

A G E N D A
ISLE OF WIGHT COUNTY PLANNING COMMISSION
August 27, 2024

1. CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

2. ROLL CALL/DETERMINATION OF A QUORUM

BOBBY BOWSER, CHAIRMAN

THOMAS J. DISTEFANO, VICE-CHAIRMAN

BRIAN CARROLL

CYNTHIA TAYLOR

JAMES FORD

JENNIFER S. BOYKIN

GEORGE RAWLS

RICK SIENKIEWICZ

RAYNARD GIBBS

MATTHEW SMITH

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

4. APPROVAL OF AGENDA

5. CONSENT AGENDA

A. July 11, 2024 Board of Supervisors Regular Meeting Action List

B. June 25, 2024 Planning Commission Regular Meeting Minutes

C. July 23, 2024 Planning Commission Regular Meeting Minutes

D. August 15, 2024 Board of Supervisors Action List

6. CITIZENS' COMMENTS

7. PUBLIC HEARINGS

A. AFD 1-24 Todd and Kristi Bryant Withdrawal Request

Application (AFD-1-24) of Todd and Kristi Bryant, owners, to withdraw 27 acres of land located near Trump Town Road (Rt. 651) on Elmwood Lane on tax map parcel 29-01-029 from the Courthouse Agricultural District. The purpose of the application is to convert 27 acres of existing agricultural land to forested wetlands.

B. ZA-05-24 Coastal Investors Commercial Rezoning Request

Application (ZA-05-24) of Coastal Investors, owners, to rezone .237 acres located on Bennis Church Blvd. (Rt. 10) tax map parcel 32-01-061 from Planned Development – Mobile Home to Conditional General Commercial to enlarge commercial parcel 32-01-061C

8. OLD BUSINESS

9. NEW BUSINESS

A. COUNTY ATTORNEY'S REPORT

B. PLANNING DIRECTOR'S REPORT

1. Proposed Zoning Ordinance Change Discussion
Discussion on Proposed Changes to the Zoning Ordinance
2. Board Directives for Planning Commission

10. CLOSED MEETING

11. ADJOURNMENT

PLANNING REPORT

ATTACHMENTS:

Description	Type	Upload Date
July 11, 2024 Board of Supervisors Regular Meeting Action List	Cover Memo	7/22/2024

ACTION LIST
BOARD OF SUPERVISORS
REGULAR MEETING
JULY 11, 2024

1. Supervisor McCarty advised that he would be participating remotely from Indianapolis, Indiana due to a personal matter.

Supervisor Rosie moved that Supervisor McCarty be authorized to participate remotely in the meeting. The motion was adopted (3-0) with Supervisors Acree, Rosie and Rountree voting in favor of the motion; Supervisor Jefferson absent from the meeting; no Supervisor voting against the motion; and, Supervisor McCarty abstaining from voting on the motion.

2. Approval of Agenda

On motion of Supervisor Rountree, the agenda was amended to include an update from Captain Bryan, Sheriff's Office, and was unanimously (4-0) adopted with Supervisors Acree, Rosie, McCarty and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisor Jefferson absent from the meeting.

3. Closed Meeting

There was no action taken following the closed meeting.

4. Citizens' Comments

Glen Willis of Lovers Lane in Windsor distributed copies of information pertaining to impacts related to setback requirements in the County's Zoning Ordinance.

5. Consent Agenda

Following an overview by County Administrator Keaton of the Consent Agenda, Supervisor Rosie moved to adopt the Resolution to Designate the Month of July as Fragile X Syndrome Awareness Month which was unanimously (4-0) adopted with Supervisors Acree, Rosie, McCarty and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisor Jefferson absent from the meeting:

Supervisor Rountree followed with a motion to adopt the remainder of the following Consent Agenda:

- A. Resolution to Amend the FY2024-2025 Operating Budget and Appropriate Funding From Virginia Tourism Corporation (\$11,700)

Assignment: Wells

- B. Resolution to Amend the FY2024-2025 Operating Budget and Appropriate Opioid Settlement Funds (\$40,000)

Assignment: Wells

- C. Facility Use Agreement Between Isle of Wight County School Board and the Isle of Wight County Board of Supervisors

Assignment: Keaton/Jones

- D. Minutes

- May 16, 2024 Regular Meeting Minutes
- May 29, 2024 Special Called Meeting Minutes
- June 6, 2024 Work Session Minutes

Assignment: Storm

The motion was unanimously (4-0) adopted with Supervisors Acree, Rosie, McCarty and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisor Jefferson absent from the meeting.

6. Regional and Inter-Governmental Reports

No reports were offered.

7. Appointments

No appointments were offered.

8. Special Presentations / Appearances

- A. Captain Ron Bryan addressed the Board concerning a July 2nd incident involving the radio system. Further, on July 4th, the CAD system was affected following upgrades by the IT Department. Lastly, on July 9th, an issue with phone static was identified which is being monitored by AT&T.

Following Chairman Acree's request for an explanation regarding the reason for Motorola not contacting the County to advise that the site was down, Supervisor Rountree moved that the Board receive a follow-up report on the incidents which occurred in the month of July from Captain Bryan at its August 15th regular meeting. The motion was adopted unanimously (4-0) with Supervisors Acree, Rosie, McCarty and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisor Jefferson absent from the meeting.

Assignment: Sheriff

- B. Garry Windley, Chief of Fire Rescue, provided an overview of new pharmacy regulations. County Administrator Keaton advised that he will be bringing back a budget amendment at a later date to fund an additional full-time person to tract narcotics.

Assignment: Windley

9. County Attorney's Report

It was the consensus of the Board that the County Attorney be authorized to advertise the Beaver Dam Precinct being moved from its current location at the VFW Post to the Carrsville Community Center at 5336 Carrsville Highway at its August 1, 2024 work session.

Assignment: Jones

10. Public Hearings

Following one public hearing on the following three matters, on motion of Supervisor Rountree, the following application was tabled:

- A. Application (CUP-8-23) of Sycamore Cross Solar, LLC, Applicant, for a Conditional Use Permit for a Major Utility Service, Specifically a 214 MW Utility-Scale Solar Energy Generation Facility and a Medium Voltage Line Known as Sycamore Cross A, on Approximately 1,795 Acres Located on Mill Swamp Road (Rte. 621) in the Rural Agricultural Conservation Zoning District as well as an Associated Application to Withdraw Approximately 860 Acres from the Moonlight Agricultural and Forestal District

The motion was adopted unanimously (4-0) with Supervisors Acree, Rosie, McCarty and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisor Jefferson absent from the meeting.

Assignment: Ring

On motion of Supervisor Rountree, the following application was tabled:

- B. Application (CUP-5-24) of Sycamore Cross Solar , LLC, Applicant, for a for a Conditional Use Permit to Allow the Expansion of an Existing Major Utility Service, Specifically a Six MW Utility-Scale Solar Energy Generation Facility and Associated Six Medium Voltage Lines Known as Sycamore Cross B, on approximately 240 Acres Located on Jones Drive (Rte. 626), Burwells Bay Road (Rte. 621), Mill Swamp Road (Rte. 621) and James Wilson Way

The motion was adopted unanimously (4-0) with Supervisors Acree, Rosie, McCarty and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisor Jefferson absent from the meeting.

Assignment: Ring

On motion of Supervisor Rountree, the following Site Agreement was tabled:

- C. Sycamore Cross Solar Energy Generation Facility Siting Agreement

The motion was adopted unanimously (4-0) with Supervisors Acree, Rosie, McCarty and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisor Jefferson absent from the meeting.

Assignment: Ring

NOTE: Supervisor McCarty ended his remote participation.

11. County Administrator's Report

- A. The Board was requested to advise staff on legislative matters to be included in the County's 2025 legislative priorities.

Chairman Acree requested Assistant County Administrator Robertson to investigate legislation proposed from the Fire Chief Association similar to the 599 Program for law enforcement.

Assignment: Robertson

- B. 2024 Board of Supervisors' Retreat: The Board was requested to review their respective calendars and advise staff if October 24th or October 25th are good dates

for the Board's 2024 retreat. Staff is in the process of locating a facilitator for the retreat and the location will be determined at a later date.

Assignment: Robertson

- C. Congressionally Directed Funding – Broadband: The Board was apprized that there is a provision in Charter's regulations that require that the County, as the grant recipient, would have to be the owner of the equipment that is funded by the grant. As a result, the County will not be able to utilize that grant funding. Attempts to have the funds redirected to another project were unsuccessful. Additional State funding is expected to become available in the next few months under the BEAD Program. Staff is confident that any homes or areas not currently addressed will be addressed. The Federal Government now needs to be advised that the County will not be able to utilize that funding.
- D. The following matters were provided in the agenda for the Board's information: Delinquent Tax Collections – May 2024; Statement of Treasurer's Activity – May 2024; Incidents by Zone Map – June 2024; Incidents by Zone Data – June 2024; Station Activity Report – June 2024; and, the Museum Report – June 2024.
- E. Information on the following was forwarded to the Board by County Administrator Keaton under separate cover:
 - . Paving efforts at the Courthouse Complex
 - . VDOT Mowing Schedules
 - . Supervisor Rosie requested staff to inquire if the potholes located approximately 20 feet from ongoing paving efforts at the intersection of Routes 258 and 58 can be repaired simultaneously with that ongoing project.

Assignment: Oliver

- . Online complaint.

Supervisor Rountree requested a report on the Isle Cares web access.

Assignment: Gray

12. New Business

- A. Amendment to the Agreement for the Creation of the Western Tidewater Regional Jail Authority to Allow the City of Hampton to Join: Supervisor Rountree moved to

authorize County Administrator Keaton to execute the agreement on behalf of the County. The motion was adopted unanimously (3-0) with Supervisors Acree, Rosie and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisors Jefferson and McCarty absent from the meeting.

Assignment: Jones

- B. Sheriff's Office Vehicles: Supervisor Rosie moved to approve the request and authorize County Administrator Keaton to bring back a budget amendment. The motion was adopted unanimously (3-0) with Supervisors Acree, Rosie and Rountree voting in favor of the motion; no Supervisor voting against the motion; and, Supervisors Jefferson and McCarty absent from the meeting.

Assignment: Keaton

PLANNING REPORT

ATTACHMENTS:

Description	Type	Upload Date
June 25, 2024 Planning Commission Regular Meeting Minutes	Minutes	8/7/2024

**MINUTES OF THE MEETING OF THE ISLE OF WIGHT COUNTY
PLANNING COMMISSION HELD ON THE TWENTY-FIFTH DAY OF
JUNE IN THE YEAR TWO THOUSAND AND TWENTY-FOUR**

CALL TO ORDER

Bobby Bowser, Chairman, called the Isle of Wight County Planning Commission meeting to order at 6:00 PM on June 25, 2024, at the Isle of Wight County General District Court, located at 17000 Josiah Parker Circle, Isle of Wight, Virginia 23397

INVOCATION

Commissioner Rawls delivered the invocation.

PLEDGE OF ALLEGIANCE

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

ROLL CALL/DETERMINATION OF A QUORUM

PRESENT

Bobby Bowser, Chairman
Thomas Distefano, Vice-Chairman
Brian Carrol
Cynthia Taylor
James Ford
Jennifer Boykin
George Rawls
Rick Sienkiewicz
Raynard Gibbs
Matthew Smith

ABSENT

A quorum was determined.

ALSO IN ATTENDANCE

Bobby Jones, County Attorney
Don Robertson, Assistant County Administrator
Amy Ring, Community Development Director
Trenton Blowe, Planner II
Caleb Kitchen, Planner I
Amanda Landrus, Secretary

ACTION ON REQUESTS TO WITHDRAW OR TABLE PENDING AGENDA ITEMS

Chairman Bowser 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 Bowser called for a vote to approve the agenda. Commissioner Boykin made the motion to approve the agenda. Commissioner Smith seconded the motion. Chairman Bowser asked for all in favor to signify by saying aye. The motion passed unanimously.

APPROVAL OF CONSENT AGENDA

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

CITIZENS' COMMENTS

Chairman Bowser invited any citizen to speak on an item that is not on the agenda tonight.

Glen Willis, 24291 Lovers Lane, spoke saying that with the recent Windsor events, he would like to speak about the setbacks and incompatible uses. Mr. Willis believes the setback requirements have an opportunity for improvement involving incompatible use types adjacent to residential neighborhoods.

There being no further citizen comments, Chairman Bowser closed citizen comments

PUBLIC HEARINGS

Chairman Bowser called for the first public hearing on the following item:

Application of Elk Development, LLC, applicant, and William Pennie, Jr. and Teresa L. Crocker, property owners, for a conditional use permit for a major utility service, specifically a 3.0 MW utility-scale solar energy generation facility, on approximately 27.32 acres on a 94.21-acre tract located on Old Stage Highway with tax parcel number 13-01-005 in the Rural Agricultural Conservation (RAC) zoning district.

Trenton Blowe, Planner II, gave the following presentation.

Solar Energy Generation Major Utility Service Conditional Use Permit Request CUP-06-23

Planning Commission Regular Meeting
June 25, 2024

Site Description

- Tax Map ID#: 13-01-005
- Location: Old Stage Highway and Morgarts Beach Rod
- Current Zoning: Rural Agricultural Conservation (RAC)
- Election District: D3
- Request: Establish a 3.0 MW utility-scale solar energy generation facility on approximately 27.32 acres of a 94.21 acre tract located on Old Stage Highway with tax parcel number 13-01-005 in the Rural Agricultural Conservation (RAC) zoning district

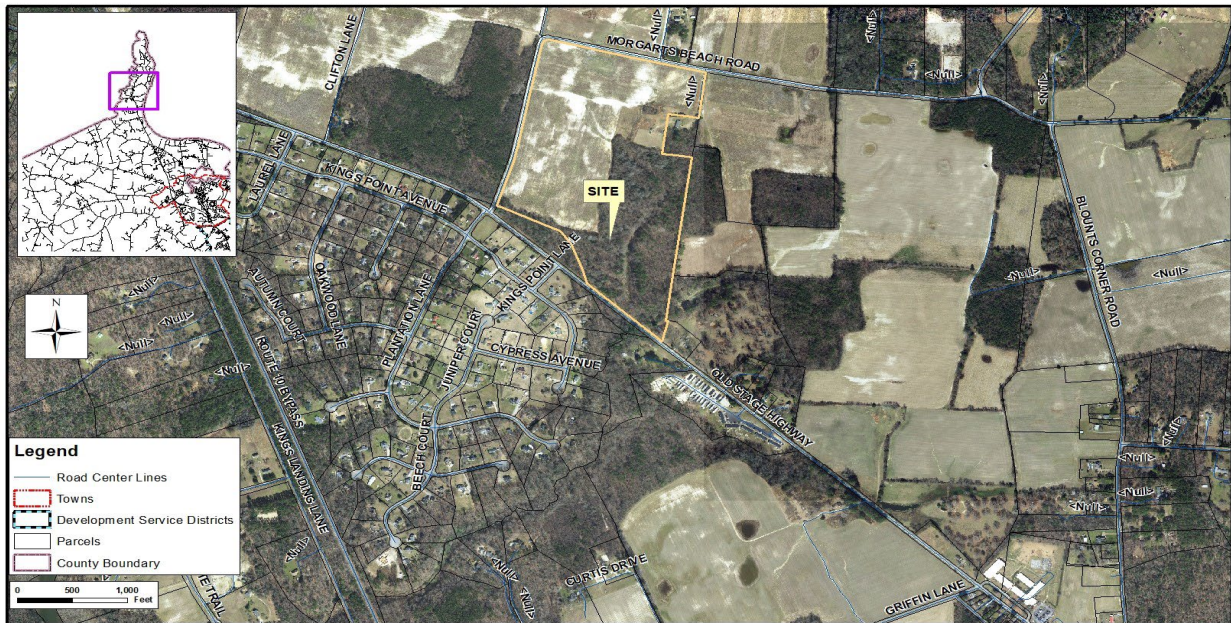
Project Description

- Applicant has proposed a three-megawatt (MW) solar energy generation facility in the western portion of the property.
- An existing electrical line that bisects the project area along Old Stage Highway will serve as the interconnection point.
- Project will consist of solar panels along with their racking systems and metal posts, inverters, and fencing.
- Based on the project area, 27.32 acres of crops will be removed from production. Approximately 23 acres will be in the fenced area of the solar facility project area.
- Property has never been developed and has historically been used for agriculture.

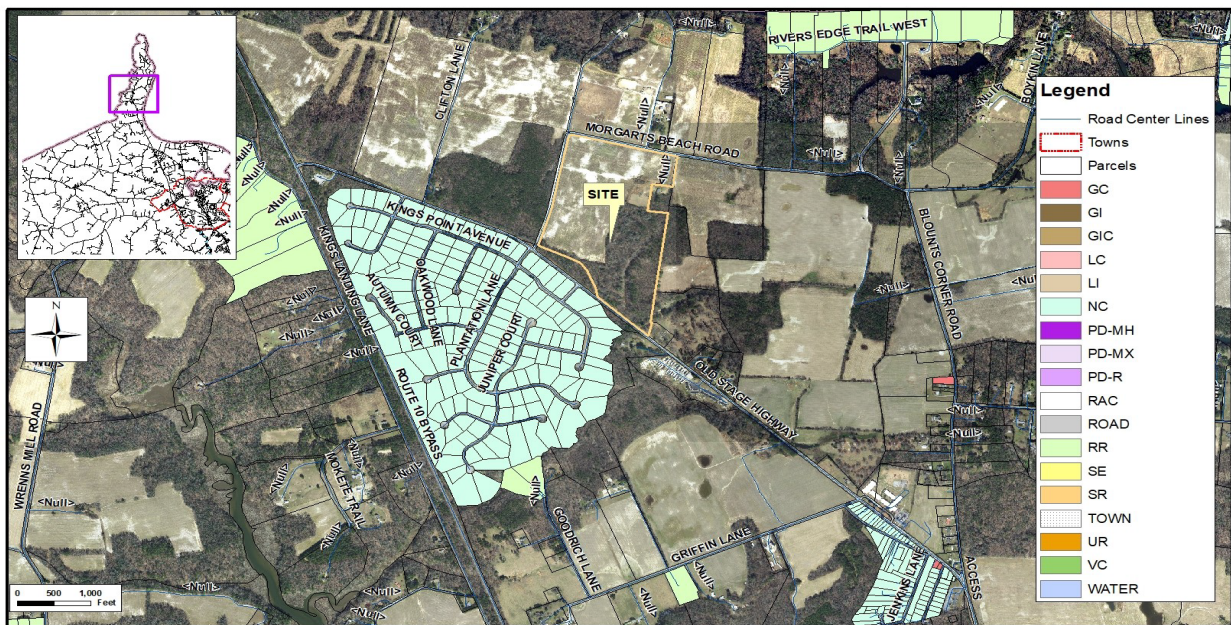
CUP-6-23 - Conditional Use Permit- Location Map



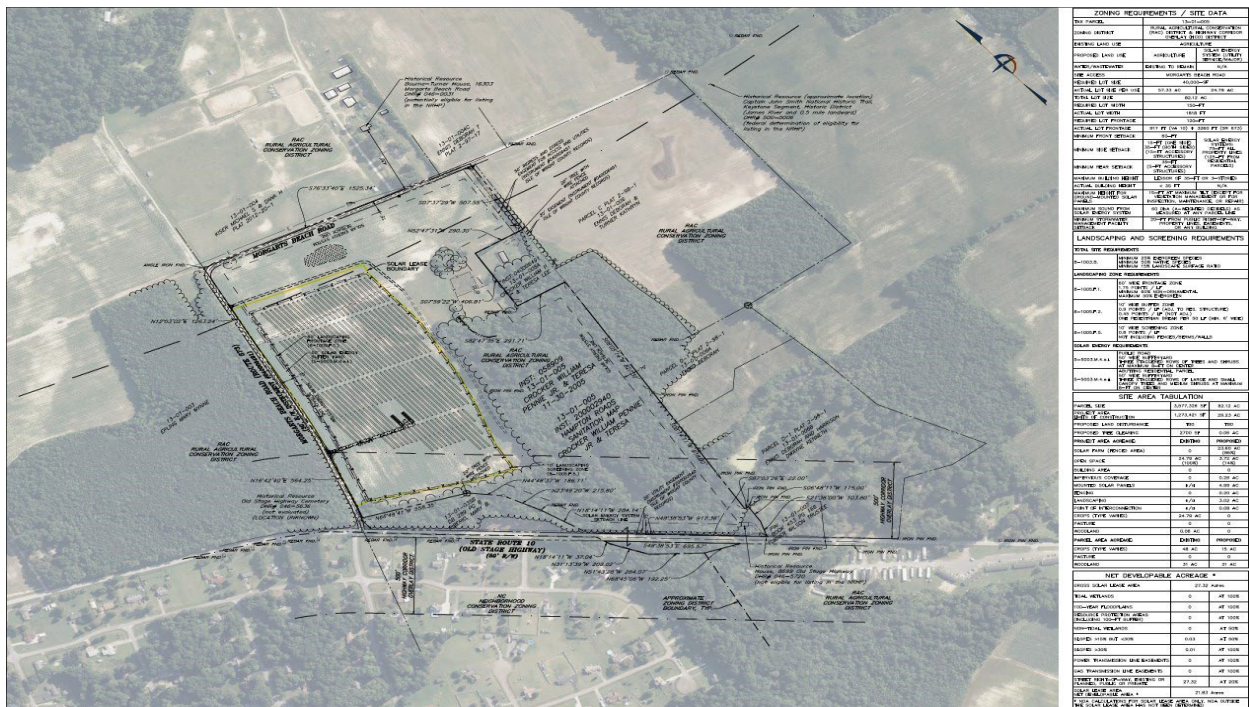
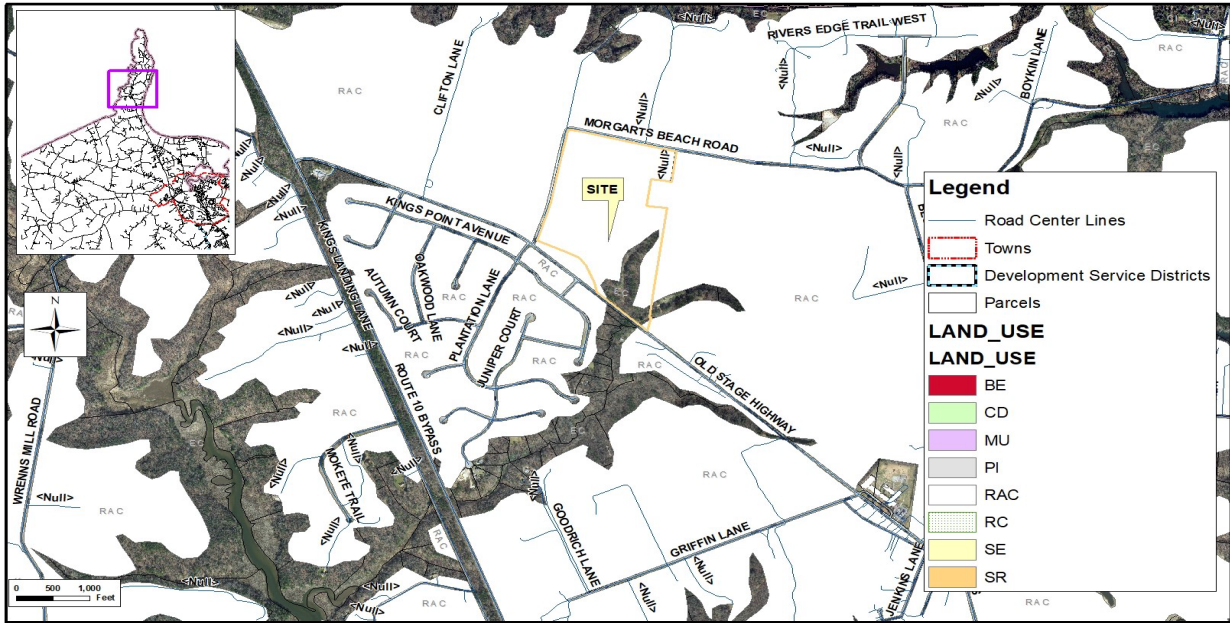
CUP-6-23 - Conditional Use Permit- Location Closeup Map



CUP-6-23 - Conditional Use Permit- Zoning Map



CUP-6-23 - Conditional Use Permit- Land Use Map





View from Old Stage Hwy



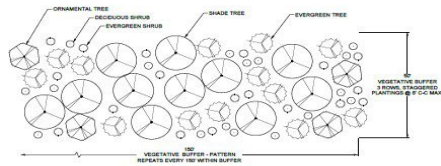
View from Morgarts Beach Rd.



Existing entrance on Morgarts Beach Rd.



KEY MAP
NOT TO SCALE



PROPOSED LANDSCAPE BUFFER | VIEW 2
NOT TO SCALE



EXISTING CONDITIONS | VIEW 2
NOT TO SCALE

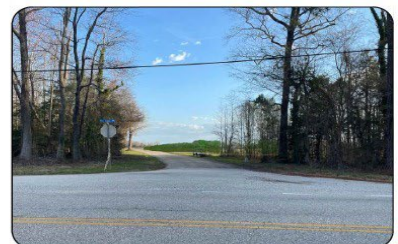
Viewshed from Old Stage Hwy



PROPOSED LANDSCAPE BUFFER | ESTIMATED TIME OF PLANTING | VIEW 2
NOT TO SCALE



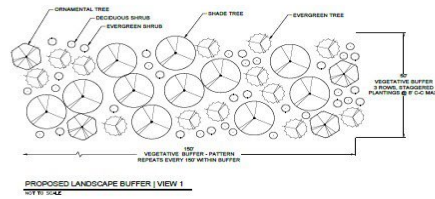
PROPOSED LANDSCAPE BUFFER | ESTIMATED 5 YEAR GROWTH | VIEW 2
NOT TO SCALE



PROPOSED LANDSCAPE BUFFER | ESTIMATED 10 YEAR GROWTH | VIEW 2
NOT TO SCALE



KEY MAP
100' 0" SCALE



EXISTING CONDITIONS | VIEW 1
100' 0" SCALE

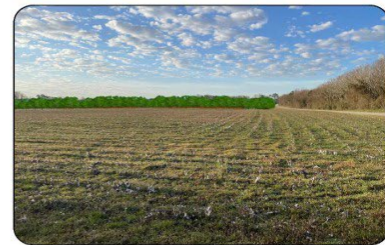
Viewshed from Morgarts Beach Rd.



PROPOSED LANDSCAPE BUFFER | ESTIMATED TIME OF PLANTING | VIEW 1
100' 0" SCALE



PROPOSED LANDSCAPE BUFFER | ESTIMATED 5 YEAR GROWTH | VIEW 1
100' 0" SCALE



PROPOSED LANDSCAPE BUFFER | ESTIMATED 10 YEAR GROWTH | VIEW 1
100' 0" SCALE

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

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 property in the immediate vicinity for the purposes already permitted, 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. Not contrary to 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.

The Board may impose additional conditions or limitations on CUPS.

Such conditions may include, but are not limited to:

1. Number of persons living or working in the immediate area and the proposed hours of operation.
2. Traffic conditions, sidewalks, parking facilities, vehicle access, peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future;
3. Orderly growth of the neighborhood and community and the fiscal impact on the County;
4. 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 resource landmarks.

Staff Analysis – Public Facilities

- The applicant has proposed to use Morgarts Beach Road via Old Stage Hwy (Rt.10). Approximately 1300 feet of unpaved road on Morgarts Beach is proposed to reach the entrance to the site.
- In establishing the use, the enjoyment of neighboring properties may also be temporarily impacted by construction traffic and noise generation.
- The applicant is required to submit an emergency response plan with the submission of the preliminary site development plan. The plan shall include a training program to be provided, at the discretion of the County, to County emergency responders concerning safety for on-site emergency response.

Staff Analysis – Environmental Assessment

- The project lies within the in the County's Chesapeake Bay Preservation Area (CBPA) Overlay District.
- There are no impacts proposed to any wetlands or watercourse with this proposal.
- No impacts to threatened or endangered species under the jurisdiction of the Virginia Department of Conservation and Recreation (DCR) are anticipated because of the proposed project. There are no impacts on identified ecological core areas.

Staff Analysis – Historical Resources

- A Phase 1 Cultural Resources Survey of the project area was conducted by Stantec. The report was reviewed by the Virginia Department of Historic Resources (VDHR) for their concurrence with the survey findings and recommendations.
- One new isolated archaeological site find (2607-IF1) was identified during this investigation. By definition, isolated archaeological find 2607-IF1 is not eligible for listing to the National Registry of Historic Places (NRHP). No further archaeological work is recommended within the Project Area.
- Four architectural resources were previously recorded, and six newly recorded resources were identified in the Phase 1 Survey.
- The Bourne-Turner house and the Keystone Segment of the John Smith Trail were said to be negatively impacted by the proposed project. The Old Stage Cemetery is approximately 750 ft from the project area. A mitigation memo was attached to the staff report from VDHR.

Staff Analysis – Economic Impact

- According to the applicant's economic impact study, the proposed facility would generate approximately \$226,500 in real estate and machinery tax revenue over a 25-year operational life and approximately \$325,900 in cumulative county revenue over a 35-year operational life.
- Projected real estate tax revenue on the current agricultural land use over a 25-year period is \$6,700 and a total of \$8,900 over 35 years.
- The acreage subject to the Conditional Use Permit would be reassessed for real estate taxes at \$15,000 per acre.

Staff Analysis – Viewshed Analysis

- An effects evaluation, in addition to the Phase I architectural survey, was conducted for NRHP-listed, eligible, and potentially eligible properties that may be affected by the proposed project.
- Two resources were assessed for effects and included the potentially eligible Bourne-Turner House (OHR #046-0031) and the portion of the NRHP-eligible Keystone Segment Historic District of the Captain John Smith National Historic Trail (DHR #500-0006) within the current architectural study area. The Old Stage Highway Cemetery (DHR #046-5636), had not been evaluated for NRHP eligibility but was not visible from the public ROW.
- Based on the current proposed project area and the existing landscape, it is recommended that the proposed project would have an adverse effect on the Bourne-Turner House (OHR #046-0031) and the portion of the Keystone Segment of the Captain John Smith National Historic Trail Historic District.
- Mitigation in the form of a donation to the Isle of Wight County Museum has been accepted by VDHR.

Comprehensive Plan Review

- The future recommended land use designation for these properties is Rural Agricultural Conservation (RAC) and Environmental Conservation (EC) under the adopted Comprehensive Plan.
- Appropriate uses for the RAC land use designation include agriculture, horticulture, forest lands, and scattered low-density residential uses. Other uses such as resource extraction and utility-scale solar facilities are also permitted when appropriately sited.
- Appropriate uses for the EC land use designation include wetlands, farms, forest uses, open space, and limited park facilities.
- Solar energy facilities are considered compatible with RAC land use when properly sited and with the application of appropriate development criteria.

Department and Agency Review

Staff distributed the application to the following departments for review and comment:

- Economic Development: The department stated it had no concerns.
- Environmental Planner: All concerns addressed with the conditional use permit. Further information will be required at site plan review.
- Commissioner of Revenue: Rollback estimates should be based on the entire acreage of the entire lease area not just the acreage of the solar facility. The acreage subject to the Conditional Use Permit would be reassessed at \$15,000 per acre.
- Emergency Services: Staff will work with the applicant during site plan review on the required Emergency Response Plan to include annual training.

Department and Agency Review Ctd

- Utility Services: Staff will review site plan for compliance with State Stormwater regulations.
- Isle of Wight County Museum: A memo was attached to the staff report.
- Virginia Department of Transportation (VDOT): No concerns at this time.

Please note that, should the conditional use permit be approved, the project will be subject to site plan review and approval from all necessary agencies.

Staff Analysis

Strengths:

1. The proposed use would generate additional nonresidential tax revenue for future public service and facility needs for the County.

Weaknesses:

1. The proposed use would remove agricultural land from production.
2. Temporary impacts to residential development in the area from construction traffic and noise is expected during the construction phase.
3. There are adverse impacts to several historical resources without appropriate setbacks and screening. The concept plan does not demonstrate the ability to comply with current Ordinance requirements.
4. The facility as proposed is not appropriately sited as recommended for the designated future recommended RAC area in the Comprehensive Plan.

Staff Recommendation

- Based on the weaknesses listed above, staff recommends denial of the CUP request.
- However, should the CUP be approved, staff recommends the following conditions:
 1. Topsoil shall be stockpiled on the site and shall be stored out of view from adjacent properties and public roads.
 2. No improvements shall be located closer than 250 feet from boundary of the Keystone Segment of the Captain John Smith Trail.
 3. The applicant shall submit a seed mix for site groundcover that includes native pollinators blooming in spring/summer as recommended by DCR.

Staff Recommendation Ctd.

4. The applicant will work directly with the Isle of Wight County Chamber of Commerce, Paul D. Camp Community College, and the Economic Development Department to ensure the inclusion of local contractors in the bidding process.
5. A laminated Emergency Response Poster will be mounted near the front gate. The poster will include a general site plan, evacuation routes, and muster points, emergency response chain of command, directions to the closest hospital, coordinates to the closest life flight landing area, and other pertinent information associated with the facility during an emergency response.
6. The facility perimeter fencing will be equipped with push-bar pedestrian gates to permit emergency exits from the facility.
7. Adherence to the proposed transportation plan shall be required for all facility traffic. Truck traffic shall be limited to only the preferred route as described in the transportation plan. No other local routes in Isle of Wight County may be used. The applicant shall coordinate deliveries outside of school bus pickup and drop-off times.

Staff Recommendation Ctd.

8. Excluding the buffer yards, the ground between the panels and in areas not otherwise covered by gravel or infrastructure shall be planted and maintained with a vegetative cover. This vegetative cover will be managed with mowing and/or grazing.
9. Hours of operation for construction and post-construction operation shall be limited to Monday through Friday, 7:00 a.m. to 6:00 p.m. Saturdays from 7:00 a.m. to 5:00 p.m. No construction is to occur on Sundays by any party involved with the project.
10. As part of the site plan review, the applicant shall provide documentation that the selected panels and all power-generating equipment on-site are “Tier 1” modules, as established by the most recent “PV Module Tier 1 List” issued by Bloomberg NEF or a similar third party analysis widely accepted in the solar industry. Additionally, the make and model of the selected panels and all power-generating equipment initially installed and replaced on the site must qualify, for disposal purposes only, as non-hazardous waste under applicable U.S. Environmental Protection Agency tests (e.g. TCLP).

Staff Recommendation Ctd.

11. The applicant shall implement a program for the collection of baseline data establishing pre-construction soil conditions for the production of row crops for the agricultural areas within the project area. The program shall establish the relevant characteristics of the topsoil. The baseline data shall be derived from field and laboratory testing of soil conditions, including depth, density, and quality from representative locations. Laboratory testing shall be conducted by an accredited laboratory. Parameters for assessing soil quality may include the following: infiltration rate, bulk density, water holding capacity, pH, percent organic matter, cation exchange capacity, Phosphorous/Phosphate (P), Nitrogen (N), and Potassium/Potash (K). After 30 years of operation and again after 35 years of operation, soil conditions shall be determined for the same sampling locations using the same parameters and the results used to plan soil restoration activities. After equipment is removed as part of decommissioning, soil conditions shall be determined for the same sampling locations using the same parameters. Soil restoration activities shall be performed as necessary during operations or decommissioning to return soil conditions to at least baseline conditions. The County will be provided with data of soil conditions within 30 days after the receipt of results.

Staff Recommendation Ctd.

12. Any recommendations provided by VDHR during site plan review will be adhered to, in addition to requirements in the zoning ordinance.

Chairman Bowser opened the public hearing and invited the applicant to speak.

Robert Hickox, Pivot Energy, asked if any motion would include a 2232 approval.

Amy Ring, Community Development Director, stated there is a determination of consistency with the comprehensive plan included in the staff analysis. This fulfills the 2232 review requirement in the Code of Virginia.

Mr. Hickox gave the following presentation.



Pivot Energy

VAL025- Old Stage Hwy
Elk Development, LLC

Isle of Wight County, VA

June 25, 2024

Clean Energy. Clear Choice.

About Pivot Energy

- Founded in 2009
- Headquarters in Denver, CO
 - Offices in St. Louis and Chicago
- Areas of Focus
 - Small Utility / Community Scale Solar
 - Commercial Solar
- Over 250 solar projects completed in 9 states.
- Over 120 financed transactions completed.
- 20 active project in Virginia
 - 5 permitted
 - 15 in active development
- Employees based in Virginia
- In house finance, construction, owner & operator
- Certified B-Corporation
 - Certified to meet rigorous standards of social and environmental performance, accountability, and transparency



VAL025- Old Stage Hwy

- **Zoning:** Tax parcel number 13-01-005 in the Rural Agricultural Conservation (RAC) zoning district
- **Project Boundary – 27.32 Acres Total/ 23 Acres Fenced Array**
 - Setbacks – over 950ft from Hwy, >750ft from closest residence
 - Fencing includes required 8' chain link or game fence
 - Minimum 16' wide gravel access road
- **Project Size – 4.35 MWdc / 3.0 MWac**
 - Estimated production of 7.0 GWh/yr
 - Equivalent of 500+ homes (estimated)
 - 7200 panel modules
- **Will not require utilities.** The project does not require sewage, waste, irrigation, potable water services, trash or recycling services, or natural gas.
- Interconnection to existing distribution lines along Old Stage Highway
- Transportation routes intend to stick to VDOT maintained roads from US 258 to VA-10/ VA-10 BUS (less that 0.75 miles)



Confidential



Confidential

Views

- From Old Stage Hwy



- Foxtail Farms (aka Bourne-Turner House (OHR #046-003))



Alternative Layout

- Advantages of this design:
 - Approx 9 acres of farmland back in production
 - 2.5 acres from the southern end
 - 6 acres from the northern end
 - Fence line is 250' away from Capt. John Smith Trail
 - View from the Bourne Turner House increases from approx. 1100' to 1500'
 - No tree clearing needed (site cleared prior and unrelated to this design consideration)





Native Vegetation & Pollinator-friendly Habitat

- Local vegetation and pollinator-friendly habitat is aesthetically appealing
- Aides in creating habitat for local pollinator species that support bees, butterflies, wasps, flies, and beetles
- Low growth, native vegetation chosen to reduce required trips to site
- Allows site to be resilient to droughts and intense downpours
- Deep roots of native vegetation improve stormwater management compared to turf grass or rotating crops



Native Vegetation & Pollinator-friendly Habitat

- Native grasses and deep roots are more efficient than turf grass at absorbing run-off; designed to not increase stormwater runoff
- Planting diverse mixes of native plants will prevent soil and nutrients from washing away; Improves water quality & prevents soil loss
 - Study concluded that the benefits include*:
 - Reducing soil loss by 95%
 - Reducing phosphorus runoff by 77%
 - Reducing overall nitrogen loss by 70%
 - Attracts pollinators
 - Increasing the number and diversity of birds
- Prevents nutrients such as nitrogen and phosphorus from washing off into streams and rivers
- Prior to construction, mechanical means to control runoff will be used, such as straw bales, anchored netting, silt fences or berms (if necessary)

*Iowa State University, published in National Academy of Sciences; Professor Lisa Schulte Moore



Confidential

Dual Use – Sheep Grazing



Confidential

Chairman Bowser invited citizen comment on the application.

Cindy Rowell, 94 Kings Point Avenue, asked why only three people in her neighborhood were sent letters regarding this application. Ms. Rowell stated that this will adversely affect her property values and shared her concern about the potential for fires and water quality. Ms. Rowell stated she opposes this application and doesn't want it in her backyard.

Micheal Kiser, 16303 Morgarts Beach Road “Old Turner House”, spoke in support of the application saying our area is lacking this type of infrastructure, and he is excited for this potential improvement.

George Beringo, 96 Kings Point Avenue, stated he is not opposed to solar in general but is opposed to this location. Mr. Beringo is concerned about erosion, disruption to wildlife, water quality, native vegetation, and the leaching of toxic metals.

David Tucker, 6251 Old Stage Highway, gave the following presentation.

Not of Public Interest and Not Energy Done the Right Way

Please Deny this Proposed 3 MW Nameplated Solar Facility

Approval is not Benefitting You and Future IoW Generations.

No Need to Approve to fill the 2% Prime Farm Land Moratorium Gap

6/24/24

David Tucker PE

Not of Public Interest and Not Energy Done the Right Way

Ham Versus Energy

**Landowners should be able to do with their land as they wish, but Electrical Energy is a State and Federal Regulated Product and we consumers have no choice in price! This is not like choosing between a Smithfield or Hormel Ham, or
No ham at all.**

ENERGY RIGHT, NO Energy Knowledge, Do they have FAMILY RELATIONS IN THE VA GENERAL ASSEMBLY, AND CHAIRS THE VA DEPT OF ENERGY "Virginia Solar Energy Development & Energy Storage Authority. The VSED&EAD report is nearly 3 years late

6/24/24
David Tucker PE

Not of Public Interest and Not Energy Done the Right Way

**Please Look around at IoW and Neighboring Counties!
Have Any Solar Developer Hired any of your friends or relatives?**

There are three Phases to Any Generating Facility Life

- 1. Construction**
- 2. Operations and Maintenance**
- 3. Decommission**

6/24/24
David Tucker PE

Not of Public Interest and Not Energy Done the Right Way

So far

1. Construction - Horrible

2. Operations and Maintenance – Horrible

3. Why Believe Decommissioning will be anything but

Horrible

6/24/24

David Tucker PE



Not of Public Interest and Not Energy Done the Right Way

How is this of "Public Interest"?

The 917 MW Solar IOW future down from 1759 MW reported on 3/21/24, if not by 2026, soon. STILL HIGH!!!!

Isle of Wight "Solar" and "Solar with Storage"

Reference: PJM 06/24/24 Status listed as:

"ACTIVE", "Engineering and Procurement", "In Service", and "Under Construction".

D. Tucker PE

File "Counties Impacted"

Project ID	Name	Commercial Name	Status	MFO	Fuel	Commercial Operation Milestone	Revised In Service Date
AC1-161	Septa 500kV	Cavalier	Document Posted	240	Solar	1/1/2023	1/1/2023
AC2-141	Septa 500kV	Sycamore Cross Solar	Document Posted	240	Solar	4/1/2026	6/1/2023
AE1-162	Smithfield 34.5 kV	Solidago Solar	Document Posted	20	Solar	12/31/2023	4/1/2026
AG2-137	Surry-Chuckatuck 230 kV		In Progress	70	Solar		6/30/2025
AH1-185	Benn's Church - Smithfield 34.5		In Progress	20	Solar		12/31/2025
AH1-216	Smithfield-Surry 230 kV		In Progress	132	Solar; Storage		12/31/2023
AH1-279	Poolesville - Winchester 230 kV		In Progress	104	Solar		6/30/2025
AI2-078	Myrtle-Windsor 115 kV		In Progress	91	Solar		6/30/2025
TOTAL NAMEPLATE MW				917			

Va Department of Energy 2021 Listing

<https://static1.squarespace.com/static/5c8e1956c3c16a56550cfcd8a/t/61ef14eddaad5c50b6a24f4d3/1643058413730/2021+Annual+Report+-+final+reduced.pdf>

PJM Listing

<https://www.pjm.com/planning/services-requests/interconnection-queues.aspx>

6/24/24

David Tucker PE

Not of Public Interest and Not Energy Done the Right Way

Virginia Small Utility Scale Solar Facilities Up to 2022, Data Thru 2023 Still Pending due to Late Updates from Operators						
Ref: EIA 860 & 923						
David Tucker PE State Stats						
EIA #	Name	Location	Year Operational	Fix or Track	Total Energy Produced (MWhr)	Nameplate MW
59904	Western Branch High School	Chesapeake	2016	FIXED	4,390	1
59911	Philip Morris	Chesterfield	2016	FIXED	14,039	2
59905	Merck	Rockingham	2017	FIXED	6,735	2.1
61055	DG AMP Solar Front Royal	Warren	2017	FIXED	22,458	2.5
61126	Bedford Solar	Bedford	2017	TRACKING	26,136	3
61457	Palmer Solar Center	Fluvanna	2017	TRACKING	65,419	5
61458	Martin Solar Center	Goochland	2017	FIXED	55,719	5
62355	IKEA Norfolk Rooftop PV System	Norfolk City	2019	FIXED	4,831	1.3
62948	NASA Wallops Flight Facility Solar	Accomack	2020	TRACKING	11,125	4
62780	Rappahannock Solar, LLC	Lancaster	2021	TRACKING	3,158	1.5

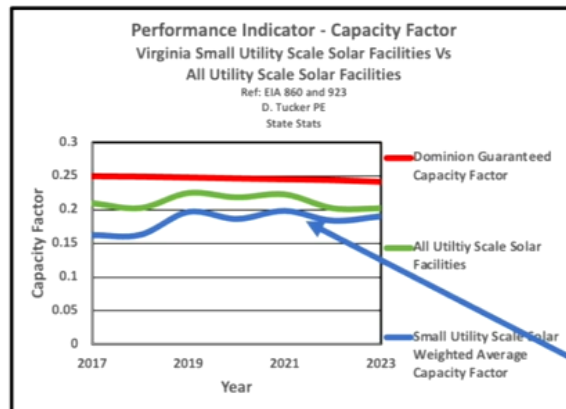
Unlike Convention Power Generator, Solar Developer are 7 to 19 months LATE on reporting

6/24/24

David Tucker PE

Not of Public Interest and Not Energy Done the Right Way

Low and Decreasing **CAPACITY FACTOR** are NOT of "Energy Done Right"?
Illustration All Virginia Solar Verse Small Solar Capacity Factor Verse Dominion Energy Guarantee.
Below **RED** line is BAD



Capacity Factor used by ALL Energy Generators.

Aggregate Comparator, includes:

1. Component - Pump, Fan, Solar Panel Efficiencies'
2. Fuel Quality - Bad Coal, No Sun, Failed Fuel
3. Bad Management- MOST CASES

Small Utility Scale Solar Facilities NOT doing well!

6/24/24

David Tucker PE

Not of Public Interest and Energy Done the Right Way

The 3 MW Nameplate Facility will Annually bring in between \$512,000 at 18.3% Capacity Factor to \$719,000 at 25% Capacity Factor in Fuel Savings, REC, and Revenue.

The Land Owner will be able to afford a \$17,000 Stormwater Fee, we and Churches Pay SUCH FEES!

Annual Revenue, REC Certificates, and Replacement Fuel Savings and Stormwater Fees (Not Paid, yet). Expected Bad Versus Guaranteed Performance Indicators. David Tucker PE. Stormwater Fee and Capacity Factor			
	Bad Capacity Factor %	Guaranteed Capacity Factor %	Δ
Solar Facility Capacity Factor	18.3	25	6.7
Solar Facility Nameplate MW	3	3	0
Annual Energy Generation MWhr's	4,809	6,570	1,761
Coal Tonnage NOT Burned per Year	3,354	4,582	1,228
Annual Replacement Fuel Savings	\$ 250,691	\$ 342,474	\$ 91,783
Annual Equivalent Renewable Energy Certificates	\$ 192,370	\$ 262,800	\$ 70,430
Annual Equivalent Power Purchase Agreement	\$ 96,185	\$ 131,400	\$ 35,215
Annual Total	\$ 539,246	\$ 736,674	\$ 197,429
Annual Stormwater Fee	\$ 17,642	\$ 17,642	0
Total minus Stormwater Fee	\$ 521,604	\$ 719,033	\$ 197,429

Coal Unit Heat Rate
https://www.eia.gov/electricity/annual/html/epa_08_01.html
 Coal Characteristics
https://www.eia.gov/electricity/annual/html/epa_07_03.html
 PPA Price Estimates <https://emp.lbl.gov/ppa-prices>
 Reference SEIA: <https://www.seia.org/research/resources/solar-industry-letter-secretary-raimondo-requesting-negative-preliminary>
 Reference EIA <https://www.eia.gov/todayinenergy/detail.php?id=44816>
 Va Department of Energy 2021 Listing
<https://static1.squarespace.com/static/5c4a19563c316a56550cfd4b/51ef14edaad550b6a24f43/1643058413730/2021+Annual+Reports+-+final+reduced.pdf>
 PJM Listing
<https://www.pjm.com/planning/services-requests/interconnection-queues.aspx>

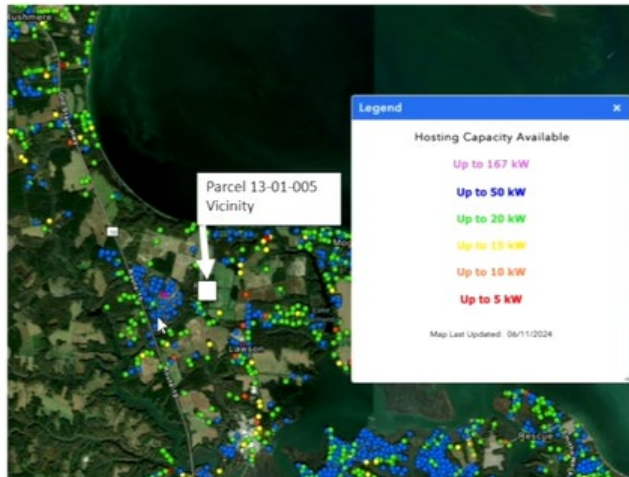
6/24/24

David Tucker PE

Not of Public Interest and Energy Done the Right Way Net Metering for Dominion Energy Hosting COSTUMERS

<https://dgis.maps.arcgis.com/apps/webappviewer/index.html?id=f87416e6a581497192ccf6da4b8ce4f3>

Color Dots are Pole Transformers for Residential Service
Also, designated as Hosting Transformers

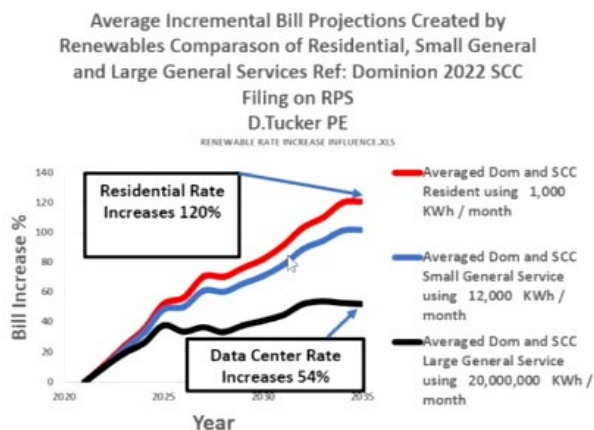


Look at the Colored Dots! Each Colored Dot Represents this 3 MW Utility Scale Distribution Solar Challenging (Bogarting) Net Metering from you and your Neighbors.

6/24/24

David Tucker PE

Not of Public Interest and Not Energy Done the Right Way



Dominion Rate Increase by 2035

The Thinking:

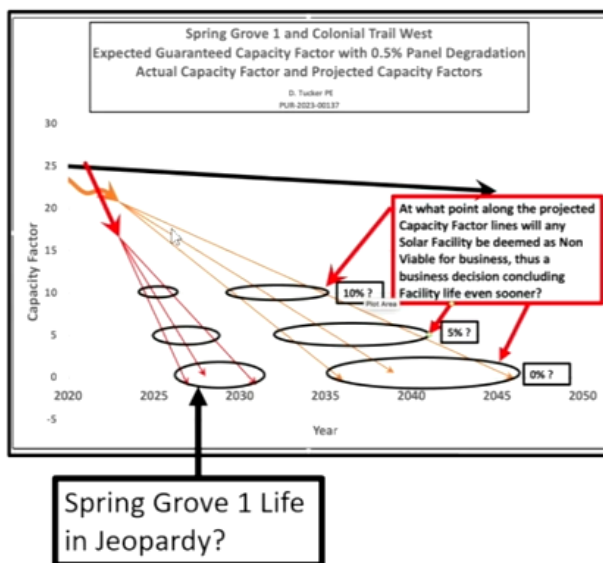
**If you Load Virginia Up with Renewables,
The Data Center Folks will come
Pay Lesser Rate Increase at 54%
While Your Rate Increase will be more at 120%**

Just to Support Renewable Development in Virginia!

6/24/24

David Tucker PE

Not of Public Interest and Not Energy Done the Right Way



How is this "Energy Done Right"? SCC Case PUR-2023-00142 Specific to Surry's Colonial Trail West and Spring Grove 1 recorded Energy Generated MWhr Declines beyond Degradation. Spring Grove has a Worst-Case Scenario of three Years Left.

Dominion Reply "Economy Curtailments and PJM Market and Transmission Curtailments."

Both BAD for a Free Fuel Generator!

My follow up question to PJM on the Curtailments did not match the Dominion response.

6/24/24

David Tucker PE

Tarmo Magi, 85 Kings Point Avenue, spoke against the application saying it was the wrong location, and he also shared his concern that he was not notified about this application.

Darlene Beringo, 96 Kings Point Avenue, stated she understands that the property owner wants to do as they wish with their land, but stated this will affect so much more than just the owner.

She stated she is concerned with the long-term effects. Ms. Beringo stated if this is approved, she will be looking to move.

Dennis Lattimer, 201 Oak Wood Lane, stated his questions were answered by the presentations but has questions to why this land was cleared prematurely as well as an additional 40 plus acres to the west of the site.

William Crocker, 16338 Morgarts Beach, stated the land was cleared prior to solar being considered and stated it was to promote timber growth. The other land does not belong to him. Mr. Crocker stated this was a business proposition for him, and this will supplement his retirement and help make improvements to the farm as well as a make donation to the County animal shelter.

Kristen Burgess, 301 Deer Spring Lane, stated that she lives in Wrenns Mill as well and did not receive a letter of notification. Ms. Burgess stated she has concerns about the multitude of health risks associated with solar farms. If this is approved, she would like notice so she can put her house up for sale.

Robert Hickox, applicant, stated that the site is only a three mega-watt facility. Mr. Hickox stated Pivot will own and operate the facility.

Chairman Bowser closed the public hearing and called for discussion from the commissioners.

Commissioner Distefano asked if there are any plans at this time for battery storage.

Mr. Hickox stated that there are no plans for battery storage.

Commissioner Distefano asked if there was a power outage in the area, would that still result in a power outage.

Mr. Hickox stated that was correct. If there was an outage, the transfer switch would also cut power, so the power line was not reenergized for the safety of the workers.

Commissioner Boykin asked for the amount of the monetary donation to the museum.

Robert Hickox stated \$15,000.

Commissioner Boykin asked if additional trees would be removed for the alternative layout design.

Mr. Blowe stated that those trees have already been removed.

Commissioner Rawls asked where the panels will be made.

Mr. Hickox stated that panels are bought in bulk where available in the United States and other countries.

Commissioner Boykin asked why all Wrenns Mill Estates subdivision was not notified.

Mr. Blowe stated all properties within 200 feet of the parcel that the application is associated with are sent notices, and the notice is also in the paper.

Amy Ring confirmed that state code and the zoning ordinance requires only adjacent property owners to be notified. We measure 200 feet from the affected parcel to ensure all adjacent property owners are notified as well post the notice in paper and post the property itself with zoning notice signs, one sign for every five-hundred feet of road frontage.

Commissioner Taylor asked the applicant what the longest operating solar facility is that they own.

Mr. Hickox stated they've been operating about twenty years old in Colorado.

Chairman Bowser asked why this location was chosen.

Mr. Hickox stated when they look at siting, they look at proximity to power lines and the more optimal locations are close to the substation and this site is just that.

Commissioner Distefano suggested they table the application until an alternative layout can be reviewed by staff.

Commissioner Carroll stated that in general, not to this application specifically, he does not agree with last minute changes prior to the public hearing.

Commissioner Boykin stated she agreed.

Commissioner Distefano made the motion to table this application to the August Planning Commission meeting. Commissioner Gibbs seconded the motion. The motion failed with Commissioners Distefano, Taylor and Gibbs voting in favor and Commissioners Boykin, Ford, Rawls, Sienkiewicz, Smith, Carroll and Bowser voting against the motion.

Chairman Bowser made the motion to send this application to the Board of Supervisors with the recommendation of denial. Commissioner Boykin seconded the motion. The motion was adopted with Commissioners Boykin, Distefano, Ford, Rawls, Taylor, Sienkiewicz, Gibbs, Smith, Carroll and Bowser voting in favor and no Commissioners voting against.

The motion passed unanimously, and the item will go to the Board of Supervisor's August 15, 2024, meeting.

OLD BUSINESS

Amy Ring confirmed there are no old business items.

NEW BUSINESS

Amy Ring confirmed there are no new business items.

COUNTY ATTORNEY'S REPORT

Bobby Jones stated the elevator is fixed in the Community Development Office building and read the following motion, "Beginning July 9, 2024, and continuing until such time as amended by the Planning Commission, the meeting location of the meetings of the Planning Commission shall be the Robert C. Claud, Sr. Board Room located at 17130 Monument Circle, Isle of Wight, Virginia."

Commissioner Gibbs made the motion to accept the motion as read by the County Attorney. Commissioner Smith seconded the motion. Chairman Bowser asked for all in favor to signify by saying aye. The motion passed unanimously.

PLANNING DIRECTORS REPORT

Amy Ring gave the following presentation followed by a brief discussion.

Recreational Vehicle (RV) Regulation Change Discussion

Planning Commission Regular Meeting
June 25, 2024



Draft Zoning Ordinance Changes

Sec. 5-2000. - Supplementary density and dimensional regulations.

L. Recreational vehicles and watercraft. In all districts it shall be permissible to store out-of-doors recreational vehicles and watercraft as an accessory use only in accordance with the following:

1. Such vehicles or watercraft shall be placed in the rear or side yards only and shall be located at least five (5) feet from all property lines. This provision shall not apply to recreational vehicles or watercraft stored within completely enclosed structures.



Draft Change Summary

During the May 28, 2024, meeting, Planning Commission asked the draft Ordinance changes address the following issues:

1. Duration of use
2. Number of times per year
3. Prohibit use as a short term rental
4. Allow for personal hunting use on agricultural land
5. Set a time line for pumping out holding tanks and set documentation requirements
6. Restrict the number of RVs on any one property
7. No restriction on electrical or hose connections



Draft Zoning Ordinance Changes

- d. Recreational vehicles may be used as temporary residences in zoning districts allowing residential uses as a primary use, only by the property owner, and only during construction of a primary residence on the same site for a period of up to six months. A zoning permit shall be required.
- e. The property owner shall provide for lawful disposal of all solid waste and waste water including both grey and black water. The property owner is responsible for providing documentation of pump out service to include receipts and dates of service by an authorized facility.
- f. Commercial use of recreational vehicles in any location except for a licensed and permitted commercial campground is prohibited.
- g. Recreational vehicles or recreational vehicle parking spaces may not be rented or leased.
- h. Recreational vehicles shall not be tied down or otherwise permanently affixed to any land outside of a designated and duly approved commercial campground.



Draft Zoning Ordinance Changes

- 2. Recreational vehicles shall not be used as permanent or full-time living quarters and may only be otherwise occupied as approved by the Virginia Department of Health and as specified in this Ordinance. Private camping is permissible in agricultural and residential zoning districts subject to the following criteria:
 - a) Private camping is limited to the use by the property owner of one (1) recreational vehicle per parcel.
 - b) The recreational vehicle may only be used for camping for a period that does not exceed a total of fourteen (14) days during any consecutive three (3) month period on the same parcel.
 - c) Utilities, such as a connection to a private well or septic system, are not permitted to be extended to the recreational vehicle.



Draft Zoning Ordinance Changes

- i. Recreational vehicles shall not be utilized as a short -term rental unit.
- j. Recreational vehicles shall be located outside of the required front yard setback of the underlying zoning district.
- k. Habitation of any recreational vehicle on any private property exceeding fourteen (14) calendar days during any three (3) consecutive month period or thirty (30) calendar days within an approved commercial campground, or any habitation by persons not having an approved permanent address elsewhere shall be construed as permanent habitation of a recreational vehicle.
- l. Any unit connected to utilities and on any portion of any private property or public right-of-way shall be deemed to be inhabited and shall cause the County to investigate such usage.
- m. No recreational vehicle shall be used for temporary residential use when parked on any public right-of-way, or any public property except approved commercial campgrounds.



State Regulations

Virginia Department of Health –

- Occupancy in an RV on private property requires a pump -out facility which cannot include a home's septic system or public sewer connection.
- Variances can be requested
- Three or more campsites require a temporary campground permit for up to 14 days of camping in any one 60 -day period. Must be pump -out facilities available if RVs present.

Uniform Statewide Building Code (USBC) –

- RV's, campers, etc. not regulated - not considered a dwelling
- Code defines RV as "a vehicle that (i) is either self -propelled or towed by a consumer -owned tow vehicle, (ii) is primarily designed to provide temporary living quarters for recreational, camping, or travel use"
- Does not define temporary



Other Regulations

- RVs are classified as personal property covered by motor vehicle regulations and taxed accordingly.
- US Housing and Development Department (HUD) defines RVs as:
 - Vehicles or vehicular structures not certified as manufactured homes;
 - Designed only for recreational use and not as a primary residence or for permanent occupancy; and either:
 - Built and certified in accordance with NFPA 1192 -15 or ANSI A119.5-15; or
 - Any vehicle that is self -propelled.
- HUD rule also requires labeling that notifies consumers that Park Model RVs are designed only for recreational use and not for use as a primary residence.



ISLE OF WIGHT
COUNTY VIRGINIA

Commissioner Distefano asked for a wording correction on “g” to clarify intent.

A brief discussion was had on suggested ordinance revisions.

Ms. Ring also gave an update on the status of the Stakeholder Working Group for the Comprehensive Plan Five Year Review Project Update. The first working group will be July 9, 2024.

Ms. Ring asked for suggestions/opinions for the date of this year’s Planning Commission Annual Retreat.

The Commissioners generally agreed that November 1, 2024, should be the retreat date.

CLOSED MEETING

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

ADJOURNMENT

There being no further information to discuss, Chairman Bowser adjourned the meeting at 8:09PM.

Adopted this _____day of _____, 2024

Bobby Bowser, Chairman, Isle of Wight County Planning Commission

Attest: _____
Amanda Landrus, Secretary

PLANNING REPORT

ATTACHMENTS:

Description	Type	Upload Date
July 23, 2024 Planning Commission Regular Meeting Minutes	Minutes	8/7/2024

**MINUTES OF THE MEETING OF THE ISLE OF WIGHT COUNTY
PLANNING COMMISSION HELD ON THE TWENTY-THIRD DAY OF
JULY IN THE YEAR TWO THOUSAND AND TWENTY-FOUR**

CALL TO ORDER

Bobby Bowser, Chairman, called the Isle of Wight County Planning Commission meeting to order at 6:00 PM on June 25, 2024, at the Isle of Wight County General District Court, located at 17000 Josiah Parker Circle, Isle of Wight, Virginia 23397

INVOCATION

Don Robertson delivered the invocation.

PLEDGE OF ALLEGIANCE

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

ROLL CALL/DETERMINATION OF A QUORUM

PRESENT

Bobby Bowser, Chairman
Thomas Distefano, Vice-Chairman
Brian Carrol
Cynthia Taylor
Jennifer Boykin
George Rawls
Rick Sienkiewicz
Raynard Gibbs
Matthew Smith

ABSENT

James Ford

A quorum was determined.

ALSO IN ATTENDANCE

Bobby Jones, County Attorney
Don Robertson, Assistant County Administrator
Trenton Blowe, Planner II
Sandy Robinson, Planner II
Caleb Kitchen, Planner I
Amanda Landrus, Secretary

ACTION ON REQUESTS TO WITHDRAW OR TABLE PENDING AGENDA ITEMS

Chairman Bowser asked if there were any requests to table or withdrawal agenda items. Amanda Landrus, Planning Commission Secretary, stated there were no requests.

APPROVAL OF AGENDA

Chairman Bowser called for a vote to approve the agenda. Commissioner Smith made the motion to move CUP-3-24 Carrsville Modular Classroom to the first public hearing item. Commissioner Gibbs seconded the motion. Chairman Bowser asked for all in favor to signify by saying aye. The motion passed unanimously.

APPROVAL OF CONSENT AGENDA

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

CITIZENS' COMMENTS

Chairman Bowser invited any citizen to speak on an item that is not on the agenda tonight.

Glen Willis, 24291 Lovers Lane, stated he has been doing research on the setbacks and has sent an email with suggestions how to improve setbacks with citizens opinions in mind and asked for the commissioner's feedback.

There being no further citizen comments, Chairman Bowser closed citizen comments

PUBLIC HEARINGS

Chairman Bowser called for the first public hearing on the following item:

Application (CUP-3-24) of Todd Christiansen, applicant, and Isle of Wight County School Board, property owner, for a conditional use permit for a modular classroom on approximately 0.5 acres on tax parcels 66-01-010 and 66-01-010A located at 5355 Carrsville Highway (Rte. 58) in the Village Center zoning district. The current use of the property is as a primary educational facility and is the site of Carrsville Elementary School.

Trenton Blowe, Planner II, gave the following presentation.

Planning Commission
Meeting
July 23, 2024

CUP-03-24 Carrsville Elementary Conditional Use Permit Modular Classroom

Details

Location – 5355 Carrsville Hwy

Tax Map Parcel Number - 66-01-010/010A

Zoning – Village Center (VC)

Election District – District 5

Purpose – Conditional Use Permit (CUP) for a modular classroom on a parcel currently zoned VC

Background

- ◆ Project site is the location of Carrsville Elementary School.
- ◆ School in its current form was approved for renovation in 1996.
- ◆ In 2022, the school approached the County to place a modular classroom to the rear of the existing school on an existing concrete pad.
- ◆ Supplementary use regulations state modular classrooms requiring placement longer than twelve months or including construction of additional parking require a conditional use permit.
- ◆ Modular classroom was permitted to be installed with the condition that if it were on the property longer than a year, a conditional use permit would be required

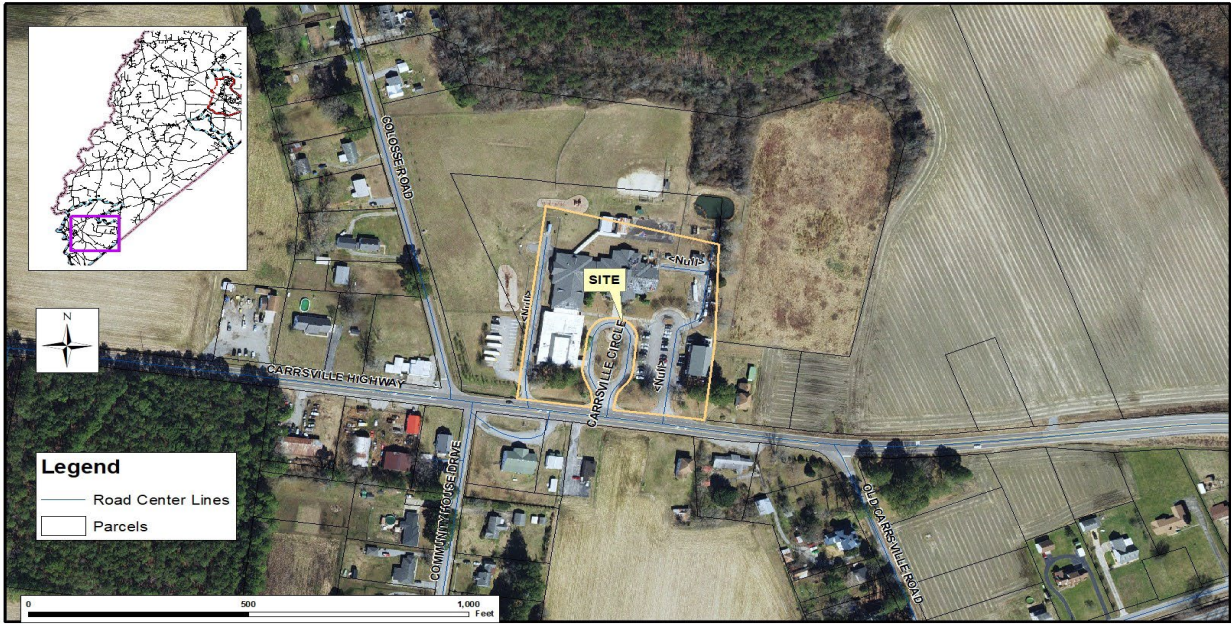
Project Description

- ◆ 1700-square-foot modular classroom proposed at existing school site on an existing concrete pad.
- ◆ Modular classroom is one building that has two separate classrooms.
- ◆ Each classroom can hold 20 students.
- ◆ Applicant states one classroom is the current location for the Pre-K program and the other classroom is being used for individual learning.

CUP-3 -24 - Conditional Use Permit- Location Map



CUP-3 -24 - Conditional Use Permit- Location Closeup Map

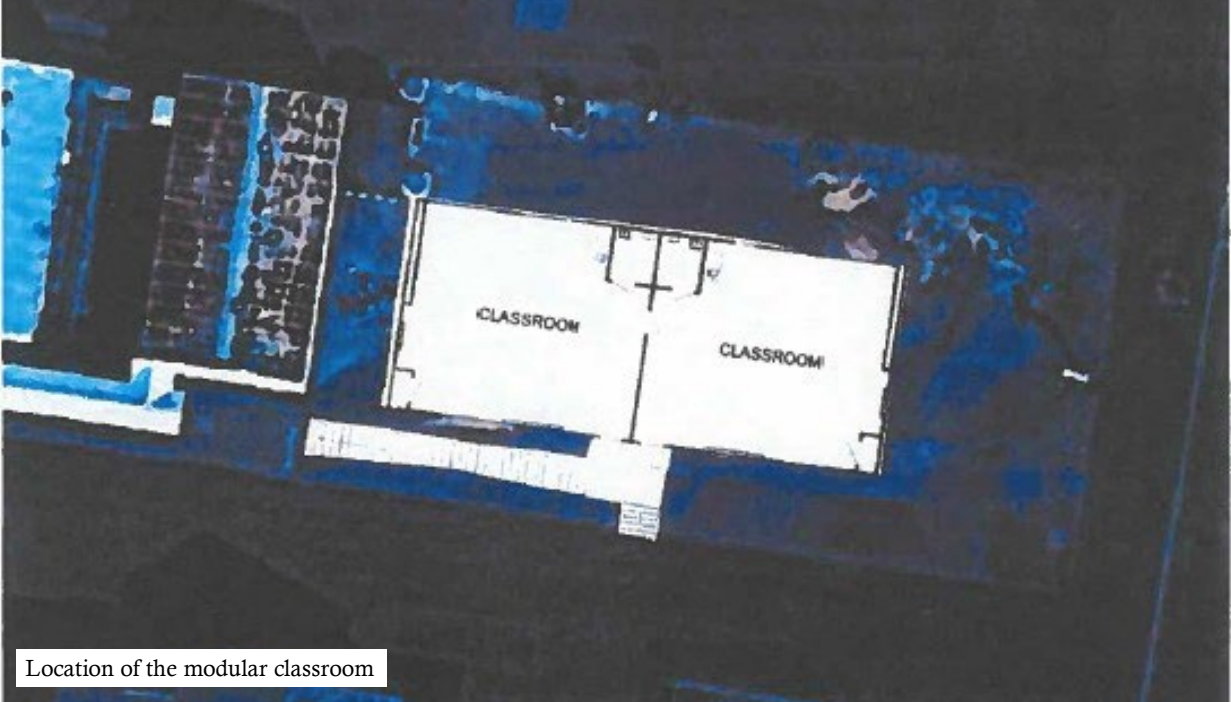


CUP-3-24 - Conditional Use Permit- Zoning Map

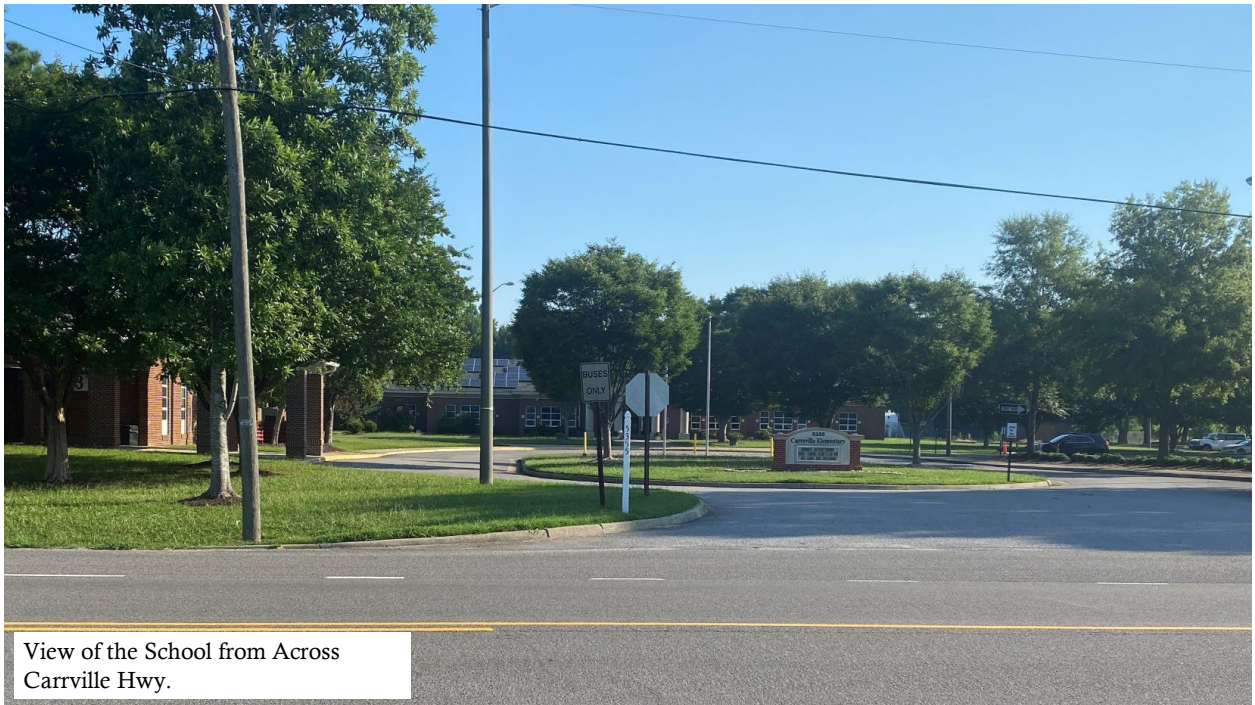


CUP-3-24 - Conditional Use Permit- Land Use Map





Location of the modular classroom



View of the School from Across Carrville Hwy.



Modular classroom

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

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 property in the immediate vicinity for the purposes already permitted, 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. Not contrary to 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 living or working in the immediate area and the proposed hours of operation;
2. Traffic conditions, sidewalks, parking facilities, vehicle access, peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future;
3. Orderly growth of the neighborhood and community and the fiscal impact on the County;
4. 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 resource landmarks.

Agency Review

The location and installation were approved by the General Services, Inspections, and Planning and Zoning during the initial submittal.

Strengths & Weaknesses

Strengths:

- The approval of the CUP would allow the applicant to come into compliance with the zoning ordinance.
- The use is permitted in the VC zoning district.

Weaknesses:

- None Identified.

Staff Recommendation

Staff recommends approval of the CUP as submitted.

Chairman Bowser opened the public hearing and invited the applicant to speak.

Dr. Coleman, Deputy Superintendent of Operations for Isle of Wight County Schools, thanked the Planning Commission and asked to move the item forward with making the learning cottage permanent at Carrsville Elementary.

There being no public comment, Chairman Bowser closed the public hearing and called for discussion from the commissioners.

Commissioner Boykin asked how many pre-k students Carrsville currently has, and what is the long-term goal for this cottage.

Dr. Coleman stated there are approximately fifteen to twenty students in the pre-k program, and the initial goal of the cottage was to expand based on covid guidelines. Dr. Coleman stated at this time, it is hard to tell what the long-term goal is.

Commissioner Boykin asked how many other schools in the County have learning cottages.

Dr. Coleman stated only Carrsville has them at this time.

Commissioner Gibbs made the motion to send this application to the Board of Supervisors with the recommendation of approval. Commissioner Taylor seconded the motion. The motion was adopted with Commissioners Boykin, Distefano, Rawls, Taylor, Sienkiewicz, Gibbs, Smith, Carroll and Bowser voting in favor and no Commissioners voting against.

The motion passed unanimously, and the item will go to the Board of Supervisor's August 15, 2024, meeting.

Chairman Bowser called for the next public hearing item:

Application (CUP-7-24) of Jeremy Kooiman and Lucy Kooiman, property owners, for a conditional use permit to operate a short-term rental on approximately two acres located at 214 Shivers Mill Lane on tax parcel number 43A-06-025 in the Suburban Residential zoning district.

Caleb Kitchen, Planner I, gave the following presentation.

PEACE BY THE RIVER SHORTTERM RENTAL CONDITIONAL USE PERMIT REQUEST CUP-7-24

BOARD OF SUPERVISORS REGULAR MEETING
AUGUST 15, 2024

SITE DESCRIPTION

- Tax Map ID#: 43A-06-025
- Location: 214 Shivers Mill Lane
- Current Zoning: Suburban Residential (SR)
- Election District: D4
- Purpose: To allow a short-term rental business to continue operation within a singlefamily dwelling.

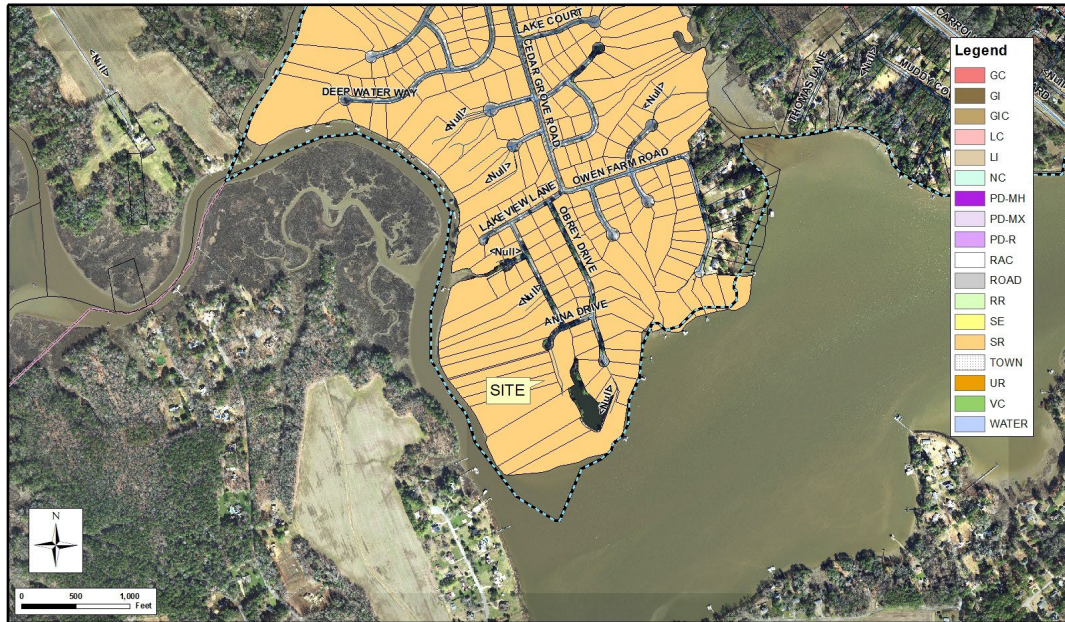
BACKGROUND

- Existing single-family dwelling constructed in 2017
 - CBPA Exception approved in 2016
 - Second CBPA exception approved in 2019 for garden shed
- Accessory Apartment CUP denied in 2020 for basement
 - Interior door was removed to no longer constitute a separate dwelling
- Kooimans applied for a by-right short term rental use on March 19th, 2024 and Community Development received an objection in writing within the 30-day review period.
- If an objection in writing is received, administrative approval ceases and the applicant is required to obtain a conditional use permit per Section 5-5005.DD.1 of the Zoning Ordinance.

CUP-7-24 Peace by the River STR CUP Request - Location Map



CUP-7-24 Peace by the River STR CUP Request - Zoning Map



CUP-7-24 Peace by the River STR CUP Request - Land Use Map





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

- 1) Will not be detrimental to or endanger public health, safety, and general welfare;
- 2) 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) 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) Not contrary to 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 living or working in the immediate area and the proposed hours of operation;
- 2) Traffic conditions, sidewalks, parking facilities, vehicle access, peak period of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future;
- 3) Orderly growth of the neighborhood and community and the fiscal impact on the County;
- 4) Effect of odors, dust, gas, smoke, fumes, vibration, glare, and noise upon the use of surrounding properties;
- 5) Facilities for police, fire protection, sewage, 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 or 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 environment impact, the effect on sensitive natural features, and opportunities for recreation and open space; and
- 10) The preservation of cultural and historic resource landmarks.

COMPREHENSIVE PLAN REVIEW

- Future Recommended Land Use Designation for this property is Environmental Conservation.
- Appropriate uses for the EC land use designation include wetlands, farms, forest uses, open space, and limited park facilities.
- Existing facilities approved and constructed in compliance with Chesapeake Bay Preservation Area Ordinance requirements.

AGENCY REVIEW

Staff distributed the application to the following departments for review and comment:

- Fire Rescue: Facility would have little to no impacts on calls for service, no objections.
- Sheriff's Department: No incidents at this location within past 6 years, no objections.
- Health Department: No increase on residential septic system.
- County Attorney: No objections

STAFF ANALYSIS

Strengths:

1. The application is generally consistent with the Comprehensive Plan and can meet all ordinance requirements, including recent amendments related to short-term rental uses.
2. The proposed use will have minimal impact on facilities and resources.
3. Granting the CUP will allow a short-term rental that existed prior to the ordinance changes, to continue to operate

Weaknesses:

1. The use is located along a narrow private lane in close proximity to other residences and may cause impacts such as noise and odors.
2. There may be an increase in vehicular traffic along a private lane that already serves multiple residences.
3. Increasing the intensity of activities on the parcel may have negative impacts on sensitive environmental and natural features that surround the parcel.

STAFF RECOMMENDATION

Staff recommends approval of the CUP with the following conditions:

- 1) Check-in/Check-out times for guests may not occur earlier than 8:00 A.M. or later than 8:00 P.M.
- 2) No outdoor recreational activities are to occur after 7:00 P.M.
- 3) No use of outdoor fires or flame-grills are permitted.
- 4) Commercial vehicles used by guests are not permitted to use the on-site parking spaces.
- 5) No parking of vehicles associated with the short-term rental are to occur in the cul-de-sac circle or along Anna Drive.
- 6) An outdoor smoking receptacle shall be installed for the disposal of cigarette butts.

PLANNING COMMISSION RECOMMENDATION

At their July 23, 2024 meeting the Planning Commission recommended approval of the application to only include conditions 4 through 6, by a vote of 6-3:

- 4) Commercial vehicles used by guests are not permitted to use the on site parking spaces.
- 5) No parking of vehicles associated with the shortterm rental are to occur in the cul-de-sac circle or along Anna Drive.
- 6) An outdoor smoking receptacle shall be installed for the disposal of cigarette butts.

Chairman Bowser opened the public hearing and invited the applicant to speak.

Lucy Kooiman, property owner, stated because of one neighbor's objection, they are applying for this Conditional Use Permit. Ms. Kooiman stated that this business is family-oriented and additional screening is done for the safety of her family. She added that no parties or pets are allowed. Ms. Kooiman stated they charge a higher rate to limit the number of reservations. Ms. Kooiman stated she has been running this business for six years with a business license and paying lodging tax. She added that many of their guests are travel professionals. Ms. Kooiman stated that with the exception of Mr. Ornoff, their small cohesive neighborhood manages and maintains the private drive and has a social platform that they communicate through. She asked for the Planning Commission's favor in approving their application.

Brian Peoples, legal representative for Mr. Ornoff, 222 Central Park Avenue, stated that he respectfully disagrees with Ms. Kooiman's statement saying there have been zero incidents. Mr. Peoples stated he believes these short-term businesses have impacts on nearby communities, and the neighbors did not purchase their current home to live next to short term rentals or hotels. Mr. Peoples stated this is harmful to Mr. Ornoff and reinstated the house is built so close to his while other neighbors are further away. He added that their driveway is thirty-three percent larger than what was approved and has had to get after-the-fact permits. The driveway abuts Mr. Ornoff's property line. Mr. Peoples added that the house is rented out two to four weekends a month. Mr. Peoples passed out the following documents to the commissioners.



ISLE OF WIGHT COUNTY, VIRGINIA

PLANNING, ZONING AND DEVELOPMENT

TO: Amy Ring, Director
FROM: Rachel Bass, Codes Enforcement Officer
SUBJECT: Findings at 214 Shivers Mill Ln.
DATE: June 6, 2019

Mrs. Ring,

On June 6, 2018 I visited 214 Shivers Mill Ln. to investigate several complaints. I spoke with the property owner, took several pictures, and my findings are listed below.

In reference the shed. The shed on site is exactly 5' from the side property line. The shed is 12'X16' with a covered porch. The paver walk-way is 3' wide that extends from the driveway area to the shed. The property owner, Mr. Jerry Kooiman, advised that per his conversations with Ms. Kim Hummel the shed was always planned and approved to be 5' from property line. I have attached the zoning permit and site plans that were attached to project #20245Z in Munis for reference.

In reference to the short-term rental listings. I advised Mr. Kooiman that per the Zoning Ordinance he was only allowed a maximum of two occupants/renters and needed to change his listing to reflect that. Mr. Kooiman also stated that he has made no changes to the interior of his home but, would not let me inside the home to see the area listed as rental. He advised it is not a separate apartment just has a separate entrance. After discussing this information with you I will be sending a formal letter to Mr. Kooiman to discuss any changes that need to be made (i.e. Changing the rental listing).

Respectfully,

R. Bass, Codes Enforcement Officer

P.O. Box 80
17140 Monument Circle
Isle of Wight, VA 23357
(757) 357-9206



Local Roots, Global Reach

ISLE OF WIGHT
COUNTY, VIRGINIA
DEPARTMENT OF PLANNING AND ZONING

June 7, 2019

Koolman Jeremy H & Lucy M
214 Shivers Mill Ln
Carrollton, VA 23314

VIOLATION NOTICE

RE: Violations at 214 Shivers Mill Ln (Tax Map/Parcel ID# 43A-06-025)

Dear Mr. Koolman:

On June 6, 2019 an inspection was conducted at the above-mentioned property to investigate complaints of a apartment/short-term rental complaint. Please see the below code in reference to regulations of short-term rentals within the County:

Sec. 5-1805. - Accessory uses to residential principal uses.

The following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory uses to residential principal uses:

- A. *Hobbies or recreational activities of a noncommercial nature.*
- B. *The renting out of one (1) or two (2) rooms within a single-family residence (which one (1) or two (2) rooms do not themselves constitute a separate dwelling unit) to not more than two (2) persons who are not part of the family that resides in the single-family dwelling.*

As we discussed the 2 rooms you are currently advertising/renting shall not constitute a separate dwelling unit and cannot be rented out to more than 2 people. In order to abate the above violation please ensure all short-term rental advertisements meet these criteria.

Isle of Wight County requires you rectify this violation by **June 21, 2019**. Other inspections of the site will be conducted to verify compliance. Failure to comply with these regulations could result in legal action by Isle of Wight County. Isle of Wight County could take legal action against you and or hire a contractor, at your expense, to abate this violation. The County Zoning Ordinance may be viewed online at www.municode.com. If you anticipate any difficulty complying with the listed regulations, you may contact me at (757) 365-6306 or at rbass@iwus.net.

Sincerely,

Rachel Bass

R. Bass, Codes Enforcement Officer

P.O. Box 80
17140 Monument Circle
Isle of Wight VA 23397
(757) 357-9206
www.co.isle-of-wight.va.us



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ISLE OF WIGHT COUNTY, VIRGINIA

DEPARTMENT OF PLANNING AND ZONING

July 1, 2019

Jeremy H. & Lucy M. Kooiman
214 Shivers Mill Ln.
Carrollton, VA 23314

SECOND NOTICE

RE: Violation at 214 Shivers Mill Ln (Tax Map/Parcel # 43A-06-025)

Dear Sir or Madam,

On June 6, 2019 your AirBNB listing was brought to the attention of our zoning office. This is a follow up notice to advise that you are still in violation of the Isle of Wight County Zoning Ordinance:

Sec. 5-1005 Accessory uses to residential principal uses.

The following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory uses to residential principal uses:

- a. *Hobbies or recreational activities of a noncommercial nature.*
- b. *The renting out of one (1) or (2) rooms within a single-family residence (which one (1) or two (2) rooms do not themselves constitute a separate dwelling unit) to not more than two (2) persons who are not part of the family that resides in the single-family dwelling.*

Please be advised that based on your AirBNB rental listing date July 1, 2019, you remain in violation of the ordinance which prohibits the renting of more than 2 rooms to a maximum of 2 unrelated persons. Isle of Wight County requires you to rectify the violation by July 10, 2019. A final inspection of your listing will be conducted to verify compliance. Failure to comply with these regulations could result in legal action by Isle of Wight County. The County Zoning Ordinance may be viewed online at www.municode.com. If you have any questions you may contact me at (757)365-6306 or rbass@iwus.net.

Respectfully,

R. Bass, Codes Enforcement Officer

Attachments: 1st Notice 6-7-19

AirBNB listing

P.O. Box 80
17140 Monument Circle
Isle of Wight, VA 23397
(757) 357-9206
www.co.isle-of-wight.va.us



Local Roots, Global Reach

ISLE OF WIGHT
COUNTY, VIRGINIA
DEPARTMENT OF PLANNING AND ZONING

Jul 23, 2019

Jeremy H. & Lucy M. Kooiman
214 Shivers Mill Ln.
Carrollton, VA 23314

NOTICE OF VIOLATION
3rd letter

RE: Violations at 214 Shivers Mill LN (Map Parcel Number 43A-06-025)

Dear Sir or Madam:

An inspection of your Air BNB listing has been conducted and is now in compliance. I appreciate you working to abate the violation. However, you have multiple listings on other rental sites that still need to be corrected as well. **As a result you are still considered in violation of the zoning ordinance.**

Isle of Wight County requests that you start to rectify this violation by August 13, 2019. Failure to comply with these regulations could result in legal action by Isle of Wight County. The County Zoning Ordinance may be viewed online at www.municode.com. Information on the permitting process can be found at www.iwus.net. If you anticipate any difficulty complying with the listed regulations, you may contact me at (757) 365-6306 or at rbass@iwus.net.

Respectfully,

R. Bass, Codes Enforcement Officer

P.O. Box 80
17140 Monument Circle
Isle of Wight, VA 23397
(757) 357-9206
www.co.isle-of-wight.va.us



Local Roots, Global Reach

ISLE OF WIGHT COUNTY, VIRGINIA

DEPARTMENT OF PLANNING AND ZONING

VIA ELECTRONIC AND US MAIL

December 2, 2019

Mr. Jeremy Kooiman
214 Shivers Mill Lane
Smithfield, VA 23430

SUBJECT: Initial Notice of Violation for Accessory Apartment at 214 Shivers Mill Lane with tax parcel number 43A-06-025

Dear Mr. Kooiman,

Based upon a recent site visit by the County Building Official, Art Berkley, on October 11, 2019, and your rental pictures found online at AirBnB.com, it appears that you have constructed an accessory apartment without the necessary approvals at your residence. According to Section 3-3000 of the County Zoning Ordinance, an accessory apartment is defined as the following:

Accessory apartment.\ An accessory dwelling unit on the same lot as a single-family detached dwelling or a commercial use that is clearly incidental and subordinate to the main use or a separate, complete dwelling unit that is substantially contained within the structure of, and clearly secondary to, a single-family dwelling.

Section 2-1002 of the Zoning Ordinance further defines dwelling unit as the following:

Dwelling unit.\ One (1) or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one (1) family with toilets and facilities for cooking and sleeping separate from any other dwelling unit.

Because your basement area contains separate sleeping, cooking, and bathroom spaces which establishes an independent housekeeping establishment with its own private entrance, you have created an accessory apartment. Your accessory apartment requires a conditional use permit in your zoning district which is the Suburban Residential (SR) district. More information on the SR zoning district requirements can be found using the following link:

https://library.municode.com/va/isle_of_wight_county/codes/code_of_ordinances?nodeId=APXBZO_ARTIVZODIBO_PT7SURESRDI_S4-7003COUS.

I have also attached a copy of the email dated November 19, 2019, from Mr. Berkley with his findings for your information.

Please note you have fifteen (15) days from the date of this letter to file for a conditional use permit for the accessory apartment or take steps to remove the separate bathroom, kitchen or bedrooms from the basement area. You may find a conditional use permit application on the County's website using the following link: <http://www.co.isle-of-wight.va.us/central-permitting/community-development/>.

If your basement does not have separate bedrooms, kitchen and bathroom, please call me at 365-6210 or by email at aring@iwus.net to schedule an inspection to resolve this issue.

Sincerely,

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

Amy M. Ring, AICP
Planning and Zoning Director

Attachment: Email from Art Berkley, Building Official, dated November 19, 2019

cc: Bobby Jones, County Attorney
Rachel Bass, Code Enforcement Officer

VIRGINIA: IN THE CIRCUIT COURT FOR ISLE OF WIGHT COUNTY

JEFFREY ORNOFF

Plaintiff,

v.

JEREMY KOOIMAN

and

Lucy Kooiman

Defendants.

Case No: CL21000420-00

ORDER FOR INJUNCTION

On May 31, 2022 came the Plaintiff, by counsel, and Defendants, *pro se*, for trial upon Plaintiff's Complaint for Injunctive Relief.

Upon consideration of the evidence and argument, and for good cause shown, the Court finds as follows:

1. Defendants purchased that certain real property known as 214 Shivers Mill Lane Carrolton, VA 23314 ("the property") on or around April 20, 2016 via Deed recorded on April 26, 2016 in the Isle of Wight Court Clerk's Office as Instrument #161639; and
2. Certain covenants and restrictions set forth in a Deed dated March 9, 1966 and recorded in Deed Book 182, page 516-519 in the Isle of Wight Court Clerk's Office, run with the land and are binding upon owners of the property including the Defendants; and
3. Defendants were on actual and/or constructive notice of aforesaid covenants and restrictions at the time that they purchased the property; and

4. The Defendants use of the property is in violation of certain of those covenants and restrictions; to wit:

- a. **Restriction #1** which states, "Said real estate shall be used solely and exclusively for residential purposes, and no structure shall be erected, altered, placed or permitted to remain on said real estate, other than a single family dwelling, not to exceed two stories in height, a private garage for not more than two cars and appurtenant out-buildings incidental to residential use."
- b. **Restriction #4**, which states, "No trailer, basement, tent, shack, garage, barn, boat house or other outbuilding erected or placed on said real property shall at any time be used as a residence, temporarily or permanently.

THEREFORE, it is hereby **ADJUDGED, ORDERED, AND DECREED** that:

- 1) The Defendants are forever barred, restrained, and enjoined from renting out, leasing, or letting out the lower level (basement) of the property for any period of time; and
- 2) Defendants are forever barred, restrained, and enjoined from allowing any person other than the Defendants to reside in the lower level of the property for any length of time.
- 3) Defendants are forever barred, restrained and enjoined from themselves using the basement as a separate residential space or permitting the basement to be used as a separate residential space while the remainder of the of the home is rented or occupied by others for any period of time.

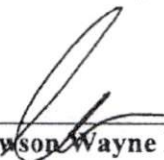
It is further **ADJUDGED, ORDERED, AND DECREED** that this Order for Injunction runs with the land and is binding upon future owners of the property and shall be recorded in the land records of Isle of Wight County; and

It is further **ADJUDGED, ORDERED, AND DECREED** that anyone who violates this injunction shall be liable for reasonable attorney fees and costs expended in the enforcement of this Order, in addition to other monetary, equitable, or punitive relief that the Court may deem appropriate.

For the reasons stated below* and pursuant to Rule 1:13 of the Rules of the Supreme Court of Virginia, the Court dispenses with the endorsement of this decree by the parties.

The Clerk is directed to send certified copies of this Order to all counsel of record.

Date: 11/2/22



Hon. Lawson Wayne Farmer
Judge

*The Court notes that counsel for the plaintiff prepared an order for the Court's consideration that purported to encompass the Court's ruling. That order was endorsed by plaintiff's counsel. The order was further endorsed "Seen and Objected To" by the defendants for reasons written on the proposed order. Thereafter, both parties forwarded requests for changes to the proposed order. By an undated letter that was received by the Court on October 7, 2022, the defendants requested changes to the proposed order. By a letter dated October 11, 2022 and received by the Court on October 19, 2022, the plaintiff also requested changes to the proposed order. The Court has prepared this order in accordance with the Court's findings. To the extent that this order does not contain the changes requested by plaintiff or defendant, the motions for such changes have been denied and the parties' exception to that ruling is noted. Further, the court notes the objections raised in writing by the defendants on the order drafted by counsel for plaintiff.

A COPY:
ISLE OF WIGHT CIRCUIT COURT
TESTE: KATHLEEN S. TORRENCE, CLERK
BY: Megan D. Hodge DC



Cited
As of: July 20, 2024 2:18 PM Z

Kooiman v. Ornoff

Court of Appeals of Virginia

January 30, 2024, Decided

Record No. 1758-22-1, Record No. 1760-22-1

Reporter

2024 Va. App. LEXIS 42 *; 2024 WL 330506

JEREMY KOOIMAN, ET AL. v. JEFFREY ORNOFF

Notice: PURSUANT TO THE APPLICABLE VIRGINIA CODE SECTION THIS OPINION IS NOT DESIGNATED FOR PUBLICATION.

Prior History: [*1] FROM THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY. Lawson Wayne Farmer, Judge.

Disposition: Affirmed.

Core Terms

basement, circuit court, rental, short-term, cinder block, restrictive covenant, restrictions, renting, residential purposes, exterior, deed restriction, attorney's fees, injunction, post-trial, ambiguous, guests, residential, primary residence, proposed order, real estate, constructed, transient, dwelling, garage, basement apartment, permanently, alteration, structures, prohibits, occupied

Case Summary

Overview

HOLDINGS: [1]-Deed restrictions prohibited property owners from using the basement apartment in their home for short-term rentals because reading the restrictions together led to the conclusion that the purpose of the restrictions was less about preventing short-term rentals of property and more about preventing the creation of more than one residence or living area on the owners' property. Thus, even though the deed restrictions did not expressly prohibit short-term rentals, by definite and necessary implication, the restrictions prohibited the use of the basement for short-term rentals; [2]-The property owners were not entitled to an injunction against a neighbor because a restrictive covenant did not intend to prohibit the exposed rows of

the neighbor's cinder block foundation in its prohibition on the use of cinder blocks on the exterior side of buildings.

Outcome

Judgment affirmed.

LexisNexis® Headnotes

Civil Procedure > Appeals > Standards of Review > De Novo Review

Real Property Law > Deeds > Construction & Interpretation

Real Property Law > Encumbrances > Restrictive Covenants > Enforcement of Restrictive Covenants

HN1 [📌] Standards of Review, De Novo Review

The interpretation of a deed restriction is a question of law that an appellate court reviews de novo. Covenants, express or implied, which restrict the free use of land, are not favored and must be strictly construed. The burden is on the party attempting to enforce the covenants to establish that the activity objected to is within their terms. Substantial doubt or ambiguity is to be resolved against the restrictions and in favor of the free use of property. Nevertheless, Virginia courts will enforce restrictive covenants when the intention of the parties is clear and the restrictions are reasonable and if it is apparent from a reading of the whole instrument that the restrictions carry a certain meaning by definite and necessary implication.

Real Property Law > Deeds > Construction &

Interpretation

HN2 [📄] **Deeds, Construction & Interpretation**

The whole of a deed and all its parts should be considered together to determine the controlling intent.

Governments > Legislation > Interpretation

Real Property Law > Deeds > Construction & Interpretation

HN3 [📄] **Legislation, Interpretation**

When several nouns or verbs or adjectives or adverbs — any words — are associated in a context suggesting that the words have something in common, they should be assigned a permissible meaning that makes them similar.

Civil Procedure > Trials > Bench Trials

Civil Procedure > Appeals > Record on Appeal

HN4 [📄] **Trials, Bench Trials**

Although a trial court speaks through its written orders, an appellate court can look to a circuit court's oral explanations to help the appellate court interpret that order.

Civil Procedure > Judicial

Officers > Judges > Discretionary Powers

HN5 [📄] **Judges, Discretionary Powers**

In the exercise of its equity jurisdiction, a court is afforded broad discretion in fashioning complete and just relief.

Civil Procedure > Appeals > Reviewability of Lower Court Decisions > Preservation for Review

HN6 [📄] **Reviewability of Lower Court Decisions, Preservation for Review**

The purpose of Va. Sup. Ct. R. 5A:18 is to allow a trial court a fair opportunity to resolve an issue at trial,

thereby preventing unnecessary appeals and retrials. Rule 5A:18 requires a party to specifically raise a legal challenge to preserve that issue for appeal.

Civil Procedure > Appeals > Reviewability of Lower Court Decisions > Preservation for Review

HN7 [📄] **Reviewability of Lower Court Decisions, Preservation for Review**

A general resistance to any relief is not the same as preserving a specific objection for appeal.

Counsel: Norman A. Thomas (Norman A. Thomas, PLLC, on briefs), for appellants.

Bryan S. Peeples (Pender & Coward, P.C., on brief), for appellee.

Judges: Present: Judges O'Brien, AtLee and Malveaux.
MEMORANDUM OPINION BY JUDGE RICHARD Y. ATLEE, JR.

Opinion by: RICHARD Y. ATLEE, JR.

Opinion

MEMORANDUM OPINION* BY JUDGE RICHARD Y. ATLEE, JR.

Appellants Jeremy and Lucy Kooiman appeal the circuit court's rulings granting injunctive relief against them and denying injunctive relief against their neighbor, Jeffrey Ornoff. The circuit court interpreted certain restrictive covenants to prohibit the Kooimans from renting out their basement apartment for short-term rentals. The circuit court also found that Ornoff did not violate a separate restrictive covenant that prohibited the use of cinder blocks on the "exterior side" of buildings. On appeal, the Kooimans argue that the circuit court erred in its interpretation of the restrictive covenants, by granting Ornoff relief that he did not seek in his complaint, and by denying them due process by granting Ornoff relief requested post-trial without giving the Kooimans the opportunity to be heard. For the [*2] following reasons, we disagree and affirm the decision of the circuit court.

* This opinion is not designated for publication. See Code § 17.1-413(A).

I. BACKGROUND¹

The Kooimans and Ornoff are neighbors in an Isle of Wight County subdivision that was platted and developed in 1966. Ornoff's property is designated lot 26, while the Kooimans own lot 25. Each of the properties in the subdivision are encumbered by eight deed restrictions that run with the land. At issue in this appeal are restrictions one, three, and four, which provide:

1. Said real estate shall be used solely and exclusively for residential purposes, and no structures shall be erected, altered, placed or permitted to remain on said real estate, other than a single family dwelling, not to exceed two stories in height

3. All buildings on said lot shall be constructed of frame or masonry material or a combination of the two except that no exterior side shall be of cinder block, asbestos shingles, or combination asphalt siding material.

4. No trailer, basement, tent, shack, garage, barn, boat house or other outbuilding erected or placed on said real estate shall at any time be used as a residence, temporarily or permanently.

Both parties filed suit against the other seeking to enforce [*3] the restrictive covenants.²

A. Ornoff's suit against the Kooimans

At the time Ornoff purchased his lot in 2012, the neighboring lots were empty. In 2016, the Kooimans purchased one of the empty lots next to Ornoff's property and built a house. The house included a finished basement with a separate apartment,³ which, beginning in 2018, the Kooimans listed for rent on both

Airbnb and VRBO. Mr. Kooiman testified that they hosted Airbnb or VRBO guests "on average maybe two weekends a month, some months we have nothing and some months we have four." On occasion, the Kooimans also allow family members to stay in the apartment.

Ornoff filed a complaint seeking injunctive relief to enforce the restrictive covenants. Relevant here, his complaint asked the circuit court to "issue a permanent and perpetual injunction ordering [the Kooimans] to restore their basement apartment to an unfinished basement[and] cease using any part of their home as a short-term rental business." It also asked for "such further and general relief as the nature of this case may require or this Honorable Court sees fit."

At trial, the Kooimans represented themselves. Mrs. Kooiman denied that their basement constituted a separate [*4] residence or apartment, though she admitted they host paying guests. Mr. Kooiman testified that they use the basement as part of their home. He testified that the paying guests lack the rights and privileges typically associated with a "residence," noting, among other things, that they do not have a lease, do not receive mail, cannot set house rules, and cannot control the HVAC or hot water temperature.

During closing arguments, the Kooimans relied on *Scott v. Walker*, 274 Va. 209, 645 S.E.2d 278 (2007), which held that a short-term rental of a house did not violate a "residential purpose" requirement in a restrictive covenant. They argued that the short-term rental of their basement was likewise a "residential purpose." They also argued that restriction four did not prohibit the short-term rentals because the paying guests never establish a "residence" in the basement.

Ornoff argued that payment for use of the basement was a commercial, rather than residential, purpose. He pointed out that the basement was used as a living area separate from the rest of the house, and he argued that restrictions one and four, when read together, prohibited using the basement as a short-term rental. He also distinguished *Scott v. Walker*, arguing that that case involved [*5] a single, ambiguous restriction, while this case involved two restrictions that, when read together, were clear and unambiguous.

The circuit court took the issue under advisement and allowed the parties to submit letters with additional case law and argument. On September 9, 2022, the circuit court issued its ruling orally. It acknowledged that restrictive covenants are not favored but noted that they

¹ The parties have a long and tortured history, including a separate lawsuit and complaints with zoning authorities. Because those details are not relevant to the issues before us on appeal, we do not include them.

² Both suits were consolidated and tried together, though we list the facts relevant to each case separately for clarity. The circuit court ruled against the Kooimans in both cases, and they appealed the rulings in both cases. We resolve both appeals in this memorandum opinion.

³ At trial, the Kooimans disagreed that it was an apartment. The basement includes two bedrooms, a full bath, a living room, a dining room, and a kitchen. It has a separate entrance, but it can also be accessed from the upstairs. The circuit court found it was an apartment.

are enforceable if they are clear in their meaning. It found that the language in restrictions one and four, when read together, is clear. The circuit court pointed out the inherent contradiction in arguing that the short-term rental is not a "residence" but that it is a "residential purpose." It made three specific rulings:

One, the [Kooimans] may not permit any person to occupy the basement as a separate residence or for living purpose that are separate from the primary residence. It cannot be a separate residence or separate living area separate from the primary residence for anyone.

Two, the [Kooimans] may not rent, lease, or any way convey the basement to be used as a separate residence for living purposes, no matter how brief.

And, three, the [Kooimans] shall be responsible for any [*6] attorney's fees and costs associated with the enforcement of this injunction.

The circuit court refused to order the Kooimans to remove any structures within the basement that rendered it a separate residence. It noted that the restriction did not require the basement only be used for storage, and it acknowledged that there were ways that the Kooimans could use the basement as part of the primary residence. It asked Ornoff's counsel to prepare the order.

After the circuit court's oral ruling, but before a proposed order had been submitted to the court, the Kooimans filed two letters. First, the Kooimans objected to the proposed order. Next, they argued that Ornoff requested modifications to the final decree that are beyond what was requested in the pleadings, beyond the scope of the matters litigated during trial, and beyond the court's final ruling.

Ornoff then submitted a letter to the court along with multiple proposed orders. He informed the court that the Kooimans were now renting out the main house with the basement excluded. He argued that the Kooimans "intend to circumvent this Court's Order by using the basement as a residence for themselves while they rent out the main house [*7] to their customers." He asked the court to issue a modified order clarifying that no part of the Kooimans' property may be used as a rental.

The circuit court declined to issue the proposed orders and prepared its own order "in accordance with the Court's findings." The order stated:

1) The [Kooimans] are forever barred, restrained, and enjoined from renting out, leasing, or letting out the lower level (basement) of the property for any

period of time; and

2) [The Kooimans] are forever barred, restrained, and enjoined from allowing any person other than the [Kooimans] to reside in the lower level of the property for any length of time.

3) [The Kooimans] are forever barred, restrained and enjoined from themselves using the basement as a separate residential space or permitting the basement to be used as a separate residential space while the remainder of the home is rented or occupied by others for any period of time.

As it did orally, the circuit court also ordered that anyone who violates the injunction will be responsible for attorney fees and costs expended in the enforcement of the order. The circuit court incorporated the objections that the Kooimans made to the proposed orders into [*8] the final order. The Kooimans now appeal this ruling.

B. The Kooimans' suit against Ornoff

In response to Ornoff's suit, the Kooimans filed a complaint against Ornoff seeking to enforce restriction three, which prohibits the use of cinder block on the "exterior side" of any building. The Kooimans' complaint asked the circuit court to order Ornoff to "remove any and all cinderblocks on both house and garage and replace with brick."

There was already a house on Ornoff's lot when he bought it. The walls of the house "are made out of wood and then covered with vinyl siding." The house, however, has a cinder block foundation, and the foundation extends above the ground. Sometime later, Ornoff built a detached garage. Like the house, the garage has a cinder block foundation that extends above the ground. Mr. Kooiman testified that as many of six rows of cinder blocks are visible above the ground. Ornoff offered photos of his home into evidence. The photos show between two and four rows of cinder blocks extend above ground. Ornoff also offered photos of other homes in the neighborhood that had similar cinder block foundations that extend aboveground.

Ornoff argued that restriction number three [*9] prohibited an entire side of a house to be constructed out of cinder block, but it did not prohibit a foundation from being constructed out of cinder block. The Kooimans argued that the provision was clear and prohibited cinder blocks on the side of a building. Since Ornoff has cinder blocks showing on the side of his home and garage, they argue that he was in violation of third restriction.

The circuit court ruled in favor of Ornoff and found he did not violate restriction three. It noted that the restriction did not mention a material requirement for the foundation; instead, it had a restriction for the "siding." The circuit court also noted that you could "hardly see" the cinder blocks, and it concluded that preventing the use of cinder blocks in the foundation is "not what the deed restriction intended." The Kooimans appeal that ruling.

II. ANALYSIS

A. The circuit court properly interpreted the deed restrictions.

HN1 [↑] The interpretation of a deed restriction is "a question of law that we review de novo." *Sainani v. Belmont Glen Homeowners Ass'n*, 297 Va. 714, 722, 831 S.E.2d 662 (2019). "Covenants, express or implied, which restrict the free use of land, are not favored and must be strictly construed." *Taylor v. Northam*, 300 Va. 230, 251, 862 S.E.2d 458 (2021) (quoting *Sloan v. Johnson*, 254 Va. 271, 274, 491 S.E.2d 725 (1997)). The burden is on the party attempting to enforce the [*10] "covenants to establish that the activity objected to is within their terms." *Sainani*, 297 Va. at 722 (quoting *Scott*, 274 Va. at 213). "Substantial doubt or ambiguity is to be resolved against the restrictions and in favor of the free use of property." *Barris v. Keswick Homes, L.L.C.*, 268 Va. 67, 71, 597 S.E.2d 54 (2004) (quoting *Anderson v. Lake Arrowhead Civic Ass'n*, 253 Va. 264, 269-70, 483 S.E.2d 209 (1997)). Nevertheless, Virginia courts will "'enforce restrictive covenants where the intention of the parties is clear and the restrictions are reasonable' and 'if it is apparent from a reading of the whole instrument that the restrictions carry a certain meaning by definite and necessary implication.'" *Sainani*, 297 Va. at 723 (quoting *Shepherd v. Conde*, 293 Va. 274, 288, 797 S.E.2d 750 (2017)).

1. Deed Restrictions One and Four

The question before us is whether deed restrictions one and four prohibit the Kooimans from using their basement apartment for short-term rentals. Restriction one provides, "Said real estate shall be used solely and exclusively for residential purposes, and no structures shall be erected, altered, placed or permitted to remain on said real estate, other than a single family dwelling, not to exceed two stories in height" Restriction four provides, "No trailer, basement, tent, shack, garage, barn, boat house or other outbuilding erected or placed on said real estate shall at any time be used as a residence, temporarily or [*11] permanently."

Relying on *Scott v. Walker*, the Kooimans argue that the short-term rental of property is a "residential purpose," and they contend we are bound by the holding in *Scott*. They also argue that the short-term rental of their basement does not violate restriction number four because the transient guests do not establish a "residence" in their basement.

In *Scott*, the restrictive covenant stated that "[n]o lot shall be used except for residential purposes" and the property owners sought to rent out the entire house on a nightly or weekly basis. *Scott*, 274 Va. at 212 (alteration in original). Noting first that the language did not expressly prohibit the short-term rental of the property, the Supreme Court next found that the covenant also did not "by definite and necessary implication" prohibit such use. *Id.* at 217. It found that the term "residential purposes" was ambiguous in multiple respects. *Id.* Among the ambiguities was whether "residential purposes requires an intention to be physically present in a home for more than a transient stay." *Id.* And it noted that if there was a "duration of use" component, it was unclear "when a rental of the property moves from short-term to long-term." *Id.* at 218. Because of the ambiguities, the Supreme Court [*12] held that the restrictive covenant must be interpreted "in favor of the free use of property and against restrictions." *Id.* (quoting *Schwarzschild v. Welborne*, 186 Va. 1052, 1058, 45 S.E.2d 152 (1947)). Thus, it found that the restriction did not prohibit the short-term rental of the home. *Id.*

Scott, however, does not control the outcome here. The Court in *Scott* did not hold that short-term rentals are always a permitted residential purpose. Rather, the term "residential purposes"—in the context of the restrictive covenant at issue—was ambiguous and therefore did not prohibit such use.⁴ Cf. *Schwarzschild*, 186 Va. at 1065 (noting "[a] house is not being used for 'residential purposes' by tourists who spend the night"). Where, as here, the facts and the restrictive covenants lead us to a

⁴ In *Scott*, the Court pointed out that "the Walkers do not rely on the Scotts' receipt of rental income as a basis for challenging the Scotts' use of their lot." *Scott*, 274 Va. at 213. Thus, the Supreme Court did not resolve whether the receipt of rental income would mean that a property is not used for "residential purposes." Although that issue was raised here, we do not decide that issue as it is not necessary to resolve this case. See *Butcher v. Commonwealth*, 298 Va. 392, 396, 838 S.E.2d 538 (2020) ("[W]e decide cases 'on the best and narrowest grounds available.'" (quoting *Commonwealth v. White*, 293 Va. 411, 419, 799 S.E.2d 494 (2017))).

different interpretation, *Scott* does not control the outcome of this case. Although restriction one here is similar to the restrictive covenant in *Scott*, this case involves an additional restrictive covenant that leads us to a different outcome. See *Mount Aldie, LLC v. Land Trust of Va., Inc.*, 293 Va. 190, 197, 796 S.E.2d 549 (2017) (HN2[↑]) "[T]he whole of a deed and all its parts should be considered together' in order to determine the controlling intent." (quoting *Wetlands Am. Trust, Inc. v. White Cloud Nine Ventures*, 291 Va. 153, 161, 782 S.E.2d 131 (2016)).

First, *Scott*, like the out-of-state cases cited by the Kooimans, involved the short-term rental of the entire property, whereas the short-term [*13] rental here only involves the basement.⁵ The Kooimans contend that this is a distinction without a difference. But unlike *Scott*, the deed here contains restriction four, which specifically addresses the use of the basement as a residence. See *Scott*, 274 Va. at 217 (distinguishing between the lease of the entire single-family dwelling at issue and the rental of individual rooms at issue in both *Deitrick v. Leadbetter*, 175 Va. 170, 173, 8 S.E.2d 276 (1940), and *Schwarzschild*, 186 Va. at 1054-55). Thus, the distinction is of great significance.

Second, the Kooimans rely on the argument that the short-term renters do not establish a residence because their use of the basement is transient.⁶ But the duration

of use has never been the determinative factor in interpreting similar restrictive covenants. *Scott*, 274 Va. at 217; see generally *Deitrick*, 175 Va. 170; *Schwarzschild*, 186 Va. 1052. And contrary to the Kooimans' argument, the Court in *Scott* noted that the short-term renters "engage in activities normally associated with a dwelling place" and that "[i]t can be argued that a nightly or weekly rental is more than mere physical presence." *Scott*, 274 Va. at 217-18. Which is one of the reasons why the Court found "residential purpose" to be ambiguous. Here, restriction four removes any ambiguity regarding the duration of use required to establish a residence; it prohibits the use of the [*14] basement as a "residence, temporarily or permanently," (emphasis added), which suggests an intent to prohibit even transient use of the basement.

In fact, reading restrictions one and four together lead us to conclude that the restrictions were intended to create a blanket prohibition on all possible types of residences in the basement. Restriction four prohibits the use of the basement, or other structures, as a residence separate from the rest of the house. The temporary or permanent language in restriction four removes any time requirement to establish a residence. Further, restriction four lists other places, apart from the basement, that cannot be used as a residence, including a trailer and a tent.⁷ HN3[↑] Given that a tent and certain types of trailers are typically for more transient uses, the inclusion of them in the list further indicates that the duration of use is not a factor to be considered, or at the very least transient uses of the listed structures are not to be excluded. See *Sainani*, 297 Va. at 725-26 ("When several nouns or verbs or adjectives or adverbs — any words — are associated in a context suggesting that the words have something in common, they [*15] should be assigned a permissible meaning that makes them similar." (quoting Antonin

⁵ See, e.g., *Yogman v. Parrott*, 325 Ore. 358, 937 P.2d 1019, 1020 (Or. 1997) (en banc) (renting out entire beach house). The Kooimans argue that *Lowden v. Bosley*, 395 Md. 58, 909 A.2d 261, 262 (Md. 2006), is similar to this case because it had a restrictive covenant that prohibited use of a basement "at any time as a permanent or temporary residence." But *Lowden*, like *Scott*, involved the rental of the entire property and did not require the court to consider whether renting the basement separate from the remainder of the house would violate that portion of the restrictive covenant.

⁶ The Kooimans also argue that the definition of residence in past cases requires more than a transient stay. In *Jernigan v. Capps*, 187 Va. 73, 45 S.E.2d 886 (1947), the Supreme Court relied on the dictionary definition, which defined residence as "[t]he place where one actually lives or has his home; a person's dwelling place or place of habitation; an abode." *Id.* at 80 (quoting *Webster's New International Dictionary* (2d ed.)). But as noted in *Scott*, even the "people who rent the . . . property use it as a temporary place of abode and engage in activities normally associated with a dwelling place." *Scott*, 274 Va. at 217 (emphasis added). And the restriction at issue here prohibits the use of the basement as a temporary residence.

⁷ The Kooimans argue that the basement is not a residence because it does not have features such as the ability to receive U.S. mail or service of process, does not have its own WiFi, does not have control over the HVAC or hot water, etc. But many of these features cannot be obtained in the other structures listed in restriction four ("trailer, basement, tent, shack, garage, barn, boathouse"). Thus, the Kooimans ask us to impose a definition of residence that is impossible to meet in the other structures. If we adopted such an interpretation, it would be unclear what exactly restriction four prohibited. See *CNX Gas Co. v. Rasnake*, 287 Va. 163, 168, 752 S.E.2d 865 (2014) ("Effect should be given to every part of the instrument, if possible, and no part thereof should be discarded as superfluous or meaningless." (citation omitted)).

Scalia & Bryan Garner, *Reading Law: The Interpretation of Legal Texts* 195 (2012)). Finally, only a "single family dwelling" is permitted. See *Schwarzschild*, 186 Va. at 1063 (stating that renting of rooms was not an issue because the covenants did not limit the property to single-family dwellings).

The deed restrictions here do not mention rentals, whether short-term or long-term. But reading restrictions one and four together lead us to the conclusion that the purpose of the restrictions was less about preventing short-term rentals of property and more about preventing the creation of more than one residence or living area on the property. Regardless of how long each individual guest stayed, the combination of guests using the basement separate from the rest of the home created two separate residences on the property. Thus, even though the deed restrictions do not expressly prohibit short-term rentals, by definite and necessary implication, the restrictions prohibit the use of the basement for short-term rentals.⁸ See *Bauer v. Harn*, 223 Va. 31, 39, 286 S.E.2d 192 (1982) ("[I]f it is apparent from a reading of the whole instrument that the restrictions carry a certain meaning by [*16] definite and necessary implication, then the thing denied may be said to be clearly forbidden, as if the language had been in positive terms of express inhibition.").

The Kooimans argue that the circuit court's interpretation of the deed restrictions is so broad that they are prevented from using the basement when family members visit them, for example during holidays like Christmas or Thanksgiving. *HN4* [↑] Although a trial court speaks through its written orders, *Kosko v. Ramser*, 299 Va. 684, 689, 857 S.E.2d 914 (2021), we can look to the circuit court's oral explanations to help us interpret that order. Orally, the circuit court stated that the basement "cannot be a *separate* residence or separate living area *separate* from the primary residence for anyone." (Emphasis added.) The circuit court also noted certain uses of the basement would not violate the restrictive covenants because "it's being used as part of the primary residence." The written order also prohibits the Kooimans from using the basement "as a *separate* residential space while the remainder of the home is rented or occupied by others." (Emphasis added.) Thus, looking at both the oral and written rulings, the circuit court's focus appeared to be on the

use of the basement separate [*17] from the rest of the house. Accordingly, we do not interpret the order so broadly as to prohibit the Kooimans from hosting their family, for example during Christmas, so long as that use is connected to their own use of the residence.

2. Deed Restriction Three

Restriction three provides, "All buildings on said lot shall be constructed of frame or masonry material or a combination of the two except that no exterior side shall be of cinder block" They point out that the restriction prohibits cinder blocks on the "exterior side" and does not have an exception for the foundation. Thus, they argue, the exposed rows of cinder block violate this restrictive covenant.

But the rule relating to the "exterior side" is itself the exception. The restriction permits all buildings to be constructed of "frame or masonry material or a combination of the two," which includes cinder blocks. It carves out an exception for the "exterior sides." Thus, the restriction itself permits a cinder block foundation. The question is whether the restriction intended to include the exposed foundation within the meaning of "exterior side."

When determining whether the exposed rows of cinder block foundation is [*18] included within the "exterior side," we look to the ordinary meaning of the words in the context in which they are used. See *Berry v. Bd. of Supervisors of Fairfax Cnty.*, 302 Va. 114, 884 S.E.2d 515 (Mar. 2023) ("[W]ords in a statute [or ordinance] are to be construed according to their ordinary meaning, given the context in which they are used." (alterations in original) (quoting *City of Va. Beach v. Bd. of Supervisors*, 246 Va. 233, 236, 435 S.E.2d 382, 10 Va. Law Rep. 256 (1993))). Because these words are used in the context of constructing a building, we find the Virginia Construction Code ("VCC") instructive.⁹ The VCC also incorporates the International Building Code, 13 VAC 5-63-10(B), which separately defines "exterior walls"¹⁰ and "foundations." Further, the

⁹ The VCC is part I of the Uniform Statewide Building Code. 13 VAC 5-63-10(A).

¹⁰ We recognize that restriction three uses the term "side" rather than "wall." But in this case, we find the terms synonymous. See *Webster's Third New International Dictionary* 2572 (2002) (defining "wall" as "one of the sides of a room or building that connects the floor and ceiling or foundation and roof" (emphasis added)).

⁸ The same rationale applies regardless of whether the Kooimans themselves stay in the basement and rent out the rest of the house or whether they stay upstairs and rent out the basement.

VCC treats "exterior walls" and "foundations" as separate and distinct parts of a building, with separate chapters and regulations pertaining to each. Accordingly, we find that the restrictive covenant did not intend to prohibit exposed rows of a cinder block foundation in its prohibition on the use of cinder blocks on the "exterior side" of buildings. Therefore, the circuit court did not err in denying the injunction and dismissing the Kooimans' complaint.

*B. The circuit court [*19] did not err in barring the Kooimans from using the basement themselves while renting out the rest of the home.*

The circuit court prohibited the Kooimans from "themselves using the basement as a separate residential space or permitting the basement to be used as a separate residential space while the remainder of the home is rented or occupied by others for any period of time." The Kooimans argue that they were denied due process because Ornoff did not request this relief in his complaint and because they did not have a meaningful opportunity to litigate the issue because this relief was requested post-trial. We disagree.

Ornoff's complaint asked the circuit court to order the Kooimans to "cease using *any part* of their home as a short-term rental business." (Emphasis added.) This request alone is broad enough to incorporate the relief granted by the circuit court. But the complaint also sought the complete removal of the basement apartment and its return to an unfinished state. Instead, the circuit court fashioned a remedy short of going to that extreme, which it is permitted to do. *Hooper v. Musolino*, 234 Va. 558, 572, 364 S.E.2d 207, 4 Va. Law Rep. 1516 (1988) (HNS[†]) "In the exercise of its equity jurisdiction, a court is afforded broad discretion in fashioning complete [*20] and just relief.").

Although the factual allegations in Ornoff's complaint focused on the Kooimans' renting out their basement (as opposed to them staying in the basement and renting out the upstairs of their home), the legal issue before the circuit court, both in the complaint and at trial, was the interpretation of the restrictive covenants. To interpret the restrictions, the circuit court had to consider whether the restrictions prohibited the use of the basement as a residence separate from the rest of the house. That legal issue does not change when it is the Kooimans, rather than the guests, staying in the basement. Additionally, considering Ornoff's request to completely remove the basement apartment, the circuit court certainly had to consider the ways in which the Kooimans were permitted to use the basement.

We also find that the Kooimans were not deprived of a meaningful opportunity to be heard on the issue. Their argument is premised on their belief that the circuit court granted additional relief based on Ornoff's post-trial request and without allowing additional argument. But the circuit court did not grant additional relief. Though the written ruling specifies that the [*21] Kooimans cannot use the basement while renting out the remainder of the home, consistent with Ornoff's post-trial request, the circuit court's oral ruling included the same prohibition, albeit phrased more broadly. The oral ruling prohibited "any person" from occupying the basement separately from the primary residence.¹¹ Though the written ruling may have used different language, consistent with that in the post-trial request, the ruling is nevertheless consistent with the oral ruling, which was made prior to the post-trial request. Thus, the circuit court did not grant additional relief post-trial.

C. The attorney fees issue is not properly preserved.

The Kooimans argue that the circuit court erred by anticipatorily ruling that anyone who violated the injunction would be liable for attorney fees and costs expended in the enforcement of the order. That issue, however, is not preserved.

Rule 5A:18 provides, "No ruling of the trial court . . . will be considered as a basis for reversal unless an objection was stated with reasonable certainty at the time of the ruling, except for good cause shown or to enable this Court to attain the ends of justice." HNS[†] The purpose of this rule "is [*22] to allow the trial court a fair opportunity to resolve the issue at trial, thereby preventing unnecessary appeals and retrials." *Hogle v. Commonwealth*, 75 Va. App. 743, 755, 879 S.E.2d 622 (2022) (quoting *Creamer v. Commonwealth*, 64 Va. App. 185, 195, 767 S.E.2d 226 (2015)). "*Rule 5A:18* requires the accused to *specifically* raise a legal challenge . . . to preserve that issue for appeal." *Hargrove v. Commonwealth*, 77 Va. App. 482, 504, 886 S.E.2d 322 (2023) (alteration in original) (quoting *Dickerson v. Commonwealth*, 58 Va. App. 351, 357, 709 S.E.2d 717 (2011)).

The Kooimans did not object to the attorney fee issue.

¹¹ Orally, the circuit court ordered: "[T]he defendants may not permit *any person* to occupy the basement as a separate residence or for living purpose that are separate from the primary residence. It cannot be a separate residence or separate living area separate from the primary residence *for anyone*." (Emphasis added.)

The Kooimans' objection¹² focused on the alleged infringements of their property rights and the interpretation of the deed restrictions. Though the objection mentioned "all reasons preserved in the record," they did not raise the attorney fee issue anywhere else in the record. HN7 [↑] Contrary to the Kooimans' argument, a general resistance to *any* relief is not the same as preserving a specific objection for appeal.

Alternatively, the Kooimans contend that the circuit court awarded the fees post-trial, they had no opportunity to object, and, relying on Code § 8.01-384(A),¹³ they argue that the lack of opportunity to object should not prejudice them on appeal. But the circuit court announced its ruling, including on the issue of attorney fees, orally on September 9, 2022. Between then and entry of the final order, the Kooimans filed multiple letters with the court objecting to the [*23] contents of the proposed final order, which included the circuit court's ruling on attorney fees. The Kooimans also signed the proposed order and listed their objections. None of these letters or objections included an objection to "anticipatory attorney's fees." Thus, the Kooimans did, in fact, have the opportunity to object on that issue and did not do so.

III. CONCLUSION

For the foregoing reasons, we affirm the decision of the circuit court.

Affirmed.

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¹² The circuit court dispensed with endorsement of the final order pursuant to Rule 1:13. It noted, however, that the Kooimans had written their objections on the order proposed by Ornoff, and it incorporated those objections into the final order.

¹³ Code § 8.01-384(A) provides, in relevant part, "if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection shall not thereafter prejudice him on motion for a new trial or on appeal."

VIRGINIA:

In the Court of Appeals of Virginia on **Friday** *the 16th day of February, 2024.*

Jeremy Kooiman, et al.,

Appellants,

against

Record No. 1758-22-1
Circuit Court No. CL21000420-00

Jeffrey Ornoff,

Appellee.

Upon a Petition for Rehearing En Banc

Before Chief Judge Decker, Judges Huff, O'Brien, AtLee, Malveaux, Athey, Fulton, Ortiz,
Causey, Friedman, Chaney, Raphael, Lorish, Callins and White

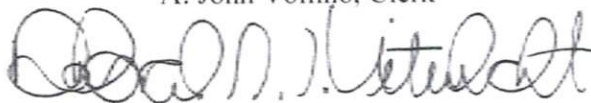
On consideration of the petition of the appellants to set aside the judgment rendered herein on the 30th day of January, 2024 and grant a rehearing *en banc* thereof, the said petition is denied on the grounds that there is no dissent in the panel decision, no member of the panel has certified that the decision is in conflict with a prior decision of the Court, nor has a majority of the Court determined that it is appropriate to grant the petition for rehearing *en banc* in this case. Code § 17.1-402(D).

A Copy,

Teste:

A. John Vollino, Clerk

By:



Deputy Clerk

Lucy Kooiman stated the driveway has been used for the last seven years for their large family of eleven children. Ms. Kooiman stated there has not been any incidents involving the driveway, and there would be no way for Mr. Ornoff to tell the difference between house guest vehicles and family vehicles. Lucy Kooiman added that this is a seasonal business, in the summer months there may be more guests.

Chairman Bowser closed the public hearing and called for discussion from the commissioners.

Commissioner Carroll asked if the Kooimans were agreeable with conditions one through three.

Mr. Kitchen said the conditions were proposed by staff based off the concerns shared in the rejection letter received.

Commissioner Carroll stated he did not agree with implying those conditions.

Commissioner Sienkiewicz asked if there was a road maintenance agreement.

Ms. Kooiman stated her husband and neighbors manage the road repairs. Ms. Kooiman stated she would like to not have these conditions.

Commissioner Sienkiewicz asked if the house was rented, while they were away and who was the emergency contact.

Ms. Kooiman stated her son is fifteen minutes away and manages the property.

Commissioner Boykin asked if the house or the bedrooms were for rent.

Ms. Kooiman stated they rent the whole house.

Commissioner Taylor asked why this was going on for six years, and how was the County notified that there was a violation.

Mr. Kitchen stated he believes Mr. Ornoff asked for a zoning determination to verify if a short-term rental operation was permitted, which Amy Ring confirmed was allowed. Mr. Kitchen added that the Board of Zoning Appeals upheld Amy Ring's determination that this was allowed to operate under the old section.

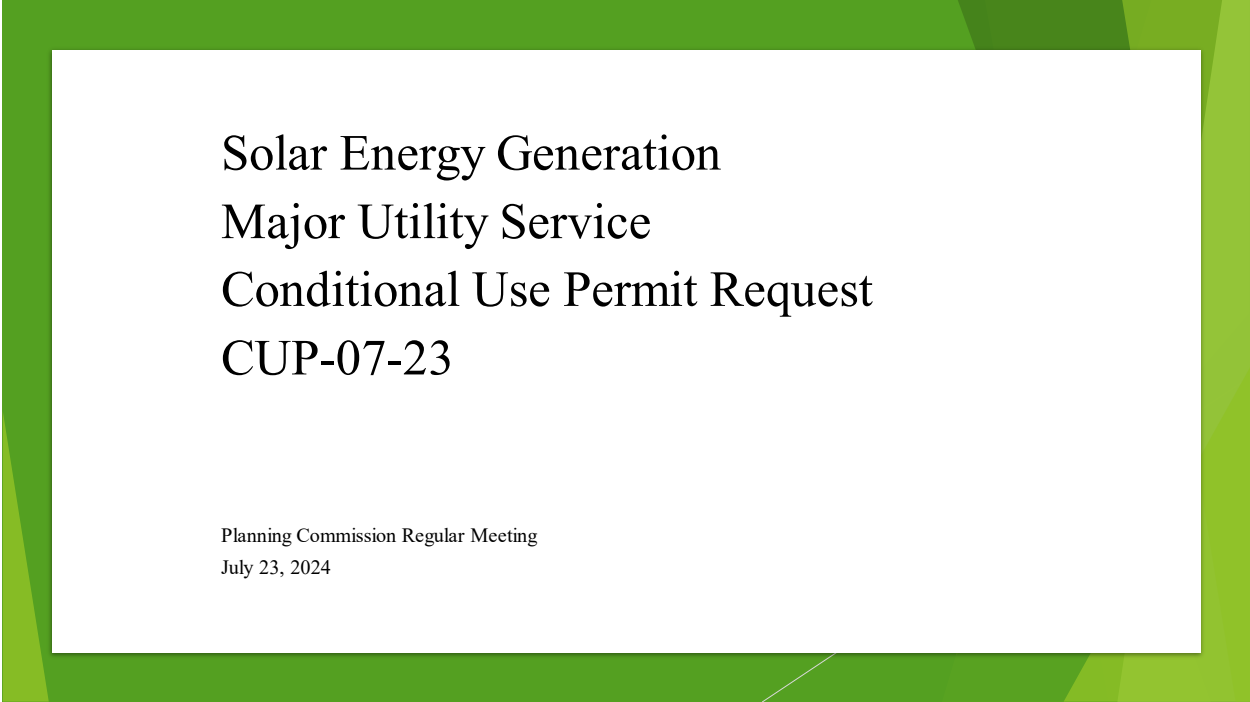
Commissioner Gibbs made the motion to recommend approval of this application to the Board of Supervisors with the removal of staff recommendations one through three. Commissioner Carroll seconded the motion. The motion was adopted with Commissioners Distefano, Taylor, Gibbs, Smith, Carroll and Bowser voting in favor and Commissioners Boykin, Rawls, and Sienkiewicz voting against the motion (6-3).

The motion passed, and the item will go to the Board of Supervisor's August 15, 2024, meeting.

Chairman Bowser called for the next public hearing:

Application (CUP-7-23) of Elk Development, LLC, applicant, and William Sawyer, property owner, for a conditional use permit for a major utility service, specifically a three-megawatt utility-scale solar energy generation facility on approximately 28.84 acres located on Orbit Road on tax parcel number 39-01-026 in the Rural Agricultural Conservation zoning district. The application includes a request to withdraw 22.02 acres from the Courthouse Agricultural and Forestal District.

Trenton Blowe gave the following presentation.



Solar Energy Generation Major Utility Service Conditional Use Permit Request CUP-07-23

Planning Commission Regular Meeting
July 23, 2024

Site Description

- ▶ Tax Map ID#: 39-01-026
- ▶ Location: 18213 Orbit Road
- ▶ Current Zoning: Rural Agricultural Conservation (RAC)
- ▶ Election District: D4
- ▶ Request: Establish a 3.0 MW solar facility on solar energy generation facility on approximately 28.44 acres on a 228.308 -acre tract located on Orbit Road with a tax map number 39-01-026 in the Rural Agricultural Conservation (RAC) zoning district.

Project Description

- ▶ Applicant has proposed a three-megawatt (MW) solar energy generation facility in the western portion of the property.
- ▶ An electrical line that bisects the project area along Orbit will serve as the interconnection point.
- ▶ Project will consist of solar panels along with their racking systems and metal posts, inverters, and fencing.
- ▶ Based on the project area, 27 acres of corn will be removed from production. Approximately 19 acres will be in the fenced area of the solar facility project area.
- ▶ Property has historically been used for agriculture.

CUP-7-23 - Conditional Use Permit- Location Map



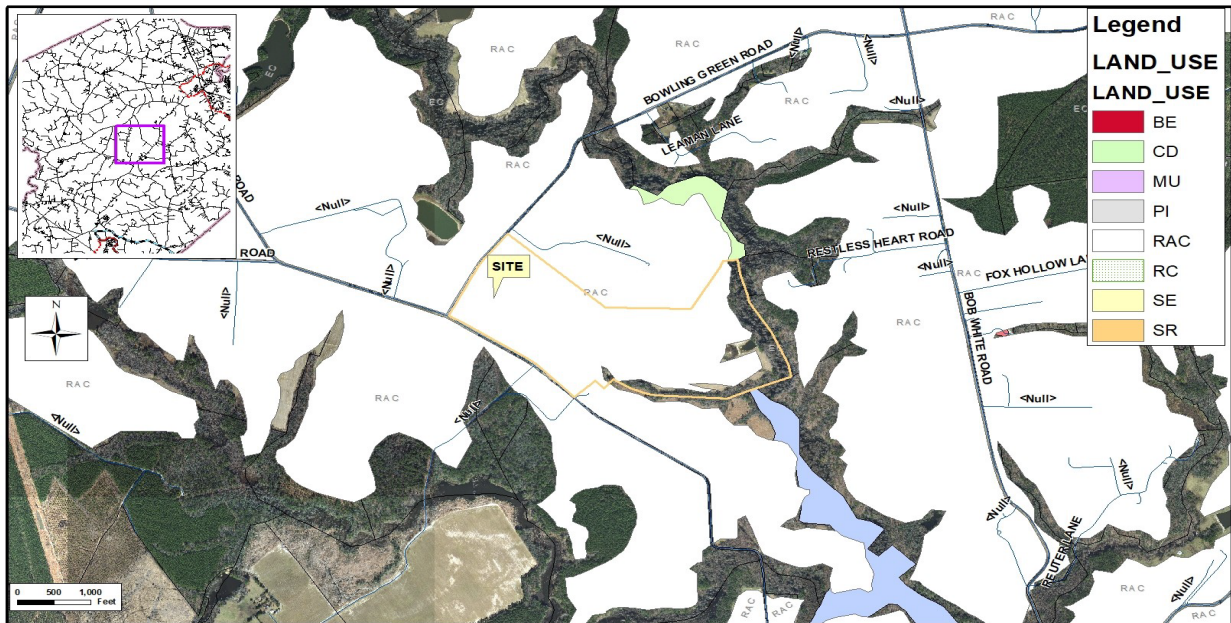
CUP-7-23 - Conditional Use Permit- Closeup Map



CUP-7-23 - Conditional Use Permit- Zoning Map



CUP-7-23 - Conditional Use Permit- Land Use Map





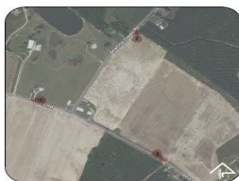
View from the West across Bowling Green Road



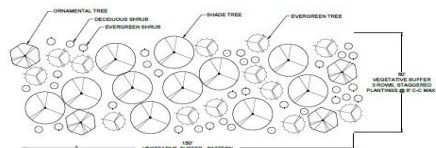
Redhouse Rd. the location for the Solidago Solar Facility



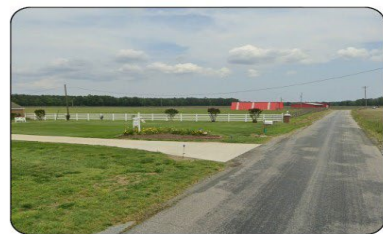
39-01-038 proposed location for the Nuby Run Facility



KEY MAP
1/8" = 1' SCALE

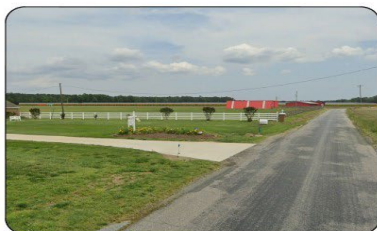


PROPOSED LANDSCAPE BUFFER | VIEW 1
1/8" = 1' SCALE

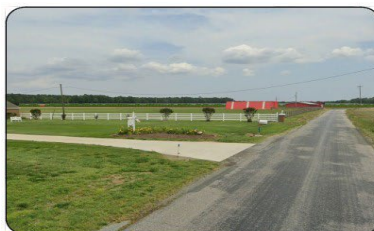


EXISTING CONDITIONS | VIEW 1
1/8" = 1' SCALE

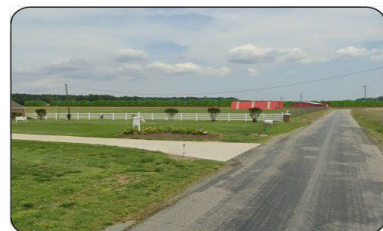
Viewshed from Orbit Road



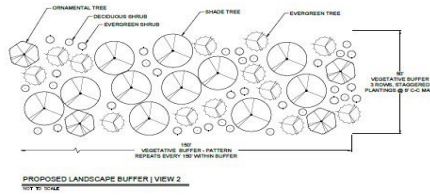
PROPOSED LANDSCAPE BUFFER | ESTIMATED TIME OF PLANTING | VIEW 1
1/8" = 1' SCALE



PROPOSED LANDSCAPE BUFFER | ESTIMATED 5 YEAR GROWTH | VIEW 1
1/8" = 1' SCALE



PROPOSED LANDSCAPE BUFFER | ESTIMATED 10 YEAR GROWTH | VIEW 1
1/8" = 1' SCALE



Viewshed from Bowling
Green Road



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

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 property in the immediate vicinity for the purposes already permitted, 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. Not contrary to 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.

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

1. Number of persons living or working in the immediate area and the proposed hours of operation.
2. Traffic conditions, sidewalks, parking facilities, vehicle access, peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future;
3. Orderly growth of the neighborhood and community and the fiscal impact on the County;
4. 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 resource landmarks.

Staff Analysis – Public Facilities

- ▶ Applicant proposes to access the site from an entrance on Bowling Green Road via Orbit Road (Rt. 637) for construction. The applicant will use Route 258 to access Orbit Road.
- ▶ In establishing the use, the enjoyment of neighboring properties may also be temporarily impacted by construction traffic and noise generation.
- ▶ Applicant is required to submit an emergency response plan with the submission of the preliminary site development plan. The plan shall include a training program to be provided to County emergency responders concerning safety for on-site emergency response.

Staff Analysis – Environmental Assessment

- ▶ Project lies within the Chesapeake Bay Preservation Area (CBPA) Overlay District. There will be impacts to two palustrine emergent (PEM) wetlands.
- ▶ Both wetland areas are currently located within an actively managed agricultural field.
- ▶ Per the water quality impact assessment (WQIA), proposed impacts will be minimized to the extent practicable, and erosion and sediment controls will be utilized during the construction period to further mitigate for potential impacts.
- ▶ Eastern portion of the parent parcel is within the 500' boundary for colonial waterbirds. Correspondence with the Department of Wildlife Resources (DWR) stated that the project area will not impact this boundary.

Staff Analysis – Historical Resources

- ▶ A Phase 1 Cultural Resources Survey of the project area was conducted by Stantec.
- ▶ During the architectural survey, no shovel tests were positive for cultural material and no new isolated archaeological finds or new archaeological sites were identified during the investigation.
- ▶ A total of six individual resources were located within the architectural study area, defined as the project area, and a 0.5-mile radius around the project area. There are five previously recorded resources and one newly recorded resource.
- ▶ Four of the five previously recorded resources have been determined as potentially eligible for listing in the National Register of Historic Places (NRHP).

Staff Analysis – Historical Resources CTD

- ▶ All of the resources considered eligible or potentially eligible are historic homes.
- ▶ The Seeds-Pierce house is approximately 946' from the project area, historic resource #046 -5546 is approximately 537' from the project area, historic resource 046-5545 is approximately 1058' from the project area, the Cedar Acres home is located approximately 3000' from the project area.

Staff Analysis – Economic Impact

- ▶ According to the applicant's economic impact study, the proposed facility would generate approximately \$ 227,900 in cumulative county revenue over a 25 -year operational life and approximately \$ 328,300 in cumulative county revenue over a 35 -year operational life based on both projected real estate and machinery and tax revenues.
- ▶ The projected real estate tax revenue on the current agricultural land use over 25 years is \$6,730, and a total of \$9,420 over 35 years.
- ▶ The acreage subject to the Conditional Use Permit would be reassessed for real estate taxes at \$15,000 per acre.

Staff Analysis – Viewshed Analysis

- ▶ An effects evaluation was conducted for NRHP - listed, eligible, and potentially eligible properties that may be affected by the proposed project.
- ▶ Four properties were assessed for effects and included the potentially eligible Cedar Acres (DHR #046-0004) and Seeds-Pierce House (DHR #046-0021) and two dwellings that are considered eligible for environmental review purposes (DHR #046-5545 and #046-5546).
- ▶ Based on the results of the phase I study, the project would have adverse effects on all four of the previously listed resources.
- ▶ Mitigation in the form of a donation to the Isle of Wight County Museum has been accepted by VDHR.

Comprehensive Plan Review

- ▶ The future recommended land use designation for these properties is Rural Agricultural Conservation (RAC) under the adopted Comprehensive Plan.
- ▶ Appropriate uses for the RAC land use designation include agriculture, horticulture, forest lands, and scattered low-density residential uses. Other uses such as resource extraction and utility-scale solar facilities are also permitted when appropriately sited.
- ▶ Solar energy facilities are considered compatible with RAC land use when properly sited and with the application of appropriate development criteria.

Department and Agency Review

Staff distributed the application to the following departments for review and comment:

- ▶ Economic Development: The department stated it had no concerns.
- ▶ Environmental Planner: All concerns addressed with the conditional use permit. Further information will be required at site plan review.
- ▶ Commissioner of Revenue: Rollback estimates should be based on the entire acreage of the entire lease area not just the acreage of the solar facility. The acreage subject to the Conditional Use Permit would be reassessed at \$15,000 per acre.
- ▶ Emergency Services: Staff will work with the applicant during site plan review on the required Emergency Response Plan to include annual training.

Department and Agency Review CTD

- ▶ Utility Services: Staff will review the site plan for compliance with State Stormwater regulations.
- ▶ Isle of Wight County Museum: A memo was attached to the staff report.
- ▶ Virginia Department of Transportation (VDOT): No concerns at this time.

Please note that, should the conditional use permit be approved, the project will be subject to site plan review and approval from all necessary agencies.

Staff Analysis

Strengths:

1. The proposed use would generate additional non -residential tax revenue for future public service and facility needs for the County

Weaknesses:

1. The proposed use would remove agricultural land from production.
2. Temporary impacts to residential development in the area from construction traffic and noise is expected during the construction phase.
3. There are adverse impacts to several historical resources. The mitigation proposed does not directly affect the neighboring properties.
4. The proposed construction traffic route utilizes narrow rural roadways with limited pull-off and passing areas.
5. The facility would result in a saturation of uses in the same general neighborhood.

Staff Recommendation

- ▶ Based on the weaknesses listed above, staff recommends denial of the CUP request.
- ▶ However, should the CUP be approved, staff recommends the following conditions:
 1. Topsoil shall be stockpiled on the site and shall be stored out of view from adjacent properties and public road
 2. The applicant shall submit a seed mix for site groundcover that includes native pollinators blooming in spring/summer as recommended by DCR.
 3. The applicant will work directly with the Isle of Wight County Chamber of Commerce, Paul D. Camp Community College, and the Economic Development Department to ensure the inclusion of local contractors in the bidding process.
 4. A laminated Emergency Response Poster will be mounted near the front gate. The poster will include a general site plan, evacuation routes, and muster points, emergency response chain of command, directions to the closest hospital, coordinates to the closest life flight landing area, and other pertinent information associated with the facility during an emergency response.

Staff Recommendation

5. The facility perimeter fencing will be equipped with push -bar pedestrian gates to permit emergency exits from the facility.
6. Adherence to the proposed transportation plan shall be required for all facility traffic. Truck traffic shall be limited to only the preferred route as described in the transportation plan. No other local routes in Isle of Wight County may be used. The applicant shall coordinate deliveries outside of school bus pickup and drop -off times.
7. Excluding the buffer yards, the ground between the panels and in areas not otherwise covered by gravel or infrastructure shall be planted and maintained with a vegetative cover. This vegetative cover will be managed with mowing and/or grazing.
8. Hours of operation for construction and post -construction operation shall be limited to Monday through Friday, 7:00 a.m. to 6:00 p.m. Saturdays from 7:00 a.m. to 5:00 p.m. No construction is to occur on Sundays by any party involved with the project.

Staff Recommendation

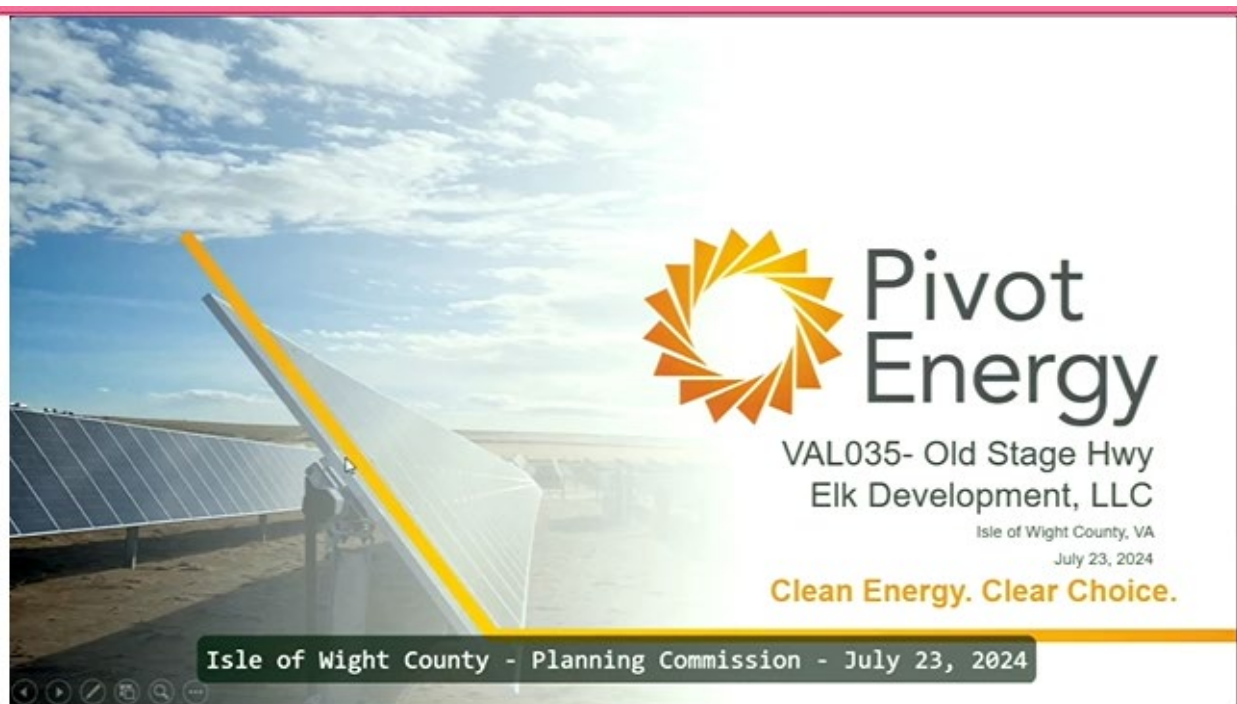
9. As part of the site plan review, the applicant shall provide documentation that the selected panels and all power-generating equipment on -site are “Tier 1” modules, as established by the most recent “PV Module Tier 1 List” issued by Bloomberg NEF or a similar third party analysis widely accepted in the solar industry. Additionally, the make and model of the selected panels and all power -generating equipment initially installed and replaced on the site must qualify, for disposal purposes only, as non -hazardous waste under applicable U.S. Environmental Protection Agency tests (e.g. TCLP).
10. The applicant shall implement a program for the collection of baseline data establishing pre -construction soil conditions for the production of row crops for the agricultural areas within the project area. The program shall establish the relevant characteristics of the topsoil. The baseline data shall be derived from field and laboratory testing of soil conditions, including depth, density, and quality from representative locations. Laboratory testing shall be conducted by an accredited laboratory. Parameters for assessing soil quality may include the following: infiltration rate, bulk density, water holding capacity, pH, percent organic matter, cation exchange capacity, Phosphorous/Phosphate (P), Nitrogen (N), and Potassium/Potash (K). After 30 years of operation and again after 35 years of operation, soil conditions shall be determined for the same sampling locations using the same parameters and the results used to plan soil restoration activities. After equipment is removed as part of decommissioning, soil conditions shall be determined for the same sampling locations using the same parameters. Soil restoration activities shall be performed as necessary during operations or decommissioning to return soil conditions to at least baseline conditions. The County will be provided with data of soil conditions within 30 days after the receipt of results.

Staff Recommendation

11. Any recommendations provided by VDHR during site plan review will be adhered to, in addition to requirements in the zoning ordinance.

Chairman Bowser opened the public hearing and invited the applicant to speak.

Robert Hickox, Pivot Energy, applicant, 1601 Wewatta Street, Denver, Colorado, gave the following presentation.



About Pivot Energy

- Founded in 2009, Owner-Operator
- Headquarters in Denver, CO
 - Offices in St. Louis and Chicago
- Areas of Focus
 - Small Utility / Community Scale Solar
 - Commercial Solar
 - Creating a diversified energy grid
- Over 250 solar projects completed in 9 states.
- 20 active project in Virginia
 - 5 permitted
 - 15 in active development
 - Oldest site 2009 rooftop (15yrs)
 - Oldest greenfield 2016 (8yrs)



Isle of Wight County - Planning Commission - July 23, 2024



Location Map
Parcel for VAL035
Orbit Rd (SR637) off
Courthouse Hwy (US288)



Isle of Wight County - Planning Commission - July 23, 2024

Confidential

VAL035- Orbit Rd.

- **Zoning:** Tax parcel number 39-01-026 in the Rural Agricultural Conservation (RAC) zoning district
- **Project Boundary – 28.71 Acres Total/ 19.64 Acres Fenced Array**
 - Setbacks – over 1 mile from Hwy, 150ft from closest residence
 - Fencing includes required 8' chain link or game fence
 - Frontage along Bowling Green/ Orbit Rd. using varying height of trees & shrubs
 - Minimum 16' wide gravel access road
- **Project Size – 4.35 MWdc / 3.0 MWac**
 - Estimated production of 7.0 GWh/yr
 - Equivalent of 500+ homes (estimated)
 - 7200 panel modules
- **Community Engagement**
 - Community Meeting held 6/15/23 at Windsor Library (Zero abutters attended, mailing list available)
 - Siting agreement of \$135K to the County, \$15K to the Virginia Cooperative Ext./ 4H
- Interconnection to existing distribution lines along Orbit Rd..



Isle of Wight County - Planning Commission - July 23, 2024

Confidential



Why site here?

- Open site, not requiring tree removal, few residences, and way from sensitive resources
- Proximity to 3-phase utility service and substation
- The opportunity for dual use grazing/ pollinators.



Isle of Wight County - Planning Commission - July 23, 2024

[illegible]

- Erosion
 - Following last DEQ guideline to for erosion control planning
 - Use of pollinator/ grazing seed mixture with deeper root systems that crops
- Ecological
 - No pesticides or mechanical mowing used to maintain vegetation height, minimizing runoff.
 - Natural fertilization from sheep grazing regenerates soil composition
 - Panels are non-toxic **borosilicate glass**, also used in labs/kitchen glassware

Community Concerns (conti.)

▪ EMF/ Radiation

- Non-ionizing aka non-cell altering
- Radio/TV/Cell Phone/microwaves generate more EMF than a solar facility and power lines and at vastly closer distances.
- 4,200 Volts/meter is the permissible safe limit.
- Solar inverters produce, at most, 10 V/m
- Homes produce:

Electric Appliance/Equipment	Electric Field (V/m)	Magnetic Field (mG)
Electric Mains (Home)	100	2
Hair Dryer	80	0.1 - 70
Vacuum Cleaner	50	20 - 200
Fluorescent Light	5	5 - 20
Microwave Oven	1.5	40 - 80
Portable Radio	180	10 - 10
Electric Oven	8	1.5 - 5
Iron	120	1.2 - 3
Computer	60	0 - 0.1

- The study is available to review



Isle of Wight County - Planning Commission - July 23, 2024

Community Concerns (conti.)

▪ Soil Health

- Panels are coated (like windshields) to prevent glass from breaking off
- Potential point exposures below USEPA screening values in soil/air/water
- Toxicity Characteristic Leaching Procedure (TCLP) tests worst case scenarios and International Energy Agency concluded that:

"risk assessment method that estimated exposures that may occur when broken PV modules are exposed to rainwater, estimated the associated chemical concentrations in soil, groundwater and air, and compared these exposure-point concentrations to health-protective screening levels based on 1×10⁻⁶ cancer risk (i.e., one in a million)"

- Pivot recycles all PV modules



Isle of Wight County - Planning Commission - July 23, 2024

Property Values

- Conducted a 40 site, 17 state study show no negligible impact to property values
- No deterrent to sales of residential or agriculturalist lands.

• All studies presented are available for the Boards review.



Isle of Wight County - Planning Commission - July 23, 2024

Native Vegetation & Pollinator-friendly Habitat



Pivot Solar 26 (CO)



Minnesota Solar 10 (MN)



Kankakee Solar 4B (IL)



Isle of Wight County - Planning Commission - July 23, 2024

Confidential

Dual Use – Sheep Grazing



Pivot Energy

Isle of Wight County - Planning Commission - July 23, 2024

Confidential

Commercial Operation

- String Inverters operate at <60 Decibels
- SCADA and security system installed to remotely monitor site 24 hours/day. Fiber-optically monitored system.
- Annual maintenance visits; 2-4 times a year
- Training for local Fire and EMTs on proper system access and shutdown
- Knox Box attached to fence for site access



Pivot Energy

Isle of Wight County - Planning Commission - July 23, 2024

Confidential

Property Taxes

- The proposed Project is subject to property/machinery taxes and revenue sharing (estimated) over 35 years of operation
 - approximately \$226,500 in cumulative county revenue over a 25-year operational life
 - approximately \$325,900 in cumulative county revenue over a 35-year operational life
- Tax revenue provided will be a net economic benefit to Isle of Wight County, where as other types of development project may not; as Solar facilities do not:
 - Impact local schools with additional students as residential development would
 - Increase daily traffic and wear on County infrastructure
 - Do not required additional Police, Fire, or EMS services.

Technology, Equipment, & Design

- Solar PV Modules (crystalline)
 - Have become a global commodity; in use for over 30 years
 - Materials used do not endanger public health
 - Glass, polymer, aluminum, copper, & semiconductor materials that can be recycled
 - Crystalline silicon modules are silicon wafers > cells > panels
 - PV cell itself is nearly 100% silicon, which is the 2nd most common element found in the Earth's crust
- Manufactured for decades of use; cells are protected from outside elements with tempered glass and polymer
 - Similar to car windshields & hurricane windows
 - If cracked, the module stays intact; not broken into pieces
 - Withstand 110 mph wind; ~1" diameter hail at 50 mph
- Amount of lead in a solar PV panel is roughly 1/750th of the amount of lead in a car battery; Panels encapsulate material from air or water for the life of the panel

Technology and Equipment

- Modules
 - Tier 1 panel manufacturers
 - 3,600 Panels for total
 - Non-reflective technology to absorb sunlight
- Inverters
 - String inverters (15 total), not large central units
 - Noise cannot be heard from outside project fence
- Racking
 - Single axis trackers; Track with the sun from east to west
 - Driven pile foundations, directly in soil, requires no concrete footing
 - Motors cannot be heard from outside the project fence
- Existing distribution lines adjacent to project area; electrical substation reasonably close to the property
- No pollution or emissions



Low profile & quiet equipment, with minimal site visits after construction



Pivot Energy

Isle of Wight County - Planning Commission - July 23, 2024

Confidential

Melissa Sawyer Vick, 10153 Rainbow Road, representing the property owner, stated this application will provide a secure revenue stream for their family. Ms. Vick added that the two homes mentioned belong to her family, and her son farms the land. She added that this would allow the land and farm to be kept in their family.

Joel Ross, 13376 Bowling Green, shared concerns with the runoff and stated that the drainage goes right through his property.

John Pisula, Dawood Engineering, stated there would be a detention basin, and the project would not change the natural drainage.

There being no additional citizen comment Chairman Bowser closed the public hearing and called for conversation from the commissioners.

Commissioner Boykin asked how the panels will be recycled and how the sheep will be cared for.

Mr. Hickox stated they have a certified recycling center that takes them that is in the United States. He stated that there are three to five sheep per acre, and the sheep farmers provide food and water weekly.

Commissioner Distefano asked if the three-megawatts facility was transmission or distribution, and if there is any plan now or in the future for onsite storage of energy.

Mr. Hickox stated they were distribution, and he stated there will never be plans for onsite storage.

Commissioner Gibbs asked where the panels are manufactured.

Mr. Hickox stated they are trying to obtain more domestic suppliers, but currently they are purchased both in the US and in other countries.

Commissioner Distefano read the following letter from Ben Stagg and Chairman Bowser asked for the letter to be entered into the minutes.

May 10, 2024

To:

Isle of Wight Planning and Zoning
17140 Monument Circle, Suite 101
Isle of Wight VA 23397

From:

Ben Staff
PIN 39-01-038
PO Box 497
Carrollton, VA 23314

Hello,

I own one of the closest properties to the proposed solar farm at Clay Sawyer's land. I am writing you to give my opinion on the proposed solar farm.

This type of development is perfectly fine by me. As someone who is a firm believer in property rights, it is important that owners can pursue opportunities with their land. In my opinion, Orbit Road is a great location for solar—it is less trafficked and would fit in the surrounding area with other solar projects that have been approved.

Pivot Energy sent me information about the project and invited my feedback at a community meeting, something I don't believe was required. I appreciate their thoughtfulness and what I perceive to be a sincere desire to incorporate input into the project.

I hope Isle of Wight County approves this project. Increased investment in our infrastructure and tax revenue are good things.

Thank you,


Ben Stagg

Commissioner Boykin made the motion to recommend denial to the board of supervisors based on staff's recommendation. Commissioner Rawls seconded the motion. The motion was adopted

with Commissioners Boykin, Distefano, Rawls, Sienkiewicz, Gibbs, Carroll and Bowser voting in favor and Commissioner Taylor and Smith voting against (7-2).

The motion passed, and the item will go to the Board of Supervisor's August 15, 2024, meeting.

OLD BUISNESS

Amanda Landrus confirmed there are no old business items.

NEW BUSINESS

Amanda Landrus confirmed there are no new business items.

COUNTY ATTORNEY'S REPORT

Bobby Jones confirmed there are no items.

PLANNING DIRECTORS REPORT

Amanda Landrus confirmed there are no items.

CLOSED MEETING

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

ADJOURNMENT

There being no further information to discuss, Chairman Bowser adjourned the meeting at 7:30PM.

Adopted this _____ day of _____, 2024

Bobby Bowser, Chairman, Isle of Wight County Planning Commission

Attest: _____
Amanda Landrus, Secretary

PLANNING REPORT

ATTACHMENTS:

Description	Type	Upload Date
August 15, 2024 Board of Supervisors Action List	Cover Memo	8/20/2024

ACTION LIST
BOARD OF SUPERVISORS
AUGUST 15, 2024

1. Approval of Agenda: Supervisor McCarty moved that the agenda be approved with the addition of a discussion under New Business concerning the Nike Park missile. The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.
2. Closed Meeting: No action was taken following the closed meeting.
3. Citizens' Comments
 - A. Brian Carroll of Stallings Creek Drive spoke in opposition to the Cavalier solar project citing concerns with increased traffic; road maintenance; ground maintenance; wildlife; and, noise.
 - B. Herb DeGroft cited concerns with the Board's transparency and accountability issues related to tonight's FY2024-25 budget book presentation and the School's Capital Project finances. He inquired when the Board will be conducting its public hearing on the \$1.6 million in additional funds received by the State and given to the School Board.
 - C. John Byrum of Five Forks Road spoke in favor of the Cavalier solar project stating that AES has been a good neighbor.
4. Consent Agenda

Following an overview by County Administrator Keaton, on motion of Supervisor Jefferson, the following Consent Agenda was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting:

- A. Resolution to Amend the Budget and Appropriate Funding for EMS Medical Supplies (\$158,000)

Assignment: Wells

- B. Resolution to Amend the Budget and Appropriate Dominion Energy Pass Through Funding from VDEM (\$80,000)

Assignment: Wells

- C. Resolution to Amend the Budget and Appropriate Funds for the Acquisition of Sheriff's Office Vehicles (\$99,972)

Assignment: Wells

- D. Resolution to Declare the County's Intent to Reimburse Itself for Capital Expenditures Related to the Acquisition of Various Vehicles (\$973,000)

Assignment: Wells/Jones

- E. Authorization to Acquire Previously Budgeted Vehicles for County Operations

- F. Vehicle Acquisition - Carrollton Tanker

- G. Acceptance of Low Bid to Extend William A. Gwaltney Way in the Shirley T. Holland Industrial Park, Phase 2

- H. Minutes

- . June 13, 2024 Regular Meeting Minutes
- . July 11, 2024 Meeting Minutes

Assignment: Storm

5. Regional and Inter-Governmental Reports

No reports were offered.

6. Appointments

- A. Blackwater Regional Library Board: Supervisor McCarty moved that Joanna Wiggins be appointed to replace Michelle Manfred. The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Storm

- B. Audit Committee: Supervisor McCarty moved that the following individuals be appointed: Dale Baugh; Richard Grice; Michael Stanton; the County Administrator; the County's CFO; the School's CFO; Supervisor Rountree; and, Supervisor McCarty. The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Storm

- C. Blackwater Regional Library Board: Vice-Chairman Rosie moved that Charlene Herrala be appointed. The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Storm

7. Special Presentations / Appearances

- A. The Board received the FY2024-25 Budget Book for its information and reference.
- B. The Board received a presentation from Jimmy Sanderson with Davenport & Associates on options for financing the School's upcoming capital projects.

Responsive to her request, Mr. Sanderson offered to provide Supervisor Rountree with the percentage of debt as compared to assessed value.

- C. Following an update from George Bowman, VDOT Assistant Resident Administrator for Franklin residency regarding transportation maintenance and projects throughout the County, the Board requested the following:
- . Supervisor Jefferson requested attention be given to the BMP in Rushmere and the debris along the roadway be removed. Repaving efforts are needed on Owens Lane, James Way and Burwells Bay Road and the pothole repaired on Burwells Bay Road.
 - . Supervisor Rountree requested attention be given to the ditches at Sweet Haven Church.

- . Supervisor McCarty requested the areas that have been previously patched on Smith's Neck Road be repaired. He encouraged citizens to adopt a highway.
- . County Administrator Keaton reported a drainage issue at Benns Grant intersection.

8. County Attorney's Report: Concerning the Board's desire to create a three year versus a four-year assessment cycle, County Attorney Jones reported that the matter would be advertised for public hearing at the Board's September 19, 2024 meeting.

Assignment: Jones

9. Public Hearings

- A. Application (CUP-3-24) of Todd Christiansen, Applicant, and Isle of Wight County School Board, Property Owner, for a Conditional Use Permit for a Modular Classroom on Approximately 0.5 Acres Located at Carrsville Elementary School, 5355 Carrsville Highway (Rte. 58) in the Village Center Zoning District: Supervisor Jefferson moved that the application be approved which was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Ring

- B. Application (CUP-7-24) of Jeremy Kooiman and Lucy Kooiman, Property Owners, for a Conditional Use Permit to Operate a Short-Term Rental on Approximately Two Acres Located at 214 Shivers Mill Lane in the Suburban Residential Zoning District: Supervisor Jefferson moved that the Conditional Use Permit be approved with the following conditions:

- . Commercial vehicles used by guests are not permitted to use the on-site parking spaces
- . No parking of vehicles associated with the short-term rental are to occur in the cul-de-sac circle or along Anna Drive
- . An outdoor smoking receptacle shall be installed for the disposal of cigarette butts.

The motion was adopted (3-1) with Supervisors Rosie, Jefferson and McCarty voting in favor of the motion; Supervisor Rountree voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Ring

- C. Application of Elk Development, LLC, Applicant, and William Pennie, Jr. and Teresa L. Crocker, Property Owners, for a Conditional Use Permit for a Major Utility Service, Specifically a 3.0 MW Utility-Scale Solar Energy Generation Facility, on Approximately 27.32 Acres on a 94.21-Acre Tract Located on Old Stage Highway in the Rural Agricultural Conservation (RAC) Zoning District: Supervisor Jefferson moved to table the matter until the Board's September 19, 2024 meeting to allow him additional time to speak with citizens. The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Ring

- D. Application (CUP-7-23) of Elk Development, LLC, Applicant, and William Sawyer, Property Owner, for a Conditional Use Permit for a Major Utility Service, Specifically a Three-Megawatt Utility-Scale Solar Energy Generation Facility, on Approximately 28.84 Acres Located on Orbit Road in the Rural Agricultural Conservation Zoning District and a Request to Withdraw 22.02 Acres from the Courthouse Agricultural and Forestal District: Supervisor McCarty moved to approve the application with staff's recommendations and conditions; accept the payment agreement upon the County Attorney's approval; and, approve the request for the withdrawal from the Agricultural/Forestal District. The motion was adopted unanimously (3-1) with Supervisors Jefferson, Rountree and McCarty voting in favor of the motion; Vice-Chairman Rosie voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Ring

- E. Ordinance to Repeal Chapter 14A - Stormwater Management Repeal and Reenact Chapter 6 - Erosion and Sedimentation Control, Appendix B-2 Coastal Primary Sand Dune Ordinance and Chapter 17 Wetlands Zoning: Supervisor McCarty moved that the Ordinance be adopted as amended. The

motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Jones

10. County Administrator's Report

- A. 2025 Legislative Priorities: The Board was requested to forward any recommendations to Assistant County Administrator Robertson so that a draft list for the Board's consideration can be presented at its September 19th meeting.

Assignment: Robertson

- B. Matters for the Board's information were included in the agenda.

11. Unfinished / Old Business

Supervisor McCarty moved to extend the meeting past 11:00 p.m. The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Supervisor McCarty moved that the following three applications be tabled until the Board's September 19, 2024 meeting:

- A. Application (CUP-8-23) of Sycamore Cross Solar, LLC, Applicant, for a Conditional Use Permit for a Major Utility Service, Specifically a 214 MW Utility-Scale Solar Energy Generation Facility and a Medium Voltage Line Known as Sycamore Cross A, on Approximately 1,795 Acres Located on Mill Swamp Road (Rte. 621) in the Rural Agricultural Conservation Zoning District as well as an Associated Application to Withdraw Approximately 860 Acres from the Moonlight Agricultural and Forestal District.
- B. Application (CUP-5-24) of Sycamore Cross Solar, LLC, Applicant, for a for a Conditional Use Permit to Allow the Expansion of an Existing Major Utility Service, Specifically a Six MW Utility-Scale Solar Energy Generation Facility and Associated Six Medium Voltage Lines Known as Sycamore Cross B, on approximately 240 Acres Located on Jones Drive (Rte. 626), Burwells Bay Road (Rte. 621), Mill Swamp Road (Rte. 621) and James Wilson Way.
- C. Siting Agreement for the Sycamore Cross Solar, LLC Project

The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Ring

- D. Windsor Library Building Bids: Staff is to move forward with partnering with the Town of Windsor and building a new library facility near the Community Center at the Georgia Tyler Middle School. The consensus of the Board was to allow staff to discuss the possibility of partnering with the Town of Windsor to build a new library facility near the Community Center at the Georgia Tyler Middle school. Staff is to discuss a concept for a new facility with Ben Neal and return to the Board with a conceptual drawing and probable cost for consideration.

Assignment: Wells/Wilson

- E. Rushmere Volunteer Fire Department Bids: Supervisor McCarty moved to approve the low bid as presented. The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Staff is to return with a budget amendment.

Assignment: Wells/Wilson

- F. Jamie Oliver, Transportation Manager, reviewed potential Benns Church Boulevard/Turner Drive intersection improvements as outlined in the Benns Church Master TIA.

Supervisor McCarty moved to direct staff to move forward and arrange the necessary negotiations and proper meetings to move forward. The motion was adopted unanimously (4-0) with Supervisors Rosie, Jefferson, Rountree and McCarty voting in favor of the motion; no Supervisor voting against the motion; and, Chairman Acree absent from the meeting.

Assignment: Oliver

12. New Business

Nike Park Missile: Supervisor McCarty encouraged movement with regard to getting the missile painted and the placement location identified.

PLANNING REPORT

APPLICATION:

Application (AFD-1-24) of Todd and Kristi Bryant, owners, to withdraw 27 acres of land located near Trump Town Road (Rt. 651) on Elmwood Lane on tax map parcel 29-01-029 from the Courthouse Agricultural District. The purpose of the application is to convert 27 acres of existing agricultural land to forested wetlands.

ELECTION DISTRICT:

D3

LOCATION:

The property is located on the west side of Trump Town Road (Rt. 651). The 27 acres being requested to be removed from the Agricultural District is accessed by by an existing driveway/ingress/egress easement.

BACKGROUND:

The Agricultural and Forestal District (AFD) Advisory Committee met on July 3, 2024, and recommended approval of the removal of the acreage from the Courthouse AFD.

DESCRIPTION:

The property currently consists of one home site, approximately 10 acres of woods, 43 acres of agricultural land, and approximately one half acre of swamp. The property lies on the east and west side of Trumptown Road. The affected part of the property is on the west side of the road.

The request is to enable the owner to create a wetland restoration project as described in the Statement of Reason and Proposed Use Narrative. The proposed use is permitted in the Rural Agricultural Conservation (RAC) zoning district, however the use does require removal from the district, because the wetlands restoration area will require a dedicated easement which will prohibit the future use of agricultural and silvicultural uses.

COMPREHENSIVE LAND USE PLAN:

The property is designated Rural Agricultural Conservation on the Future Recommended Land Use Map in the Comprehensive Plan. This designation is intended to maintain and conserve rural character and farmlands and to provide for a full range of agricultural and farming activities and related uses along with scattered, low density residential development. The proposal is consistent with the future recommended land use.

ORDINANCE REVIEW:

The property is zoned RAC and is a permitted use. A site plan has been submitted as required that requires administrative approval by the County.

The property is in the Chesapeake Bay Preservation Area Overlay District and does not contain a Resource Protection Area or a 100 foot buffer.

The property does not have a special flood hazard zone.

AGENCY REVIEW:

The following departments have stated no concerns with the application as presented:

- Commissioner of the Revenue
- Emergency Services
- Transportation Manager
- General Services
- Environmental Planner
- Virginia Department of Transportation
- Health Department
- County Attorney

The Commissioner of Revenue comments are attached for your information.

STAFF CONCLUSIONS:

Strengths:

The application is compatible with the existing land uses in the vicinity and within the guidelines of the future Recommended Land Use Plan Designation.

Weaknesses:

None determined at this time.

STAFF RECOMMENDATION:

Staff recommends approval of the request to remove the parcel from the Courthouse AFD District.

ATTACHMENTS:

Description	Type	Upload Date
Application	Backup Material	8/9/2024
A&F District Map	Backup Material	8/9/2024
Location Map	Backup Material	8/9/2024
Land Use Map	Backup Material	8/9/2024
Exhibit	Backup Material	8/9/2024
Pic 1	Backup Material	8/19/2024
Pic 2	Backup Material	8/19/2024
Pic 3	Backup Material	8/19/2024
COR Memo	Backup Material	8/9/2024



#30137
AFD-1-24

REMOVAL OF LAND FROM AGRICULTURAL AND FORESTAL DISTRICT APPLICATION

Proposed Project Name Bryant Farm Wetland Restoration Project

Tax Map Number(s) 29-01-029

Address/ Location 11494 Elmwood Lane, Windsor, VA 23487

A. DESIGNATED DISTRICT:

- ☒ Courthouse
☐ Knoxville
☐ Longview
☐ Moonlight

B. APPLICATION INFORMATION:

Agent(s) /Applicant(s) Name(s): HGS, LLC

Address: 1408 Roseneath Road, Suite B

City, State, Zip Code: Richmond, VA 23230

Phone No.: 804-352-6017 Email: kbenett@res.us, alambert@res.us Fax No.: _____

Property Owner(s) Name(s): Todd Bryant

Address: 11494 Elmwood Lane

City, State, Zip Code: Windsor, VA 23487

Phone No. _____ Email _____ Fax No. _____

Acreage to be removed 26.8510

Property Owner(s) Signature(s): Todd M. Bryant Date 6/4/24

Property Owner(s) Printed Name(s): Todd M Bryant

Application Checklist

- ☒ Completed and signed application
- ☒ Statement of reason and proposed use See letter attached on page 3 of this document
- ☒ Map of property (GIS or Tax Map acceptable) See plat attached on page 5 of this document
- ☒ Additional information as deemed necessary by Planning and Zoning staff for a complete review. N/A

Please Note:

A/F Review Committee meetings are held on an as needed basis and scheduled for the 1st Wednesday of each month at 4:00 PM in the Robert C. Claude, Sr. Board Room at the County Courthouse Complex. Applications are due four (4) weeks before the meeting.



May 31, 2024

VIA EMAIL

Isle of Wight County Agricultural/Forestral Advisory Committee

P. O. Box 80

Isle of Wight, VA 23397

Email: Srobinso@isleofwightus.net

**RE: Statement of Reason and Proposed Use
Bryant Property Wetland Restoration Project**

To whom it may concern,

RES, LLC (RES), has engaged and is in a contractual relationship with the property owner of Parcel ID 29-01-029 (the "Property") on Elmwood Lane in Isle of Wight County, Virginia. RES is submitting this application for withdrawal of a portion of the property from the Agriculture/Forestral District (AFD) at the request of the County and as the representative of Todd and Kristi Bryant, the property owners. RES intends to use approximately 26 acres of the Property to restore a forested wetland and protect the restored wetland in perpetuity under a permanent Conservation Easement (the "Project"). In total, the Project proposes to restore approximately 19 acres of historic wetlands and 7.5 acres of forested buffer. All areas within the Property, outside of the Project, will remain in their existing agricultural land use. By restoring historic wetlands back into a forested wetland, we will be creating mitigation credits to offset impacts related to upgrades to an existing linear utility project that falls partially within Isle of Wight County and has gone through a separate public approval and permitting process.

The proposed Project area has been historically utilized for row crop agriculture, although it has lain fallow this year. Agricultural operations on this parcel have only been possible due to extensive ditching which lowers the natural groundwater table and partially drains the fields. After years of farming, the landowner has decided to take this portion of his property out of active agriculture and is supportive of restoration work on the site. While a portion of the Property is being taken out of agricultural use, approximately half of the parcel will remain in active agriculture. The land being removed will be restored to its pre-development, forested wetland state, and will be completely replanted with trees. The success of the plantings will be monitored and maintained following restoration efforts.

Through these restoration efforts, the Project will contribute to the ecological goals of the AFD and should not be considered a detriment to any other parcels in the district. The Project will provide high quality habitat for common and at-risk species in the watershed, including both game and non-game species. It will increase wildlife utilization and enhance hunting opportunities in the surrounding areas while also protecting non-game species. The perpetual easement placed upon the Project area will ensure that the parcel remains in a mature, forested state, and will provide a seed source for surrounding harvested forest land. Upon completion, the Project will contribute to the protection of water quality through the retention, nutrient removal, and water quality



enhancements associated with wetland systems. These beneficial effects include the reduction of pollutants of concern for the Chesapeake Bay watershed including suspended sediment, phosphorus, and nitrogen. Lastly, the Project will maintain and enhance the desired aesthetics perpetuated by the AFD program. The parcel will be planted with native species of wetland trees, similar to those found in the many hundreds of acres of wooded wetlands prevalent in Isle of Wight County.

We ask the County to consider our proposal to withdraw a portion of the Bryant property from the AFD district. Given the nature of our Project, to restore a wetland and protect the Property from development in perpetuity, there is no anticipated negative impact to the remaining Courthouse AFD within Isle of Wight County resulting from the Project. Please do not hesitate to reach out with any further questions regarding this application.

Thank you for your consideration.

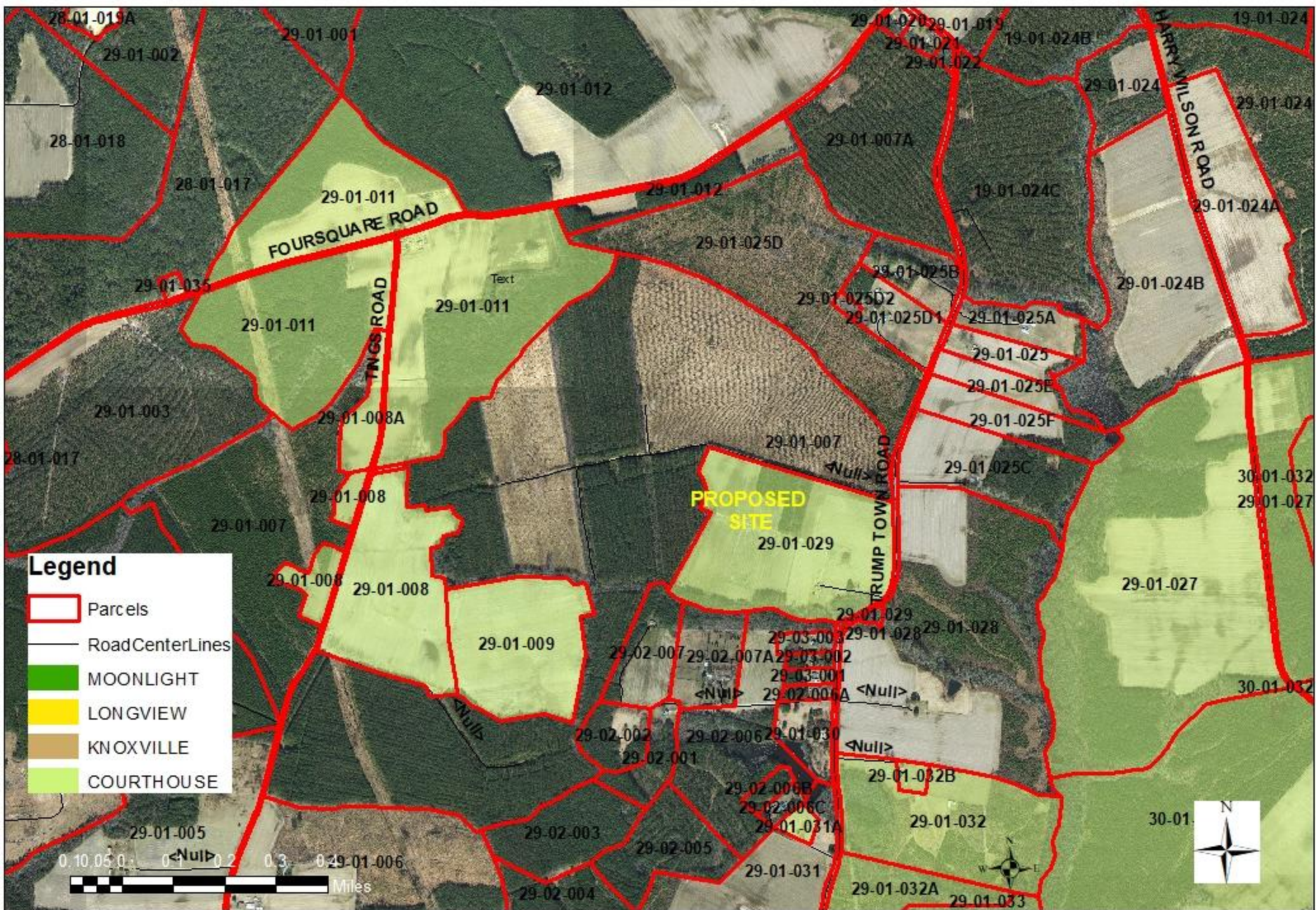
Sincerely,

A handwritten signature in cursive script, appearing to read 'Anna Stuart Lambert'.

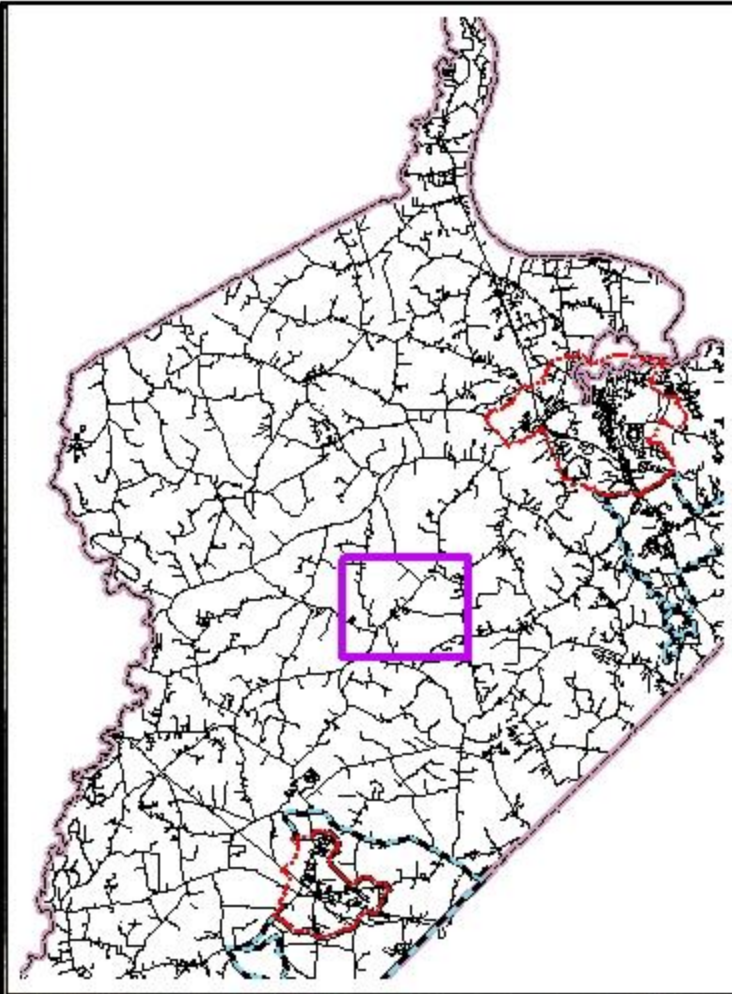
Anna Stuart Lambert

Project Manager
alambert@res.us
804-729-8984

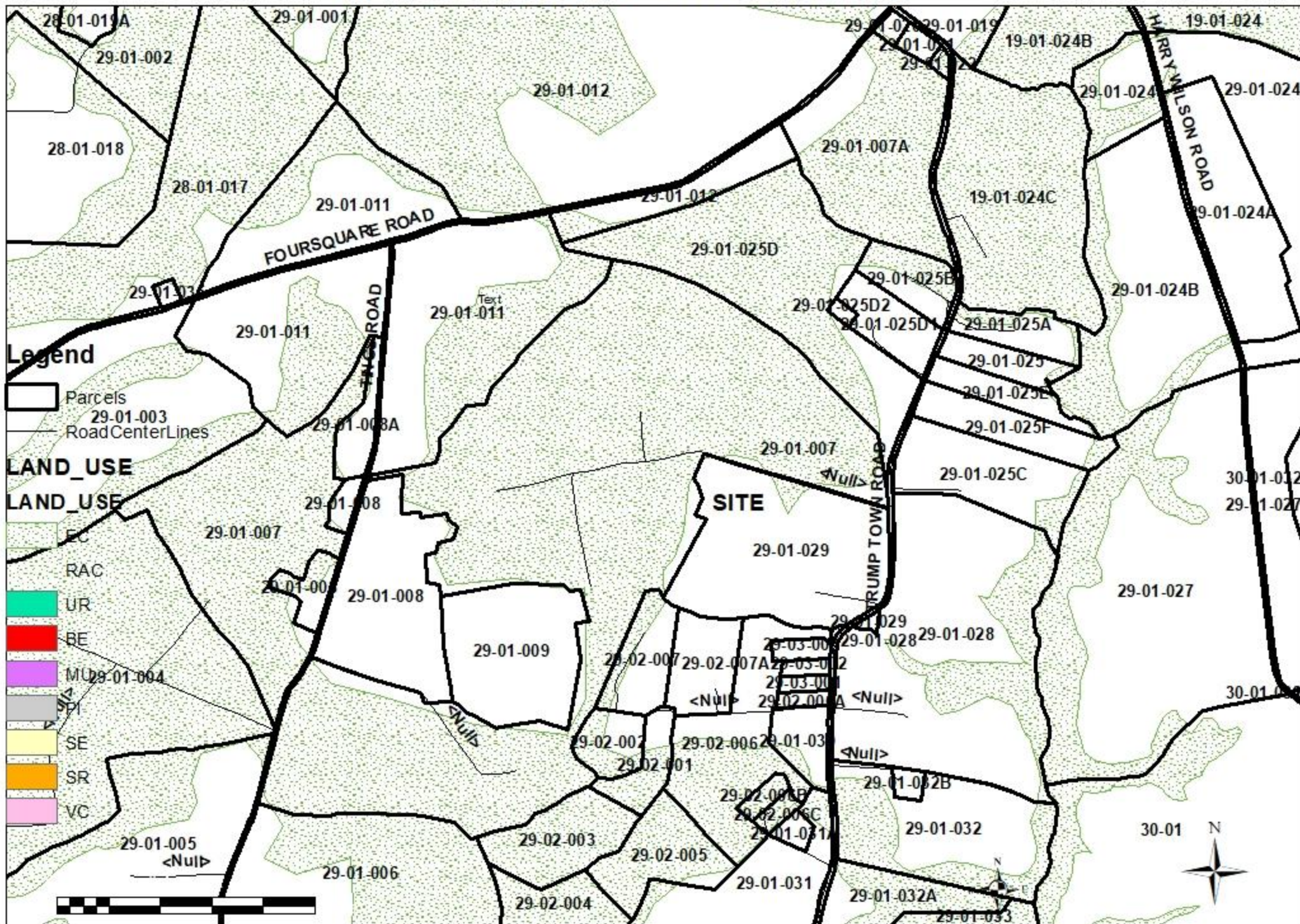
MISC-1-24 BRYANT- A & F DISTRICT MAP



AF-01-24 AGRICULTURAL FORESTAL DISTRICT APPLICATION LOCATION MAP



MISC-1-24 BRYANT- LAND USE MAP











COUNTY OF ISLE OF WIGHT



OFFICE OF THE COMMISSIONER OF THE REVENUE

Post Office Box 107
Isle of Wight, Virginia 23397
(757) 365-6301

Gerald H. Gwaltney
Commissioner of the Revenue

May 6, 2024

VIA EMAIL

Anna S Lambert, Project Manager
RES, LLC

Dear Ms. Lambert:

I want to thank you for walking me through the wetland restoration project in Isle of Wight County last week. The process is interesting, and I have a much better understanding of the project. There were two questions you had that I have researched, and I can give you a decision on how our office will assess the land and taxes.

First, the question about rollback taxes has been opined on two occasions by the Attorney General. In both opinions, when land enrolled in the land use program is deeded to a land conservation entity, no rollback assessment is issued. The most recent opinion was from 2013, and I have attached it for your reference.

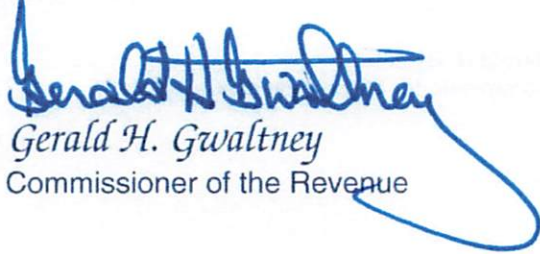
Secondly, the 27 conservation acres would be assessed at the wooded land use rate rather than separating the estimated 15%, which could be considered swamp. This decision is based on our conversation about the type of trees that will be grown on the 27 acres. The wettest area will have planted trees that will grow in that type of environment. The intent, I believe, is for the conservation area to grow trees suitable to the soil condition, whether it be wet or dry. The definition of "Non-Productive" in the Land Use Manual does not apply to the proposed area. The non-productive category is land "which is not capable of growing a crop" of trees.

Once the 27 acres are placed in the conservation easement, the land will be assessed at the forest land use value, which is \$711 per acre. The value per acre is adjusted every four years when the general reassessment of real estate occurs. The current real estate tax rate is \$0.71. The tax rate set by the Board of Supervisors is subject to change annually.

Ms. Anna Lambert
May 6, 2024
Page 2

Again, I enjoyed our conversation, and I appreciate you enlightening me about the conservation easements. Please let me know if you have any questions.

Sincerely,



Gerald H. Gwaltney
Commissioner of the Revenue

Attachment

PLANNING REPORT

APPLICATION:

Application (ZA-05-24) of Coastal Investors, owners, to rezone .237 acres located on Benns Church Blvd. (Rt. 10) tax map parcel 32-01-061 from Planned Development – Mobile Home to Conditional General Commercial to enlarge commercial parcel 32-01-061C

ELECTION DISTRICT:

D3

LOCATION:

The subject property is located off the west side of Benns Church Blvd. (Rt.10) and on the north side of Red Oaks Drive. The property is adjacent to commercial property to the south and north and residential property to the west. The property is bounded by Benns Church Boulevard on the east. The area has a mixture of residential and commercial properties.

BACKGROUND:

A mobile home park has been existing since the the 1970s which was enlarged through a previous rezoning. Parcels 32-01-061B and 32-01-61C along Benns Church Blvd were originally a part of the parent tract 32-01-061 but have been subdivided recently, even though they were rezoned in 1971 to General Commercial.

The purpose of this request is to rezone this area of .237 acres to specifically be added to 32-01-061C to allow for adequate area for commercial development.

DESCRIPTION:

The owner has conditioned the rezoning of the .237 acres to be specifically added to the adjoining parcel 32-01-061C within 12 months of approval of the rezoning.

COMPREHENSIVE LAND USE PLAN:

The parcels are designated Urban Residential (UR) on the future recommended land use map in the County Comprehensive Plan in which recommended uses consist of single family homes, townhouses, preservation of environmental

features, and community amenities on smaller lots and more density. While GC zoning of the property is not generally consistent with the UR future land use designation, parcels 61B and 61C were rezoned prior to the most recent comprehensive land use plan and the proposed use would be consistent with general commercial zoning and development of the site.

The subject property proposed to be rezoned and added to the adjacent commercial site is 0.23 acres, which is too small to be a stand alone parcel and would make development of the adjacent lot more feasible.

ORDINANCE REVIEW:

The applicant has proffered a condition that this lot can not be free standing but as an addition to the adjacent lot zoned general commercial. This property is in the Chesapeake Bay Preservation Overlay District, but there are no wetlands or Resource Protection Area on the parcel that would be affected by the proposed use of the lot. The property also lies in the NDSO and development of the parcel C will have to be reviewed for compliance with the requirements of that district.

AGENCY REVIEW:

This application was forwarded to the following departments for their review and no concerns or issues were identified:

1. Virginia Department of Transportation
2. Utility and General Services
3. Fire and Rescue
4. County Attorney
5. Transportation

STAFF CONCLUSIONS:

Strengths:

1. The proposal will help bring additional business to the County.
2. The proposal will not negatively impact adjacent properties.

Weaknesses:

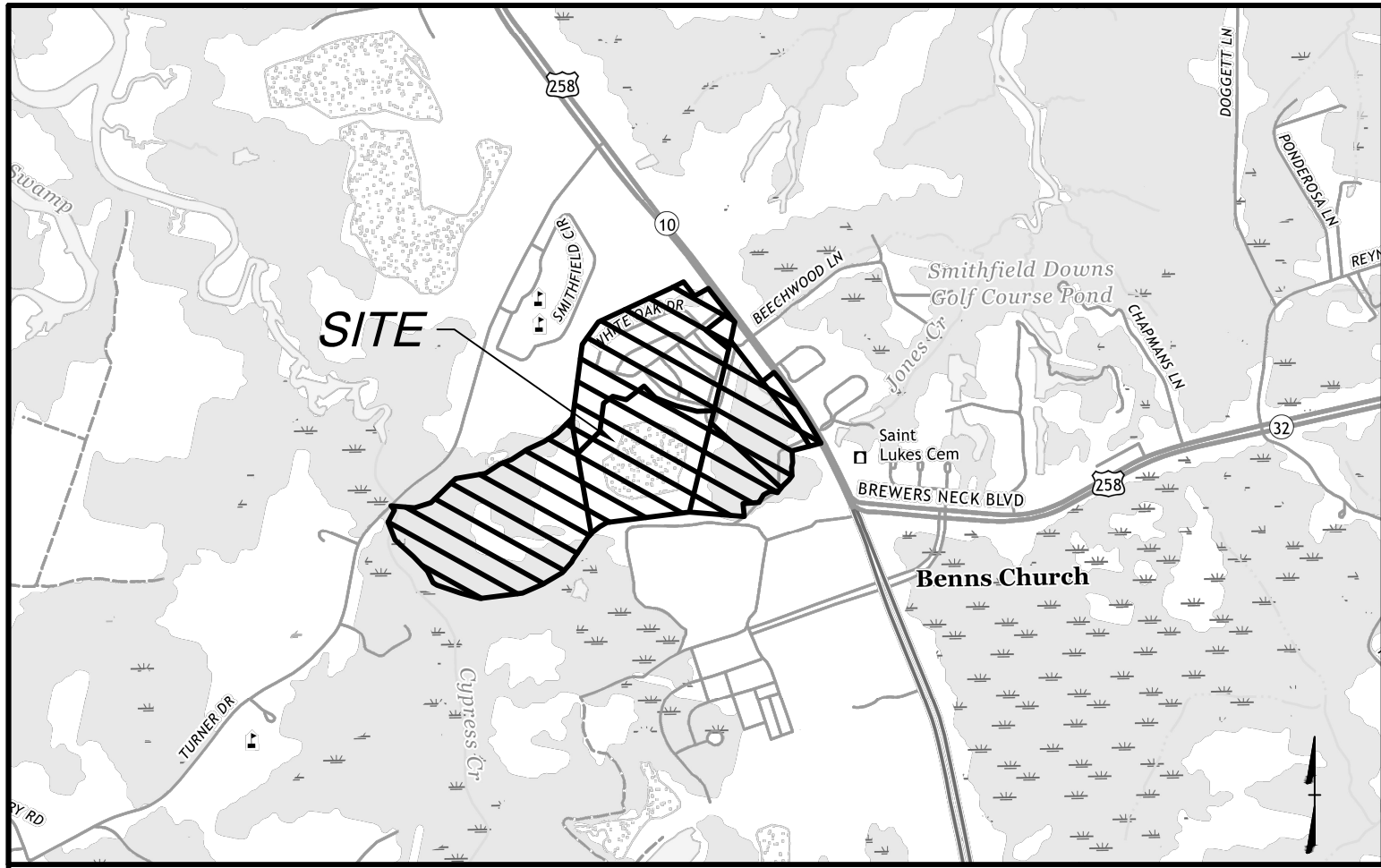
1. Not consistent with the UR designation on the future land use map.

STAFF RECOMMENDATION:

Based on the strengths of the application, staff recommends approval of the application with the proffered conditions as submitted by the applicant.

ATTACHMENTS:

Description	Type	Upload Date
Concept Plan	Backup Material	8/21/2024
Proffer Statement	Backup Material	8/21/2024



VICINITY MAP
SCALE: 1" = 2000'

TAX PARCEL 32-01-010A
N/F
ISLE OF WIGHT COUNTY
SCHOOL BOARD
D.B. 252 PG. 433

TAX PARCEL 32-01-009
N/F
WILLIAM G. YEOMAN, III

EXISTING AREA		
PARCEL NO.	AREA (S.F.)	AREA (ACRES)
B1A	1,543,228	35.428
C1	29,429	0.676
TOTAL	1,572,657	36.104

PROPOSED AREA		
PARCEL NO.	AREA (S.F.)	AREA (ACRES)
B1A	1,532,911	35.191
C1	39,746	0.913
TOTAL	1,572,657	36.104

NOTES

1. PROPERTY ADDRESS: 14000 ENGLISH OAK DRIVE
TAX PARCEL ID NO.: 32-01-061 & 32-01-061C
OWNER OF RECORD: COASTAL INVESTORS LLC
2. THIS PROPERTY LIES IN FLOOD HAZARD ZONE 'X'; AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN; AS SHOWN ON MAP NO. 51093C0153E & 51093C0154E OF THE FEMA FLOOD INSURANCE RATE MAPS FOR ISLE OF WIGHT COUNTY, VIRGINIA; EFFECTIVE DATE: DECEMBER 2, 2015.
3. ANY NEW STRUCTURE MUST BE BUILT TO MEET THE MINIMUM REQUIRED YARD SETBACKS IN ACCORDANCE WITH THE IVCZO AND THE HCOD/INDSO. ANY VARIATION THERETO MUST BE IN COMPLIANCE WITH SAID ORDINANCE.
4. ANY LOT SHOWN ON THIS PLAT MUST BE SERVED BY PUBLIC WATER BEFORE ANY USE CAN BE MADE ON SUCH LOT. HOWEVER, NO SERVICE HAS BEEN EXTENDED TO SUCH LOTS AT THE TIME OF APPROVAL OF THE PLAT. NO ZONING PERMIT OR BUILDING PERMIT SHALL BE ISSUED FOR ANY LOT UNTIL PUBLIC WATER HAS BEEN EXTENDED TO SUCH LOT IN ACCORDANCE WITH THE MASTER WATER AND SEWER ORDINANCE. THE OWNER OF EACH LOT SHOWN ON THIS PLAT SHALL GRANT, WITHOUT COMPENSATION, SUCH REASONABLE EASEMENTS AS ARE NECESSARY TO PERMIT SUCH EXTENSION OF PUBLIC WATER TO ALL LOTS.
5. ALL SUBDIVISION LOCATED WITHIN A DEVELOPMENT SERVICE DISTRICT AND ALL SUBDIVISION THAT HAVE PUBLIC SEWAGE SERVICE PASSING ADJACENT TO THE SUBJECT PROPERTY MUST CONFORM TO THE ISLE OF WIGHT PUBLIC SEWAGE SYSTEM AND THE SERVICE SHALL BE EXTENDED TO ALL LOTS WITHIN THE SUBDIVISION. ALL SEWAGE FACILITIES THAT ARE CONNECTED TO THE COUNTY'S PUBLIC SEWAGE SERVICE SHALL BE DEDICATED TO THE COUNTY UPON COMPLETION AND AFTER PUBLIC UTILITIES/ENGINEERING HAVE APPROVED THE COMPLETED FACILITIES CONSTRUCTION AND VERIFIED PROPER OPERATION.
6. ALL PROPOSED UTILITIES WITHIN THE BOUNDARIES OF THIS SUBDIVISION SHALL BE BURIED BENEATH THE SURFACE OF THE GROUND.
7. ALL LOTS SHOWN HEREON ARE REQUIRED TO USE DOOR-TO-DOOR SOLID WASTE REFUSE COLLECTION BY THE DULY AUTHORIZED AND FRANCHISED COLLECTORS/HAULERS AS DETERMINED BY THE BOARD OF SUPERVISORS OF ISLE OF WIGHT COUNTY, VIRGINIA.
8. THIS PROPERTY IS LOCATED IN THE CHESAPEAKE BAY PRESERVATION AREA HOWEVER, THERE IS NO RESOURCE PROTECTION AREA (RPA) ON THE LOTS.
9. THIS EXHIBIT DRAWING IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED BY TIMMONS GROUP. FIELDWORK WAS COMPLETED ON 8/18/2022.
10. DATUM
ISLE OF WIGHT COUNTY GEODETIC CONTROL NETWORK
VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE
HORIZONTAL DATUM : NAD 1983
VERTICAL DATUM: NAVD88
UNITS: U.S. SURVEY FEET.

NOTE:

- 1 12' MULTI-PURPOSE PATH EASEMENT
HEREBY DEDICATED TO ISLE OF WIGHT
COUNTY
- 2 VARIABLE WIDTH FORCE MAIN EASEMENT
D.B. 447 PG. 353.
- 3 21' V.E.P.C.O. EASEMENT PER V.D.H.T.
PROJECT # 0010-046-104
- 4 1' NO INGRESS/EGRESS EASEMENT HEREBY
DEDICATED TO VDOT ALONG BENNS
CHURCH BOULEVARD ADJACENT TO
PARCELS C1 AND C2. PARCELS C1 AND C2
SHALL ACCESS BENNS CHURCH
BOULEVARD THROUGH THE 60' PRIVATE
INGRESS AND EGRESS EASEMENT LOCATED
AT THE EXISTING ENTRANCE TO RED OAKS
MOBILE HOME PARK.

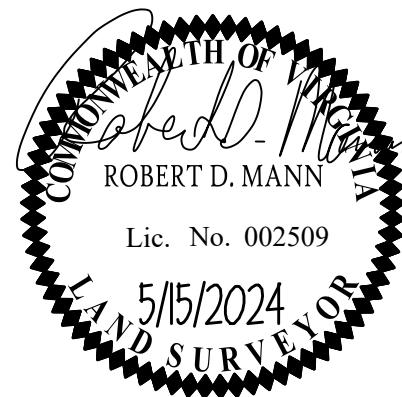


EXHIBIT SHOWING
PROPOSED BOUNDARY LINE ADJUSTMENT
PARCEL B1A AND PARCEL C1
PROPERTY OF
COASTAL INVESTORS LLC

Windsor District	County of Isle of Wight
Date: May 15, 2024	Scale: 1"= 100'
Sheet 1 of 1	J.N.: 43078.001
Drawn by: M. Little	Checked by: R. Mann
Revised:	

THIS DRAWING PREPARED AT THE
HAMPTON ROADS PENINSULA OFFICE
800 Tech Center Parkway, Suite 103 | Newport News, VA 23606
TEL 757/762-3041 www.timmons.com

YOUR VISION ACHIEVED THROUGH OURS.

TIMMONS GROUP

**COUNTY OF ISLE OF WIGHT
PROFFER STATEMENT**

Owner's name(s): COASTAL INVESTORS, LLC

Applicants' name(s): TIMMONS GROUP/ Robert Mann

Project name: RED OAKS

Date: August 7, 2024

Parcel-Tax Map Numbers: 32-01-061 & 32-01-061C

Deed book reference: DB 324-725

These proffers are made as of the 6th day of August, 2024 by Coastal Investors, LLC, Owner and Timmons Group, Applicant, (collectively "Applicants"), for Tax Map Parcel Number 32-01-061, containing approximately 0.237 acre of land which is referred to herein as the "Property". Applicants have filed an application for a Change in Zoning Classification with the Isle of Wight County Planning and Zoning Department. The Property is currently zoned PLANNED DEVELOPMENT MOBILE HOME (PD-MH)) to be rezoned to CONDITIONAL GENERAL COMMERCIAL (C-GC).

Applicants voluntarily proffer that within twelve (12) months from the date of the approval of this application the parcel subject to this application shall be conveyed as an addition to Parcel C-1 as shown on that certain plat entitled "EXHIBIT SHOWING PROPOSED BOUNDARY LINE ADJUSTMENT PARCEL B1A AND PARCEL C1 PROPERTY OF COASTAL INVESTORS LLC" attached hereto. Applicants do hereby waive any right to challenge, in any judicial or administrative proceedings, the legality of such conditions or to assert a claim for compensation resulting from such conditions (except where compensation is expressly provided for in the conditions) under federal or Virginia law.

These proffered conditions ("Proffers") are the only conditions offered on this rezoning, and any prior proffered conditions on the Property are hereby superseded by these proffers and any and all previous proffers on the Property are hereby void and of no further force and effect.

General

1. Successors and Assigns - This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligation(s) of Applicants hereunder shall be binding upon and enforceable against any subsequent Applicants or Applicants of the Property or any portion thereof.
2. Severability - In the event that any clause, sentence, paragraph, subparagraph, section or subsection of these Proffers shall be judged by any court of competent

jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any Applicants of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, subparagraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, subparagraph, section or provision hereof.

3. Void if Application is not approved - In the event that the Application is not approved by the County, these Proffers shall be null and void.

SEE SIGNATURE PAGES ATTACHED:

SIGNATURE PAGE

Owner: COASTAL INVESTORS, LLC

By: [Signature]
Signature
Name: W. Susan W. Cooper
Title: MANAGER

Commonwealth of Virginia

City/ County of VIRGINIA BEACH

Subscribed and sworn to before me PATRICIA KING,

A Notary Public in and for the City/County of VIRGINIA BEACH

Commonwealth of Virginia, this 8 day of AUGUST, 2024.

Patricia A. King
Notary Public

My Commission Expires 03/31/2028



SIGNATURE PAGE

Applicant: TIMMONS GROUP

By 
Signature

Name: ROBERT D. MANN

Title: GROUP LEADER

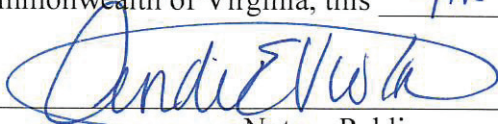
Commonwealth of Virginia

City/ County of Newport News

Subscribed and sworn to before me Andi Viola,

A Notary Public in and for the City/County of Newport News,

Commonwealth of Virginia, this 7th day of August, 2024.


Notary Public

My Commission Expires January 31, 2027



PLANNING REPORT

APPLICATION:

Discussion on Proposed Changes to the Zoning Ordinance

ELECTION DISTRICT:

All

LOCATION:

County-wide

BACKGROUND:

The Planning Commission continued its discussion of proposed changes to Recreational Vehicle (RV) requirements at their June 25, 2024, regular meeting. In addition to RV requirements, staff stated they will also present draft changes to requirements for Accessory Dwelling Units, Wayside Stands, Industrial district setbacks and utility cabinet setbacks. Staff will present these changes to the Planning Commission at their August 27, 2024, regular meeting for their review and discussion.

DESCRIPTION:

Staff developed draft Ordinance changes for Planning Commission review and discussion. A copy of the draft revisions is attached to this staff report.

AGENCY REVIEW:

A copy of comments received from the local Department of Health on the draft RV ordinance changes is attached to this report.

STAFF RECOMMENDATION:

The information provided in this staff report is for informational purposes only. No action is required.

ATTACHMENTS:

Description	Type	Upload Date
-------------	------	-------------

Redline Version of Draft Ordinance Changes rev 8/8/24	Backup Material	8/8/2024
Draft Ordinance Changes revised June 21, 2024	Backup Material	6/21/2024
Comparison Table	Backup Material	6/20/2023
Draft Ordinance Revisions	Cover Memo	2/20/2024
Additional national examples	Backup Material	4/22/2024
Health Department Comments June 2024	Backup Material	8/8/2024

Proposed Zoning Ordinance Revisions

Revised August 8, 2024

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 IV, Zoning districts and boundaries.

Sec. 4-11005. Limited Industrial - Bulk regulations

C. Minimum setback requirements:

1. Front yard: Thirty-five (35) feet.
 - a. Industrial uses shall meet a setback of one hundred (100) feet, except that office buildings associated with the industrial use may meet the minimum thirty-five (35) feet setback.
 - b. For lots within designated industrial park of twenty (20) acres or more, office buildings associated with the industrial use shall meet a setback of thirty-five (35) feet.
2. Side yard: Twenty (20) feet.
3. Rear yard: Twenty (20) feet.
4. For parcels directly adjacent to a residential use or district, the minimum setback shall be 250 feet from the property line for all improvements, such as buildings, parking lots, drive aisles, storage yards and similar features.

Sec. 4-12005. General Industrial – Bulk regulations

C. Minimum setback requirements:

1. Front yard: Thirty-five (35) feet.
 - a. Industrial uses shall meet a setback of one hundred (100) feet, except that office buildings associated with the industrial use may meet the minimum setback of thirty-five (35) feet.
 - b. For lots within designated industrial park of twenty (20) acres or more, office buildings associated with the industrial use shall meet a setback of thirty-five (35) feet.
2. Side yard: Twenty (20) feet.
3. Rear yard: Twenty (20) feet.
4. For parcels directly adjacent to a residential use or district, the minimum setback shall be 250 feet from the property line for all improvements, such as buildings, parking lots, drive aisles, storage yards and similar features.

Sec. 4-13005. General Industrial Conservation – Bulk regulations

B. Minimum setback requirements:

1. Front yard: Thirty-five (35) feet.

- a. Industrial uses shall meet a setback of one hundred (100) feet from the right-of-way of any existing street which abuts or borders the use, except that uses located within a designated industrial park of twenty (20) acres or more shall meet a setback of fifty (50) feet from any street right-of-way.
 - b. For lots within a designated industrial park of twenty (20) acres or more, office buildings associated with the industrial use shall meet a setback of thirty-five (35) feet.
2. Side yard: Twenty (20) feet.
3. Rear yard: Twenty (20) feet. (11-17-16; 7-19-18; 11-15-18.)
4. For parcels directly adjacent to a residential use or district, the minimum setback shall be 250 feet from the property line for all improvements, such as buildings, parking lots, drive aisles, storage yards and similar features.

Article V, Supplementary Use Regulations

Sec. 5-1001. - Prohibited uses.

The following uses are specifically excluded from all districts:

Sec. 5-2000. - Supplementary density and dimensional regulations.

H. Projections and yard setback modifications.

1. Covered, unenclosed front porches. Covered, unenclosed porches, decks, landings, steps, terraces, patios or platforms, open on three (3) sides except for necessary supporting columns and customary architectural features, may be permitted in a required front yard provided that such structure shall not be more than eight (8) feet in width and shall not project more than three (3) feet into such yard.
2. Covered unenclosed porches permitted in required side or rear yard. Covered, unenclosed porches, decks, landings, steps, terraces, patios or platforms, open on three (3) sides except for necessary supporting columns and customary architectural features, may be permitted in required side or rear yards provided that no such structure, shall project closer than three (3) feet to any side lot line, that no such structure shall be more than one (1) story in height or more than twenty-four (24) feet in length, and that no such structure shall project more than eight (8) feet into any required rear yard.
3. Uncovered porches. Uncovered porches, decks, landings, steps, terraces, patios or platforms which do not extend above the level of the first floor of the building (except for railings and railing supports) may project into any required front, side or rear yard or court not to exceed eight (8) feet.
4. [Architectural features, chimneys, air conditioners, cornices, eaves, belt courses, sills, canopies, or other similar architectural features.] Architectural features, chimneys, air conditioners, generators, fuel tanks, cornices, eaves, belt courses, sills, canopies, or other similar architectural features (but not including bay windows or vertical projections) may project into a required side yard not more than eighteen (18) inches, but not closer than three (3) feet to the side lot line, and may not exceed thirty-six (36) inches. Chimneys and air conditioners may project into any yard not more than eighteen (18) inches, but air conditioners rated at twenty-four thousand (24,000) BTU or less shall not be so placed as

to discharge air within five (5) feet of side yard lines, and those rated over twenty-four thousand (24,000) to discharge air within twelve (12) feet of side yard lines, other than side yard lines adjacent to streets.

5. Open fire escapes. Open, unenclosed fire escapes may project not more than four (4) feet into any required yard, but shall not project closer than three (3) feet to any side lot line.
6. Open stairways and balconies. Open, unenclosed stairways or balconies, not covered by a roof or canopy, may extend or project into a required rear yard only, not more than four (4) feet, but shall not be within three (3) feet of any property line.
7. Exemption of front yard setback for handicap ramps. Handicap ramps used for residence(s) of a single-family dwelling shall be allowed to encroach into the required front yard setback. The ramp must be built in accordance with the American Disabilities Act as it pertains to wheelchair accessibility. In no instances shall the ramp be covered.
8. Exemption of yard setback requirements for electrical, water or wastewater utility cabinets. Utility cabinets measuring no more than six feet high and eight feet wide shall be allowed to encroach into required yard setbacks and shall be located outside of any required sight line or sight triangle.

L. Recreational vehicles and watercraft. In all districts it shall be permissible to store out-of-doors recreational vehicles and watercraft as an accessory use only in accordance with the following:

1. Such vehicles or watercraft shall be placed outside of the front yard setback in the rear or side yards only and shall be located at least five (5) feet from all property lines. This provision shall not apply to recreational vehicles or watercraft stored within completely enclosed structures.
2. Recreational vehicles shall not be used as permanent or full-time living quarters and may only be otherwise occupied as approved by the Virginia Department of Health and as specified in this Ordinance. Private camping is permissible in agricultural and residential zoning districts subject to the following criteria:
 - a. Private camping is limited to the use by the property owner of one (1) recreational vehicle per parcel.
 - b. The recreational vehicle may only be used for private camping for a period that does not exceed a total of fourteen (14) days during any consecutive three (3) month period on the same parcel.
 - c. Utilities, to include a connection to a private well, public water line, public wastewater system or septic system, are not permitted to be extended to the recreational vehicle.
 - d. Recreational vehicles may be used as temporary residences in zoning districts allowing residential uses as a primary use, only by the property owner, and only during construction of a primary residence on the same site for a period of up to six months. A zoning permit shall be required. One zoning permit time limit extension may be permitted as approved by the Zoning Administrator.
 - e. The property owner shall provide for lawful disposal of all solid waste and waste water including both grey and black water. The property owner is responsible for providing documentation of disposal at a permitted dump station to include receipts and dates of service by an authorized facility.

- f. Commercial use of recreational vehicles in any location except for a licensed and permitted commercial campground is prohibited. Recreational vehicles or recreational vehicle parking spaces may not be rented or leased to persons that are not the property owner.
- g. Recreational vehicles shall not be tied down or otherwise permanently affixed to any land outside of a designated and duly approved commercial campground, except during times of severe weather.
- h. Recreational vehicles shall not be utilized as a short-term rental unit.
- i. Habitation of any recreational vehicle on any private property exceeding fourteen (14) calendar days during any three (3) consecutive month period or thirty (30) calendar days within an approved commercial campground, or any habitation by persons not having an approved permanent address elsewhere shall be construed as permanent habitation of a recreational vehicle.
- j. Any unit connected to utilities as defined herein on any portion of any private property or public right-of-way shall be deemed to be inhabited and shall cause the County to investigate such usage.
- k. No recreational vehicle shall be used for temporary residential use when parked on any public right-of-way, or any public property except approved commercial campgrounds.

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

K. Wayside stand. A structure may be permitted for the display and sale of agricultural and fishery products grown and produced on premises subject to the following standards:

- 1. A zoning permit is required for first year's operation.
- 2. A wayside stand structure shall not exceed seven hundred fifty (750) square feet in floor area and ten (10) feet in height and must be in compliance with the applicable standards of the Virginia Uniform Statewide Building Code.
- 3. All structures shall ~~meet the minimum yard setback requirements of the underlying zoning district~~ be located outside of the required 25 foot sight triangle formed by the intersection of the driveway and the public or street rights-of-way in accordance with Section 5-2000.O. It shall be located so as to provide safe ingress and egress from public or street rights-of-way.
- 4. All wayside stands and related structures shall be considered seasonal or temporary in nature.

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

- A. Accessory apartment. It is the specific purpose and intent to allow accessory apartments through conversion of existing larger residential structures and in the construction of new structures. Such uses are to provide the opportunity and encouragement to meet the special housing needs of single persons and couples of low- and moderate-income, both young and old, as well as relatives of families residing in the county.

It is furthermore the intent and purpose of accessory apartments to allow the more efficient use of the county's existing housing stock, in a manner consistent with the land use objectives identified in the comprehensive plan and to provide alternative housing

opportunities while protecting and preserving property values and community character. To help achieve these goals and purposes, the following standards are set forth as conditions for such accessory uses:

1. Residential accessory apartment. Where allowed as a permitted or a conditional use in the underlying zoning district, the following shall apply:
 - a. [Minimum lot size requirement.] Accessory apartment shall not be permitted on any lot which does not have one hundred percent (100%) of the minimum lot size requirement for the zoning district in which the use is located.
 - i. An accessory apartment may be located either in a primary dwelling unit or as a separate accessory building or as part of an accessory structure on the same lot or parcel as the primary dwelling.
 - ii. The owner of the residential dwelling unit shall occupy at least one (1) of the dwelling units on the premises.
 - [b. Reserved.]
 - c. Apartment size.
 - i. Maximum floor area: The maximum floor area of an accessory apartment in a primary dwelling shall not exceed one thousand (1,000) square feet or thirty-five percent (35%) of the living area of the primary dwelling, excluding garages, breezeways, etc., whichever is less. The maximum floor area of an accessory dwelling or an accessory apartment in an accessory building shall not exceed fifty percent (50%) of the floor area of the principal dwelling or one thousand two hundred (1,200) square feet, whichever is less.
 - d. Maximum number of bedrooms. No more than two (2) bedrooms are permitted in an accessory apartment.
 - e. Maximum number of accessory apartments. No more than one (1) accessory apartment is permitted per parcel.
 - f. Exterior appearance. If an accessory apartment is located in the primary dwelling, the apartment entry shall be located on the side or rear of the unit, and its design shall be such that the appearance of the dwelling will remain as a single-family residential structure. No accessory apartment shall be attached to a primary dwelling by open walkways, breezeways, patios, decks, etc.
 - g. Water and sewer service. Approval of the water supply and sewage disposal shall be obtained from the Isle of Wight County Department of Health or the department of public utilities.
 - h. Parking. One (1) parking space shall be required in addition to the required parking for the primary dwelling.

Proposed Zoning Ordinance Revisions

Revised June 21, 2024

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 V, Supplementary Use Regulations

Sec. 5-1001. - Prohibited uses.

The following uses are specifically excluded from all districts:

Sec. 5-2000. - Supplementary density and dimensional regulations.

L. Recreational vehicles and watercraft. In all districts it shall be permissible to store out-of-doors recreational vehicles and watercraft as an accessory use only in accordance with the following:

1. Such vehicles or watercraft shall be placed in the rear or side yards only and shall be located at least five (5) feet from all property lines. This provision shall not apply to recreational vehicles or watercraft stored within completely enclosed structures.
2. Recreational vehicles shall not be used as permanent or full-time living quarters and may only be otherwise occupied as approved by the Virginia Department of Health and as specified in this Ordinance. Private camping is permissible in agricultural and residential zoning districts subject to the following criteria:
 - a. Private camping is limited to the use by the property owner of one (1) recreational vehicle per parcel.
 - b. The recreational vehicle may only be used for camping for a period that does not exceed a total of fourteen (14) days during any consecutive three (3) month period on the same parcel.
 - c. Utilities, such as a connection to a private well or septic system, are not permitted to be extended to the recreational vehicle.
 - d. Recreational vehicles may be used as temporary residences in zoning districts allowing residential uses as a primary use, only by the property owner, and only during construction of a primary residence on the same site for a period of up to six months. A zoning permit shall be required.
 - e. The property owner shall provide for lawful disposal of all solid waste and waste water including both grey and black water. The property owner is responsible for providing documentation of pump out service to include receipts and dates of service by an authorized facility.
 - f. Commercial use of recreational vehicles in any location except for a licensed and permitted commercial campground is prohibited.
 - g. Recreational vehicles or recreational vehicle parking spaces may not be rented or leased.
 - h. Recreational vehicles shall not be tied down or otherwise permanently affixed to any land outside of a designated and duly approved commercial campground.

- i. Recreational vehicles shall not be utilized as a short-term rental unit.
- j. Recreational vehicles shall be located outside of the required front yard setback of the underlying zoning district.
- k. Habitation of any recreational vehicle on any private property exceeding fourteen (14) calendar days during any three (3) consecutive month period or thirty (30) calendar days within an approved commercial campground, or any habitation by persons not having an approved permanent address elsewhere shall be construed as permanent habitation of a recreational vehicle.
- l. Any unit connected to utilities and/or electricity on any portion of any private property or public right-of-way shall be deemed to be inhabited and shall cause the County to investigate such usage.
- m. No recreational vehicle shall be used for temporary residential use when parked on any public right-of-way, or any public property except approved commercial campgrounds.

As of June 20, 2023

Locality	Habitation in RVs
Chesapeake	No
Isle of Wight	Permitted in campgrounds, as temporary emergency shelter, and as farm stay, no more than (1), with sewer and water facilities
James City County	Not addressed
Newport News	Not addressed
Norfolk	No
Portsmouth	Defined as temporary living quarters for recreational camping, travel, or seasonal use.
Southampton County	Defined as temporary living quarters for recreational, camping or travel use.
Suffolk	No
Surry County	No
Virginia Beach	No
York County	No

Proposed Zoning Ordinance Revisions

Revised February 27, 2024

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 ~~striketrough~~ markings.

Article V, Supplementary Use Regulations

Sec. 5-1001. - Prohibited uses.

The following uses are specifically excluded from all districts:

Replace current language:

~~A. Unless otherwise expressly permitted, the use of a recreational vehicle as a temporary or permanent residence.~~

With the Following (*see Section 86-111 of Louisa County Ordinance*):

Recreational vehicles, tents, and the like shall not be used for permanent or full-time dwellings in any district, unless otherwise permitted by the Ordinance and in accordance with the Virginia Department of Health, whether or not connected to utilities, wells or septic systems. For the purposes of this section, permanent means available for occupancy for 30 consecutive days or more per year regardless of actual use.

Sec. 5-2000. - Supplementary density and dimensional regulations.

L. Recreational vehicles and watercraft. In all districts it shall be permissible to store out-of-doors recreational vehicles and watercraft as an accessory use only in accordance with the following:

1. Such vehicles or watercraft shall be placed in the rear or side yards only, and shall be located at least five (5) feet from all property lines. This provision shall not apply to recreational vehicles or watercraft stored within completely enclosed structures.
2. Recreational vehicles shall not be used as permanent or full-time living quarters and may only be otherwise occupied in accordance with zoning district regulations and the Virginia Department of Health. For the purposes of this section, permanent means available for occupancy for 30 consecutive days or more per year regardless of actual use.

Recreational Vehicle (RV) Residential Use Regulation Examples as of 4/22/24

The examples listed below only include those localities that permit the temporary residential use of an RV. Localities that prohibit such uses were not included.

Grand Lake, CO

Private camping is subject to the following additional provisions:

- Private camping is permissible for the non-commercial use of a recreational camping vehicle or other camping shelter (such as a tent) on property consisting of 35 acres or more.
- Private camping is not permitted in a Residential or Estate Zoned District;
- Private camping is a use by right in the Forestry and Open District and is therefore not subject to the provisions in this section;
- Private camping in the Business District, Tourist District, Mobile Home District, and Accommodations Districts is a use permitted by special review and must obtain a camping permit. A camping permit is a no-fee Temporary Use Permit issued by the Community Development Department. Section 11.8 (2)(b) does not apply to the Forestry and Open District. In addition to requirements of the Temporary Use Permit, the following requirements apply:
 - (i) Applications must be submitted at least fourteen (14) days prior to commencement of camping;
 - (ii) The permit shall be posted on the required address post, visible at all times;
 - (iii) By applying for a camping permit the applicant(s)/owner(s) authorizes the County to access the parcel(s) to verify compliance.
- Exemptions: Any seasonal work crews and/or outfitting type business;
- Compensation: There shall be no compensation to the owner of the parcel involved;
- Time Limit: The recreational camping vehicle, tent or other camping shelter may only be used for camping for a period that does not exceed a total of fourteen (14) days during any consecutive three months on the same parcel;
- Utilities: Utilities are not permitted to be extended to the camping unit

San Luis Obispo, CA

- A recreational vehicle may be parked in a residential parking space or driveway for periods not to exceed seven days in any one-month period for the purpose of housing guests of on-site residents only.
- Such recreational vehicle shall not be parked so as to prevent residents of any other dwellings on the site from using their assigned parking spaces, nor shall it discharge waste or sewage into the city's sewage system.
- No hose, electrical cord, pipe, wire, or other device extending from the vehicle may be permitted.

Walton County, Florida

- The use of a recreational vehicle as a permanent residence is not permitted, except within duly licensed and permitted recreational vehicle campgrounds/parks.
- Recreational vehicles may be used as temporary residences in zoning districts allowing residential uses as a primary use, only by the property owner, and only during construction of a primary residence on the same site.
- Temporary use of one recreational vehicle (RV) is permitted on parcels that are five acres or greater in size, with or without a primary residential structure, subject to the following:

- a. The property owner shall provide for lawful disposal of all solid waste and waste water including both grey and black water.
- b. Commercial use of recreational vehicles in this district is prohibited, recreational vehicles or recreational vehicle parking spaces may not be rented or leased.
- c. Recreational Vehicles shall not be tied down or otherwise permanently affixed to any land outside of a designated and duly approved Recreational Vehicle Park.
- d. Recreational Vehicles shall not be utilized as a short-term vacation rental unit.
- e. Recreational Vehicles shall satisfy the primary structure setback requirements.

Chehalis, WA

- No recreational vehicle shall be used as a place of permanent habitation or residency except when located within an approved mobile home park and connected to required utilities. Habitation of any recreational vehicle on any private property exceeding 14 calendar days annually or 30 calendar days within an approved recreational vehicle park, or any habitation by persons not having an approved permanent address elsewhere shall be construed as permanent habitation of a recreational vehicle.
- Any unit connected to utilities and/or electricity on any portion of any private property or city right-of-way shall be deemed to be inhabited and shall cause the city to investigate such usage.
- No recreational vehicle shall be used for living or housekeeping purposes when parked on any public right-of-way, or any public property except approved recreational vehicle parks. No recreational vehicle shall be used for living or housekeeping purposes when parked on any private property except as provided in CMC 17.81.030(A)(1).
- No recreational vehicle shall be used for the conduct of business except approved conversions meeting all applicable codes and properly licensed for such business.
- Tent camping within the city shall only be allowed in back/rear yards within the residential zone for a period not to exceed 14 days within any 30-day period. The tent must be on private property and located in the rear yard. Tent camping is prohibited in all other zones except for approved RV parks that comply with the appropriate provisions of the municipal code. The Seattle to Portland Classic bike ride and other events that receive approval for special event licenses are exempt from the ordinance codified in this section.

Sanford, NC

- Travel Trailers (also known as Recreational Vehicles, Campers, Motor Homes, etc.) are not permitted to be utilized as permanent dwellings, according to the North Carolina State Office of Fire Marshal and the North Carolina State Department of Insurance.
- Travel trailers can, however, be utilized as temporary dwellings under certain circumstances.
- It is the responsibility of the applicant to verify that the proposed use is in compliance with all other applicable governmental agencies, including but not limited to, the Sanford / Lee County Building Inspections and the Lee County Department of Environmental Health.

Amy Ring

From: Duell, Jay (VDH) <Jay.Duell@vdh.virginia.gov>
Sent: Wednesday, June 26, 2024 4:29 PM
To: Amy Ring
Cc: Applewhite, Brandon (VDH); Everett, Joseph (VDH); Butler, Jonette (VDH)
Subject: Re: Temporary private camping use of RVs on private property

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you.

Jay Duell
Environmental Health Manager, Sr.
Western Tidewater Health District
757-514-4755

From: Amy Ring <aring@isleofwightus.net>
Sent: Wednesday, June 26, 2024 4:25 PM
To: Duell, Jay (VDH) <Jay.Duell@vdh.virginia.gov>
Cc: Applewhite, Brandon (VDH) <Brandon.Applewhite@vdh.virginia.gov>; Everett, Joseph (VDH) <Joseph.Everett@vdh.virginia.gov>; Butler, Jonette (VDH) <Jonette.Butler@vdh.virginia.gov>
Subject: RE: Temporary private camping use of RVs on private property

Hi Jay! Thank you so much for clarifying and helping us make it more understandable. I appreciate the help! Amy

From: Duell, Jay (VDH) <Jay.Duell@vdh.virginia.gov>
Sent: Wednesday, June 26, 2024 4:18 PM
To: Amy Ring <aring@isleofwightus.net>
Cc: Applewhite, Brandon (VDH) <Brandon.Applewhite@vdh.virginia.gov>; Everett, Joseph (VDH) <Joseph.Everett@vdh.virginia.gov>; Butler, Jonette (VDH) <Jonette.Butler@vdh.virginia.gov>
Subject: Re: Temporary private camping use of RVs on private property

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Amy,

Thanks for sending. Looks like the headscratcher might be this section:

e. The property owner shall provide for lawful disposal of all solid waste and waste water including both grey and black water. The property owner is responsible for providing documentation of pump out service to include receipts and dates of service by an authorized facility.

I've done a little checking around with other folks too and it seems the Virginia Sewage Handling and Disposal Regulations are silent on pumping out RV's. The regs, however, do mention Dump Stations:

12VAC5-610-1110. General. A dump station is a facility for receiving sewage from a recreational vehicle. The dump station shall be connected to an approved sewerage system or treatment works.

It also describes how to construct a dump station for campgrounds or I suppose theoretically you could get a permit to build your own. (Kind of expensive to do it correctly)

So let's assume that a hose from the RV could be connected to the hose from a pump truck. If so, there would need to be some kind of additional catchment to contain and control backspill, etc. Dump stations have to surround the sewer inlet with a curbed concrete pad at least 60 inches by 36 inches sloped to drain to the inlet and have a water supply for washdown. An argument would be that a similar structure would be needed where a pump truck would connect to an RV wastewater outlet. Can't have the inevitable drips and leaks just lie on the ground for the flies and neighborhood pets to feast on.

Then there is the matter of backflow prevention. Since the regulations are silent on pump and haul directly from an RV they are also silent on backflow prevention. I doubt there is an RV owner alive who would be happy if the pump truck attendant threw the wrong switch and fired its contents back into the RV.

So while the regs are silent (it doesn't say you can't) on pumping out RV's onsite, it doesn't look like a good idea. The best solution is for the individual to drive their RV to an approved dump station when necessary which is specifically approved. (Campground or HRSD (like pump trucks do). It is only for six months at the most.

Receipts may not tell much, but at least it keeps them a little honest if they do go to a dump station.

Jay

Jay Duell
Environmental Health Manager, Sr.
Western Tidewater Health District
757-514-4755

From: Duell, Jay (VDH) <Jay.Duell@vdh.virginia.gov>

Sent: Friday, June 21, 2024 1:37 PM

To: Amy Ring <aring@isleofwightus.net>; Butler, Jonette (VDH) <Jonette.Butler@vdh.virginia.gov>

Subject: RE: Temporary private camping use of RVs on private property

Hi Amy,

Busy this afternoon, but will take a look at it and respond first of the week. Have a good weekend.

Jay

Jay Duell
Environmental Health Manager, Sr.

Western Tidewater Health District
757-514-4755

From: Amy Ring <aring@isleofwightus.net>

Sent: Friday, June 21, 2024 1:07 PM

To: Butler, Jonette (VDH) <Jonette.Butler@vdh.virginia.gov>; Duell, Jay (VDH) <Jay.Duell@vdh.virginia.gov>

Subject: Temporary private camping use of RVs on private property

Hey Jay and Jonette,

I hope you are doing well. The Planning Commission and the Board of Supervisors wish to provide flexibility for temporary camping use of RVs on private property, namely for visiting relatives, hunting, and to use while a primary dwelling is under construction. Following several discussions with the Planning Commission, they had me research other localities from across the US and draft up some ordinance changes. I am attaching them for you to look at as well. Any feedback you can share with me would be appreciate. Take care and have a good weekend, Amy

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PLANNING REPORT