

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

CALL TO ORDER

Brian Carroll, Chairman, called the Isle of Wight County Planning Commission meeting to order at 6:00 PM on May 23, 2023, in the Board of Supervisors Room at the Isle of Wight County Courthouse, Isle of Wight, Virginia.

INVOCATION

Commissioner Bowser delivered the invocation.

PLEDGE OF ALLEGIANCE

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

ROLL CALL/DETERMINATION OF A QUORUM

PRESENT

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

ABSENT

Jennifer Boykin

A quorum was determined.

ALSO IN ATTENDANCE

Robert W. Jones, Jr., County Attorney
Don Robertson, Assistant County Administrator
Amy Ring, Community Development Director
Jeryl Phillips, Assistant Director, Planning and Zoning
Sandy Robinson, Zoning Coordinator
Shaunee Beussink, Environmental Planner
Amanda Landrus, Secretary

ACTION ON REQUESTS TO WITHDRAW OR TABLE PENDING AGENDA ITEMS

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

APPROVAL OF AGENDA

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

APPROVAL OF CONSENT AGENDA

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

CITIZENS' COMMENTS

There being no comments, Chairman Carroll closed citizens' comment.

PUBLIC HEARINGS

Chairman Carroll called for the first public hearing.

Application (ZA-1-23) of 3Bs LLC, property owner, and Steven J. and Kristen M. Lander, applicants, for a change in zoning classification of 1.98 acres from Rural Agricultural Conservation (RAC) to Conditional-Suburban Residential (C-SR). The purpose of the application is to create one lot for single family residential use.

Sandy Robinson, Zoning Coordinator, gave the following presentation.

**Application (ZA-1-23) of
3B's LLC and
Steven and Kristen Lander
for
Rezoning to Conditional Suburban
Residential**

Planning Commission Regular Meeting
May 23, 2023

SITE DESCRIPTION

Tax Map ID#:	55-01-010
Location :	Shiloh Drive (Rte. 603)
Current Zoning :	Rural Agricultural Conservation (RAC)
Election District:	D4
Request:	Rezone to Conditional-Suburban Residential (C-SR), 1.98 acres of land, for one single family residential lot.

BACKGROUND

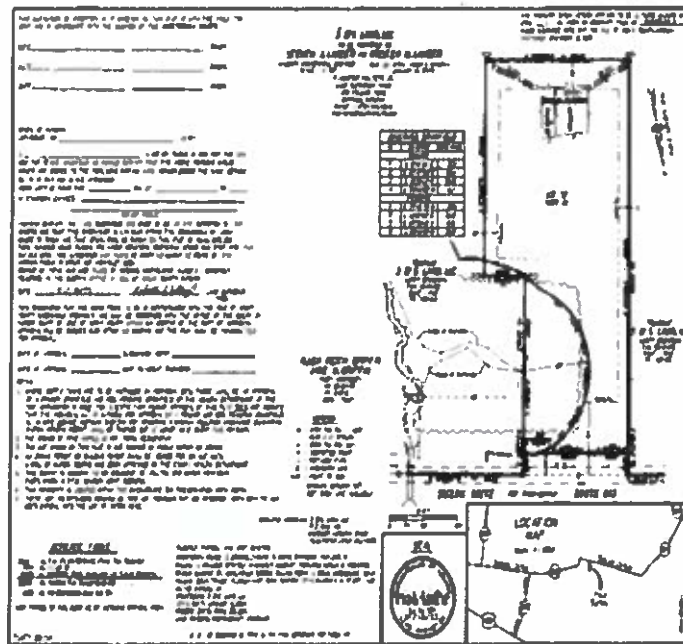
- The applicants propose to change the zoning of the lot to Conditional-Surburban Residential (C-SR) for the purpose of creating a single family residential lot. The proposed lot lies within the Windsor Development Service District (DSD) as designated by the Isle of Wight County Comprehensive Plan. The proposed zoning is consistent with the future recommended land use designation of Suburban Residential as shown on the Future Recommended Land Use Map in the Plan.
- The proposed lot will have other adjacent single family detached uses to the east and north across Shiloh Drive and agricultural land to the west and south.

BABB LOCATION MAP



An aerial photograph of a residential area. A white arrow points to a house labeled 'PRESPOSA O RITE'. The house is situated in a green field, surrounded by other houses and trees. The image is a black and white aerial view.

BABB LAND USE MAP







PROJECT DESCRIPTION

- The subject lot proposed to be rezoned is part of a 92 acre parcel. The current land uses of that parcel are approximately 38 acres of agriculture and the remainder in forested land.
- According to the County Capital Impact Model, the creation of one single family lot will increase the population by 2.3 people. There will be seven additional vehicle trips a day and 0.4 new students in the existing public schools, in the southern end of the County. There is sufficient school capacity in that area, but only a few public Parks and Recreation facilities in that area, thereby leading to the deficit of such facilities in the model.

COMPREHENSIVE PLAN CONSISTENCY

- The property is designated Suburban Residential (SR) in the Windsor DSD in the Future Recommended Land Use Map of the Comprehensive Plan.
- The purpose of DSDs is to provide for the majority of residential development for future population growth in areas served by public utilities. The SR designation permits moderate density development in a manner that is consistent with the provision of a high-quality "suburban" character."
- Within the boundaries of the DSD, the County has installed or has plans for water and sewer infrastructure and road improvements. Because development is focused within the DSD, the majority of police and E911 response is also focused in these areas, which helps reduce costs.
- The proposed use is consistent with the future recommended land use.

ORDINANCE REVIEW

- The required lot area in the C-SR zoning district is a minimum of 30,000 square feet with private sewer and water. The minimum lot frontage is 100 feet and 125 feet of width at the front setback line. The parcel meets the minimum requirements of the C-SR zoning district.
- The property is in the Chesapeake Bay Preservation Area (CBPA) Overlay District and does contain a 100 foot Resource Protection Area (RPA) Buffer Area, which is shown on the zoning exhibit. No development will be permitted within the RPA Buffer Area. There are no wetlands on the proposed new lot.
- Minor Subdivision plat approval is required following rezoning of the land.

DEPARTMENT AND AGENCY REVIEW

- Staff distributed the application to the following agencies and departments for review and comment, and no concerns were noted:

- Emergency Services
- Environmental Planner
- Virginia Department of Transportation
- Isle of Wight County Museum (Historical Resources)
- County Attorney

STAFF ANALYSIS

- Staff considered the strengths and weakness of this application as follows:

- Strengths:

- 1.The application is consistent with the Comprehensive Plan and County ordinances.
- 2.The application is compatible with the existing land uses in the vicinity and within the guidelines of the future Recommended Land Use Plan Designation for Suburban Residential (SR).

- Weaknesses:

- 1.Staff has not identified any weaknesses at this time.

Based on the strengths of the application, staff recommends approval of this amendment to existing conditional zoning with the proffered conditions.

STAFF RECOMMENDATION

- Staff recommends approval of the conditional rezoning application for one single family residential lot.

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

Brian Babb, 13185 Shiloh Drive Windsor, asked for the Planning Commissions favor on approving the application.

Chairman Carroll closed the public hearing and asked for comments from the commissioners.

Commissioner Gibbs made the motion to recommend approval to the Board of Supervisors. Commissioner Ford seconded the motion, which was adopted with Commissioners Bowser, Distefano, Ford, Rawls, Taylor, Sienkiewicz, Gibbs, Smith and Chairman Carroll voting in favor of the motion, and no commissioner voting against the motion (9-0).

The motion passed, and the item will go to the June 15, 2023, Board of Supervisors meeting.

Chairman Carroll called for the next public hearing item.

Application (CBPA-2-23) of Michael and Katherine Gayle for a Chesapeake Bay Preservation Area (CBPA) Ordinance exception for an after-the-fact approval of a platform to store small boats and equipment with a seating area in the fifty-foot seaward section of the Resource Protection Area (RPA) buffer at 1 Eagle Nest Lane on Tax Map Number 14-12-001.

Shaunee Beussink, Environmental Planner, gave the following presentation.

Gayle CBPA Exception

Planning Commission on May 23, 2023

By Shaunee Beussink

Details:

- Applicants: Michael and Katherine Gayle
- 1 Eagle Nest Way, Smithfield
- Tax map parcel 1412-001
- The house was built in 1943, before the enactment of the CBPA
- The storage boat platform and the proposed connection are in the ~~fifty~~foot seaward resource protection area (RPA)
- Seeking after-the-fact exception to CBPA Article 4, Section 4002 (b)2.
- **New impervious area:** Platform is 370SF and the proposed connection is 145 SF totaling 515 SF
- Platform is approximately 1015 ft from edge of the wetlands if the connection was constructed it would go to the edge of wetlands connection to the dock



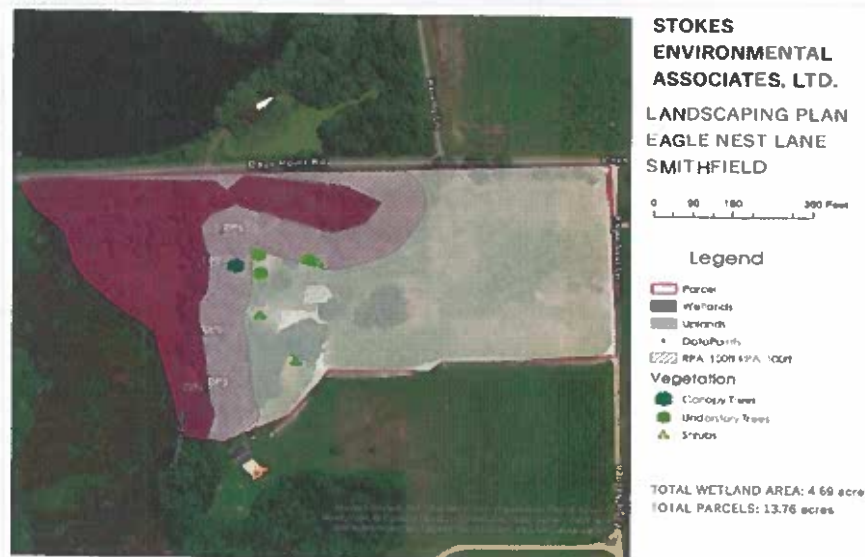
Close-up







Planting Mitigation Plan



Planting Plan

Proposed Mitigation

1 canopy tree
3 understory trees
9 shrubs

Required Mitigation

Two Planting Units = Two Canopy Trees (to be determined)
Four Understory Trees (to be determined)
Six Small Bushes (to be determined)

This planting plan meets requirements of the *Riparian Buffers Modification and Mitigation Guidance Manual* through substitutions.

Five criteria for granting an Exception: The Planning Commission shall not recommend in favor of the applicant unless it finds:

1. *That the strict application of the ordinance would produce an undue hardship and will not confer upon the applicant any special privileges denied by this ordinance to other property owners in the CBPA areas;*

Encroachments in the fifty seaward feet of the buffer area are similarly restricted on all lots where the RPA buffer exists. A review of County permit records indicates that nearby parcels where encroachments occur received exceptions and/or were required to avoid the seaward 50 feet of the buffer. Therefore, this would not constitute a unique hardship and would grant a special privilege to the applicants

2. *The exception request is not based on conditions or circumstances that are selfcreated or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;*

The applicant failed to contact the County prior to construction to apply for the necessary exceptions, which resulted in the construction of a platform not permitted by the ordinance. This is a selfcreated hardship..

3. *The exception request is the minimum necessary to afford relief;*

A cleared path and dock/pier were already established on this property and no relief is necessary to allow for buildable area on the property.

4. *The exception request will be in harmony with the purpose and intent of this ordinance, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality;*

The platform and connection do not meet the purpose or intent of the CBPA ordinance, which is to safeguard water quality through protection of existing buffers and establishment of buffers where they do not exist. The platform and connection, if completed, would be within zero feet of the wetlands behind the house, which means there is little opportunity to intercept runoff before it travels into the wetlands, which is the purpose and intent of the RPA Buffer Area. This is potentially injurious to water quality and is inconsistent with the CBPA Ordinance.

5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

If this exception were approved, staff recommends:

- a) the applicant be required to install the mitigation landscaping in the rear yard near the wetlands; and,
- b) the connection between the platform and dock not be completed. The connection would make access easier to the dock, but is not necessary for the proposed use. If the connection is eliminated, it would reduce impacts by 145 square feet.

Staff Conclusions:

Strengths:

- 1) Proposed landscaping mitigation does meet requirements of the *Riparian Buffers Guidance Manual*.

Weaknesses:

1. The applicants' request does not meet the five criteria that must be found in order to grant an exception.
2. The proposed use does not qualify as a water-dependent use and does not need to be located adjacent to the water.
3. The request is an after-the-fact approval for development without necessary permits. Development without prior approvals is not equitable for property owners who follow the required process for approval.

Staff Recommendation:

Based on the above findings, staff recommends denial of the exception request.

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

Katherine Gayle, 1 Eagle Nest Lane, stated the reason a permit was not obtained was because she was extending the dock and was told a permit was not needed by a surveyor who was surveying the property next to hers. Ms. Gayle stated once she found out she was in violation, she was in contact with Shaunee to rectify the issue.

Dave Bosley, Stokes Environmental, stated he was asked to look at the site to prepare a water quality impact assessment and wetland delineation. He stated that there was no change between the before and after as far as run off and sediment loads. Mr. Bosley proposed additional plantings to help mitigate any adverse effects from the platform.

Chairman Carroll closed the public hearing and called for comments from the commissioners.

Commissioner Taylor asked if VRMC had any comments about this application.

Shaunee Beussink stated VRMC said the platform is out of their jurisdiction, but any work done to the dock would require permits starting with a JPA.

Commissioner Sienkiewicz asked for clarity of the dock going underwater during tide events.

Dave Bosley stated there was residue on the dock indicating it went underwater during high tide.

Commissioner Gibbs stated it looked like a steep incline.

Commissioner Ford asked if there is anything different for this application as an after-the-fact request and why there wasn't an initial application.

Amy Ring stated the complaint came after work had already begun without any permits.

Commissioner Ford asked why permits were not pulled initially.

Katherine Gayle stated because she had spoken with the surveyor, who works with a marine group, who told her she could do the work, and no permits were needed.

Commissioner Rawls asked if the contractor was aware permits were needed.

Ms. Gayle stated it was just a friend doing the work.

Commissioner Smith asked if what is being built meets the current code.

Shaunee Beussink stated the once this application is approved, building plans would be required to be submitted for approval, and the structure would be required to meet code requirements through inspections.

Commissioner Taylor believes the applicant has other options that can be investigated and has failed to meet the criteria noted by staff. Commissioner Taylor made the motion to recommend denial to the Board of Supervisors. Commissioner Bowser seconded the motion, which was adopted with Commissioners Bowser, Distefano, Ford, Rawls, Taylor, Sienkiewicz, Gibbs, Smith and Chairman Carroll voting in favor of the motion, and no commissioner voting against the motion (9-0).

The motion passed, and the item will go to the June 15, 2023, Board of Supervisors meeting.

Chairman Carroll called for the next public hearing item.

Application (CUP-1-23) of Hampton Roads Classical, Inc., applicant, represented by P. A. Gist, President, and Bennis Saint Luke, LLC, property owner, represented by Vincent C. Carollo, Principal, for a conditional use permit for a primary and secondary educational facility in two (2) existing buildings and a request by the property owner to extinguish active Conditional Use Permit CUP-4-21 for Kids Come First Daycare and Conditional Use Permit CUP-9-21 for Smithfield Sports Complex on the same parcel with tax map parcel number 32-01-093 located at 14353 Bennis Church Boulevard.

Jeryl Phillips, Assistant Director, Planning and Zoning, gave the following presentation.

Conditional Use Permit Request CUP-1-23 Hampton Roads Classical School and Extinguish CUP-4-21 and CUP-9-21



Planning Commission Regular Meeting
May 23, 2023

APPLICATION DESCRIPTION

Request: 1) Application of Hampton Roads Classical Inc. and JVC Holdings, Inc. for an educational facility (primary and secondary)
2) Application of JVC Holdings, LLC to extinguish CUP-4-21 (Kids Come First) and CUP-9-21 (Smithfield Sportsplex)

Tax Map ID#: 32-01-093

Location: 14353 Benns Church Blvd

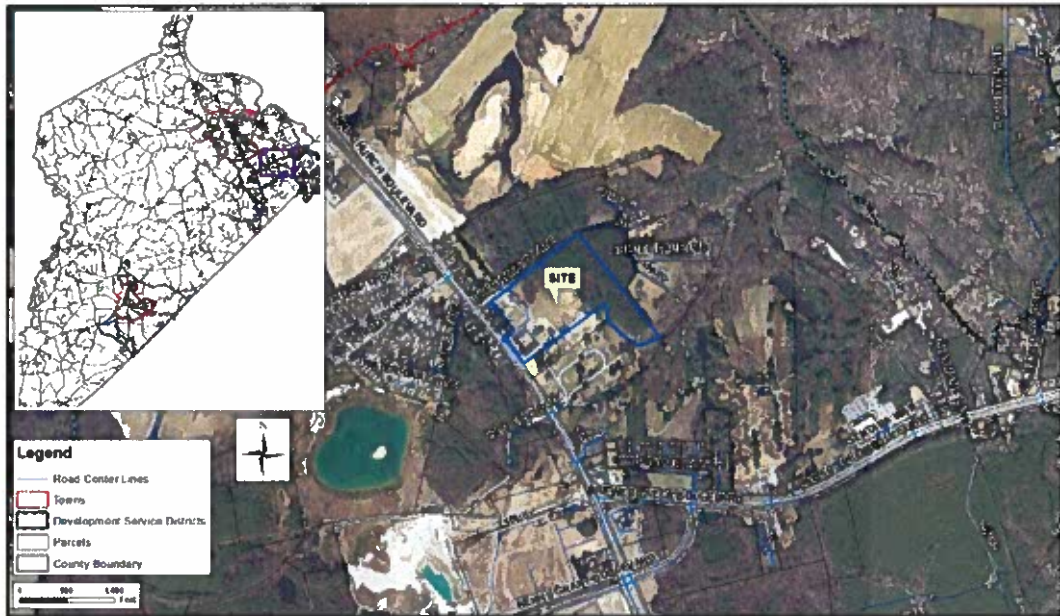
Comp Plan Land Use Designation: Mixed Use (MU) and Environmental Conservation (EC)

Zoning District: Conditional – Suburban Residential, Newport Development Service Overlay (NDSO) District, St. Luke's Church Historic Overlay District, and Chesapeake Bay Preservation Area (CPBA) Overlay District

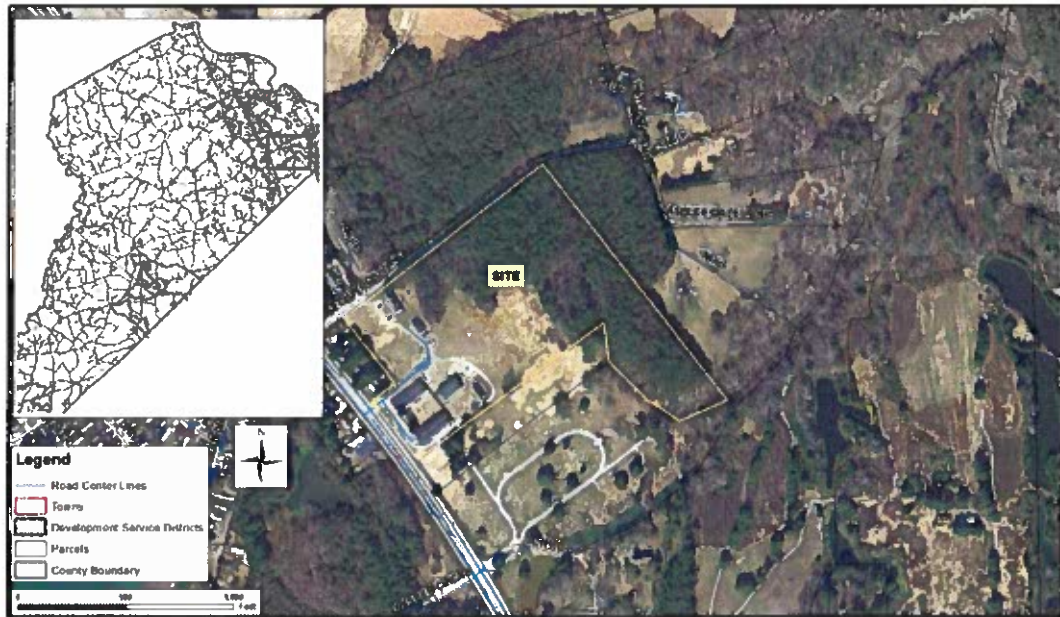
Election District: D1



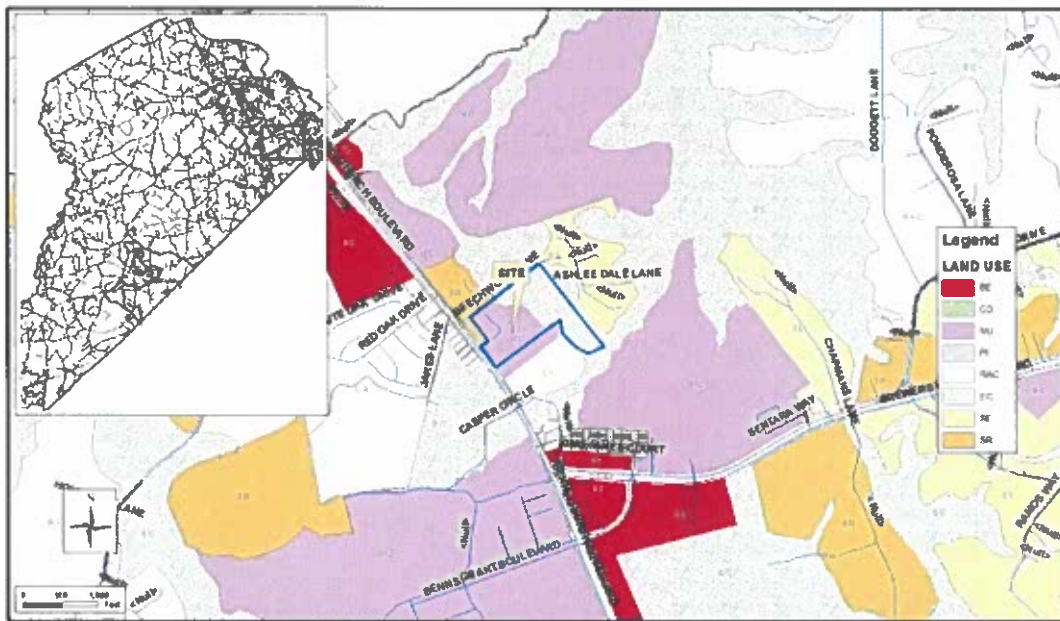
CUP-01-23 Conditional Use Permit - Location Map



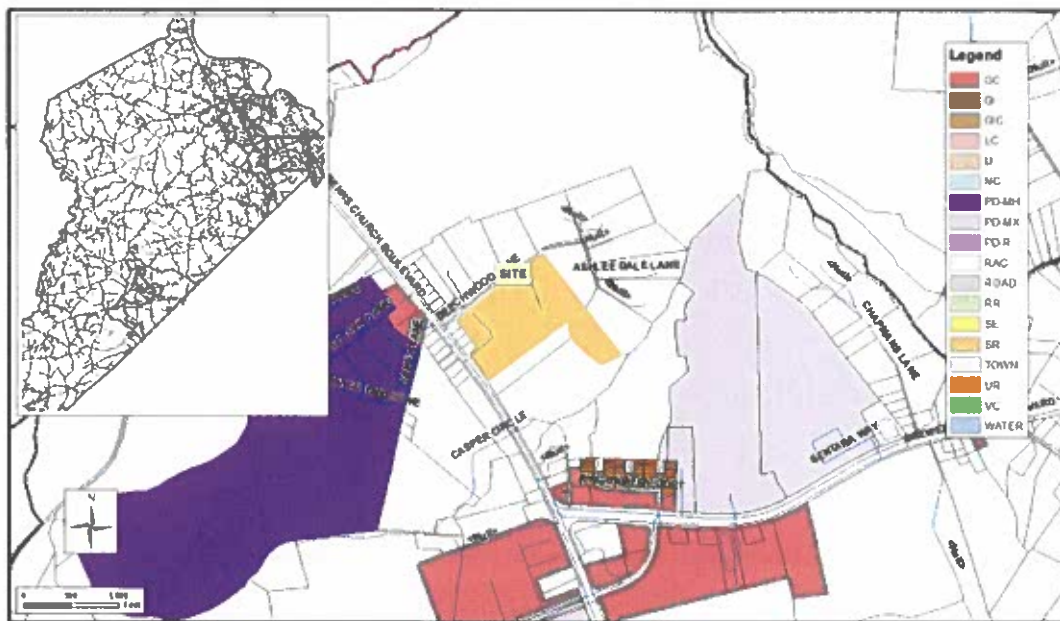
CUP-01-23 Conditional Use Permit Location Closeup Map



CUP-01-23 Conditional Use Permit Land Use Map



CUP-01-23 Conditional Use Permit - Zoning Map



BACKGROUND

- Seven (7) residential townhomes on property
- Former James River Christian School campus
- Former Southside Vineyard Community Church
- CUP-4-21 for Kids Come First daycare use approved in 2021, use never established
- CUP-9-21 for Smithfield Sportsplex private sports club use approved in 2022, use was established, lease terminated
- HARC approved exterior modifications in 2022
- Hampton Roads Classical School (K-8 private school) operating at another location
- School seeks additional capacity for current and projected growth (K-12)

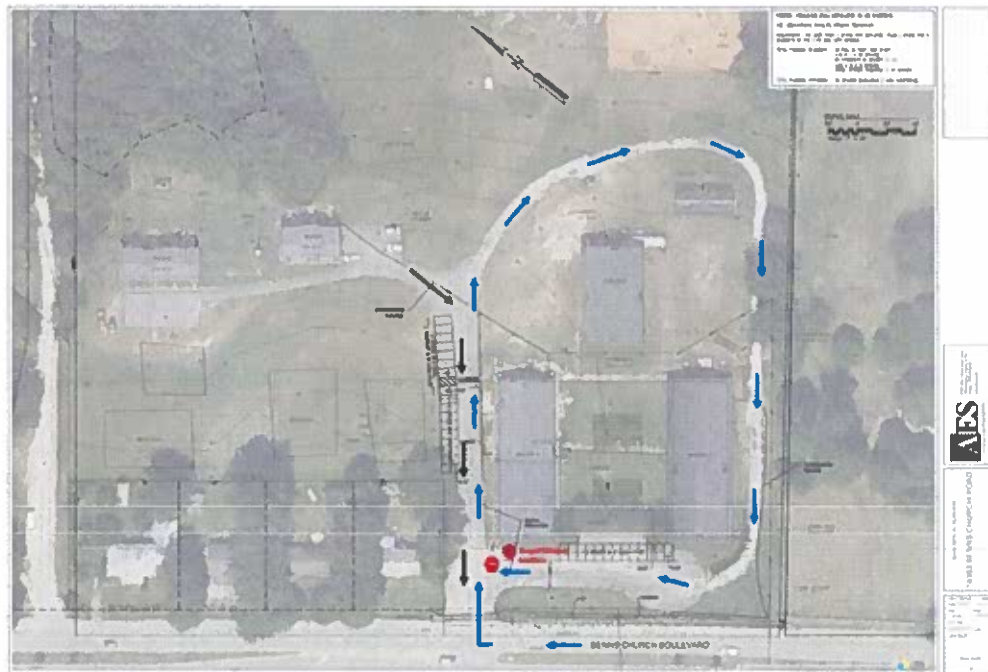
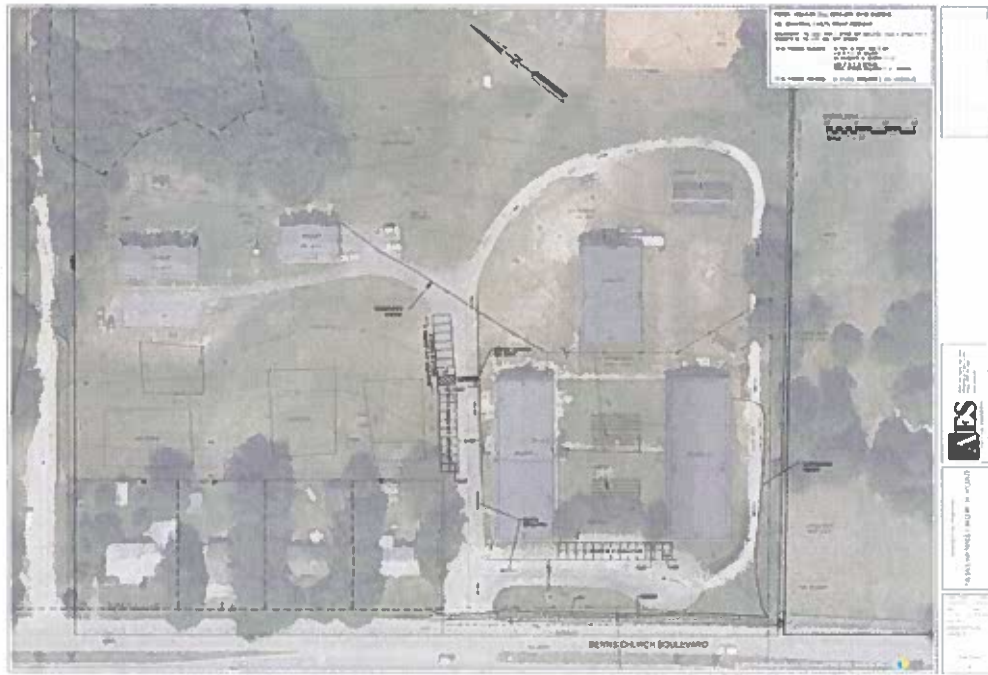


PROJECT DESCRIPTION

- Hampton Roads Classical School is a private educational facility (K-12)
- Use Building #1 and Gymnasium only
- CUP request for up to 125 students and faculty/staff
- Enrollment over 125 students, faculty/staff will require CUP amendment

In addition, extinguish CUP-4-21 and CUP-9-21













CRITERIA FOR CUP CONSIDERATION (Section 1-1017)

1. Will not be detrimental to or endanger the public health, safety, and general welfare;
2. Will not be injurious to the use and enjoyment of other nearby property 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. Adequate measures will be taken for ingress and egress/traffic control;
5. Not contrary to the goals and objectives of the Comprehensive Plan;
6. Will conform to ordinance regulations; and
7. Will not result in a multiplicity or saturation of similar uses in the same general neighborhood of the proposed use.



ADDITIONAL CONSIDERATIONS FOR BOARD

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



COMPREHENSIVE PLAN REVIEW

- Future recommended land use designation is **MU**, Mixed Use and **EC**, Environmental Conservation
 - **MU**: Expected development includes a mix of detached and attached single-family residences, multiplexes, townhomes, and apartment style residences, community amenities, and preserved natural features. Non-residential uses may include parks and trails, community facilities such as schools, churches, and libraries, and office or commercial uses. Select light industrial uses may also be appropriate when sited corrected. Extensive master planning and Traditional Neighborhood Development (TND) principles should be used in MU design.
 - **EC**: Appropriate uses include wetlands, farms, forest uses, open space, and limited park facilities.
- Proposed use is consistent



ORDINANCE REVIEW

- Conditional - Suburban Residential District
 - Condition: Up to 7 residential townhomes
- Newport Development Service Overlay (NDSO) District
 - Existing buildings
 - Site design standards apply at site plan review
 - Signage requirements
- St. Luke's Church Historic Overlay District
 - Exterior modifications approved in 2022
 - Window and door replacement
 - Proposed brick walk replacement of concrete sidewalk and stairs administratively approved by Zoning Administrator
- Chesapeake Bay Preservation Area (CBPA) Overlay District
 - Existing buildings
 - Site design standards apply at site plan review



DEPARTMENT AND AGENCY REVIEW

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

- **Community Development:**
 - Use approved for up to 125 students, faculty/staff. If projected student enrollment and faculty/staff exceeds 125 person, a new CUP application or amended CUP application will be required.
 - An annual enrollment and faculty/staff count should be provided to the Zoning Administrator to monitor capacity.
 - Consider traffic use conflicts with existing residential townhomes on site
- **Environmental Planner:** No concerns
- **Economic Development:** Support this request.
- **Emergency Services:** No concerns
- **Utility Services:** Existing on-site septic system, will not be required to hook up to public sanitary sewer. Existing public water service.
- **Stormwater:** Will be reviewed during site plan review
- **Health Department:** On-site septic system capacity acceptable for proposed use
- **Emergency Services:** No concerns
- **Sheriff:** Applicant may want to consider applying for posted speed zone reduction "School Zone"
- **Transportation and VDOT:**
 - Ingress/egress plan and internal circulation concept plan acceptable
 - Final circulation plan to be approved by Zoning Administrator during site plan review
 - A right turn lane taper improvement and left turn lane will be required to be installed when enrollment/students/faculty exceeds 125 persons
 - Student exchange point at drop off/pick up point should have an adult monitor present during those times



STAFF ANALYSIS

Strengths:

1. The proposed use is consistent with the County's adopted Comprehensive Plan, Zoning Ordinance, and Conditional Use Permit issuance criteria.
2. The proposed use returns a school use to the former school campus.
3. The applicant and the County, as well as other reviewing agencies external to the County, have proposed conditions of approval which mitigate any issues addressed in the criteria for consideration of issuance of a Conditional Use Permit.

Weaknesses:

1. Potential traffic conflicts with existing residential townhomes on site
2. Will need to install turn lane and taper improvements when enrollment/staffing levels reach 125 students



STAFF RECOMMENDATION

Approval of the CUP with the following conditions:

1. The use is approved for two buildings only (Building #1 and Gymnasium).
2. Use of additional buildings will require another CUP.
3. The use is approved for up to 125 persons (student enrollment and faculty/staff).
4. Once 125 persons is exceeded, a left turn lane and right turn lane taper improvements will be required.
5. An annual student enrollment and staffing report shall be provided to the Zoning Administrator in September.
6. The Zoning Administrator shall review and approve the ingress/egress and internal circulation plan during site plan review with concurrence from the Transportation Manager and VDOT.
7. An adult should monitor the student drop-off/pick-up periods and the student exchange point.
8. CUP-4-23 and CUP-9-21 will be extinguished.



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

Vincent Corolla, 22 Main Street Smithfield, thanked the Planning Commission for their time and stated he himself, along with Mr. Gist, are available for any questions.

Andy Gist, Headmaster for Hampton Road Classical Academy, 150 Shelter Cove Way, stated this school is an independent, non-sectarian, classical academy. Mr. Gist stated they currently enroll 41 students, kindergarten through seventh grade and is a traditional, liberal education with an emphasis on America's founding principles. Mr. Gist stated for the past three years, the school has been co-located with Hope Presbyterian Church and has outgrown the facility. Mr. Gist explained the philosophy of the school and its mission.

Gary Porter, 924 Tabb Lakes, York County, member of the Board of Hampton Roads Classical Academy, stated this type of learning was used to educate America's founders. Mr. Porter added he believes multiples classical schools are needed and asked for the Planning Commission's support on the application.

Jim Comstock, speaking on behalf on the Armstrong's, Connolly's, Griffin's, Giltner's, Guitierre's, Hackney's and Ladonal's, thanked the Planning Commission for letting their voices be heard and asked for their approval on the application. Mr. Comstock stated that this property was once a school and should be a school again. He emphasized the importance of receiving a classical education on critical thinking this school provides.

Brandon Logioco, 13281 Woodlake Drive, stated he is in support of the application. Mr. Logioco stated his son and daughter attend the school and likes the priority put into excellence of

character. Mr. Logioco's son and daughter spoke and asked for the Planning Commissions approval of this application.

Chairman Carroll closed the public hearing and called for conversation from the commissioners.

Commissioner Gibbs asked what the projected enrollment is for the next school year.

Andy Gist stated the school has been growing at a twenty percent rate and projected to have 60 students.

Commissioner Sienkiewicz asked what the student to teacher ratio is.

Andy Gist stated the ratio is twelve to one and right now there are six full time faculty.

Commissioner Bowser inquired about the sports complex lease being terminated.

Vincent Corolla confirmed the lease had been terminated, and this application included the request to extinguish the conditional use permit for the sports complex.

Chairman Carroll asked if there are any plans for the unused building.

Vincent Corolla stated it is currently being renovated, and there are no plans right now to occupy it. Mr. Corolla added if Hampton Roads Classical School continues to grow, he will give them the first right.

Commissioner Distefano asked for clarity on the external traffic flow.

Ms. Phillips stated there are not dedicated turn lanes required under the current capacity. Once the occupancy reaches more than 125, a left turn lane and right turn lane taper improvements will be required.

Commissioner Bowser asked if any feedback was received.

Ms. Phillips confirmed no correspondence was received in regard to this application.

Commissioner Taylor asked about the speed zone sign recommended by the sheriff's office.

Ms. Phillips stated it is an application process through VDOT.

Commissioner Ford asked about short-, mid- and long-term plans.

Mr. Gist stated that his long-term plan is a smaller school than what you would typically see from other private schools in the area and has a goal of 250 to 300 students. He added he wants a tight-knit culture, and if had the opportunity, both buildings would fulfill that goal.

Commissioner Ford suggested that he start planning long term goals with the upcoming development in that area regarding the transportation plan specifically.

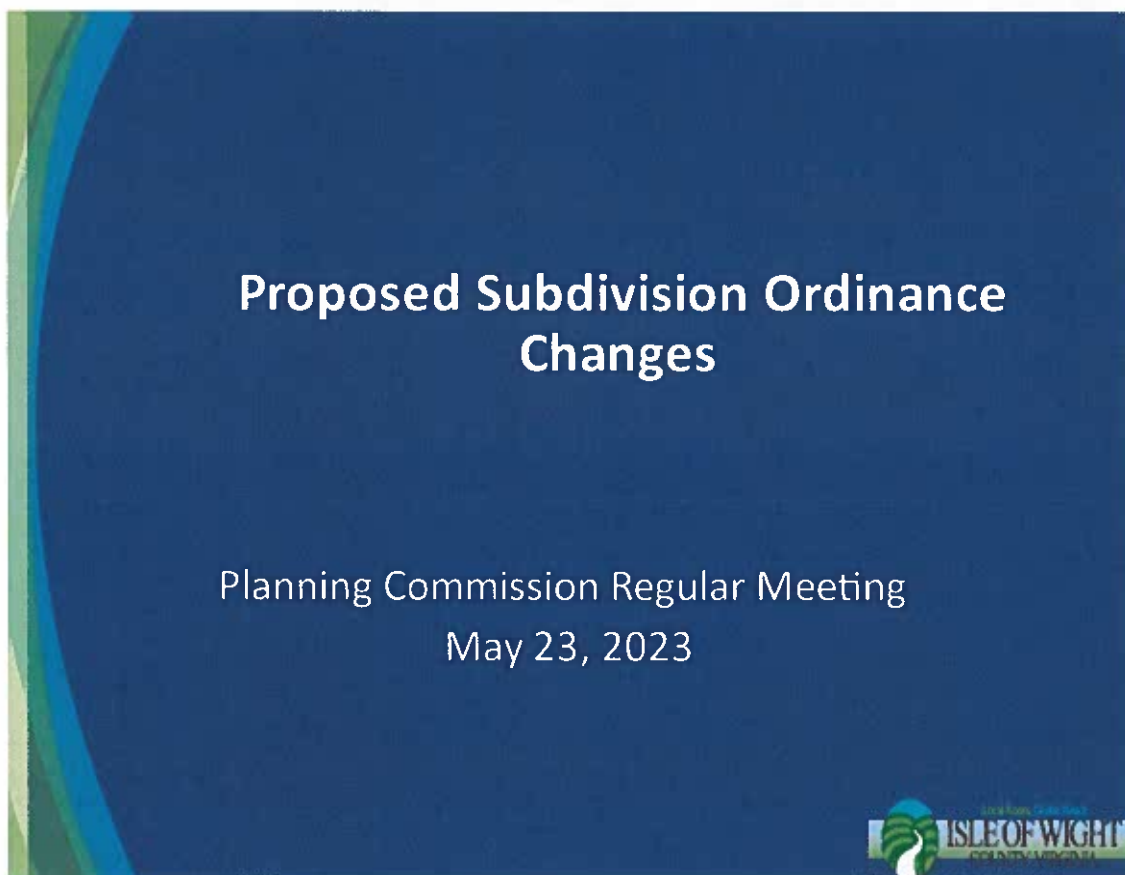
Commissioner Bowser made the motion to recommend approval to the Board of Supervisors with the conditions recommended by staff. Commissioner Gibbs seconded the motion, which was adopted with Commissioners Bowser, Distefano, Rawls, Taylor, Sienkiewicz, Gibbs, Smith, and Chairman Carroll voting in favor of the motion, and Commissioner Ford voting against the motion (8-1).

The motion passed, and the item will go to the June 15, 2023, Board of Supervisors meeting.

Chairman Carroll called for the next public hearing item.

Proposed Revisions to Article 5, "Development Standards," of the Isle of Wight County Subdivision Ordinance

Amy Ring, Community Development Director, gave the following presentation.



Background

- Planning Commission & Board of Supervisors previously expressed their desire to provide more flexibility for subdividing land outside of DSDs to preserve agricultural & silvicultural uses while providing for more regular development patterns within the DSDs.
- Inconsistency with verge requirements between the Subdivision Ordinance & VDOT's Subdivision guidelines which causes confusion among applicants.



Summary of Changes – Verge Conflict

5.9. Streets.

- 5.9.13. Planting strips. When required, planting strips a minimum of six (6) feet in width and shall be installed in accordance with the current VDOT Subdivision Street Guide must be located between the roadway and the sidewalk. Additional planting strip width may be required to avoid conflict with required utility easements.

5.12. Sidewalks and paths (pedestrian and bicycle facilities).

5.12.2 Sidewalks.

- C. On roads with curb and gutter, sidewalks must be separated from the back of curb by a planting strip in compliance with the VDOT Subdivision Street Design Guide, dependent upon the presence of landscaping. ~~that is at least six (6) feet in width~~ Trees are to be located between the sidewalk and the curb. Wider planting strip(s) may be required by the zoning ordinance, depending on any inclusion of on-street parking or other layout particularities.



Summary of Changes – Verge Conflict

5.16. Traditional neighborhood design (TND).

8. Landscaping and screening standards.

a. Street trees. A minimum of one (1) deciduous canopy tree per forty (40) feet of street frontage per street side shall be required. Trees can be clustered and do not need to be evenly spaced. Trees should be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete or within a landscape easement adjacent to the right-of-way with the maintenance responsibility assigned to a property owner's association. Species of street trees should be consistent with the recommendations found in the VDOT Subdivision Street Design Guide which will not interfere with nearby utilities or other public improvements.

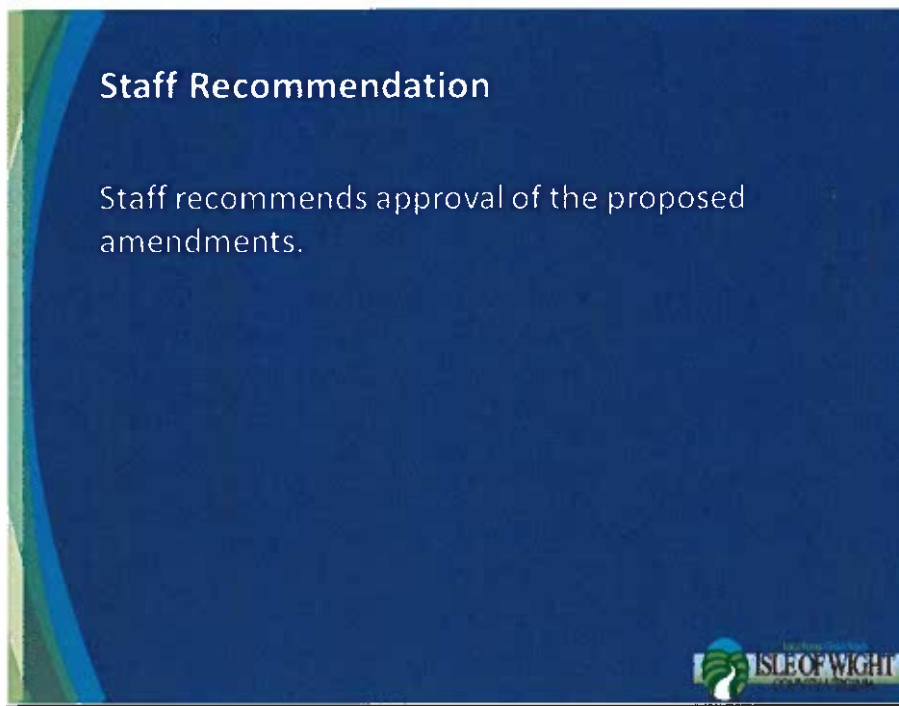


Summary of Changes – Natural Lot Lines

Section 5.11 – Lots.

5.11.1. Shape. Lots should be designed, arranged, and shaped so that they provide satisfactory and desirable sites for buildings, be properly related to natural topography, and conform to requirements of this ordinance and the zoning ordinance. Lots within the DSDs shall be generally regular in shape and may not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes, the only exception to this rule being elongations for use as to provide access to a public street within a flag lot. Lots outside of the DSDs should be designed to follow natural features whenever possible and such lots should seek to provide for an agricultural, forestal, or open space use of the land. For lots with a width of sixty (60) feet or greater, lot proportions should provide approximately two and one-half (2.5) feet of lot depth for every one (1) foot of lot width.





Chairman Carroll opened the public hearing.

William Riddick, attorney in Smithfield, stated he supports this application and asked the Planning Commission to recommend approval to the Board of Supervisors.

Chairman Carroll closed the public hearing and called for conversation from the commissioners.

Commissioner Distefano asked how many applications the Planning Commission has heard regarding exceptions from the subdivision lot shape requirement would these changes have addressed.

Ms. Ring stated the most recent one they heard would have been able to be accommodated with these changes.

Commissioner Distefano made the motion to recommend approval to the Board of Supervisors as proposed by staff. Commissioner Ford seconded the motion, which was adopted with Commissioners Bowser, Distefano, Ford, Rawls, Taylor, Sienkiewicz, Gibbs, Smith and Chairman Carroll voting in favor of the motion, and no commissioners voting against the motion (9-0).

The motion passed, and the item will go to the June 15, 2023, Board of Supervisors meeting.

OLD BUSINESS

Amy Ring Confirmed there were no items to discuss in old business.

NEW BUSINESS

Chairman Carroll called for new business items.

Application (EXC-6-23) of Sandra and Douglas Vance, owners, for a waiver to Section 3.2.4.A.4 and Section 5.9.1.C of the Subdivision Ordinance to allow a family member subdivision from tax map parcel 33-03-005 on a private twenty-foot ingress/egress easement not built to public standards, which serves more than two lots

Sandy Robinson gave the following presentation.



APPLICATION EXC-6-23 OF SANDRA AND DOUGLAS VANCE FOR A WAIVER TO SECTION 3.2.4.A.4 AND SECTION 5.9.1.C OF THE SUBDIVISION ORDINANCE

**Planning Commission Meeting
May 23, 2023**



Details

- Tax Map ID#: 33-003-005
- Location: Chapmans Lane
- Current Zoning: RAC
- Election District: D2
- Purpose: To create a family member subdivision lot on a private easement that serves more than two existing lots.



Background

- The parcel is located at 14161Chapmans Lane, Carrollton, and is zoned Rural Agriculture Conservation (RAC). The surrounding land uses are single family residential, mixed use, wetlands and wooded land.
- The parent parcel was established prior to the adoption of the Zoning and Subdivision Ordinances (1950's) and currently contains 8.5 acres. It is accessed by a private ingress/egress easement (Chapmans Lane), which provides access to Brewers Neck Blvd. (Rte. 32/258).
- When the property owners met with the Planning and Zoning staff, they were advised that their proposal does not meet the Subdivision Ordinance standards.



Background

- In November 2021, the Subdivision Ordinance family member standard was amended to allow no more than one (1) lot resulting from a single tract be accessed from a single ingress/egress easement unless approved by the Board of Supervisors upon recommendation from the Planning Commission. The Subdivision Ordinance also stipulates that all roads, which provide access to three or more lots, must be public roads which meet VDOT construction standards. Chapmans Lane is not built to VDOT standards.
- The lot is approximately 2000 feet down Chapmans Lane, which serves access to fourteen existing lots. There is a recorded road maintenance agreement, and the new proposed lot will also be subject to that agreement.



Comprehensive Land Use Plan Review

- The property is designated Suburban Estate (SE) on the Future Recommended Land Use Map in the Comprehensive Plan. This designation is intended to consist of larger lot sizes with single family homes, some preservation of environmental features, and limited community amenities



Ordinance Review

- Section 3.2.A.4 states no more than one lot may be created from a single tract of land which is accessed from a single easement of right-of-way unless approved by the Board of Supervisors upon recommendation from the Planning Commission.
- Section 5.9.1.C states unless specifically modified in this ordinance, all new streets must be public and comply with VDOT road standards.
- Owner has had the proposed lot delineated and confirmed by the ACOE for wetlands as required for subdivision approval.
- Section 3.2.10.E of the Ordinance lists criteria for a waiver from the Subdivision Ordinance requirements. In order to approve a request for a waiver, the Board of Supervisors shall make an affirmative finding that all of the following criteria are met:



Ordinance Review

- 1. That granting the waiver will not have an adverse impact on land use compatibility.
- Finding: Staff finds the proposed use is consistent with the residential and rural uses of surrounding properties.
- 2. That strict adherence to the general regulations would result in substantial injustice or hardship.
- Finding: Staff finds no hardship, because the lot is currently being used for its intended single family residential use.
- 3. The waiver has not been opposed in writing by the county, VDOT engineer, or health official.
- Finding: VDOT does not oppose the application. The Health Department will require a permit for the installation of a well and septic system.
- 4. That granting the administrative waiver shall be consistent with the purposes and intent of this ordinance.
- Finding: Staff finds that the purpose and intent of the Ordinance is to promote the orderly development of the County and to protect the public health, safety and welfare by ensuring access by emergency service vehicles.



Agency Review

- VDOT has reviewed the request and states that there are no impacts to the state-maintained right-of-way with the proposal. No concerns have been identified by County Departments.
- The owner has had the proposed parcel evaluated by an Onsite Soil Evaluator (OSE) for installation of a septic system which includes a primary and reserve drainfield, as required for subdivision approval.



Staff Analysis

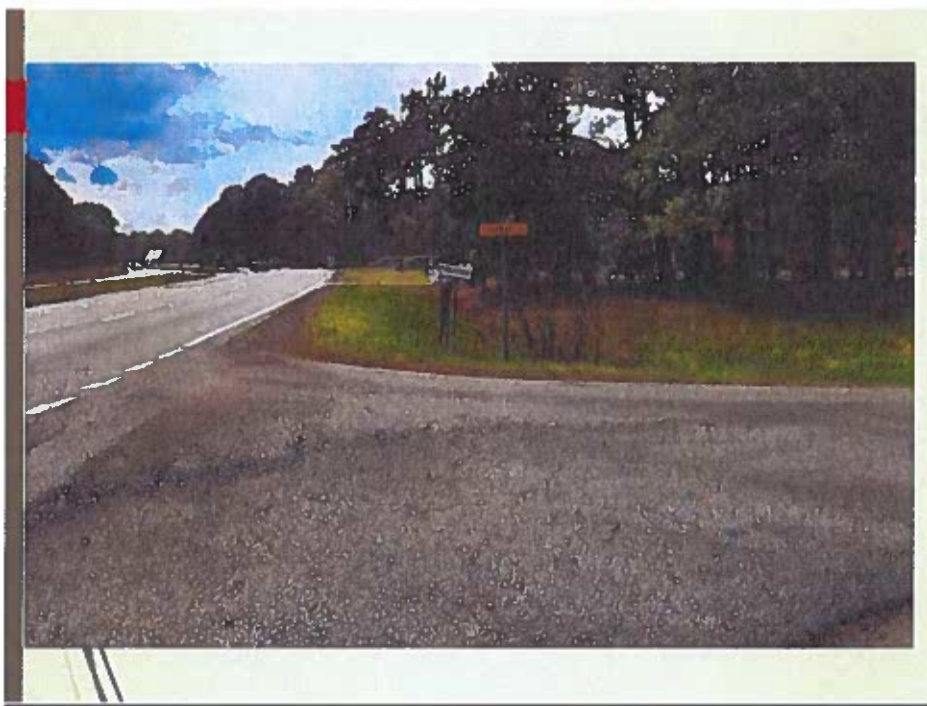
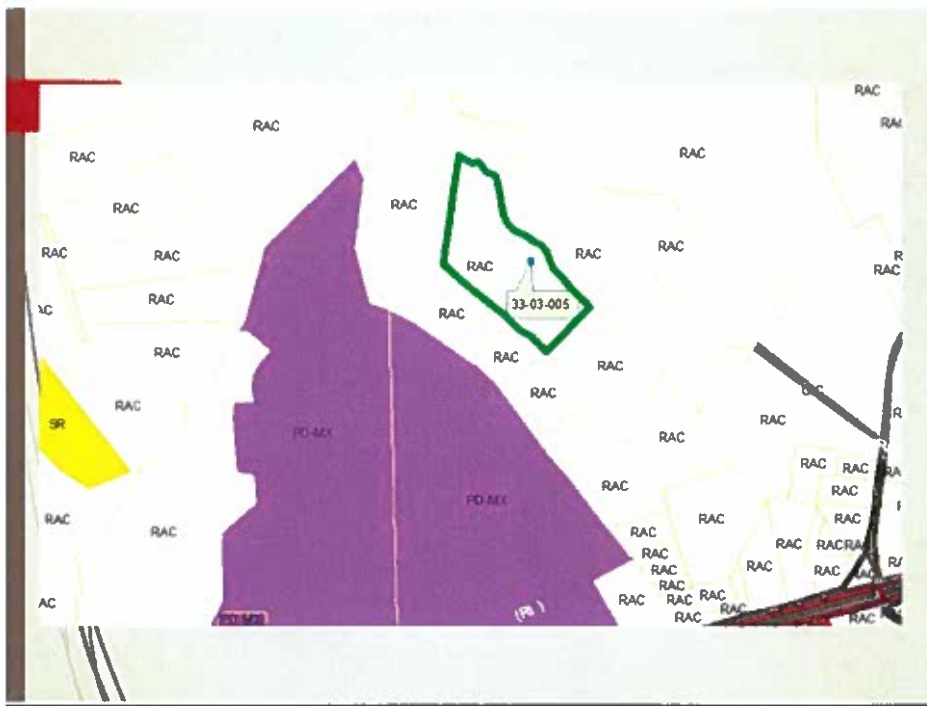
Section 3.2.10.E of the Subdivision Ordinance lists criteria for a waiver to be considered by the Board of Supervisors with a recommendation by Planning Commission:

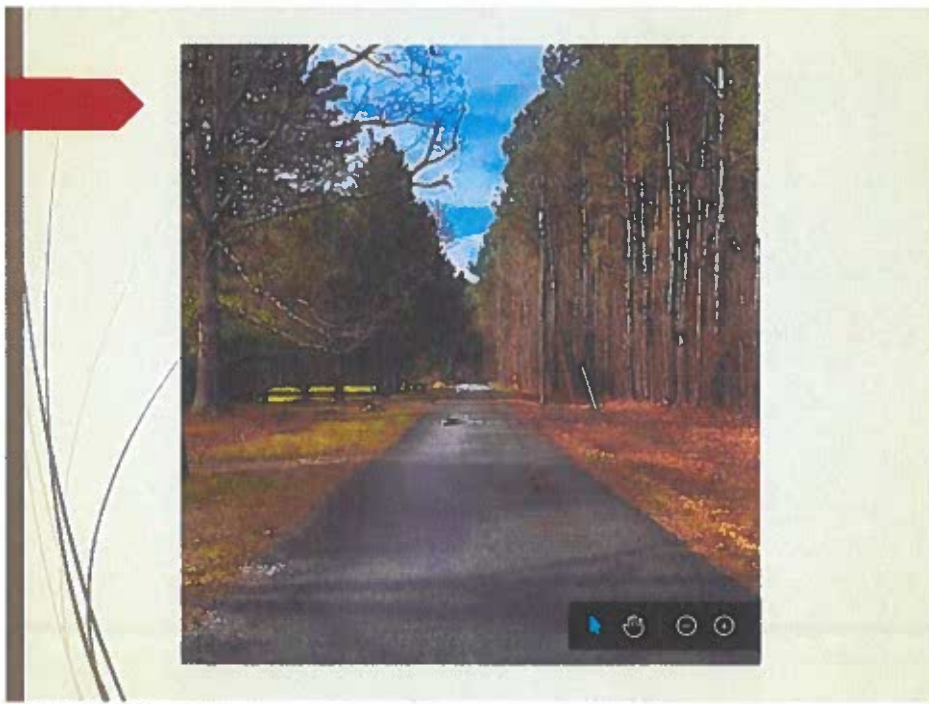
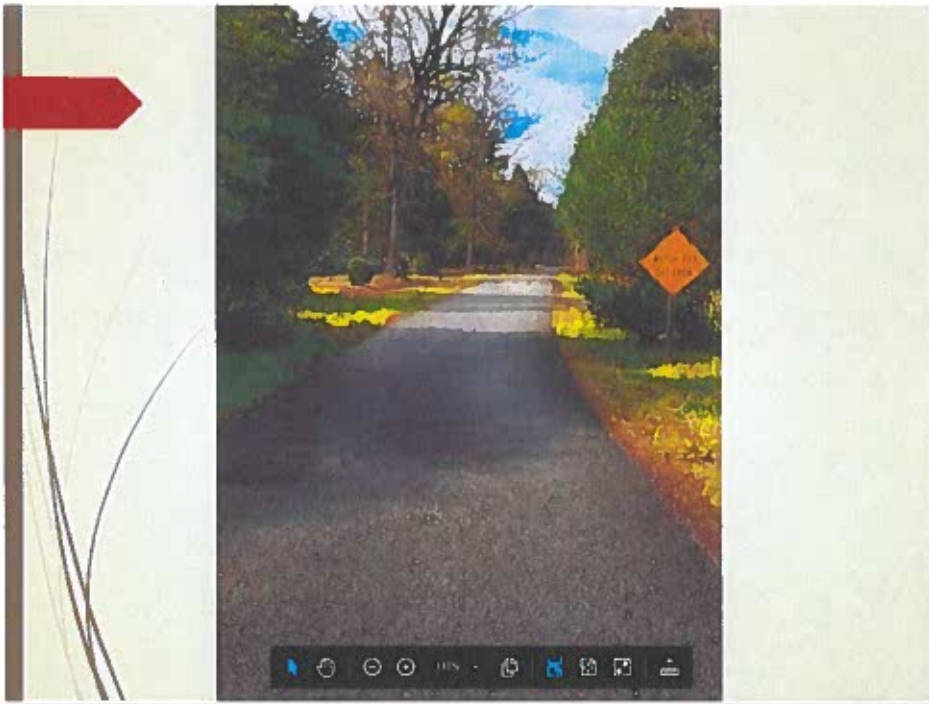
1. Granting the waiver will not have an adverse impact on land use compatibility.
 - Staff finds the proposed use is consistent with the residential and rural uses of surrounding properties.
2. Strict adherence to the general regulations would result in substantial injustice or hardship.
 - Staff finds no hardship, because the property is currently being used for its intended single family residential use.
3. Waiver has not been opposed in writing by the county, VDOT engineer, or health official.
 - Neither VDOT nor the Health Department oppose the application.
4. Granting the administrative waiver shall be consistent with the purposes and intent of this ordinance.
 - Staff finds that the purpose and intent of the Ordinance is to promote the orderly development of the County and to protect the public health, safety and welfare, by ensuring safe access by all emergency service vehicles, therefore staff can not support a waiver from the Ordinance

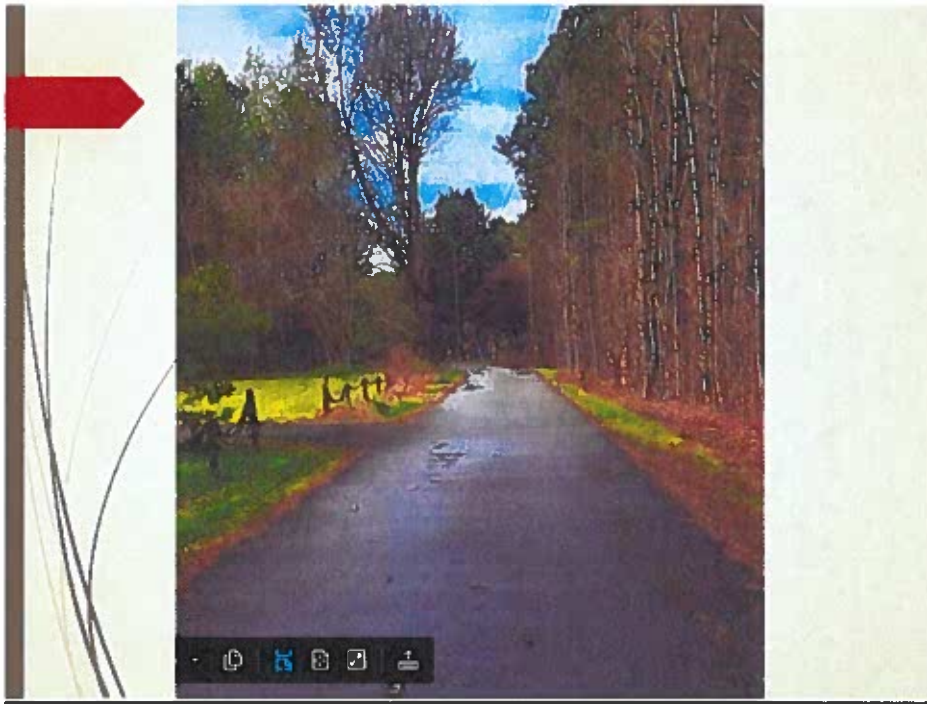
Staff Recommendation

Staff recommends denial of the waiver request due to safety concerns due to possible degradation of the access lane over time with additional homes if not properly maintained.











Commissioner Sienkiewicz stated there were six names of the road maintenance agreement and twelve properties.

Ms. Robinson stated she believed there were fourteen properties.

Commissioner Sienkiewicz asked how many houses are on those lots.

Ms. Robinson responded eight houses.

Sandra Vance, applicant, stated the Buddhist temple paves the road and is consistent with road maintenance.

Commissioner Taylor asked when lots are created in a development service district, are they required to be on a public street and have public water and sewer.

Ms. Robinson stated that this is an existing subdivision lot, so utilities will not require them to connect to public utilities if they are not available.

Amy Ring confirmed that because this is an old existing lot, not on a public street, it would not be required to meet those requirements.

Commissioner Bowser made the motion to recommend approval to the Board of Supervisors as proposed by staff. Commissioner Smith seconded the motion, which was adopted with Commissioners Bowser, Distefano, Ford, Rawls, Gibbs, Smith and Chairman Carroll voting in favor of the motion, and Commissioners Taylor and Sienkiewicz voting against the motion (7-2).

The motion passed, and the item will go to the June 15, 2023, Board of Supervisors meeting.

Chairman Carroll called for the next new business item.

Application (EXC-7-23) of Philip H. Gibson, Jr., property owner, for a height exception to Section 5-2000.D.2. of the Zoning Ordinance for a proposed accessory structure (two-story garage), to be located at 16055 Mill Swamp Road on property with tax map number 21-01-003 which will exceed the maximum height permitted of 125% of the single-story principal structure by three (3) feet

Sandy Robinson gave the following presentation.



**APPLICATION EXC-7-23 OF
PHILIP H. GIBSON, JR.
FOR A WAIVER TO SECTION 5-
2000.D.2.OF THE
ZONING ORDINANCE**

Planning Commission Regular Meeting
May 23, 2023



Details

- Tax Map ID#: 21-01-003
- Location: Mill Swamp Road
- Current Zoning: RAC
- Election District: D5
- Purpose: Accessory structure more than 125% of the principal structure height



Background

- Owner previously spoke to staff about the proposed garage in relation to the Chesapeake Bay Preservation Area (CBPA) District Ordinance Resources Protection Area (RPA).
- Owner hired Bay Environmental to delineate wetlands, RPA, and RPA Buffer Area. At that point, owner realized that his original proposal would impact the RPA Buffer Area and hired an engineering firm to design a smaller garage which would meet the environmental constraints.
- Owner later found that the height of the proposed structure exceeded the accessory structure height regulations.
- Owner is requesting a building height exception in accordance with Section 5-2000.D.2. for an accessory structure, specifically a two-story detached garage, to exceed the maximum building height of 125% of the height of the single story, single family residence on the parcel.



Comprehensive Land Use Plan Review

- The future recommended land use for the subject property is Environmental Conservation (EC), which encompasses familiar wetland types such as marshes, rivers, streams, resource protection areas, and a protective buffer around those features. It also includes large areas of forested wetlands which often are not as discernable as wetlands. Due to their important environmental role and unsuitability for development, floodplains and steep slopes are also included. Preserving the environment including protecting wetlands, wildlife, and tree preservation are extremely important.
- The property has an existing single family detached residence, and the owner has performed a site-specific delineation to identify the limits of wetlands and the RPA buffer area.



Ordinance Review

- The property is zoned RAC, and Section 5-2000.D.2. of the Zoning Ordinance limits building height for accessory structures to 125% of the single-story primary residence. The property is also in the CBPA Overlay District, which also contains a RPA and RPA Buffer Area. The owner is not proposing any impacts to the RPA buffer area.
- An exception to the height limitation under Section 5-2000.D.5. can be granted by the Board of Supervisors with a recommendation by the Planning Commission with or without reasonable conditions.



Agency Review

- The application did not require outside agency or department review.



Staff Analysis

Based on an analysis of this application, staff finds the following strengths and weaknesses:

Strengths:

The proposed structure is only visible from the north side of the property. The adjoining property owner does not oppose the request.

Weaknesses:

The proposed building height exceeds the maximum height permitted in Section 5-2000.D.2 of the Zoning Ordinance.

The property owner has the ability to meet the Zoning Ordinance requirement and granting approval would grant him a special privilege not otherwise enjoyed by other property owners.

Staff Recommendation

Staff recommends denial of the request due to the ability of the property owner to meet the Zoning Ordinance requirements without an exception.

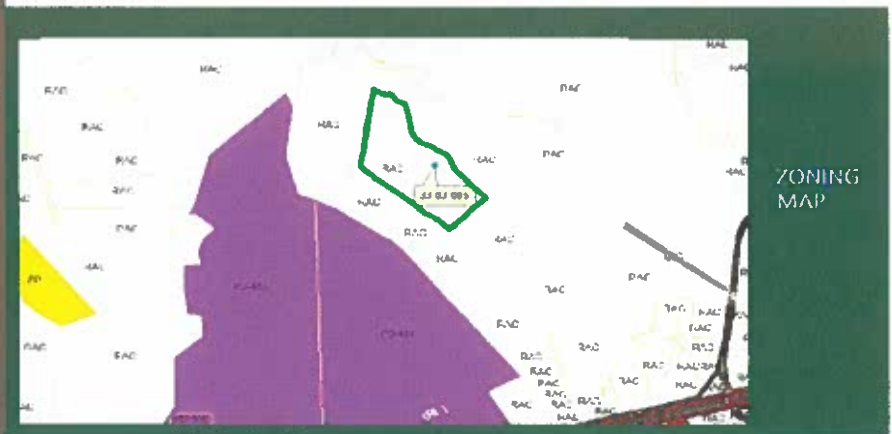
Location Map

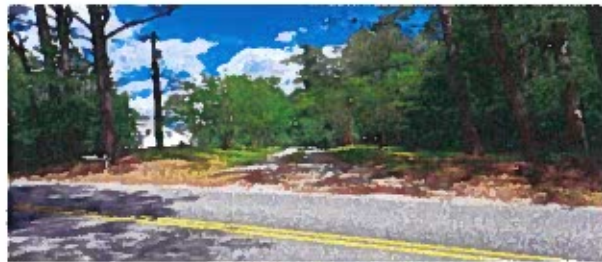


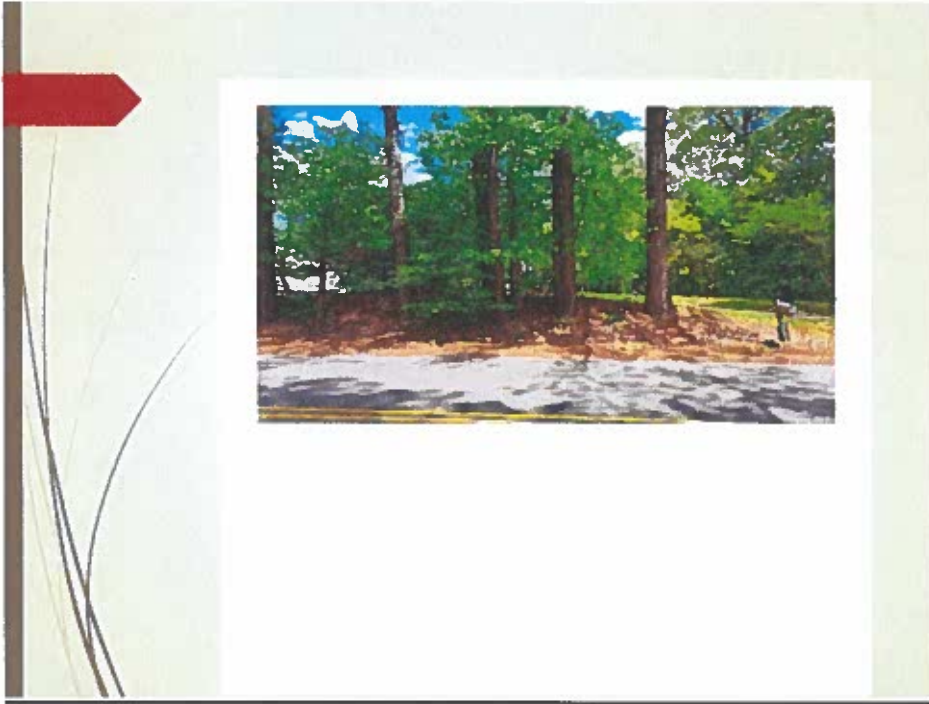
Future Recommended Land Use Map



Zoning Map







Section VI-3. Citizen Comments Time Limit: Restrictions.

The time limit for Citizen Comments is limited to five (5) minutes per person. The Chairman may, in his discretion, waive or adjust this time limitation, if the circumstances necessitate same due to the complexity of the issues. ~~Members of the public may not use the Citizen Comments portion of the agenda to speak on a matter scheduled for Public Hearing at that Commission meeting.~~ There shall be no comment during Citizens' Comments on a matter for which a public hearing is scheduled during the same meeting nor on a matter which has already been the subject of a previous public hearing where no final vote has been taken by the Commission.

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

PLANNING DIRECTORS REPORT

Amy Ring asked to move the recreational vehicles ordinance discussion to the next regular meeting.

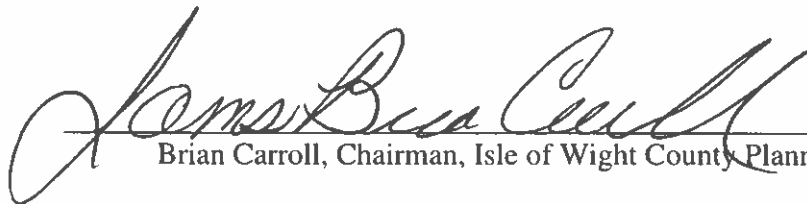
CLOSED MEETING

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

ADJOURNMENT

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

Adopted this 27 day of June, 2023.


Brian Carroll, Chairman, Isle of Wight County Planning Commission

Attest: 
Amanda Landrus, Secretary

