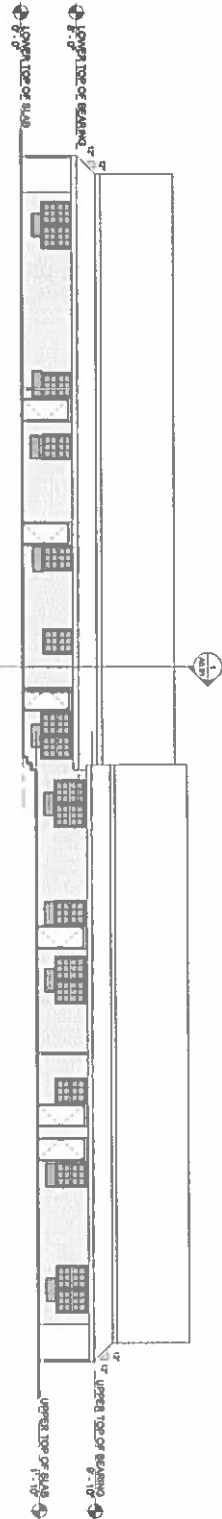
GuernseyTingle

757-220-0220 Williamsburg, VA
governor@kingle.com

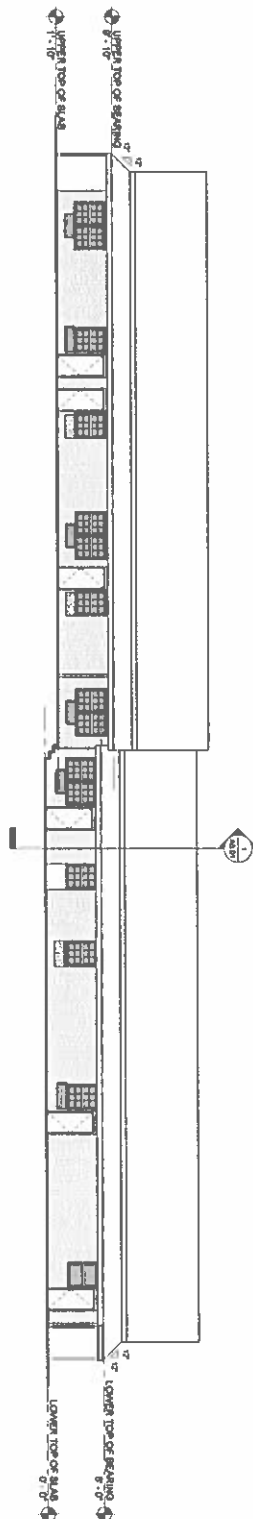
A2.01

Case	03-1477
Owner	CMC Capital APC
Project	217020

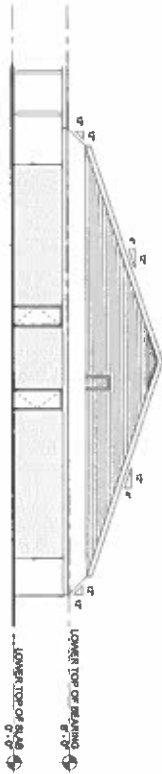
1 BLDG 1 - NORTH - EXISTING



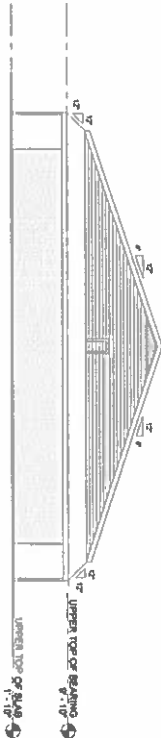
2 BLDG 1 - SOUTH - EXISTING



3 BLDG 1 - EAST - EXISTING



4 BLDG 1 - WEST - EXISTING



BUILDING #1
ELEVATIONS

REVISION SCHEDULE

Revision	Date

EXISTING CONDITIONS
DRAWINGS

14353 Benns Church Blvd, Smithfield, VA 23430

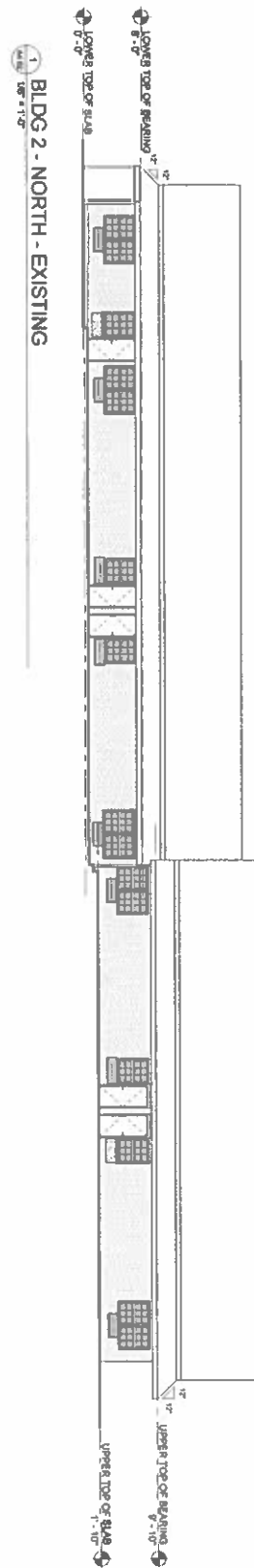


GuernseyTingle

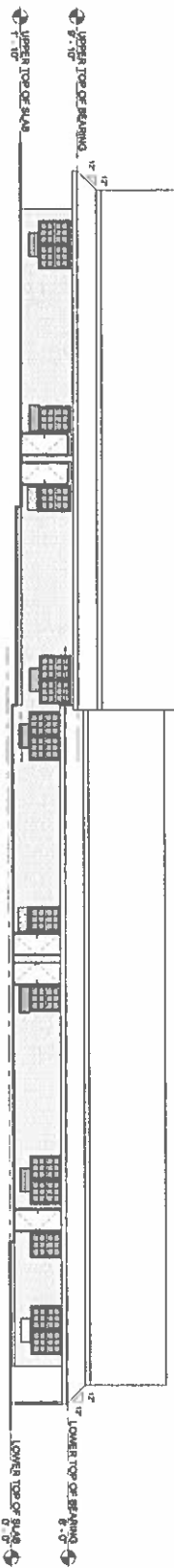
757-720-0220 | 10311 Ambury, VA
guernseytingle.com

A4.01

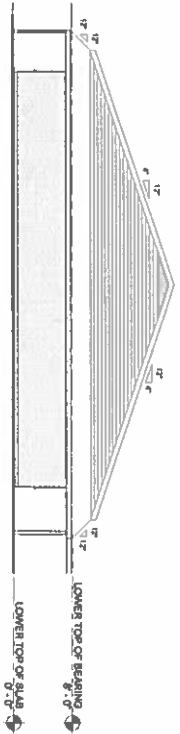
Doc: 021417
Client: CHS Chemical LLC
Project: 217020



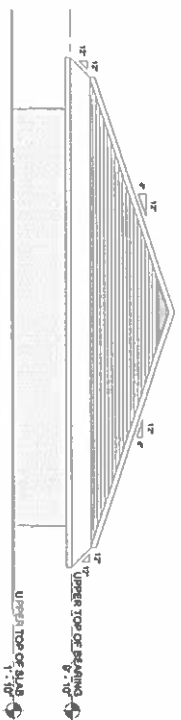
1 BLDG 2 - NORTH - EXISTING
1/8" = 1'-0"



2 BLDG 2 - SOUTH - EXISTING
1/8" = 1'-0"



3 BLDG 2 - EAST - EXISTING
1/8" = 1'-0"



4 BLDG 2 - WEST - EXISTING
1/8" = 1'-0"

REVISIONS		
NO.	DESCRIPTION	DATE

EXISTING CONDITIONS
DRAWINGS

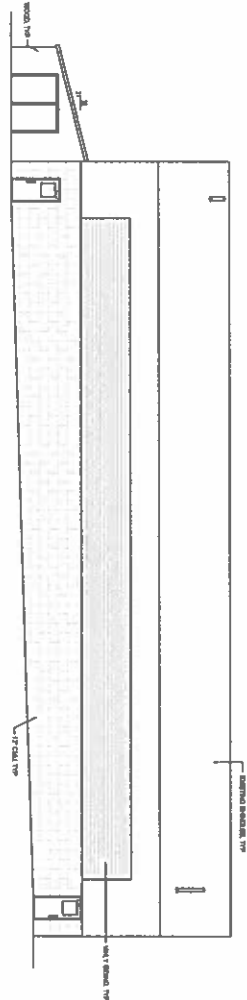
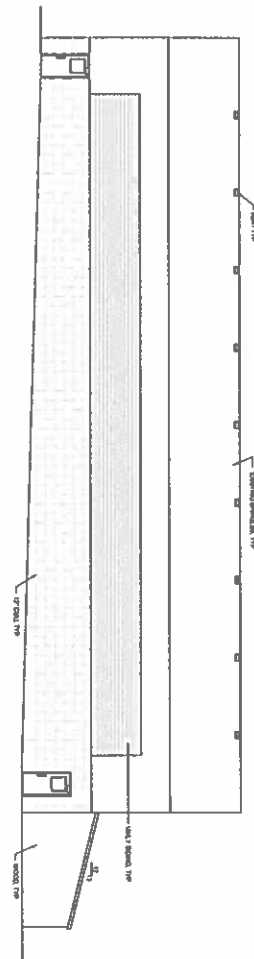
14353 Benns Church Blvd, Smithfield, VA 23430


GuernseyTingle

757-270-0220 Williamsburg, VA
guernseytingle.com

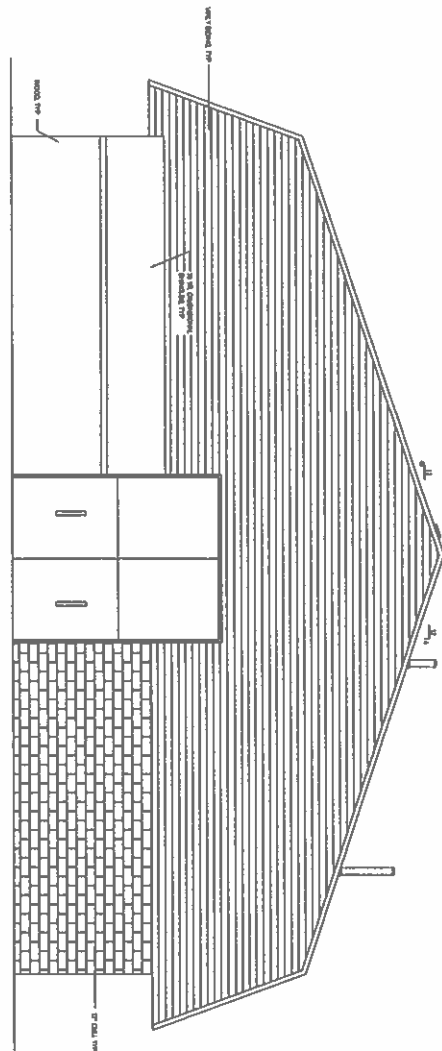
A4.02

DATE: 03/14/17
DRAWN: CMC, Checked: APC
PROJECT: 217000

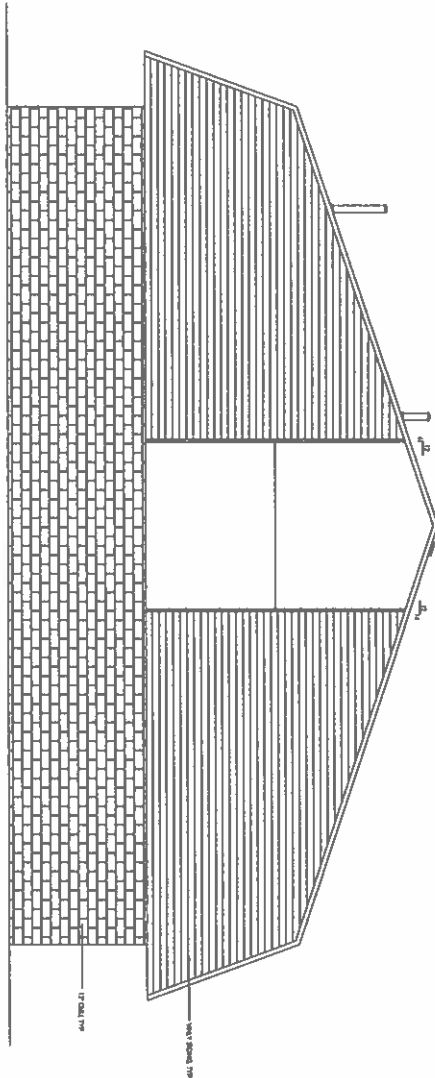


NOTE:

- ALL EXISTING FIELD DIMENSIONS INDICATED
- ALL MATERIAL EXIST



2
A-10 GYMNASIUM REAR ELEVATION - ASBUILT
SCALE: 1" = 1'-0"



1
A-10 GYMNASIUM FRONT ELEVATION - ASBUILT
SCALE: 1/4" = 1'-0"

These documents are among the first ever
issued under the new law and are the first
issued at a local level. The documents are the first
of their kind in the world and are the first
ever issued by a government. They are the first
documents of their kind in the world.

AS-BUILT
14345 BENNS CHURCH
SMITHFIELD, VIRGINIA 23430

Project: D018
 Revision: 001
 Date: 02/22/2011

t.m.beverly and
associates
planning architecture

A-10



THEORY

QUESTION

ANSWER

Մեծ համայնքի քաղաքացիները պետք է համոզվեն, որ իրենց քաղաքացիական իրավունքները պաշտպանելու համար իրենց հնարավորությունները չեն կորցրել:



BENNIS SAINT LUKE
MANAGEMENT & DEVELOPMENT

Friday, August 6, 2021

Ms. Claire Jones
Assistant Director; Isle Of Wight Planning And Zoning
Re: Business Profile Of Child Daycare / Planning Commission
Isle Of Wight County, Virginia

Dear Claire,

Hello And How Are You. Thank You For Taking My Call Yesterday Concerning The 14353 Bennis Church Boulevard Potential Tenant Profile. With The Conditional Use Permit And Text Edit Amendment Approved By Last Months Board Of Supervisors Meeting: I Would Like To Submit Particulars Complimenting With My Company's Application For 14353 Bennis Church Boulevard Leading Into August 24, 2021 Planning Commission Public Hearing For A Child Daycare Tenant On This Property.

On Behalf Of Potential Tenant And Their Business Profile At Current Location, I Would Like To Present Business Evidences And Or Data Regarding To Their Current And New 14353 Bennis Church Blvd. Location. Such Business Indications Was Requested From Isle Of Wight Planning And Zoning Respects To The Application Submitted. If There Is Any Call That I May Be Of Assistance, Certainly It Will Be Done As Well The Tenant's 2021, And Or Representatives Will Be Willing To Answer Any Responsibilities.

Sincerely ,

Vincent C. Carollo
Principal Bennis Saint Luke, Llc

Leasing Landlord: Bennis Saint Luke, LLC.
Business Name: Kids Come 1St
Business Address: 1605 South Church Street. Smithfield, Virginia.
Business Hours: Monday - Friday, 6:00Am - 6:00Pm
Business Use: Child Daycare Expanding
Business Capacity At Current Location And New Location:
Currently 99 Is Max Occupancy Inclusive With Staff At
Currently At 15. The Number Of Children Is Based Off Of
The Room Sizes Which Will Be Dictated By Social
Services.

New Employment: 15 Staff Members Employed Currently And New
Employment Opportunities Will Rise To
Approximately New 15 Staff Members: Dictated By
Social Services Laws And Or Compliances Of Ratios For
Certification And Or New Enrollment Proportioning To
Room Sizes And Kids Come 1St Infant Care Programs.

Child Daycare Enrollment: New Enrollment Is To Be Projected At This
Current Time Minimum 125 Children With New Staff In
Addition. The New Location Building Is 9,000 Square Feet
Allowing For New Maximum Occupancy Greater Than 99
Social Services Will Dictate Enrollment Population
Based On All Conditions Of Room Sizes, Ratios Of
Children To Staff Daycare Needs And Space Of Rooms
And Facility Along With The Business Philosophy Of Kids
Comes 1St.

Business Commencing: September Fall 2021

School Bus Traffic Hours: The Drops Off At The New Location Will Be On The
Interior Of 14353 Benn Church Blvd. Such Campus Being
In Exact Site. The Convenience Of Bus And Or Parents
Drop Off And Pick Up Will Be Disciplined On The Interior
Parking Lots Using Existing School Bus Area
On Campus. Children Drop Off Begin At 7:30Am To
8:00Am And Pick Up 4:00Pm To 4:45Pm. Kids Come 1St
Already Works Concert With The Public And Private
Schools. Bus Services For Convenience To Family Parents
In Use Of The Bussing Services From Westside, Hardy,
Carrollton And Isle Of Wight Academy Schools.

Ownership Name: Kids Come 1St; Inc.
Mr. Pete Mintz And Mrs. Jamie Mintz
1605 South Church Street
Smithfield, Virginia 23430
Office: 757.357.2006

Property details

- ☒ 24.9 acres partially wooded with 18,600 sq.ft school & 6,000 sq.ft gymnasium brick and mortar buildings.
- ☒ City water on site and septic system currently for townhomes and former school facility
- ☒ Public sewer available at frontage route 10
- ☒ Currently zoned suburban residential
- ☒ New comprehensive plan 2020 approved to mixed use planning district zoning
- ☒ Suitable for private academy school, child daycare use
- ☒ Located on route 10, the corridor of all new commercial and residential development



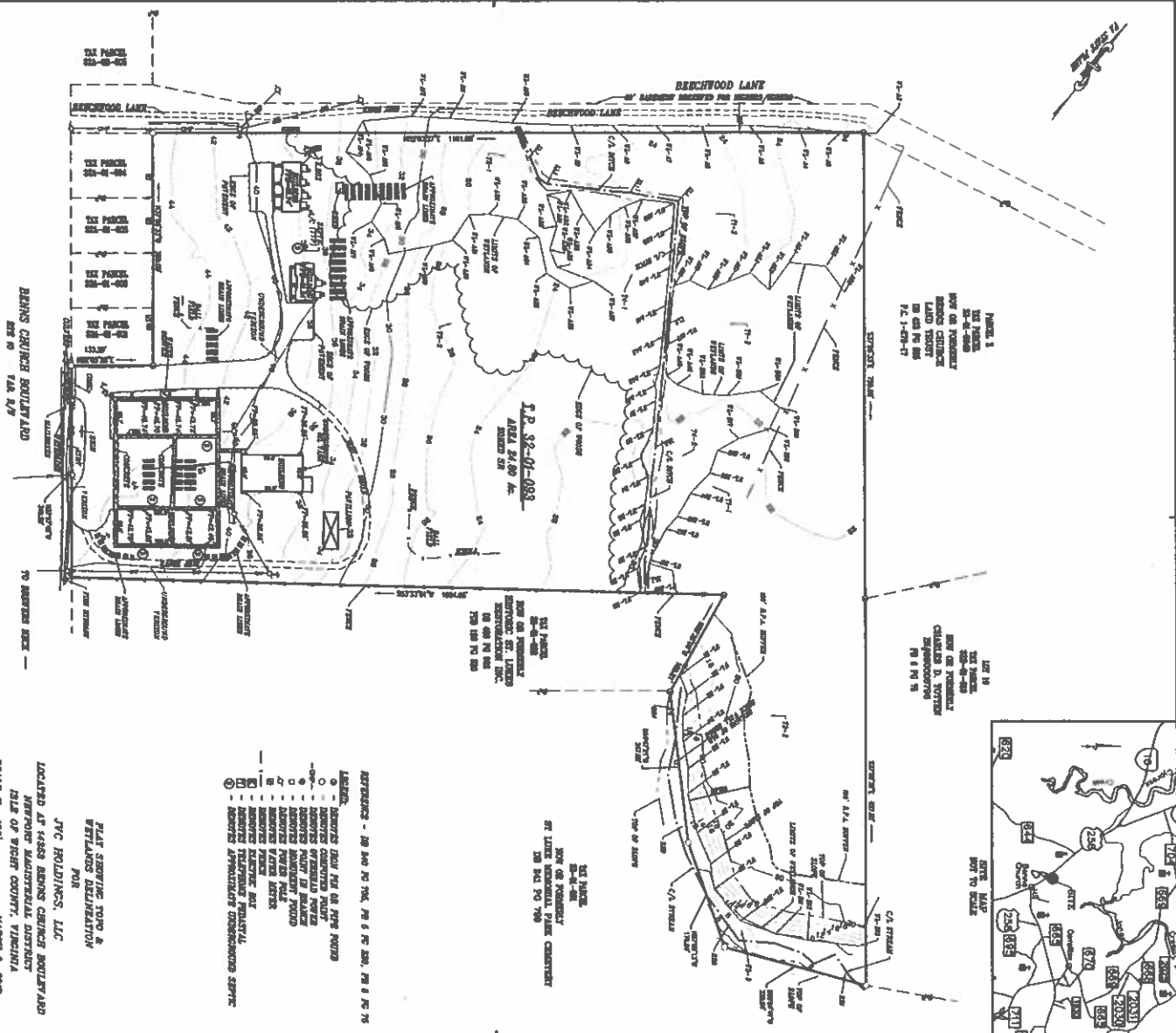


Existing Bldg. is being used.





7 Apartment Units – 1 Unfinished; 6 Leased / Occupied



TERMS OF SERVICE BY ORDER OF THE ASSOCIATION MAY 1, 1997.

THIS STORY HAS BEEN COMPLETED WITHOUT THE REQUEST OF A FINAL RELEASE. THEREFORE, THIS STORY IS SUBJECT TO ALL REVISIONS OF RECORD, LAW, TRANSLATIONS AND OTHER INFORMATION THAT MAY BE OBTAINED FROM THE SOURCE. THE FOLLOWING FACTS WERE A FINAL RELEASE FROM THE SOURCE. THIS IS A FINAL RELEASE. SOURCE WAS PLACED IN THE 6 TO 100.

THE PAPER 224-41-43 NEW ON PAPER C. DONALD MOORE 219/60000744 PG 4 PG 125	THE PAPER 224-41-43 NEW ON PAPER DAVID W. COOPER EVA P. COOPER CHRISTOPHER J. COOPER 219/60000331
---	--

THE PACE, 224-4-404 FOR OR THROUGHLY JVC LLC 04960006076 720 4 PG 104	THE PACE, 224-4-404 FOR OR THROUGHLY STULIA C. MARY/AL 04960006046 720 200 PG 107
--	--

**CANADA
AND A MARCH
SURVEILLANCE**

12112, Canada Street, Vancouver, BC V6Z 1G9
PHONE: 778-452-9111

LOCATED AT 14358 BENNS CREECH BOULEVARD
NEWPORT MAGISTERIAL DISTRICT
ISLE OF WIGHT COUNTY, VIRGINIA
SCALE 1" = 100' MARCH 8, 2017

MARCH 8, 2017

Score

PLAT SHOOTING TOPO &
WETLANDS DELINEATION
FOR
JWC HOLDINGS LLC

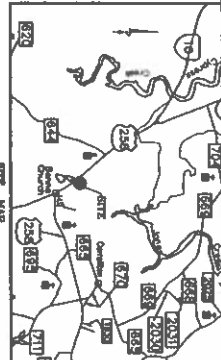
For

[illegible]

Call TOLL FREE
 800-441-4841
 NOT ON ROSSBURY
 ST LINE MATERIAL PARK CLOSURE
 IN 2001 PG 750

PAGE 1
THE POWER
22-41-0000

THE PAPER,
300-40-000
ALLEN D. POTTER
FBI & FBI 75



EXISTING CONDITIONS DRAWINGS

14353 Benns Church Blvd, Smithfield, VA 23430



OWNER:

APT HOLDINGS, LLC
CONTACT: VINCENT CAROLLO
1807 SOUTH CHURCH STREET
SMITHFIELD, VA 23430
757.267.6587

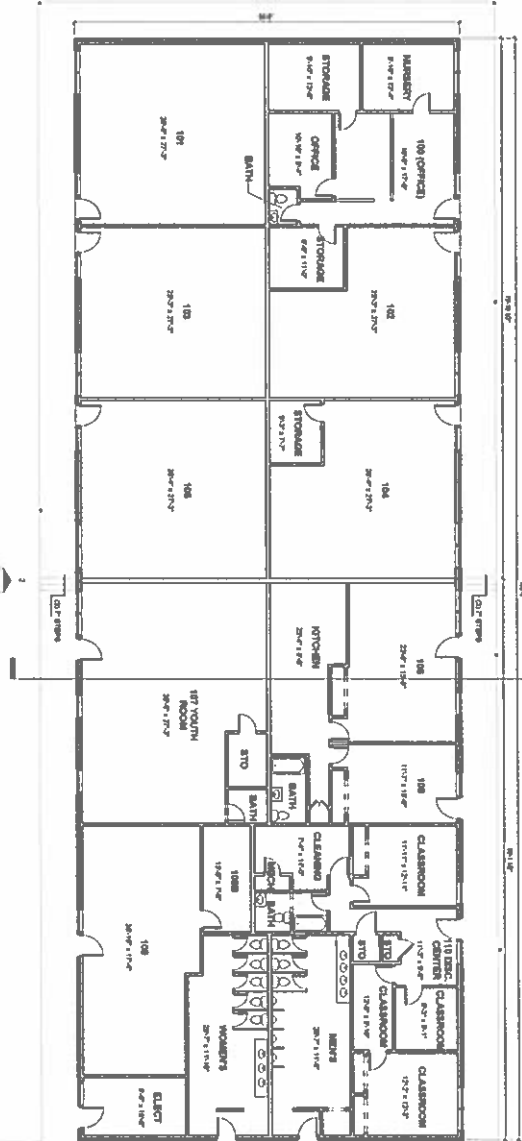
SHEET INDEX:

	TITLE SHEET
T1.01	TITLE SHEET
A1.01	FLOOR PLANS
A1.02	SECTION ELEVATIONS
A1.03	BUILDING ELEVATIONS
A1.04	BUILDING SECTIONS

BUILDING #1 FLOOR PLAN

3,240 SQ. FT. (GROSS)

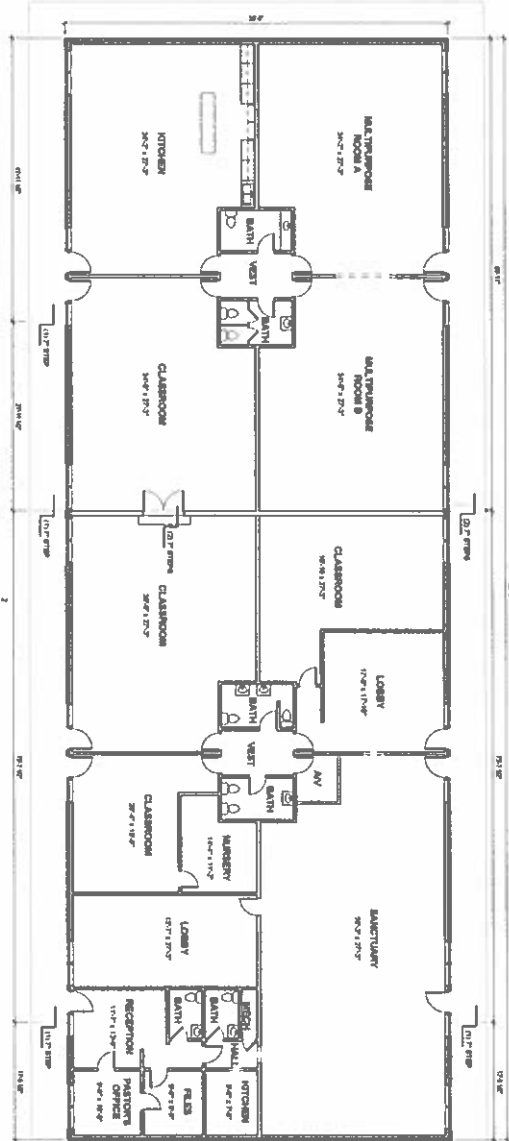
1/8" = 1'-0"



BUILDING #2 FLOOR PLAN

3,240 SQ. FT. (GROSS)

1/8" = 1'-0"



A2.01

Sheet: A2.01

Drawn: CMC

Checked: JFC

Project: 277000

FLOOR PLANS

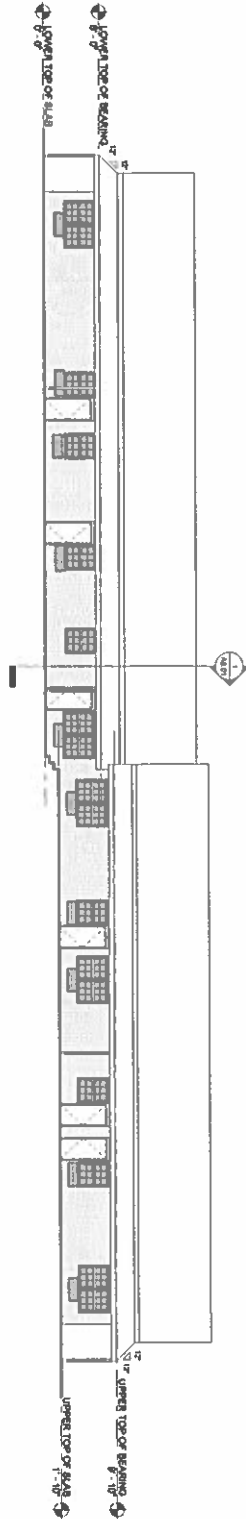
REVISION SCHEDULE		
#	Description	Notes

EXISTING CONDITIONS DRAWINGS

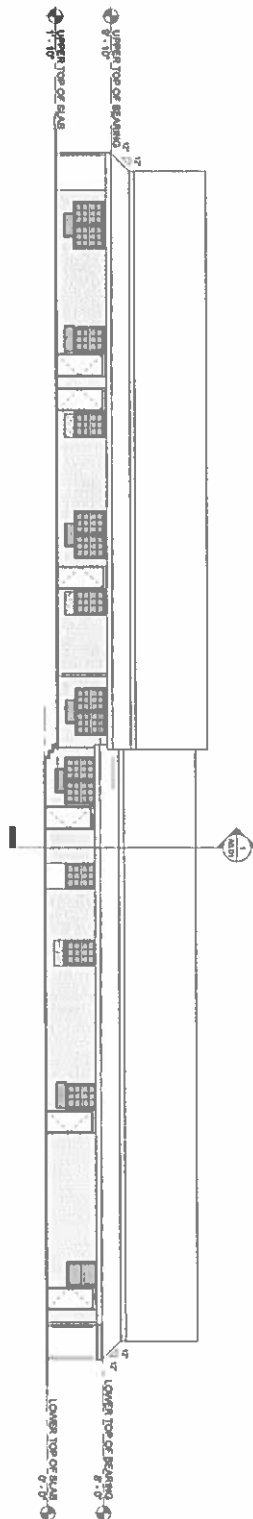
14353 Benne Church Blvd, Smithfield, VA 23430

GuernseyTingle
757-270-0220
smithfield, VA
guernseytingle.com

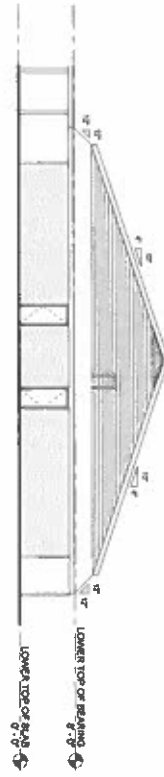
1 BLDG 1 - NORTH - EXISTING



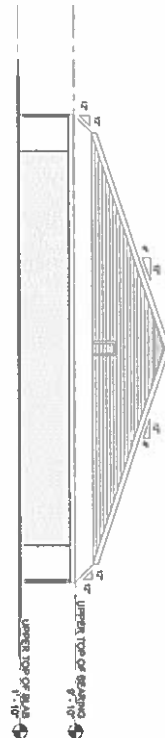
2 BLDG 1 - SOUTH - EXISTING



3 BLDG 1 - EAST - EXISTING



4 BLDG 1 - WEST - EXISTING



EXISTING CONDITIONS DRAWINGS

14353 Benita Church Blvd, Smithfield, VA 23430

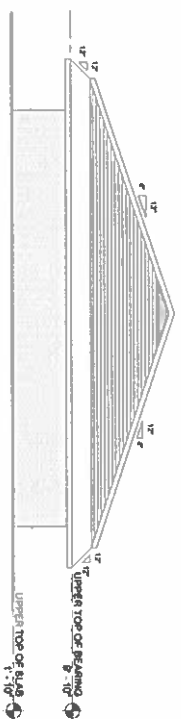
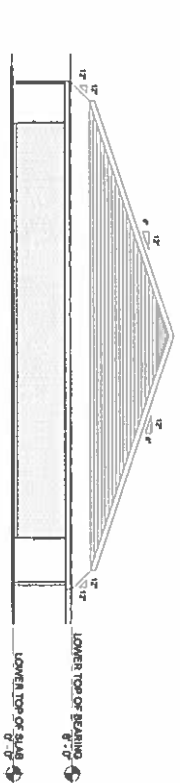
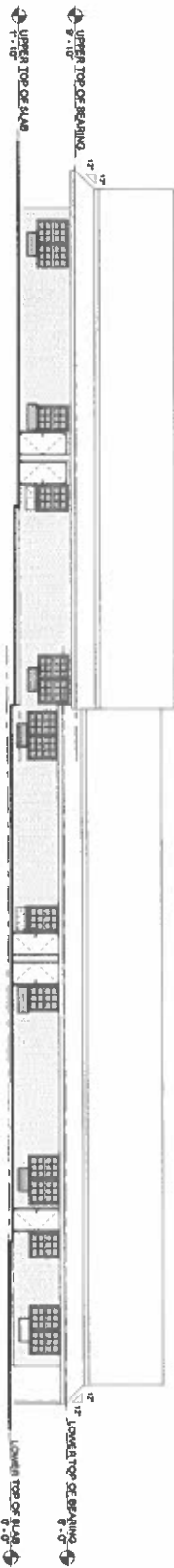
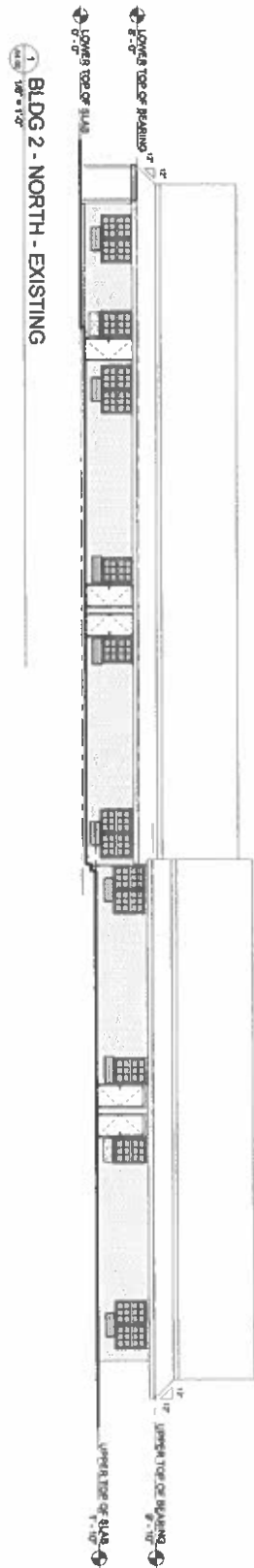
GuernseyTingle
757-270-0220 Williamsburg, VA
guernseytingle.com

REVISION SCHEDULE		
#	Description	DATE

BUILDING #1
ELEVATIONS

Drawn: 02/14/17
Checked: CMC, Drawn: ANC
Project: 217003

A4.01



REVISIONS SCHEDULE		
#	Description	Drawn

EXISTING CONDITIONS DRAWINGS

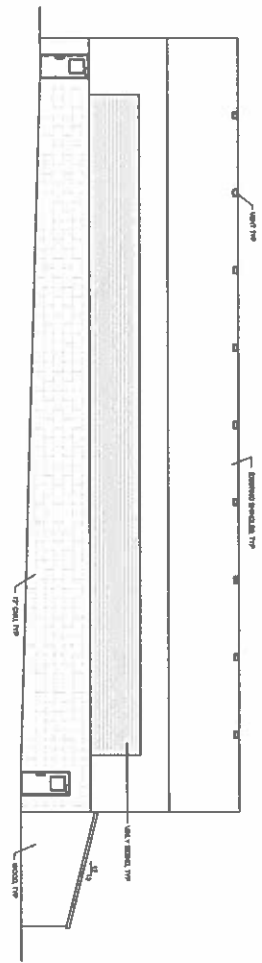
14353 Bennis Church Blvd, Smithfield, VA 23430

GuernseyTingle

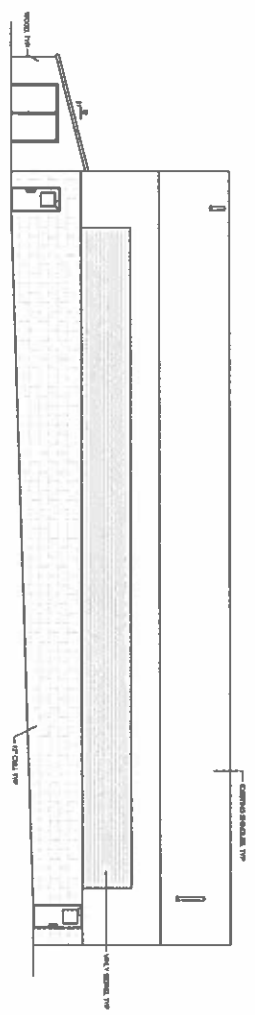
757-230-0820 | Williamsburg, VA
guernseytingle.com

A4.02

DATE: 03/14/17
DRAWN: CAC/C
CHECKED: JAC
PROJECT: 217000



2 GYMNASIUM RIGHT SIDE ELEVATION - AS-BUILT
A-11 SCALE: 1/8" = 1'-0"



1 GYMNASIUM LEFT SIDE ELEVATION - AS-BUILT
A-11 SCALE: 1/8" = 1'-0"

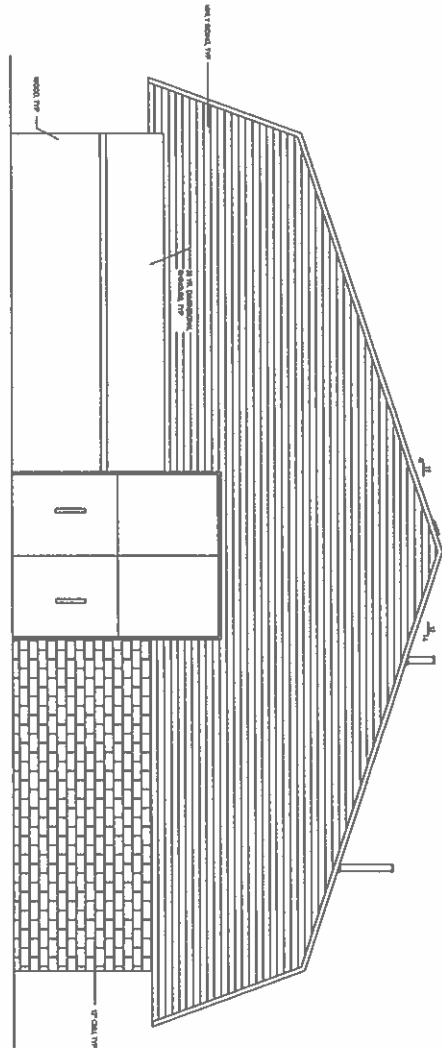
NOTE:
• ALL EXISTING FIELD DIMENSIONS INDICATED
• ALL MATERIAL EXIST

These documents are prepared by the Architect for the Client and are not to be used for any other purpose without the written consent of the Architect. The Architect assumes no responsibility for the accuracy or completeness of the information provided by the Client. The Architect is not responsible for the design or construction of any structure or system that may be affected by the use of these documents. The Architect is not responsible for the design or construction of any structure or system that may be affected by the use of these documents. The Architect is not responsible for the design or construction of any structure or system that may be affected by the use of these documents.

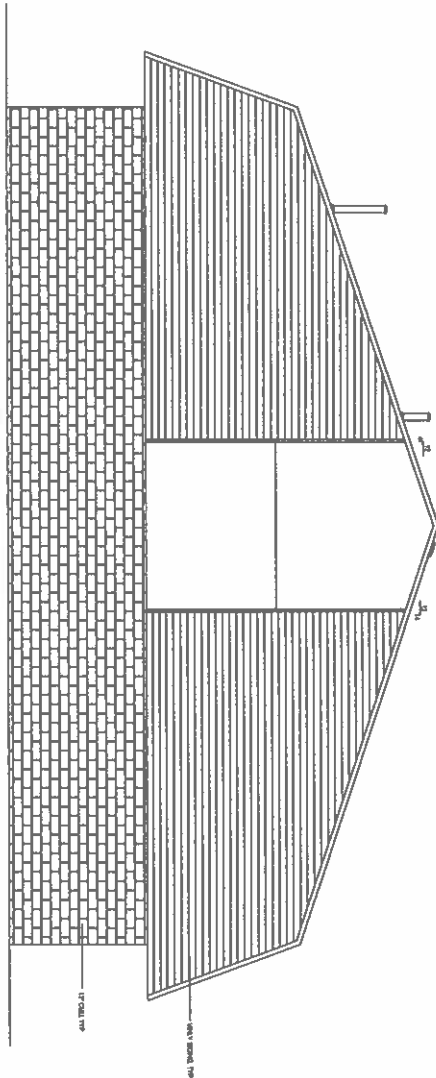
J.V.C HOLDINGS, LLC
1807 SOUTH CHURCH ST.
SMITHFIELD, VA 23430
'AS-BUILT' FOR 14345 BENNS CHURCH BLVD
SMITHFIELD, VIRGINIA 23430

Project: 23-009-17
Revised: 04/26/23
02232017

t.m.beverly and
associates
planning architecture



2 GYMNASIUM REAR ELEVATION - AS-BUILT
SCALE 3/4" = 1'-0"



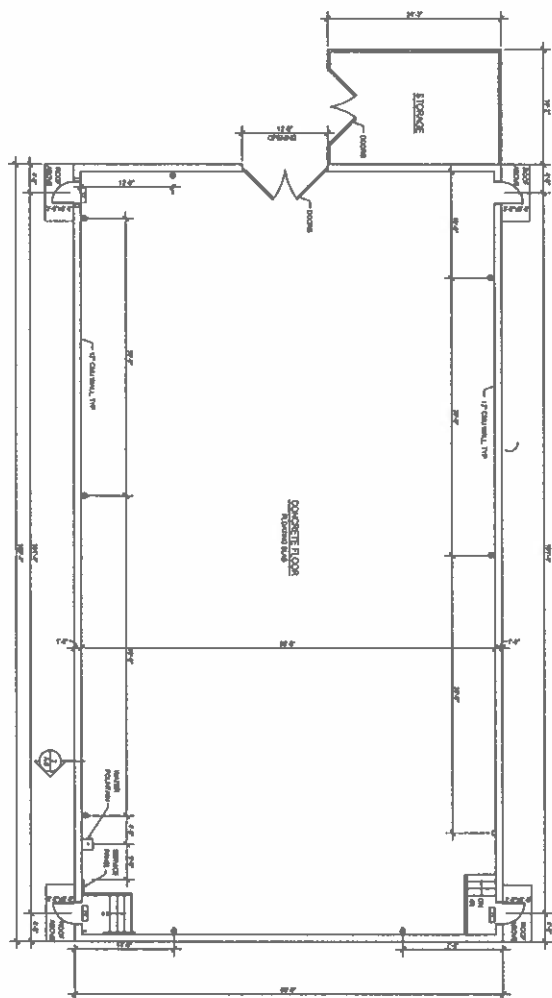
1 GYMNASIUM FRONT ELEVATION - AS-BUILT
SCALE 3/4" = 1'-0"

AS-BUILT
14345 BENNS CHURCH
SMITHFIELD, VIRGINIA 23430

Project Date
21 FEB 17
Revised: 0000
02222017

t.m.beverly and
associates
planning architecture

A-10

[illegible]

ELECTRICAL WIRING

The diagram illustrates the electrical wiring for a house. It shows a main switch connected to a meter, which then branches out to various rooms. The rooms and their appliances are:

- Living room: TV
- Kitchen: Refrigerator
- Bathroom: Shower
- Bedroom: Bed
- Study: Desk and chair

The wiring is shown as a series of lines connecting the main switch to the meter, and then to the rooms. The rooms are labeled with their names and the appliances they contain.

DATA FIELD IDENTIFICATION

	STUDY NAME
	DATE/TIME



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

23116 Meherrin Road
COURTLAND, VIRGINIA 23837

July 30, 2021

Amy Ring
Isle of Wight Planning and Zoning
P. O. Box 80
17140 Monument Circle
Isle of Wight, VA 23397

**RE: CUP-04-21 James River Christian Academy Day Care Conditional Use Permit
Tax Map #32-01-093
14353 Benn's Church Blvd (Route 10/258)
Isle of Wight County**

The Residency has completed its review of the subject conditional use permit application dated July 19, 2021 and received by the VDOT Land Development Office on July 27, 2021. We offer the following comment:

- 1) Current conditions at the site consist of no right turn lane, and a 150' x 100' left turn lane and taper into the site. Currently, the entrance is utilized by 2 apartment buildings consisting of approximately 7 units. As redevelopment/repurposing of the site continues, it is likely that infrastructure improvements may become necessary. Site trip generation should be provided in accordance with the ITE Trip Generation manual, and the applicant should provide turn lane warrants looking at the need for right and left turn lanes into the site with the change to allow the daycare use. Existing site traffic should be included in the analysis.

If you have any questions, please contact me at 757-346-3068 or Joshua.Norris@vdot.virginia.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joshua R. Norris".

Joshua R. Norris
Land Use Engineer
Virginia Department of Transportation
Franklin Residency

James River Christian Academy Child Care Center CUP Request
Application Number CUP-04-21
14353 Benns Church Boulevard

VICINITY MAP



SOURCE: Isle of Wight County 2017 Aerial Photography and Parcel Data August 17, 2021



James River Christian Academy Child Care Center CUP Request
Application Number CUP-04-21
14353 Benns Church Boulevard

FUTURE LAND USE MAP



SOURCE: Isle of Wight County 2017 Aerial Photography and Parcel Data
Created August 24, 2021



James River Christian Academy Child Care Center CUP Request
Application Number CUP-04-21
14353 Benns Church Boulevard

ZONING MAP



RESOLUTION NUMBER PC-21-07

**ISLE OF WIGHT COUNTY PLANNING COMMISSION
A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION
TO THE BOARD OF SUPERVISORS RELATING TO CONDITIONAL USE PERMIT
REQUEST CUP-04-21 FOR A CHILD CARE CENTER AT 14353 BENNS CHURCH
BOULEVARD WITH TAX MAP NUMBER 32-01-093**

WHEREAS, Vincent C. Carollo of Benns Saint Luke, LLC, applicant and property owner, has requested a conditional use permit to allow a child care center of up to 9,000 square feet on the property located at 14353 Benns Church Boulevard with tax map number 32-01-093; and

WHEREAS the procedural requirements for the consideration of this request by the Planning Commission have been met.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of Isle of Wight County, that:

Section 1. Findings.

- _____ A. The Isle of Wight County Planning Commission finds that the proposed amendment to conditional zoning is reasonable and warranted due to a change in circumstances affecting the property and has considered the following factors and finds that the proposed rezoning does not conflict with:
1. the existing use and character of property within the County;
 2. the Comprehensive Plan;
 3. the suitability of the property for various uses;
 4. the trends of growth or change;
 5. the current or future requirements of the community as to land for various purposes as determined by population and economic studies and other studies;
 6. the transportation requirements of the community;
 7. the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services;
 8. the conservation of natural resources;
 9. the preservation of floodplains;
 10. the preservation of agricultural and forestal land;
 11. the conservation of properties and their values; and

12. the encouragement of the most appropriate use of land throughout the County.

_____ B. The Isle of Wight County Planning Commission does not find that the proposed zoning map amendment is reasonable based on the consideration of the factors listed herein.

Section 2. Recommendation to Board of Supervisors.

The Planning Commission recommends to the Board of Supervisors that the request with application number CUP-01-21 be:

- ___ a. Granted as submitted, and that the Board of Supervisors adopt the proposed Ordinance without modification.
- ___ b. Denied, and that Board of Supervisors not adopt the proposed Ordinance.
- ___ c. Granted with the modifications set forth on the attached listing of specific recommendations, and that the Board of Supervisors adopt the proposed Ordinance with such modifications.

DATE: _____

READ AND PASSED: _____
Chairman, Isle of Wight County Planning Commission

TESTE: _____
Secretary, Isle of Wight County Planning Commission

Approved as to Form:

Robert W. Jones, Jr., County Attorney

PLANNING REPORT

APPLICATION:

Planning Commission 2021 Annual Retreat Special Meeting

DESCRIPTION:

Section IV-2 of the Planning Commission By-Laws allows the Chairman to call a special meeting at any time during a regular meeting. The proposed 2021 Planning Commission Annual Retreat on Friday, October 22, 2021, at the ODU Tri-Cities Center from 8:30 AM until 4:30 PM is a special meeting of the Planning Commission.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission set the date, time and location of the 2021 Planning Commission Annual Retreat.

PLANNING REPORT

APPLICATION:

Discussion on the Proposed Revisions to the Isle of Wight County Zoning, Subdivision, and Chesapeake Bay Preservation Area (CBPA) Ordinances

ELECTION DISTRICT:

All

BACKGROUND:

The proposed ordinance changes are suggested by Planning and Zoning staff as a result of their annual review and daily administration of County ordinances.

At their August 24, 2021, meeting, the Planning Commission agreed to have another discussion of the proposed ordinance changes at their next regular meeting to allow staff to present additional revisions. Staff subsequently adjusted the proposed revisions to the Zoning Ordinance as well as proposed revisions to the Subdivision and CBPA Ordinances.

DESCRIPTION:

The purpose of the recommended ordinance changes is to provide clarity of regulatory intent, ensure compliance with the *Code of Virginia*, provide additional flexibility, and offer some relief from the regulatory burden on property owners.

ORDINANCE REVIEW:

Applications for text amendments may be initiated by resolution of the Board of Supervisors, by motion of the Planning Commission, or by application petition of any property owner(s) addressed to the Board of Supervisors. An application for text amendment will set forth the new text to be added and the existing text, if any, to be deleted or amended.

The draft text for the proposed ordinance changes are for Planning Commission review and discussion at their September 28, 2021, meeting. After discussion, the Planning Commission may direct staff to proceed with finalizing the draft changes and advertising them for public hearing.

AGENCY REVIEW:

County staff worked with the County Attorney in developing the proposed ordinance changes.

STAFF RECOMMENDATION:

The draft text for the proposed ordinance changes are for Planning Commission review and discussion only.

ATTACHMENTS:

Description	Type	Upload Date
Zoning Ordinance Draft Rev 092821	Backup Material	9/21/2021
Subdivision Ordinance Draft Rev 092821	Backup Material	9/21/2021
CBPA Ordinance Draft Rev 092821	Backup Material	9/21/2021

Proposed Zoning Ordinance Revisions

Revised September 21, 2021

The draft revisions are listed by section below. New, proposed language is in red underlined text. Language proposed to be deleted is shown in red text with ~~strikethrough~~ markings.

- 1. Add clarification that an environmental and historical resources impact analysis may be required as part of the community impact statement for rezoning requests. If there are potential impacts to historical resources as identified in the County's archeological and architectural surveys, the zoning administrator may require a Phase I cultural resources survey as part of the application.**

Sec. 1-1015. - Amendments.

F. Community impact statement. A community impact statement shall address the following:

1. Adequacy of existing public facilities and services intended to serve the proposed development. Analysis shall be made of sewer, water, drainage, schools, fire stations, roadways, and other major locally financed facilities.
2. Additional on-site and off-site public facilities or services which would be required as a result of the development.
3. A traffic impact analysis is required for:
 - a. Any development proposed which will generate two hundred (200) average daily trips (ADT) or more based on vehicular trip generation rates as defined by the Institute of Transportation Engineers' most recent publication, "Trip Generation", or the Virginia Department of Transportation. The analysis must be prepared in accordance with VDOT's Traffic Impact Analysis Regulations and Administrative Guidelines and indicate the relationship of the proposed development on the cumulative effect of the traffic and road use for the arterial and secondary roads providing access to the development and any other road or intersection impacted by the development. The traffic impact analysis shall also include traffic data from other existing development to show the cumulative impact of traffic and road use for the affected roadways. Additional areas may be required to be incorporated into the analysis where traffic and accident data warrant.
 - b. At the request of the zoning administrator, when the proposed development is expected to significantly impact the vehicular movement on the arterial highways within the area.
4. A capital impact analysis prepared by county staff utilizing the capital impact model which shall be updated annually. If the model is not available, a fiscal impact analysis of the proposed development on the county shall be required and prepared by the applicant to be reviewed and approved by the zoning administrator when the proposal includes residential dwelling units. A fiscal impact analysis is optional when the proposal does not include any residential dwelling units. The analysis shall contain a comparison of the public revenues anticipated to be generated by the development and the anticipated capital, operations, maintenance and replacement costs for public facilities needed to service the project at the adopted county service standards, as well as employment opportunities to be generated by the development. The county shall consider the information provided by the applicant during the development

review process; provided, however, that the fiscal impact analysis shall not serve as the sole basis for the approval or disapproval of an individual development proposal unless the health and safety of the community is affected by the inability to provide transportation, fire, police, emergency equipment and services, sewer or water to the proposed development.

5. An assessment of the proposed development's impact on any of the County's environmental and historical resources on the site. A Phase I cultural resources survey may be required at the request of the zoning administrator, if the development will impact high or moderate sensitivity areas as shown in the County's archeological and architectural surveys.

2. Add Short Term Rentals as a commercial use type in Article III, "Use Types."

Sec. 3-6000. - Commercial use types.

Short Term Rental.\ the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than thirty consecutive days, in exchange for a charge for the occupancy. A short term rental operator shall be further defined as the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity

3. The following changes are proposed for Article IV, "Zoning Districts":

Sec. 4-1005. - Table of permissible uses.

Proposed changes to Section 4-1005, "Table of Permissible Uses," include adding reptile breeding as a conditional use in the General Commercial district, and adding Short Term Rentals as a permitted use in all residential districts. One additional editorial change is proposed to add peddlers as permitted in the Village Center district unintentionally omitted during a previous update.

Table 1
Table of Permissible Uses (ATTACHED)

Sec. 4-2006, Bulk Regulations, Rural Agricultural Conservation (RAC) Zoning District

Make the side yard setback requirement fifteen (15) feet for both sides to add flexibility, consistency and reduce confusion.

C. Minimum side yard setback:

1. Principal structures: Fifteen (15) feet ~~(one (1) side); Thirty-five (35) feet (both sides).~~

Sec. 4-3007. – Bulk regulations, Rural Residential (RR) Zoning District

C. Minimum side yard setback:

1. Principal structures: Fifteen (15) feet ~~(one (1) side)/thirty-five (35) feet (both sides).~~
2. Accessory structures: Fifteen (15) feet (see supplementary density and dimensional requirements, #1, accessory building requirements).

Sec. 4-5005. – Bulk regulations, Neighborhood Conservation (NC) Zoning District

C. Minimum front yard setback:

- ~~1. Lots with less than one hundred fifty (150) feet of width:~~
 1. a. Where rights-of-way is fifty (50) feet or greater, the minimum front yard setback is thirty-five (35) feet from property line.
 2. b. Where rights-of-way is less than fifty (50) feet, the minimum front yard setback is sixty (60) feet from centerline of road.
- ~~2. Lots one hundred fifty (150) feet or greater of width:~~
 - ~~a. Where rights-of-way is fifty (50) feet or greater, the minimum front yard setback is sixty (60) feet from property line.~~
 - ~~b. Where rights-of-way is less than fifty (50) feet, the minimum front yard setback is eighty-five (85) feet from centerline of road.~~
3. In the case that there are existing lots of record in a subdivision having a width that would require a front setback to be lesser or greater than the other lots within the subdivision, the setback met by the majority of the lots shall be required.

Sec. 4-7005. – Bulk regulations, Suburban Residential (SR) Zoning District

D. Minimum side yard setback:

1. ~~One (1) side~~ Principal Structure: Ten (10) feet.
2. ~~Both sides: Twenty-four (24) feet.~~

Sec. 4-8004. - Lot size requirements, Urban Residential (UR) Zoning District

A. Minimum lot area:

- ~~1. With private sewer and water: Thirty thousand (30,000) square feet.~~
- ~~2. With public sewer or water: Twenty thousand (20,000) square feet.~~
3. With public sewer and water: ~~Twelve thousand (12,000)~~ Eight thousand five hundred (8,500) square feet.

B. Minimum lot width:

- ~~1. With private sewer and water: One hundred twenty-five (125) feet.~~

- ~~2. With public sewer or water: One hundred twenty-five (125) feet.~~
3. With public sewer and water: ~~Eighty (80)~~ Sixty (60) feet.

C. Minimum lot frontage:

- ~~1. With private sewer and water: One hundred (100) feet.~~
- ~~2. With public sewer or water: One hundred (100) feet.~~
3. With public sewer and water: Fifty-six (56) feet.
4. Minimum frontage on a cul-de-sac: No less than fifty percent (50%) of minimum lot width of district. (11-17-16; 7-19-18; 11-15-18.)

4. The following changes are proposed for Article V, “Supplemental Use Regulations”:

Sec. 5-1004. - Accessory uses.

- C. Portable on demand storage (POD) units or dumpsters used for renovation or construction work shall be considered temporary structures. They are permitted for use for a total of sixty (60) days, after which a zoning permit must be obtained through the planning and zoning department for a period not to exceed six months.

Sec. 5-5001. - Supplementary use regulations for agricultural use types.

G. Reptile breeding.

1. In addition to obtaining a conditional use permit, reptile breeding shall comply with the following provisions:
 - a. Each reptile shall be kept in ~~one hundred percent (100%)~~ escape proof, temperature-controlled ~~glass~~ cage. The only exception shall be during breeding and no more than two (2) reptiles shall be kept in a cage for breeding purposes at in any given time.
 - b. Each cage shall contain proper housing, shelter, feeding and water accommodations.
 - c. An operational plan shall accompany the conditional use permit application to describe how the business will operate, what structures/facilities will be devoted to the use, what species of reptiles will be kept, how large they grow and how will they will be caged long term, how the reptiles will be cared for including feeding, medical check-ups, how the cages will be cleaned and maintained to prevent the spread of bacteria, how waste disposal will be handled, and any other information as may be determined by the zoning administrator, planning commission and board of supervisors.
 - d. The keeping of reptiles shall comply with all local, state and federal requirements.

H. Private Sawmill.

1. A ~~permanent or temporary private~~ sawmill shall be no less than three hundred (300) feet from any lot line or street right-of-way.
2. A permanent or temporary structure shall not be located on environmentally sensitive lands (RPAs) and wetlands.
3. All power saws and machinery will be secured against tampering or locked when not in use.

- 4.A ~~temporary-private~~ sawmill shall only be established to process timber cut from the parcel on which the ~~temporary private~~ sawmill is located or on immediately adjacent parcels ~~or to process timber for personal use only. and shall only be allowed for a period of only one (1) year. For periods exceeding one (1) year, a conditional use permit shall be obtained from the board of supervisors.~~
- 5.A ~~temporary private~~ sawmill shall be located at least two hundred (200) feet from any ~~residence located on an adjoining property.~~
6. No processing, milling, finishing or artificial means of drying green lumber shall be associated with a ~~temporary private~~ sawmill.
7. Green lumber and all other products and by-products from the ~~temporary-private~~ sawmill shall be removed from the site at least every sixty (60) days.
8. Buildings associated with a ~~temporary private~~ sawmill shall be limited to shelter for the sawmill equipment and essential shelter for personnel. No building shall be erected for the storage, processing, or drying of green lumber.

Sec. 5-5002. - Supplementary use regulations for residential use types.

Q. Short Term Rentals

1. A zoning permit is required. Permit information must include a local point of contact who is available to respond to and resolve complaints during the entire length of the rental period. Failure to respond and resolve complaints will result in the revocation of the permit.
2. Operators must obtain a business license and register for transient occupancy and state sales tax.
3. The locality may assess a penalty of up to \$500 per violation for failure to obtain required permits and may prohibit the rental of a property. Repeated violations may result in the prohibition on rental of applicable properties.
4. One off-street space per guest room is required in addition to the parking required for the house.
5. Rentals are limited to owner-occupied residences. No visible evidence of the conduct of a short term rental is allowed on the outside of the property.
6. Event rentals are not permitted.

Sec. 5-5003. - Supplementary use regulations for civic use types.

M. Utility services, major.

4. Utility Scale Solar Energy Facilities.

- a. In addition to any conditional use permit application requirements, the applicant shall provide the following at the time of application:
 - i. A conceptual plan showing the proposed layout of all structures, adjacent properties, screening, landscaping, internal roadways, easements, environmentally sensitive features including proposed wildlife corridors;

- ii. A visual impact analysis demonstrating through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on the visual character of a scenic landscape, vista, or scenic corridor;
 - iii. A transportation plan showing vehicular access to the site, proposed construction traffic route to the site, parking areas, and laydown yards;
 - iv. An estimated time frame and proposed hours of operation for construction activity;
 - v. Economic impact analysis of the project including projected net new tax revenue as well as loss of active agricultural and silvicultural lands and its indirect impact to associated local businesses;
 - vi. An environmental resource impact analysis discussing any proposed activities within designation resource conservation areas;
 - vii. A historical and cultural resources impact analysis; and
 - viii. Written comments from the relevant electric company regarding the capacity of the transmission lines as part of any use permit application. An applicant can satisfy this requirement by submitting proof of application for interconnection to the electricity system.
- b. Ground-mounted systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt, except when temporarily stowed in a vertical position for vegetation management or for inspection, maintenance and/or repair.
 - c. Audible sound from a solar energy system shall not exceed 60 dBA (A-weighted decibels), as measured at any adjacent non-participating landowner's property line. The level, however, may be exceeded during short-term exceptional circumstances, such as severe weather.
 - d. All equipment, accessory structures and operations associated with a large solar energy system shall be setback at least seventy-five (75) feet from all property lines and at least one hundred and twenty-five (125) feet from any residential parcels, and are subject to the following:
 - i. Setbacks shall be kept free of all structures and parking lots; and
 - ii. Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the system, setbacks must be installed along all property lines of those properties remaining within the project and which are adjacent to a parcel which has been removed.
 - e. The following landscaping standards shall apply:
 - i. Along public roadways with at least fifty (50) feet of right-of-way, a minimum fifty-foot wide bufferyard shall be installed or retained with at least seventy-five (75) landscaping points per one hundred (100) linear feet shall be required in the bufferyard;
 - ii. Along public roadways with less than fifty (50) feet of right-of-way, twenty-five (25) landscaping points per one hundred (100) linear feet shall be required in the bufferyard;
 - iii. Where solar facility properties abut residential parcels, one hundred twenty (120) landscaping points per five hundred (500) square feet of bufferyard shall be required;

- iv. Existing vegetation that meets the minimum landscaping specifications may be used to meet required landscaping points; and
 - v. No silvicultural activities or removal of required landscaping materials shall occur in the required bufferyards.
- f. Provide soil testing for any contaminants directly attributable to the solar panels before and after construction and every five (5) years during the interim until the facility is decommissioned. Owner/operator must provide copies of initial baseline report and subsequent reports to the zoning administrator. Should a negative finding indicating contamination from the solar panels occur, contamination must be remedied by the owner/operator to applicable state and federal standards.
- g. Prior to final site plan approval, an owner, lessee, or developer of real property shall enter the following agreement and provide them to the zoning administrator for review and approval:
 - i. A written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions:
 - a) If the party that enters into such written agreement with the county defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning; and
 - b) Such owner, lessee, or developer shall provide financial assurance of such performance to the county in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the county; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.
 - c) Decommissioning of discontinued or abandoned large solar energy systems shall include the following:
 - i. Physical removal of all solar energy equipment and above-ground appurtenant structures from the subject property including, but not limited to, buildings, machinery, equipment, cabling and connections to transmission lines, equipment shelters, security barriers, electrical components, roads, unless such roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the board of supervisors that such roads remain.
 - ii. Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be completely removed: however, these structures may be allowed to remain if a written request is submitted by the landowners and a waiver is granted by the Board of Supervisors.
 - iii. Compacted soils shall be decompacted as agreed to by the landowner.

- iv. Restoration of the topography of the project site to its pre-existing condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted by the landowner and a waiver is granted by the board of supervisors.
 - v. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal regulations.
- h. During and at the end of project construction, any damage done to public roads by solar farm construction equipment shall be repaired in accordance with VDOT standards and specifications. Post construction damage shall be identified based on inspections by VDOT with the developer or their agent, prior to construction and upon completion, identifying the items for repair. Additionally, at the request of VDOT, in order to ensure the safety of the traveling public, some damages may need to be addressed immediately.

i. Facilities shall not be located within the limits of the County's Development Service Districts.

j. Facilities must be within a two mile radius of existing substations and/or high voltage transmission lines.

5. The following changes are proposed for Article VI, "Overlay Districts":

Sec. 6-1001. - Highway Corridor Overlay (HCO) District.

Sec. 6-1010. - Architectural and development guidelines for all nonresidential uses.

- B. Development standards. Proposed development within the district should provide for visual compatibility and harmony with surrounding natural landforms and vegetation; be protective of views and vistas from the arterial highways within the district; and provide continuity of site design within the proposed development. These objectives include the following standards:
- 6. Vehicular movement and parking areas requiring ~~five (5)~~ twenty (20) spaces or more shall be paved with concrete, asphalt, or other similar material. Vehicular movement and parking areas requiring less than ~~five (5)~~ twenty (20) spaces may be surfaced with gravel, slag, or other similar material but must be served by paved entrances meeting Virginia Department of Transportation standards. ~~Concrete curb and gutter or other stormwater management structure as approved by the zoning administrator shall be installed around the perimeter of all driveways and parking areas.~~ Off street parking areas shall be clearly designated by the use of borders around the perimeter of these areas using fences, walls, wooden timbers, brickwork, or other similar treatment. Drainage shall be designed so as not to interfere with pedestrian traffic.

Sec. 6-2000. - Newport Development Service Overlay (NDSO) District.

Sec. 6-2009. - Development standards.

- E. ~~All vehicular movement and parking areas shall be paved with concrete, asphalt, or other similar material.~~ Vehicular movement and parking areas requiring twenty (20) spaces or more shall be paved with concrete, asphalt, or other similar material. Vehicular movement and parking areas requiring less than twenty (20) spaces may be surfaced with gravel, slag, or other similar material but must be served by paved entrances meeting Virginia Department of Transportation standards.
- F. ~~Concrete curb and gutter or other stormwater management structures as approved by the zoning administrator shall be installed around the perimeter of all driveways and parking areas.~~ Off street parking areas shall be clearly designated by the use of borders around the perimeter of these areas using fences, walls, wooden timbers, brickwork, or other similar treatment. Drainage shall be designed so as not to interfere with pedestrian and bicycle traffic.

6. The following changes are proposed for Article VII, “General Design Guidelines and Development Review Procedures”:

Sec. 7-2007. - Preliminary site development plan review procedures and approval authority.

D. Administrative review by the zoning administrator.

1. ~~Fifteen (15)~~ Eight (8) full-sized copies, ~~and one (1)~~ "eleven-inch x seventeen-inch" copy, and one digital copy of the preliminary site development plan and associated application documents as required by the county, including, but not limited to, traffic impact studies, water quality impact assessments. An alternative number of copies may be determined necessary by the zoning administrator. An initial determination shall be made as to whether the preliminary site development plan is complete. In the event it is not complete, it shall be returned to the applicant with a written description of the deficiencies within ten (10) calendar days of the submittal date.

Proposed Subdivision Ordinance Revisions

Revised September 21, 2021

The draft revisions are listed by section below. New, proposed language is in red underlined text. Language proposed to be deleted is shown in ~~red text with strikethrough~~ markings.

Article 2. Definitions

2.2. Defined terms.

Street:\ A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. A street serves three (3) or more lots. The word "street" shall include the words "road," and "highway."

Street, public:\ A street (or portion of a street) that has been improved to comply with the requirements of this ordinance and the VDOT Subdivision Street Design Guide and has been accepted or is proposed to be accepted into the state primary or secondary road system.

Street, private:\ A street (or portion of a street) that has not been accepted into the state primary or secondary road system.

~~Street or alley, public use of:\ The unrestricted use of a specified area or right-of-way for ingress and egress to three (3) or more abutting properties.~~

Article 3. Administration and Procedures

3.2.4. Subdivision, family member.

- A. The subdivision agent may approve a family member subdivision subject to the provisions of this section, and any express requirement contained in the Code of Virginia (see specifically Section 15.2-2244, et seq. of the Code of Virginia). The purpose of a family member subdivision may not be to circumvent this ordinance or other county regulations. To approve an application for family member subdivision, the subdivision agent must find the following:
 1. The property owner requesting the family member subdivision shall hold fee simple title to the subject property.
 2. No person who has previously received land within the county via family member subdivision is eligible to receive additional land through family member subdivision.
 3. The approval shall include the proposed deed(s) of sale or transfer from the property owner to the receiving family member.
 4. No more than one (1) lot ~~four (4) lots~~ resulting from a single tract may be accessed from a single easement of right-of-way unless approved by the board of supervisors upon recommendation from the planning commission. ~~These lots shall be served by an unobstructed easement of right-of-way of not less than twenty (20) feet, providing ingress and egress to an improved public street, and shall be constructed of a compact surface with a minimum depth of four (4) inches. It is recommended that an additional ten (10) feet of easement be dedicated for emergency~~

~~management access to bring the easement width to thirty (30) feet. The easement of right of way shall be maintained by the owner or owners of the property which is to be served by said easement of right of way. A road maintenance agreement providing for perpetual maintenance of said easement of right of way shall be executed by the parties to whom the lot(s) created pursuant to this ordinance shall be conveyed. The road maintenance agreement shall be approved by the county attorney and shall be recorded in the clerk's office of the circuit court of Isle of Wight County at the time of recordation of the plat approved pursuant to the ordinance. An erosion and sediment control plan may be required depending on the square footage of land disturbance.~~

5. ~~Shared driveways shall be required for two (2) or more contiguous lots resulting from a family member subdivision which shares frontage on a public road. A shared driveway with a minimum width of twelve (12) feet must be provided within an unobstructed access easement.~~

Article 4. Plat Requirements

4.2. Plat requirements.

4.2.1. General.

- A. Plats must be prepared in conformance with 18VAC10-20-370, "Minimum standards and procedures for land boundary surveying practice."
- B. In addition to the paper copies of the plat, the applicant shall submit a digital copy of the plat in a format established by the subdivision agent. In cases where the applicant is not able to submit a digital copy, the applicant shall pay any costs incurred by the county to have said plat converted into digital form.

4.2.2. Preliminary plat requirements.

- A. [Approval needed.] Whenever any subdivision of land is proposed, and before any permits for the erection of a structure shall be granted, the applicant or his agent shall apply in writing to the subdivision agent for the approval of the subdivision plat and submit eight (8) ~~ten (10)~~ paper copies of the preliminary plat including lot and street layout, stormwater management facilities, and utility easements.

- 4.2.4. Final plat. The subdivision plat submitted for final approval to the subdivision agent and subsequent recording shall be clearly and legibly drawn at a scale no smaller than two hundred (200) feet to the inch, and there shall be at least eight (8) ~~ten (10)~~ copies. In addition to the requirements of the preliminary plat, the final plat shall include the following:

Article 5. Development Standards

5.9. Streets.

5.9.1. General standards.

- A. All streets in the proposed subdivision shall be designed and constructed in accordance with the minimum requirements found in this section at no cost to the county.
- B. Road widening and right-of-way dedication must meet or exceed VDOT standards.
- C. Unless specifically modified in this ordinance, all new streets (public and private) must be improved to comply with the VDOT road and bridge standards.

5.9.2. Description of public and private streets.

- A. Public street. A street (or portion of a street) that has been improved to comply with the requirements of this ordinance and the VDOT subdivision street design guide and has been accepted or is proposed to be accepted into the state primary or secondary road system.
- B. Private street. A street (or portion of a street) that has not been accepted into the state primary or secondary road system.

~~5.9.3. Private street standards.~~

~~A. Design, construction, and maintenance.~~

- ~~1. Private streets proposed for acceptance into the state secondary road system at a later date must be designed and constructed in accordance with VDOT construction standards.~~
- ~~2. A common access easement must be provided allowing unencumbered access from the public street to all lots that will be served by the private street.~~
- ~~3. Sufficient easements must be provided for installation and maintenance of all utility facilities including, but not limited to, water and sewer, electricity, telecommunications, cable television, and drainage.~~
- ~~4. A written road maintenance agreement with provisions for maintenance of the street until it is accepted into the state system shall be included in the final plat. The county will not maintain any private street or roadway. This agreement must be in a form acceptable to the county attorney.~~

~~B. Use of private streets. Private streets designed and constructed in accordance with the requirements for public streets may be used in lieu of a public street for access to the following types of development lots:~~

- ~~1. Single-family developments: Family member subdivisions up to a maximum of four (4) lots. This subsection shall apply to parcels created after the adoption date of this ordinance; rural subdivisions up to a maximum of two (2) lots (see section 5.4, subdivision types);~~
- ~~2. Multifamily and townhouse developments;~~
- ~~3. Commercial shopping centers; and~~

~~4. Commercial lots which do not front on a public road in accordance with section 3.2.3 of this ordinance.~~

Proposed Revisions
DRAFT 09/16/2021

~~Deleted text~~

New proposed text

APPENDIX B-1. - CHESAPEAKE BAY PRESERVATION AREA ORDINANCE.

Editor's note—An ordinance adopted August 21, 2006, amended Appendix B-1 in its entirety to read as herein set out.

Prior Ordinance History: Ords. dated 11-15-90; 9-21-00; 11-16-00; and 12-18-03.

Article 1. - Title, Purpose, and Authority.

Sec. 1000. - Title.

This ordinance shall be known and referenced as the "Chesapeake Bay Preservation Area Ordinance" of Isle of Wight County, Virginia. This Ordinance is also commonly referred to as the "CBPA" Ordinance. (8-21-06.)

Sec. 1001. - Findings of fact.

The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of Isle of Wight County and the Commonwealth of Virginia. The health of the Bay is vital to maintaining Isle of Wight County's economy and the welfare of its citizens.

The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including nonpoint source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are adjacent to the shoreline have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. Protected from disturbance, they offer significant ecological benefits by providing water quality maintenance and pollution control as well as flood and shoreline erosion control. These lands together, designated by the board of supervisors as Chesapeake Bay Preservation Areas (hereinafter "CBPAs"), need to be protected from destruction and damage in order to protect the quality of water in the Bay and consequently the quality of life in Isle of Wight County and the Commonwealth of Virginia. (8-21-06.)

Sec. 1002. - Purpose and intent.

This ordinance is enacted to implement the requirements of Section 62.1-44.15:67 et seq., of the Code of Virginia, the Chesapeake Bay Preservation Act, and amends Appendix B-1 of the Isle of Wight County Code, known also as the Chesapeake Bay Preservation Area Ordinance. The purpose and intent of this ordinance is to:

- a. Protect existing high quality state waters;

- b. Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of aquatic life, which might reasonably be expected to inhabit them;
- c. Safeguard the clear waters of the Commonwealth from pollution;
- d. Prevent any increase in pollution;
- e. Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of Isle of Wight County. (8-21-06; 4-16-15.)

Sec. 1003. - Relationship to referenced laws, other county ordinances and guidance documents.

- (a) The requirements of this ordinance supplement the county's land development ordinances, including existing zoning and subdivision ordinances and regulations. It imposes specific regulations for development and other land uses within the Isle of Wight County preservation area. In the event of inconsistency between the provisions of this ordinance and the provisions established in other applicable ordinances, the more restrictive or stringent provisions shall apply.
- (b) Permitted uses, special permit uses, accessory uses and special requirements shall be as established by the zoning ordinance and the underlying zoning district, unless specifically modified by the requirements of this ordinance.
- (c) Lot size shall also comply with requirements of the underlying zoning district in the zoning ordinance, provided that all lots shall have sufficient area outside the Resource Protection Area to accommodate an intended development, in accordance with the performance standards in section 4002, when such development is not otherwise allowed in the Resource Protection Area.
- (d) References in this ordinance to any law statute, ordinance, rule or regulation in force on the date of adoption of this ordinance shall include any subsequent amendments or revisions.
- (e) Guidance documents prepared by the Virginia Department of Environmental Quality (DEQ) shall be used as references in the administration and interpretation of this ordinance. Where there appears to be a conflict between this ordinance and the guidance documents, the ordinance shall take precedence. (8-21-06; 4-16-15.)

Sec. 1004. - Applicability.

- (a) No person shall develop, alter, or use any land for residential, commercial, industrial, or civic uses, nor conduct agricultural, fishery or forestry activities in the Isle of Wight County preservation area except in compliance with the provisions of this ordinance.
- (b) No development or resource utilization activity shall be permitted until all applicable approving authorities shall determine that the proposed development or activity is consistent with the goals and objectives of the Isle of Wight County preservation area program. (8-21-06.)

Sec. 1005. - Severability.

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such a ruling shall not affect the validity of the remainder of this ordinance. (8-21-06.)

Article 2. - Definitions.

Sec. 2000. - Purpose.

It is the purpose of this article to define words, terms and phrases contained within this ordinance and other applicable terms. (8-21-06.)

Sec. 2001. - Word usage.

In the interpretation of this ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- a. Words used or defined in one tense or form shall include other tenses and derivative forms.
- b. Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- c. The specific shall control the general.
- d. The word "person" includes a "firm, association, organization, partnership, trust, company," as well as an "individual."
- e. Any words pertaining to gender shall be interchangeable. The word "he" shall also mean "she", and "she" shall also mean "he".
- f. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- g. The word "lot" includes the words "plot" or "parcel."
- h. The word "shall" is mandatory; the words "may" and "should" are permissive.
- i. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, or table, the text shall control.
- j. All public officials, bodies, and agencies referred to in this ordinance are those of Isle of Wight County, Virginia, unless otherwise specifically indicated. (8-21-06.)

Sec. 2002. - Definitions.

The following words and terms used in these regulations shall have the following meanings, unless the context clearly indicates otherwise.

- a. Act means the Chesapeake Bay Preservation Act, Article 2.5 (Section 62.1-44.15.67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.
- b. Agricultural lands mean those lands used for the tilling of the soil; the growing of crops or plant growth of any kind in the open, including forestry; pasturage; horticulture; dairying; floriculture; or raising of poultry and/or livestock.
- c. Best management practices (BMPs) means a practice, or combination of practices, that are defined by a state agency or the Hampton Roads Planning District Commission

guidelines to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

- d. Buffer area means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.
- e. Chesapeake Bay Preservation Area (CBPA) means any land designated by the board of supervisors pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-70 et seq., and Section 62.1-44.15:72 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area.
- f. Construction footprint means the area of all impervious surfaces, including, but not limited to, buildings, roads and drives, parking areas, sidewalks and the area necessary for construction of such improvements.
- g. Development means the construction, or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures. This shall include any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination of these activities, including the subdivision of land.
- h. Diameter at breast height (DBH) means the diameter of a tree measured outside the bark at a point four and one-half (4.5) feet above the ground.
- i. Dripline means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.
- j. Erosion and Sediment Control Law means Article 2.4 (Section 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.
- k. Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.
- l. Land-disturbing permit means a permit issued by the county for clearing, filling, excavating, grading or transporting, or any combination thereof.
- m. Limits of clearing means the extent to which vegetation can be removed from a property as shown on a plan approved by the county.
- n. Lot coverage means the impervious area of any lot or parcel including, but not limited to, buildings, drives, parking areas, sidewalks, patios, decks, etc.
- o. Mitigation means measures taken to eliminate or minimize damage to environmentally sensitive areas from land disturbing or development activities. Such measures may include, but are not limited to, avoiding the impact altogether, limiting the degree or magnitude of the action, repairing or restoring the affected environmental

area, reducing the impact over time by preservation and maintenance, or replacing or providing a substitute environmental area.

- p. Nonpoint source pollution means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land development and use.
- q. Nontidal wetlands mean those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the federal Clean Water Act, in 33 C.F.R. 328.3b.
- r. Noxious weeds means weeds such as Johnson grass, kudzu, and multiflora rose, including those identified by the Virginia Department of Conservation and Recreation as Invasive Alien Plant Species.
- s. Plan of development means any process for site plan review in Isle of Wight County zoning and land development regulations designed to ensure compliance with Section 62.1-44.15:74 of the Act and this chapter, prior to issuance of building permit.
- t. Point source pollution means pollution of state waters resulting from any discernible, defined or discrete conveyances.
- u. Public road means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to i) the Erosion and Sediment Control Law and ii) the Virginia Stormwater Management Act. This definition includes roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by local government in accordance with the standards of that local government.
- v. Redevelopment means the process of developing land that is or has been previously developed.
- w. Resource Management Area (RMA) means that component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area.
- x. Resource Protection Area (RPA) means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.
- y. Silvicultural activities means forest management activities, including, but not limited to, the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to § 10.1-1105 of the Code of Virginia and

are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

- z. Substantial alteration means expansion or modification of a building or development that would result in a disturbance of land exceeding two thousand five hundred (2,500) square feet in the resource management area only.
- aa. Substantial work means that improvements have proceeded to where vertical construction of the basic structure or walls has begun on a building or other structure or for other land improvements, that significant progress has been made towards accomplishing the approved project.
- ab. Tidal shore or shore means land contiguous to a tidal body of water between the mean low water level and the mean high water level.
- ac. Tidal wetlands means vegetated and nonvegetated wetlands as defined in § 28.2-1300 of the Code of Virginia.
- ad. Water-dependent facility means a development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) piers, marinas, and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; (v) fisheries or other marine resources facilities; and (vi) shoreline and bank stabilization projects, where deemed necessary.
- ae. Water body with perennial flow means a body of water that flows in a natural or manmade channel year-round during a year of normal precipitation. This includes, but is not limited to, streams, estuaries, and tidal embayments and may include drainage ditches or channels constructed in wetlands or from former natural drainageways, which convey perennial flow. Lakes and ponds, into which a perennial stream flows and perennial flow exits, are part of a perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. Perennial flow can be inferred by the presence of biological indicators, benthic macroinvertebrates that require water for entire life cycles, or by using an approved stream determination protocol.
- af. Wetlands means both tidal and nontidal wetlands.
- ag. Zoning administrator means the person designated as the official responsible for enforcing and administering all requirements of the county zoning ordinance, or a duly authorized designee. (8-21-06; 4-16-15.)

Article 3. - Areas of Applicability, Delineations of Boundaries, and Exemptions.

Sec. 3000. - Areas of applicability.

- (a) The Chesapeake Bay Preservation Area (CBPA) Ordinance shall apply to all lands within the Chesapeake Bay drainage basin. The limits of this area are generally shown on the Chesapeake Bay Preservation Area maps adopted by the board of supervisors, which together with all explanatory matter thereon, are adopted as a part of this ordinance. This

information may be supplemented by digital mapping resources in the course of administering the provisions of this ordinance.

- (b) The Chesapeake Bay Preservation Area shall be divided into two areas consisting of the following:
1. The Resource Protection Area (RPA).which shall include:
 - a. Tidal wetlands;
 - b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
 - c. Tidal shores;
 - d. Water bodies with perennial flow, including streams, rivers, lakes and ponds;
 - e. Other lands as may be designated by the Board of Supervisors and shown on the CBPA maps; and
 - f. A vegetated buffer area not less than 100 feet in width located adjacent to, landward of, and on both sides of the resources listed in subsections a. through e. above.
 2. The Resource Management Area (RMA) shall consist of all areas within the Chesapeake Bay watershed. (8-21-06.)

Sec. 3001. - Delineation and interpretation of boundaries.

- (a) The site-specific boundaries of the ~~Resource Protection Area~~ RPA shall be provided by the applicant. The applicant shall delineate specific boundaries of the RPA through the performance of an environmental site assessment to be approved by the Zoning Administrator in accordance with section 5000(b) of this ordinance.
1. Delineation of the RPA shall include the designation of perennial water bodies by use of a scientifically valid system of in-field indicators of perennial flow or other means approved by the zoning administrator. The site-specific delineation of the RPA shall be undertaken by the applicant and approved by the zoning administrator.
 2. All components included in the ~~RPA Resource Protection Area~~ (subsection 3000(b)1. above) shall be delineated separately, and shall be prepared by a person trained, qualified and experienced in performing wetland delineation work, such as an environmental engineer, environmental scientist, soil scientist, biologist or geologist.
 3. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, and shall be verified by the U. S. Army Corps of Engineers, where it determines it has jurisdiction.
 4. The Chesapeake Bay Preservation Area Maps may be used as a guide to the general location of RPAs ~~Resource Protection Areas~~ but shall not be a substitute for an on-site delineation.

5. This requirement may be waived by the zoning administrator when the proposed use or development and all associated land disturbing activities will clearly be located outside of a Resource Protection Area, based on an evaluation by the Zoning Administrator and after referral to the board of supervisors.
 6. Delineations shall be valid for a period of five (5) years.
- (b) ~~B-~~ Where the applicant has provided a ~~determination of the Resource Protection Area RPA delineation~~, the zoning administrator shall inspect the site and verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the zoning administrator may consider previously submitted delineations, County mapping resources and materials and consult with qualified specialists, including any private, state or federal resources available to the county. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of subsection 5000(h) (Denial/appeal of plan).
- (c) If the boundaries of the ~~RMA Resource Management Area~~ include only a portion of a lot, parcel, or development project, the entire lot, parcel, or development project shall comply with the requirements of this ordinance. The division of property shall not constitute an exemption from this requirement. (8-21-06.)

Sec. 3002. - Exemptions.

The following uses and activities are exempt from the provisions of this ordinance provided that all of the requirements listed below are met.

- (a) Exemptions for public utilities, railroads, public roads, and facilities: Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and the Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by DEQ, or (iii) local water quality protection criteria at least as stringent as the above state requirements are deemed to comply with this ordinance. The exemption of public roads is further conditioned on the following:
 1. The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the ~~Resource Protection Area RPA~~ and to minimize the adverse effects on water quality.
- (b) Exemptions for local utilities and other service lines: Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned, permitted or both, by a local government or regional service authority shall be exempt from this ordinance provided that:
 1. To the degree possible, the location of such utilities and facilities should be outside resource protection areas;

2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;
 3. All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and
 4. Any land disturbance exceeding an area of two thousand five hundred (2,500) square feet complies with Isle of Wight County erosion and sediment control requirements (Chapter 6) and stormwater management requirements (Chapter 14A).
- (c) Exemptions for silvicultural activities: Silvicultural activities are exempt from the requirements of this ordinance provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the March 2011 edition of "Virginia's Forestry Best Management Practices for Water Quality Technical Manual, Fifth Edition." The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry practices in Chesapeake Bay Preservation Areas.
- (d) Exemptions in ~~resource protection areas~~ RPAs: The following land disturbances in ~~resource protection areas~~ RPAs may be exempt from this ordinance provided that they comply with the requirements listed in subsections 1. through 5. below and obtain a zoning permit from the zoning administrator: (i) water wells; (ii) passive recreation facilities such as boardwalks, walking trails, and pathways; and (iii) historic preservation and archaeological activities.
1. Any required permits, except those to which this exemption specifically applies, shall have been issued; ~~and~~
 2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; ~~and~~
 3. The intended use does not conflict with nearby planned or approved uses;
 4. Any land disturbance exceeding an area of two thousand five hundred (2,500) square feet shall comply with Isle of Wight County erosion and sediment control requirements (Chapter 6) and stormwater management requirements (Chapter 14A); ~~and~~
 5. Boardwalks, walking trails and pathways shall not exceed five (5) feet in width and shall be paved with a permeable material. For purposes of this section, boardwalks shall consist of an elevated public pedestrian walkway constructed along a shoreline or beach. (8-21-06; 4-16-15.)

Article 4. - Performance Standards and Development Criteria.

Sec. 4000. - General performance standards.

- (a) Purpose and intent. The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective

in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces stormwater runoff potential.

The purpose and intent of these requirements is also to implement the following objectives:

1. Prevent a net increase in nonpoint source pollution from new development;
 2. Achieve a ten-percent reduction in nonpoint source pollution from redevelopment; and
 3. Achieve a forty-percent reduction in nonpoint source pollution from agricultural uses.
- (b) General performance standards for development and redevelopment in the Chesapeake Bay Preservation Area.
1. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
 - a. In accordance with an approved plan of development, the limits of clearing or grading shall be strictly defined by the construction footprint. The zoning administrator shall review and approve the construction footprint through the plan of development process. These limits shall be clearly shown on submitted plans and physically marked in the development site.
 - b. Ingress and egress during construction shall be limited to one (1) access point, unless otherwise approved by the zoning administrator.
 2. Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use or development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.
 - a. Existing trees over eight (8) inches diameter at breast height (DBH) shall be preserved outside the approved construction footprint in accordance with the same standards established in subsection 4002(b)1.
 - b. Site clearing for construction activities shall be allowed as approved by the zoning administrator through the plan of development review process outlined under section 5000 of this ordinance.
 - c. Prior to clearing and grading, suitable protective barriers, like safety fencing, shall be erected five (5) feet outside the dripline of any tree or stand of trees to be preserved. Protective barriers shall remain throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
 3. Development on slopes greater than fifteen (15) percent shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability.
 4. Land development shall minimize impervious cover consistent with the proposed use or development. Impervious coverage on any lot or parcel shall be limited to the lot coverage permitted under the zoning district requirements of said lot or parcel, but in no case shall exceed sixty percent (60%) of the total site.

5. Notwithstanding any other provisions of this ordinance or exceptions or exemptions thereto, any land disturbing activity exceeding two thousand five hundred (2,500) square feet, including construction of all single-family houses, septic tanks and drainfields, but otherwise as defined in Section 62.1-44.15:51 of the Code of Virginia, shall comply with the requirements of the erosion and sediment control ordinance, Chapter 6 of the County Code. Enforcement for noncompliance with the erosion and sediment control requirements referenced in this criterion shall be conducted under the provisions of the Erosion and Sediment Control Law and attendant regulations.
6. All development and redevelopment within RMAs and RPAs that exceeds two thousand five hundred (2,500) square feet of land disturbance shall be subject to a plan of development process, including the approval of a site plan in accordance with the provisions of section 5000 of this ordinance; or a subdivision plan in accordance with the subdivision ordinance; or a water quality impact assessment in accordance with section 4003 of this ordinance.
7. All on-site sewage disposal systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall be pumped out at least once every five (5) years. As an alternative to the pump-out every five (5) years, there shall be the option of having a septic effluent filter installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Such a filter should satisfy standards established in the Sewage Handling and Disposal Regulations (12 VAC 5-610) administered by the Department of Health. Furthermore, in lieu of requiring proof of septic tank pump-out every five (5) years, there shall be the option to submit documentation every five (5) years, certified by an operator or on-site soil evaluator licensed or certified under Chapter 23 (Section 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, maintain or design on-site sewage systems, that the septic system has been inspected, is functioning properly, and that the tank does not need to have the effluent pumped out.
8. A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with the Isle of Wight County Health Code. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, when a reserve sewage disposal site is not available, as determined by the local health department. Building or the construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the state water control board, until the structure is served by public sewer.
9. For any use or development exceeding two thousand five hundred (2,500) square feet of development within Isle of Wight County's Chesapeake Bay Preservation Area, stormwater runoff shall be controlled by the use of best management practices consistent with requirements of Section 9 VAC 25-870-51 and 9 VAC 25-870-103 of the Virginia Stormwater Management Regulations and Chapter 14A of Isle of Wight County's Stormwater Management Ordinance.
10. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be

obtained and evidence of such submitted to the zoning administrator, in accordance with section 5000, of this ordinance.

11. Land upon which agricultural activities are being conducted shall undergo a soil and water quality conservation assessment. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this ordinance. (8-21-06; 5-15-08; 3-20-14; 4-16-15; 6-15-17.)

Sec. 4001. - Development criteria for resource protection areas.

- (a) Land development in ~~resource-protection-areas~~ RPAs may be allowed in accordance with other county ordinances only when permitted by the zoning administrator and if it:

- i. Is water-dependent; ~~or~~
- ii. Constitutes redevelopment;
- iii. Is a new use subject to the provisions of subsection 4002(b)2. of this ordinance;
- iv. Is a road or driveway crossing satisfying the conditions set forth in subsection 4001.a.3. below; or
- v. Is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed provided such facilities are allowed and constructed in accordance with the Virginia Stormwater Management Act and its attendant regulations, and provided that i) the local government has conclusively established that the location of the facility within the ~~resource-protection-area~~ RPA is the optimum location; ii) the size of the facility is the minimum necessary to provide for flood control, stormwater management, or both; iii) the facility must be consistent with a stormwater management program that has been approved by the board as a phase 1 modification to the local government's program; iv) all applicable permits for construction in state or federal waters must be obtained from the appropriate state or federal agencies; v) approval must be received from the local government prior to construction; and vi) routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed. It is not the intent of this subsection to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a ~~resource-protection-area~~ RPA.

- ~~(b)1.~~ A new or expanded water-dependent facility may be allowed provided that the following criteria are met:

- i. It does not conflict with the comprehensive plan;
- ii. It complies with the performance criteria set forth in sections 4001 and 4002 of this ordinance;
- iii. Any non-water-dependent component is located outside of the RPA; and

- iv. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
- ~~(c)2.~~ Redevelopment on isolated redevelopment sites shall be permitted only if there is not an increase in the amount of impervious cover, and no further encroachment occurs within the RPA, and it shall conform to applicable erosion and sediment control requirements of Chapter 6 of the County Code and the stormwater management requirements of Chapter 14A of the County Code. For purposes of this section, in redeveloping a site, the encroachment of a proposed building or structure shall be based on the location of existing buildings or structures, or the locations of legally established historical buildings or structures, or parking and other impervious cover located on the site.
- ~~(d)3.~~ Roads and driveways not exempt under section 3002 and which, therefore, must comply with the provisions of this ordinance, may be constructed in or across RPAs if each of the following conditions are met:
 - i. The zoning administrator makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
 - ii. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
 - iii. The design and construction of the road or driveway satisfies all applicable criteria of this ordinance;
 - iv. The zoning administrator reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under section 5000 or subdivision plan.
- ~~(e) b.~~ A water quality impact assessment as outlined in section 4003 of this ordinance shall be required for any proposed land disturbance, development or redevelopment within ~~resource protection areas~~ RPAs. (8-21-06; Ord. No. 2012-12-C, 10-18-12; 4-16-15; 6-15-17.)

Sec. 4002. - Performance standards in resource protection areas.

- (a) Purpose and intent. To minimize the adverse effects of human activities on the other components of ~~Resource Protection Areas (RPAs)~~, state waters, and aquatic life, a one hundred-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.

The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The one hundred-foot full buffer area shall be designated as the landward component of the ~~Resource Protection Area RPA~~, in accordance with section 3000 and section 5000 of this ordinance. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in section 4001 and this section, the one hundred-foot buffer area is not reduced in width.

The one hundred-foot buffer area shall be deemed to achieve a seventy-five-percent reduction of sediments and a forty-percent reduction of nutrients.

- (b) General performance standards for development and redevelopment.

1. Permitted modifications to the buffer area.

Note: Please refer to the Riparian Buffer Guidance Manual prepared by the Virginia Chesapeake Bay Local Assistance Board for additional information and guidance on the modifications to the buffer area permitted below.

- a. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, subject to approval by the zoning administrator who may require a plan of development in accordance with section 5000, to provide for reasonable sight lines, access paths, and general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
 - i. Trees may be pruned or removed as necessary to provide for reasonable sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
 - ii. Any path shall be constructed and surfaced so as to effectively control erosion.
 - iii. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees allowed as permitted by the zoning administrator pursuant to sound horticultural practices.
 - iv. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

2. Permitted encroachments into the buffer area.

- a. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed through an administrative process, in accordance with sections 4003 and 5000 and the following criteria:
 - i. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 - ii. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and
 - iii. The encroachment may not extend into the seaward fifty (50) feet of the buffer area.
- b. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989, and March 1, 2002, encroachments into the buffer area may be allowed through an administrative process in accordance with sections 4003 and 5000 and the following criteria:

- i. The lot or parcel was created as a result of a legal process conducted in conformity with the local government's subdivision regulations;
 - ii. Conditions or mitigation measures imposed through a previously approved exception shall be met;
 - iii. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated at the expense of the owner to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and
 - iv. The criteria in subsection 2.a. above for lots recorded prior to October 1, 1989 shall be met.
- 3. Establishment of the required buffer.
 - a. Where a buffer has been reduced or does not exist, a landscaping plan pursuant to subsection 5000(c) shall be submitted and approved prior to issuance of any zoning or building permit. The landscaping plan shall be implemented in full or surety provided to the county pursuant to subsection 5000(f)2. prior to issuance of a certificate of occupancy.
 - b. In determining and approving an appropriate buffer, the zoning administrator shall take into consideration adequate space around existing structures and other factors unique to the site.
 - c. In determining the need for establishing the required buffer, staff may rely on the latest aerial photographs, actual site visits, and other appropriate resources available.
 - d. This subsection shall not apply to the conversion from agricultural or silvicultural uses, which shall be governed by subsection 4002(b)5.
- 4. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area agricultural activities may encroach into the buffer area as follows:
 - a. Agricultural activities may encroach into the landward fifty (50) feet of the one hundred-foot wide buffer area when at least one (1) agricultural best management practice, which, in the opinion of the Peanut Soil and Water Conservation District, addresses the more predominant water quality issue on the adjacent land — erosion control or nutrient management — is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the one hundred-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation.

- b. Agricultural activities may encroach within the landward seventy-five (75) feet of the one hundred-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the one hundred-foot wide buffer area.
 - c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one (1) best management practice as considered by the Peanut Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land — either erosion control or nutrient management.
 - d. If specific problems are identified pertaining to agricultural activities which are causing pollution of the nearby water body with perennial flow or violate performance standards pertaining to the vegetated buffer area, the zoning administrator, in cooperation with soil and water conservation district, shall recommend a compliance schedule to the landowner and require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while taking into account the seasons and other temporal conditions so that the probability for successfully implementing the corrective measures is greatest.
 - e. In cases where the landowner or his agent or operator has refused assistance from the soils and water conservation district in complying with or documenting compliance with the agricultural requirements of this ordinance, the district shall report the noncompliance to the zoning administrator. The zoning administrator shall require the landowner to correct the problems within a specified period of time not to exceed eighteen (18) months from the initial notification of the deficiencies to the landowner. The zoning administrator, in cooperation with the district, shall recommend a compliance schedule to the landowner and require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while taking into account the seasons and other temporal conditions so that the probability for successfully implementing the corrective measures is greatest.
3. When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted to other uses, the full one hundred-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

4. Prior to any land disturbing activities or any development of a lot or parcel, a permanent sign shall be installed by the owner or developer identifying the landward limits of the RPA. Such signs shall conform to general guidelines established by the zoning administrator and approved by the board of supervisors as to size, design, color, material, location and content and shall be installed and maintained at the expense of the owner or developer in accordance with those guidelines. Signs may be obtained from the county, at cost, or may be provided by the developer. (8-21-06; 4-16-15; 6-15-17.)

Sec. 4003. - Water quality impact assessment.

- (a) Purpose and intent. The purpose of the water quality impact assessment is to: i) identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in RPAs and other environmentally sensitive lands; ii) ensure that, where land disturbance, development or redevelopment does take place within RPAs and other sensitive lands, it will occur on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands; iii) protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood and storm damage; iv) provide for administrative relief from terms of this ordinance when warranted and in accordance with the requirements contained herein; and v) specify mitigation which will address water quality protection. There shall be two levels of water quality impact assessments: a minor assessment and a major assessment.
- (b) Applicability. A water quality impact assessment shall be required for any development or rezoning in the Chesapeake Bay Preservation Area which:
 - i. Will disturb any portion of the one-hundred-foot buffer area of an RPA, or any component identified in subsection 3000(b)1.;
 - ii. Contains ten (10) acres or more for any use, other than development of single-family detached residential lots;
 - iii. Contains twenty-five (25) acres or more for the development of single-family detached residential lots; or
 - iv. Any other development that may warrant such assessment due to unique characteristics of the site or intensity of the proposed use or development, as may be required by the zoning administrator.
- (c) Contents of the minor water quality impact assessment. A minor assessment shall be required for circumstances described under section 4002(b)(2.a) and (2.b): The information required below shall be considered a minimum, unless the zoning administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land: The minor water quality impact assessment shall be provided on forms available through the zoning administrator, consistent with the requirements of this ordinance, and may be approved by the zoning administrator. The assessment shall include a site drawing to scale which shows the following:
 - (1) Location of the components of the RPA, including the one hundred-foot buffer areas;

- (2) Location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; location of any structures, drives, other impervious cover; and sewage disposal systems or reserve drain field sites;
 - (3) Type and location of proposed best management practices to mitigate the proposed encroachment, if required;
 - (4) Location of existing vegetation and re-vegetation areas as shown on the site drawing.
- (d) Contents of the major water quality impact assessment. The information required below shall be considered a minimum, unless the zoning administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land:
1. A site plan, which shall at minimum, contain the following:
 - a. Location of the components of the resource protection area, including the one-hundred-foot buffer area delineated in accordance with section 3001;
 - b. Location and nature of the proposed encroachment into the buffer area, including type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
 - c. Type and location of proposed best management practices to mitigate the proposed encroachment;
 - d. Location of existing vegetation on site, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification;
 - e. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.
 2. A hydrogeological element that:
 - a. Describes the existing topography, soils, and hydrology of the site and adjacent lands.
 - b. Describes the impacts of the proposed development on topography, soils, hydrology, and geology on the site and adjacent lands.
 - c. Indicates the following:
 - i. Disturbance or removal of wetlands and justification for such action;
 - ii. Disruptions or reductions in the supply of water to wetland, streams, lakes, rivers, or other water bodies;
 - iii. Disruptions to existing hydrology including wetland and stream circulation patterns;
 - iv. Source location of description of proposed fill material;
 - v. Location of dredging and location of dumping area for such dredged material;
 - vi. Estimation of pre- and post-development pollutant loads in runoff;

- vii. Estimation of percent increase in impervious surface on site, type(s) of surfacing material used;
 - viii. Percent of site to be cleared for project;
 - ix. Anticipated duration and phasing schedule of construction project;
 - x. Listing of all requisite permits from all applicable agencies necessary to develop project.
 - d. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigative measures include:
 - i. Additional proposed erosion and sediment control concepts beyond those normally required under subsection 4000(b)5. of this ordinance; these additional concepts may include the following: minimizing the extent of cleared area; perimeter controls; reduction of runoff velocities; measures to stabilize disturbed areas; schedule and personnel for site inspection.
 - ii. When required, proposed stormwater management system for nonpoint source quality and quantity control in compliance with Chapter 14A of Isle of Wight County's Stormwater Management Ordinance.
3. A vegetative element that:
- a. Identifies and delineates the location of all woody plant material on site, including all trees on site eight (8) inches or greater diameter at breast height or, where there are groups of trees, said stands may be outlined.
 - b. Describes the impacts the development or use will have on the existing vegetation. Information should include:
 - i. General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;
 - ii. Clear delineation of all trees and other woody vegetation which will be removed;
 - iii. Description of all plant species to be disturbed or removed.
 - c. Describes the proposed measures for mitigation. Possible mitigation measures include:
 - i. Proposed design plan and replanting schedule for trees and other woody vegetation removed for construction, including a list of proposed plants and trees to be used;
 - ii. Demonstration that the re-vegetation plan supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control;
 - iii. Demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overload flow benefits from such vegetation;

- iv. Demonstration that indigenous plants are to be used to greatest extent possible.
 - 4. In the case of a WQIA for shoreline and bank stabilization projects, the following items shall be required:
 - a. Completion of the shoreline erosion control water quality impact assessment form, as provided by the zoning administrator and kept on file with the department of planning and zoning;
 - b. An environmental assessment as follows:
 - i. The environmental site assessment shall be drawn to scale and clearly delineate the environmental components identified in subsection 3000(b) of this ordinance;
 - ii. Wetlands delineations shall be performed consistent with the procedures specified in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987," and updates as they become available;
 - iii. The environmental assessment shall delineate the geographic extent of the resource protection area on the specific site or parcel as required under section 3001 of this ordinance;
 - iv. The environmental assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat;
 - c. A landscaping plan in accordance with subsection 5000(c), except that the plans may be submitted by any qualified professional, including shoreline contractors and nursery professionals;
 - d. A stormwater management plan in accordance with Chapter 14A of the Isle of Wight County Code, as required by state code Section 62.1-44.15:55;
 - e. An erosion and sediment control plan in accordance with Chapter 6 of the Isle of Wight County Code;
 - f. Project construction plans shall be certified as complete and accurate by a professional shoreline engineer or other qualified professional, as determined by the zoning administrator, as well as a determination as to the necessity of the project.
 - 5. For phased projects, an updated WQIA shall be provided for each phase to the county planning and zoning department demonstrating the project's compliance with the criteria of the original WQIA. An updated WQIA shall be required until all phases of the project are complete.
- (e) Submission, review requirements, and evaluation procedure.
- 1. Ten (10) copies of all site drawings and other applicable information as required by subsection c. above shall be submitted to the zoning administrator for review.
 - 2. All information required in ~~this~~ section 4003 (d) shall be certified as complete and accurate by a professional engineer or certified land surveyor qualified to prepare such information.

3. Upon receipt of a water quality impact assessment, the zoning administrator will determine if review by DEQ or any other state agency is warranted. The zoning administrator will incorporate any comments received from such a review into the final report, provided that such comments are received within ninety (90) days of the request.
4. Upon receipt of a completed major water quality impact assessment and receipt of all appropriate comments, the zoning administrator shall forward the information to the planning commission for consideration. For shoreline and bank stabilization projects and piers consistent with the provisions of this ordinance, the zoning administrator may grant administrative approval of the water quality impact assessment.
5. The planning commission will determine whether or not the proposed development is consistent with the spirit and intent of this ordinance and make a recommendation to the board of supervisors based upon the following criteria:
 - a. Within any RPA, the proposed development is water-dependent or redevelopment;
 - b. The percentage of existing wetlands disturbed by the development. The number of square feet or acres to be disturbed;
 - c. The development will not result in significant disruption of the hydrology of the site;
 - d. The development will not result in unnecessary destruction of plant materials on site;
 - e. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentation;
 - f. Proposed stormwater management concepts are adequate to control the stormwater runoff for compliance with Chapter 14A of the Isle of Wight County Code;
 - g. Proposed re-vegetation of disturbed areas will provide optimum erosion and sediment control benefits, as well as runoff control and pollutant removal equivalent of the full one-hundred-foot undisturbed buffer area;
 - h. The design and location of any proposed drain field will be in accordance with the requirements of section 4000.
6. The planning commission shall recommend additional mitigation where potential impacts have not been adequately addressed, subject to final approval or modification by the board of supervisors. Evaluation of mitigation measures will be made by the planning commission based on the criteria listed above and in subsection 5.
7. The planning commission shall find the proposal to be inconsistent with the purpose and intent of this ordinance when the impacts created by the proposal cannot be mitigated, subject to final approval by the board of supervisors. Evaluation of the impacts will be made by the planning commission based on the criteria listed in subsection 5. (8-21-06; Ord. No. 2012-12-C, 10-18-12; 4-16-15; 6-15-17.)

Article 5. - Administrative Procedures and Enforcement.

Sec. 5000. - Plan of development process.

Any development, or any redevelopment exceeding two thousand five hundred (2,500) square feet of land disturbance shall be accomplished through a plan of development process prior to any development preparation activities onsite, such as clearing or grading of the site and the issuance of any building permit, to assure compliance of all applicable requirements of this ordinance. Modifications to the required buffer may require a plan of development, as determined by the zoning administrator.

- (a) Required information. In addition to the requirements of County Zoning Ordinance or the requirements of the County Subdivision Ordinance, the plan of development process shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined, as deemed appropriate by the zoning administrator. The zoning administrator may determine that some of the following information is unnecessary due to the scope and nature of the proposed development.

The following plans or studies shall be submitted, unless otherwise provided for:

1. A plot plan or site plan in accordance with the provisions of County Zoning Ordinance or subdivision plat in accordance with the provisions of the County Subdivision Ordinance;
 2. An environmental site assessment;
 3. A landscaping plan;
 4. A stormwater management plan in accordance with Chapter 14A of the County Code;
 5. An erosion and sediment control plan in accordance with the provisions of Chapter 6 of the County Code.
- (b) Environmental site assessment. An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.
1. The environmental site assessment shall be drawn to scale and clearly delineate the environmental components identified in subsection 3000(b) of this ordinance.
 2. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as may be amended.
 3. The environmental site assessment shall delineate the geographic extent of the Resource Protection Area on the specific site or parcel as required under section 3001 of this ordinance;
 4. The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. This requirement may be waived by the zoning administrator when the proposed use or development will be clearly located outside of an RPA, based upon an evaluation of the zoning administrator.

- (c) Landscape plan. A landscape plan shall be submitted in conjunction with site plan review and approval or as part of subdivision plat approval. No clearing or grading of any lot or parcel will be permitted without an approved landscape plan.

Landscape plans shall be prepared and/or certified by a design professional practicing within their areas of competence as prescribed by the Code of Virginia.

1. Contents of the plan.

- a. The landscape plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site eight (8) inches or greater diameter at breast height (DBH) shall be shown on the landscaping plan, or where there are groups of trees, said stands may be outlined instead. The specific number of trees eight (8) inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the landscaping plan.
- b. Any required RPA buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this ordinance, shall be shown on the landscaping plan.
- c. Within the buffer area, trees and other woody vegetation to be removed for reasonable sight lines, vistas, access paths, and best management practices, as provided for in subsection 4002(b)1.a., shall be shown on the plan. Vegetation required by this ordinance to replace any existing trees within the buffer area shall be also be depicted on the landscape plan.
- d. Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this ordinance shall be shown on the landscape plan.
- e. The plan shall depict grade changes or other work adjacent to trees that would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
- f. The landscape plan will include specifications for the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.
- g. If the proposed development is a change in use from agricultural or silvicultural to some other use, the plan must demonstrate the re-establishment of vegetation in the buffer area.

2. Plant specifications.

- a. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
- b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most

recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.

- c. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation shall be achieved with a ratio of three (3) planted trees to each tree removed in accordance with good woodlot management. Replacement trees shall be two (2) inches DBH at the time of planting.
 - d. Use of native or indigenous species is strongly encouraged.
- 3. Maintenance.
 - a. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this ordinance.
 - b. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this ordinance.
- (d) Stormwater management plan. A stormwater management plan shall be submitted as part of the plan of development process required by this ordinance and in conjunction with site plan or subdivision plan approval in accordance with the provisions of Chapter 14A of the County Code.
 - 1. For phased projects, an updated stormwater management plan shall be provided for each phase to the county planning and zoning department demonstrating the project's stormwater management facilities are still meeting the pollutant removal standards of the original WQIA. Updated stormwater management plans shall be required until all phases of the project are complete.
- (e) Erosion and sediment control plan. An erosion and sediment control plan shall be submitted that satisfies the requirements of this ordinance and in accordance with Chapter 6 of the County Code, in conjunction with plot plan, site plan or subdivision plan approval.
- (f) Final plan. Final plans for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided as required in the County Zoning Ordinance.
 - 1. Final plans for all lands within CBPAs shall include the following additional information:
 - a. The delineation of the Resource Protection Area boundary, including the one hundred-foot buffer component;
 - b. Plat or plan note stating that no land disturbance is allowed in the buffer area without review and approval by the zoning administrator;
 - c. All wetlands permits required by law;

- d. A maintenance agreement as deemed necessary and appropriate by the zoning administrator and/or the stormwater division to ensure proper maintenance of best management practices in order to continue their functions.
- 2. Installation and bonding requirements.
 - a. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant material or facilities is completed in accordance with the approved site plan.
 - b. Installation and bonding requirements for landscaping shall be in accordance with the County Zoning Ordinance.
 - ~~b. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the county a form of surety satisfactory to the county attorney in an amount equal to the remaining plant materials, related materials, or installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities as determined by the zoning administrator.~~
 - ~~c. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the county.~~
 - ~~d. After all required actions of the approved site plan have been completed, the applicant must submit a written request for final inspection. If the requirements of the approved plan have been completed to the satisfaction of the zoning administrator, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following receipt of the applicant's request for final inspection. The zoning administrator may require a certificate of substantial completion from a professional engineer or Class III B surveyor before making a final inspection.~~
- (g) Administrative responsibility. Administration of the plan of development process shall be in accordance with the County Zoning Ordinance or the County Subdivision Ordinance. The zoning administrator shall approve, approve subject to conditions, or disapprove the plans in accordance with the reviewing authorities' recommendations. The zoning administrator shall return notification of plan review results to the applicant, including recommended conditions or modifications. In the event that the results and/or recommended conditions or modifications are acceptable to the applicant, the plan shall be so modified, if required, and approved.
- (h) Denial of plan, appeal of conditions or modifications. In the event the final plan or any component of the plan of development process is disapproved or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the planning commission within sixty (60) days of the administrative decision to be appealed. The planning commission shall make a

recommendation to the board of supervisors. The final decision on an appeal shall be made by the board of supervisors.

In preparing to recommend to grant or deny an appeal, the planning commission must find such plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this ordinance. If the planning commission finds that the applicant's plan does not meet the above stated criteria, they shall recommend denial of the plan. (8-21-06; 4-16-15; 6-15-17.)

Sec. 5001. - Nonconforming uses and nonconforming structures.

- a. The lawful use of a building or structure which existed on October 1, 1989, or which lawfully exists at the time of any amendment to the performance standards and criteria of this ordinance and which became not in compliance, may continue subject to the provisions of the county zoning ordinance and the provisions below:

No change or expansion of use shall be allowed with the exception that:

1. The zoning administrator may grant a nonconforming use and/or waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations to such nonconforming structures provided that:
 - a. There will be no increase in nonpoint source pollution load;
 - b. Any development or land disturbance exceeding an area of two thousand five hundred (2,500) square feet complies with all erosion and sediment control requirements in accordance with the provisions of Chapter 6 of the County Code and stormwater management requirements in accordance with Chapter 14A of the County Code;
 - c. In the case of a structure that has become nonconforming due to encroachment into the RPA, the structure may be moved out of the RPA to reduce the amount of nonconformity, and a water quality impact assessment shall not be required.
2. An application for a nonconforming use and/or waiver shall be made to and upon forms furnished by the zoning administrator and shall include for the purpose of proper enforcement of this ordinance, the following information:
 - a. Name and address of applicant and property owner;
 - b. Legal description of the property and type of proposed use and development;
 - c. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the resource protection area;
 - d. Location and description of any existing private water supply or sewage system.
3. A nonconforming use and development waiver shall become null and void twenty-four (24) months from the date issued if no substantial work has commenced.

4. An application for the expansion of a nonconforming structure may be approved by the zoning administrator through an administrative review process provided that the following findings are made:
 - a. The request for the waiver is the minimum necessary to afford relief;
 - b. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this ordinance to other property owners in similar situations;
 - c. The waiver is in harmony with the purpose and intent of this ordinance and does not result in water quality degradation;
 - d. The waiver is not based on conditions or circumstances that are self-created or self-imposed;
 - e. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
 - f. Other findings, as appropriate and required by the county are met; and
 - g. In no case shall this provision apply to accessory structures. (8-21-06; Ord. No. 2012-12-C, 10-18-12; 4-16-15.)

Sec. 5002. - Exceptions.

- (a) A request for an exception to the requirements of sections 4000 and 4002 of this ordinance or any other exception requested from the provisions of this ordinance shall be made in writing to the planning commission, who shall make a recommendation to the board of supervisors. It shall identify the impacts of the proposed exception on water quality and on lands within the Resource Protection Area through the preparation of a water quality impact assessment, which complies with the provisions of section 4003, and accompanied with a processing fee as shall be set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended.
- (b) The planning commission and board of supervisors shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with § 15.2-2204 of the Code of Virginia.
- (c) The planning commission shall review the request for an exception and the water quality impact assessment and may recommend the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this ordinance. In rendering its decision, the planning commission shall not recommend in favor of the applicant unless it finds:
 1. That the strict application of the ordinance would produce an undue hardship and will not confer upon the applicant any special privileges denied by this ordinance to other property owners in the CBPA areas;
 2. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;
 3. The exception request is the minimum necessary to afford relief;

4. The exception request will be in harmony with the purpose and intent of this ordinance, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
 5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.
- (d) If, after applying the criteria set forth above, the board of supervisors refuses to grant the exception, the zoning administrator shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.
- (e) Any person or persons jointly or severally aggrieved by a decision of the board of supervisors may present to the circuit court of the County of Isle of Wight a petition specifying the grounds on which aggrieved within thirty (30) days after the final decision of the board of supervisors. Costs shall not be allowed against the board of supervisors, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed therefrom. (8-21-06; 5-1-14; 4-16-15.)

Sec. 5003. - Enforcement, violation and penalties.

- (a) The primary responsibility for administering and enforcing this ordinance shall be assigned to the zoning administrator or a duly authorized designee. The zoning administrator or his duly authorized designee, planning commission members and board of supervisors' members including other persons designated by the board of supervisors, shall have authority to conduct inspections and surveys upon the property affected by this ordinance to determine compliance with this ordinance. The zoning administrator shall seek criminal or civil enforcement for any provision of this ordinance and take any action on behalf of the county to prevent or abate any violation or potential violation of this ordinance. The zoning administrator, upon written request of an interested person whose property may be affected, shall render an opinion as to the applicability of this ordinance to particular uses in its application to the factual circumstances presented. The zoning administrator shall design and distribute applications and forms required for this ordinance and request information that is pertinent to the request of the approval and shall perform such other duties as are necessary for the proper enforcement and administration of this ordinance.
- (b) In addition to any other remedies in subsection (a) of this section, the following penalties are incorporated in this ordinance as follows:
1. Any person who: (i) violates any provision of the ordinance or (ii) violates or fails, neglects, or refuses to obey any board of supervisors' or the zoning administrator's final notice, order, rule, regulation, or variance or permit condition authorized under this ordinance shall, upon such finding by an appropriate circuit court, be assessed a penalty not to exceed five thousand dollars (\$5,000.00) for each day of violation.
 2. With the consent of any person who: (i) violates any provision of this ordinance or (ii) violates or fails, neglects, or refuses to obey any board of supervisors' or zoning administrator's, notice, order, rule, regulation, or variance or permit condition authorized under this ordinance, the board of supervisors' may provide for the issuance of an order against such person for the one (1) time payment of civil charges for each violation in specific sums, not to exceed ten thousand dollars (\$10,000.00) for each

violation. Such civil charges shall be paid into the treasury of Isle of Wight County for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas in the county except that where the violator is the county or its agent, the civil charges shall be paid into the state treasury. The civil charges shall be in lieu of any appropriate civil penalty imposed under subdivision 1. of this subsection. Civil charges may be in addition to the cost of any restoration required or ordered by the board of supervisors or zoning administrator. (8-21-06.)

Sec. 5004. - Appeals.

(a) Any person or persons jointly or severally subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to Board of Zoning Appeals no later than thirty (30) days from the rendering of such decision, order or requirement. The fee shall be as set forth in the Isle of Wight County Fee Schedule for such appeals. The Board of Zoning Appeals shall hear the appeal as soon as practical after receipt of the application.

i. In rendering its decision, the Board of Zoning Appeals shall balance the hardship to the property owner with the purpose, intent, and objectives of this chapter.

ii. Decisions by the Board of Zoning Appeals shall be subject to review by the Circuit Court of Isle of Wight County provided an appeal is filed within thirty (30) days from the date of the decision of the board.

(b) Any person or persons jointly or severally aggrieved by a decision of the Board of Supervisors may present to the Circuit Court of County of Isle of Wight a petition specifying the grounds on which aggrieved within thirty (30) days after the final decision of the Board of Supervisors. Costs shall not be allowed against the Board of Supervisors, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed therefrom. (4-15-21.)

Article 6. - Septic Pump-Out Program.

Sec. 6000. - Purpose and findings.

The purpose of the septic pump-out program is to protect public health, safety, and welfare through ensuring the proper functioning of on-site sewage disposal systems. The septic pump-out program also is intended to protect water quality within the Chesapeake Bay watershed, and is required to meet state and local Chesapeake Bay Preservation Area regulations.

Findings made by Isle of Wight County include the following:

1. Individual and group on-site sewage treatment systems continue to be heavily relied upon throughout most parts of the county, including properties located within the Chesapeake Bay Watershed.
2. Septic systems require proper management and maintenance in order to continue working as intended. Solids will accumulate over time and require pumping out.
3. Septic systems that are improperly installed or maintained are subject to clogging and/or overflow. A malfunctioning system may cause contaminants to rise to the surface, pollute ground or surface water, create foul odors, and otherwise threaten public health, safety, and welfare.
4. Most experts recommend that on-site sewage treatment systems be inspected and pumped out as necessary every three (3) to five (5) years, according to the U.S. Environmental Protection Agency.
5. Septic systems that are properly maintained are less likely to cause pollution. Routine maintenance can help avoid the costs of emergency replacement and/or major repairs caused by neglect. (5-15-08.)

Sec. 6001. - Authority.

This program is authorized by the Commonwealth of Virginia, pursuant to 9 VAC 25-830-130 and Section 4000(B)(7) of the Isle of Wight County Chesapeake Bay Preservation Area Ordinance. (5-15-08; 4-16-15.)

Sec. 6002. - Severability.

If any section, paragraph, subdivision, clause, phrase, or provision of this article shall be held as invalid or unconstitutional, such a ruling shall not affect the validity of the remainder of this article. (5-15-08.)

Sec. 6003. - Effective date.

This program shall go into effect on August 1, 2008. (5-15-08.)

Sec. 6004. - Applicability.

The purpose of the septic pump-out program is to encourage proper maintenance and increase the functional life of on-site septic systems through regular pump-outs at least once every five (5) years. The program applies to those properties located in the Chesapeake Bay watershed in Isle of Wight County, Virginia that are served by private, on-site sewage treatment and disposal systems. Please see special language located elsewhere in this document regarding septic systems equipped with septic tank effluent filters.

- A. No property owner located within the Chesapeake Bay watershed of Isle of Wight County, Virginia shall operate an on-site sewage treatment system unless such construction, installation, alteration, maintenance or operation is in compliance with all applicable sanitary regulations and this program.
- B. Septic tank pump-outs as prescribed in this article shall take place at least once every five (5) years, other than as noted in Item C. Furthermore, in lieu of requiring proof of septic tank pump-out every five (5) years, owners may submit documentation every five

(5) years, certified by an operator or on-site soil evaluator licensed or certified under Chapter 23 (Section 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, maintain or design on-site sewage systems, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.

- C. If deemed appropriate by the local health department and subject to conditions the local health department may set, as an alternative to the mandatory pump-out, owners have the option of having a plastic filter installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. (5-15-08; 3-20-14; 4-16-15.)

Sec. 6005. - Exemptions.

Situations exempt from the septic pump-out requirement include any inactive or abandoned on-site septic system.

To qualify for exemption, property owners must provide the county with appropriate, written verification. This could include a statement or other evidence acceptable to the county. The statement or evidence must show the old septic system has been pumped out and destroyed, either with the tank being crushed in and backfilled in place or the tank filled with clean sand. There is no permit required to abandon a septic tank system. (5-15-08.)

Sec. 6006. - Definitions.

AOSE:\ An abbreviation for "authorized on-site soil evaluator", an individual certified by the Virginia Department of Health. An AOSE is someone who has demonstrated knowledge, skills, and abilities in the practice of siting and designing on-site septic systems. An AOSE may be from the private sector or be employed by the Virginia Department of Health.

Authorized inspector:\ This may include a licensed professional engineer, an authorized on-site soil evaluator, or a person hired or contracted by the county or state to inspect on-site septic systems.

Chesapeake Bay Preservation Area (CBPA):\ Any land designated by the board of supervisors pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 25-830-10 et seq., and Section 62.1-44.15:72 of the Code of Virginia (1950, as amended). The Chesapeake Bay Watershed covers half of Isle of Wight County, Virginia and generally includes all parcels to the east of Route 258. A map that precisely shows the extent of the watershed is available in the department of planning and zoning.

County:\ Isle of Wight County, Virginia.

Malfunctioning system:\ Any septic system that is overflowing, clogged, or otherwise creating a threat to the public health, safety and general welfare, as regulated by the Virginia Department of Health. Includes any on-site system that is not performing as specified, as determined by an authorized inspector.

Septic effluent filter:\ A plastic device installed on the outflow pipe from the septic tank. The device filters solid material from the effluent while sustaining adequate flow to the drainfield. The outflow filter must meet standards set by the Sewage Handling and Disposal Regulations (12 VAC 5-610-10 et seq.) administered by the Virginia Department of Health.

Septic system:\ Any private on-site sewage treatment and disposal system not requiring a VPDES permit.

Septic system, active:\ Any on-site septic system contained within the Chesapeake Bay Watershed that is currently in use for any affected property.

Septic system, inactive:\ Any on-site septic system that has been abandoned or is no longer in service. The functional status of any given system must be documented by the Virginia Department of Health or any licensed sewage handler.

Sewage handler:\ Any person, contractor or corporation allowed to operate under a permit issued by the Virginia Department of Health to pump out sewage treatment systems.

Violator:\ Any person who:

- (1) Violates any provision of this program; or
- (2) Violates or fails, neglects, or refuses to obey any board of supervisors' or the zoning administrator's final notice, order, rule, regulation, or variance or permit condition authorized under this program.

Zoning administrator:\ The person, or authorized designee, responsible for administering and enforcing the septic pump-out program. (5-15-08; 4-16-15.)

Sec. 6007. - Administration.

- A. General procedures: Septic systems located within the Chesapeake Bay watershed must be pumped out at least once every five (5) years, except as noted under Item F. for systems equipped with a septic tank effluent filter. Property owners are responsible for the costs of pump-outs. The zoning administrator is responsible for the general administration and enforcement of the septic pump-out program.

To support the septic pump-out program, the county will create and maintain a database to document all affected septic systems and to serve as a tracking mechanism. The database will be organized according to Tax Parcel ID number. The database will contain the following information: name of property owner, mailing address, physical address, and last date of septic system pump-out.

Affected property owners will be required to register their septic systems with the department of planning and zoning. This includes both existing and new septic systems. The county will notify property owners and provide the forms that need to be filled out to comply with the septic pump-out program.

The department of planning and zoning will administer the program through a combination of public education, mailings, and information posted on the Isle of Wight County Internet web site. Activities to be undertaken by the county will include the following:

- Notification to affected property owners.
- Mailings of the program verification and compliance forms (once every five (5) years).
- Other homeowner education and outreach as deemed appropriate.

- B. Program phase-in: The septic pump-out program will be phased in over a period of five (5) years. The phasing in will be done by election district, with one (1) election district

added per year. The county's five (5) election districts include the Carrsville, Hardy, Newport, Smithfield, and Windsor districts.

The phase-in will start with the Smithfield Election District and then continue by alphabetical order to the Windsor Election District, Carrsville Election District, Hardy Election District, and the Newport Election District. The program starts first with the Smithfield Election District to coordinate with the Town of Smithfield, which also is implementing a septic pump-out program. The Smithfield Election District includes the Town of Smithfield and parts of the county outside of town limits.

- C. Right of entry: The zoning administrator, or authorized designee, shall have the right to enter property where an individual or group septic system is located for the purpose of observation, inspection, monitoring and/or sampling the septic system, its drainfield and the surrounding land area.
- D. Role of property owner with septic system: Property owners with septic systems located within the Chesapeake Bay watershed must participate in the septic pump-out program. This includes filling out, signing and submitting forms as required by the county. Property owners are in compliance with the septic pump-out program when:
 - 1) They have filled out, signed and submitted the septic system verification forms as required by the county; and
 - 2) They have had septic system pump-outs as required by the county.

This program will be carried out in stages, by election district, with the affected property owners notified each year by the county. In any given year, those property owners who have been notified by the county will have twenty-four (24) months from the date of notification to have pump-outs completed or to demonstrate why they are exempt from the program.

Property owners who fail to provide information to the county when requested may be subject to civil penalties and/or court-ordered fines.

- E. Complaints and appeals: Written complaints about the septic pump-out program should first be directed to the zoning administrator, who can investigate and determine whether a complaint is valid. Any person or persons who continue to feel aggrieved by this program, or any decisions made by the zoning administrator, may appeal those decisions, in writing, to the board of supervisors. Appeals to the board of supervisors must be made within thirty (30) days of the date of the written decision by the zoning administrator, or such decision shall be final.

Any decision by the board of supervisors regarding the septic pump-out program may be appealed by petitioning the Circuit Court of Isle of Wight County within thirty (30) days after the final decision of the board of supervisors, or such decision shall be final.

- F. Septic tank effluent filters: The septic pump-out program allows the installation of septic tank effluent filters on all new on-site septic systems and as a retrofit on all existing septic systems, where appropriate. The Virginia Department of Health has advised that some types of septic treatment systems do not have septic tanks and are not designed to include septic effluent filters (some aerobic sewage treatment units, for example, are not appropriate for installation of these effluent filters).

Under the septic pump-out program, if deemed appropriate by the local health department and subject to conditions the local health department may set, owners have the option, in lieu of pump-out, to install and maintain a plastic filter in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Please be aware of manufacturer specifications for effluent filters and any maintenance requirements associated with these filters.

The county strongly recommends that septic tank effluent filters be installed by septic tank contractors and in accordance with standards set by the Virginia Department of Health. (5-15-08; 3-20-14; 4-16-15.)

~~Sec. 6007. -- Administration.~~

~~A. -- General procedures: Septic systems located within the Chesapeake Bay watershed must be pumped out at least once every five (5) years, except as noted under Item F. for systems equipped with a septic tank effluent filter. Property owners are responsible for the costs of pump outs. The zoning administrator is responsible for the general administration and enforcement of the septic pump-out program.~~

~~To support the septic pump-out program, the county will create and maintain a database to document all affected septic systems and to serve as a tracking mechanism. The database will be organized according to Tax Parcel ID number. The database will contain the following information: name of property owner, mailing address, physical address, and last date of septic system pump-out.~~

~~Affected property owners will be required to register their septic systems with the department of planning and zoning. This includes both existing and new septic systems. The county will notify property owners and provide the forms that need to be filled out to comply with the septic pump-out program.~~

~~The department of planning and zoning will administer the program through a combination of public education, mailings, and information posted on the Isle of Wight County Internet web site. Activities to be undertaken by the county will include the following:~~

- ~~• Notification to affected property owners.~~
- ~~• Mailings of the program verification and compliance forms (once every five (5) years).~~
- ~~• Other homeowner education and outreach as deemed appropriate.~~

~~B. -- Program phase in: The septic pump-out program will be phased in over a period of five (5) years. The phasing in will be done by election district, with one (1) election district added per year. The county's five (5) election districts include the Carrsville, Hardy, Newport, Smithfield, and Windsor districts.~~

~~The phase in will start with the Smithfield Election District and then continue by alphabetical order to the Windsor Election District, Carrsville Election District, Hardy Election District, and the Newport Election District. The program starts first with the Smithfield Election District to coordinate with the Town of Smithfield, which also is implementing a septic pump-out program. The Smithfield Election District includes the Town of Smithfield and parts of the county outside of town limits.~~

~~C. Right of entry: The zoning administrator, or authorized designee, shall have the right to enter property where an individual or group septic system is located for the purpose of observation, inspection, monitoring and/or sampling the septic system, its drainfield and the surrounding land area.~~

~~D. Role of property owner with septic system: Property owners with septic systems located within the Chesapeake Bay watershed must participate in the septic pump-out program. This includes filling out, signing and submitting forms as required by the county.~~

~~Property owners are in compliance with the septic pump-out program when:~~

~~1) They have filled out, signed and submitted the septic system verification forms as required by the county; and~~

~~2) They have had septic system pump-outs as required by the county.~~

~~This program will be carried out in stages, by election district, with the affected property owners notified each year by the county. In any given year, those property owners who have been notified by the county will have twenty four (24) months from the date of notification to have pump-outs completed or to demonstrate why they are exempt from the program.~~

~~Property owners who fail to provide information to the county when requested may be subject to civil penalties and/or court-ordered fines.~~

~~E. Complaints and appeals: Written complaints about the septic pump-out program should first be directed to the zoning administrator, who can investigate and determine whether a complaint is valid. Any person or persons who continue to feel aggrieved by this program, or any decisions made by the zoning administrator, may appeal those decisions, in writing, to the board of supervisors. Appeals to the board of supervisors must be made within thirty (30) days of the date of the written decision by the zoning administrator, or such decision shall be final.~~

~~Any decision by the board of supervisors regarding the septic pump-out program may be appealed by petitioning the Circuit Court of Isle of Wight County within thirty (30) days after the final decision of the board of supervisors, or such decision shall be final.~~

~~F. Septic tank effluent filters: The septic pump-out program allows the installation of septic tank effluent filters on all new on-site septic systems and as a retrofit on all existing septic systems, where appropriate. The Virginia Department of Health has advised that some types of septic treatment systems do not have septic tanks and are not designed to include septic effluent filters (some aerobic sewage treatment units, for example, are not appropriate for installation of these effluent filters).~~

~~Under the septic pump-out program, if deemed appropriate by the local health department and subject to conditions the local health department may set, owners have the option, in lieu of pump-out, to install and maintain a plastic filter in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Please be of aware manufacturer specifications for effluent filters and any maintenance requirements associated with these filters.~~

~~The county strongly recommends that septic tank effluent filters be installed by septic tank contractors and in accordance with standards set by the Virginia Department of Health. (5-15-08; 3-20-14.)~~

Sec. 6008. - Enforcement, violations and penalties.

- A. Enforcement. The zoning administrator, or authorized designee, holds the primary responsibility for administering the septic pump-out program. The zoning administrator shall seek criminal or civil enforcement for any provision of this program and take any action on behalf of the county to prevent or abate any violation or potential violation of this program.

The zoning administrator, upon written request of an interested person whose property may be affected, shall render a decision, based on the facts presented, as to the applicability of this ordinance to particular situations that may arise under the septic pump-out program. See subsection 6007.E. regarding complaints and appeals.

- B. Penalties. Violators shall, upon finding by an appropriate circuit court, be assessed a penalty up to five thousand dollars (\$5,000.00) for each day of violation.

As an alternative to a court-ordered penalty, violators may be offered the option of a onetime payment of civil charges for each violation in specific sums, not to exceed ten thousand dollars (\$10,000.00) for each violation, as determined by the Isle of Wight County Board of Supervisors. (5-15-08.)