

A G E N D A
ISLE OF WIGHT COUNTY PLANNING COMMISSION
October 26, 2021

1. CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

2. ROLL CALL/DETERMINATION OF A QUORUM

BRIAN CARROLL, CHAIRMAN

BOBBY BOWSER, VICE-CHAIRMAN

CYNTHIA TAYLOR

JAMES FORD

THOMAS DUERIG

JENNIFER S. BOYKIN

GEORGE RAWLS

THOMAS J. DISTEFANO

GLENN SEAY

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

4. APPROVAL OF AGENDA

5. CONSENT AGENDA

- A.** SEPTEMBER 28, 2021 PLANNING COMMISSION'S REGULAR MEETING MINUTES

6. CITIZENS' COMMENTS

7. PUBLIC HEARINGS

- A.** Accelerated Properties Conditional Zoning Amendment

Application of Accelerated Properties, LLC, property owner, for an amendment to a conditional rezoning to change the permitted uses to allow for a laboratory. The property is located at 1 Monette Parkway with tax parcel number 14-02-037B and is zoned Conditional Limited Industrial (C-LI)

- B.** PROPOSED ORDINANCE REVISIONS

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

8. OLD BUSINESS

9. NEW BUSINESS

- A.** COUNTY ATTORNEY'S REPORT

- B.** PLANNING DIRECTOR'S REPORT

1. Short Term Rental and Lot Shape Ordinance Discussion

10. CLOSED MEETING

11. ADJOURNMENT

PLANNING REPORT

ATTACHMENTS:

Description	Type	Upload Date
SEPTEMBER 28, 2021 PLANNING COMMISSION'S REGULAR MEETING MINUTES	Cover Memo	10/26/2021

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

CALL TO ORDER

Brian Carroll, Chairman, called the Isle of Wight County Planning Commission meeting to order at 6:00 PM on September 28, 2021, in the Board of Supervisors Room at the Isle of Wight County Courthouse, Isle of Wight, Virginia.

INVOCATION

James Ford delivered the Invocation.

PLEDGE OF ALLEGIANCE

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

ROLL CALL/DETERMINATION OF A QUORUM

PRESENT

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

A quorum was determined.

ABSENT

Thomas Distefano
Glenn Seay

ALSO, IN ATTENDANCE

Robert W. Jones, Jr., County Attorney
Amy Ring, Community Development Director
Claire Jones, Assistant Director of Community Development, Planning and Zoning Division
Amanda Landrus, Secretary

ACTION ON REQUESTS TO WITHDRAW OR TABLE PENDING AGENDA ITEMS

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

APPROVAL OF AGENDA

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

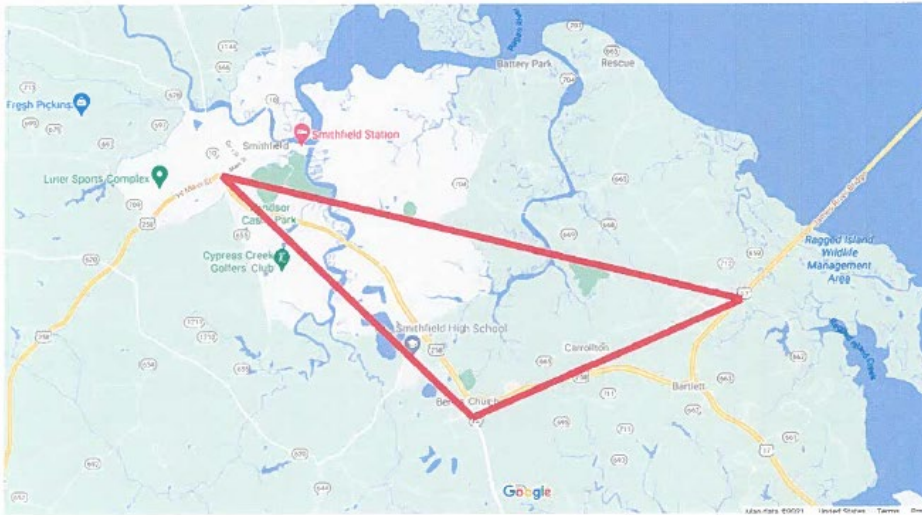
APPROVAL OF CONSENT AGENDA

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

CITIZENS' COMMENTS

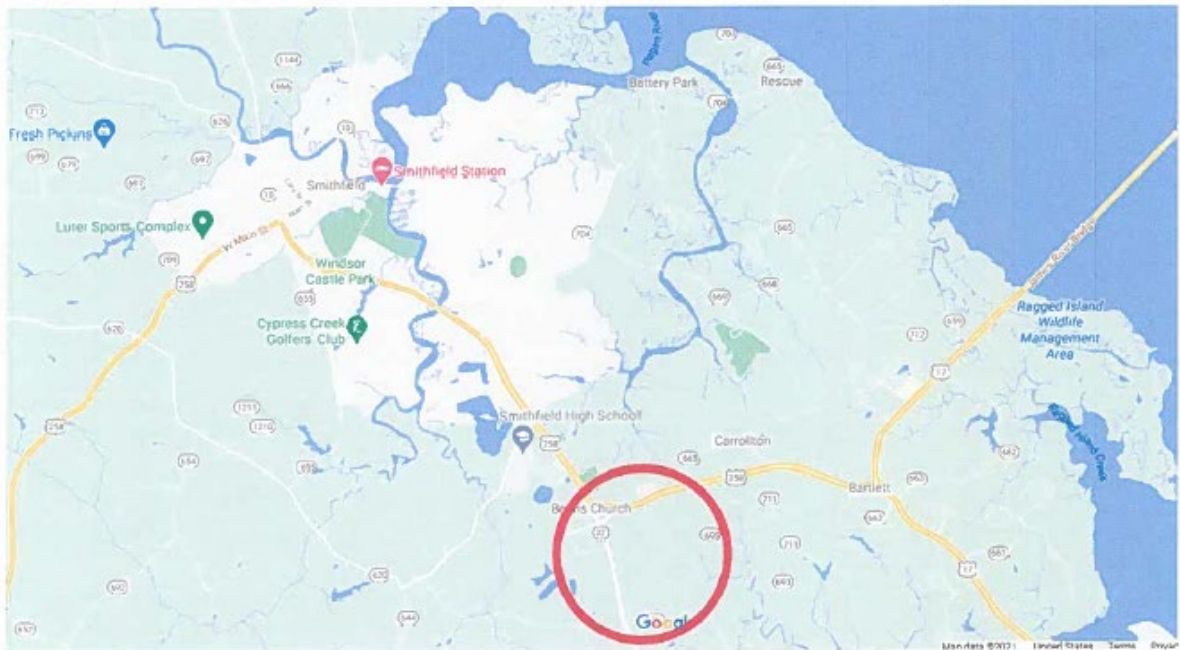
Chairman Carroll asked if there were any citizen comments.

Michael McCabe, 215 Marsh Landing, Carrollton, spoke stating he moved to Isle of Wight in 2020 and wanted to speak on some long-term development suggestions. He suggested the triangle that Smithfield, Benns Church and Carrollton create should be a focus for alternative means of transportation. Mr. McCabe also suggested the Planning Commission consider middle income townhouses for development along with the addition of more bus stations to increase accessibility. Mr. McCabe provided the Planning Commission with an exhibit.



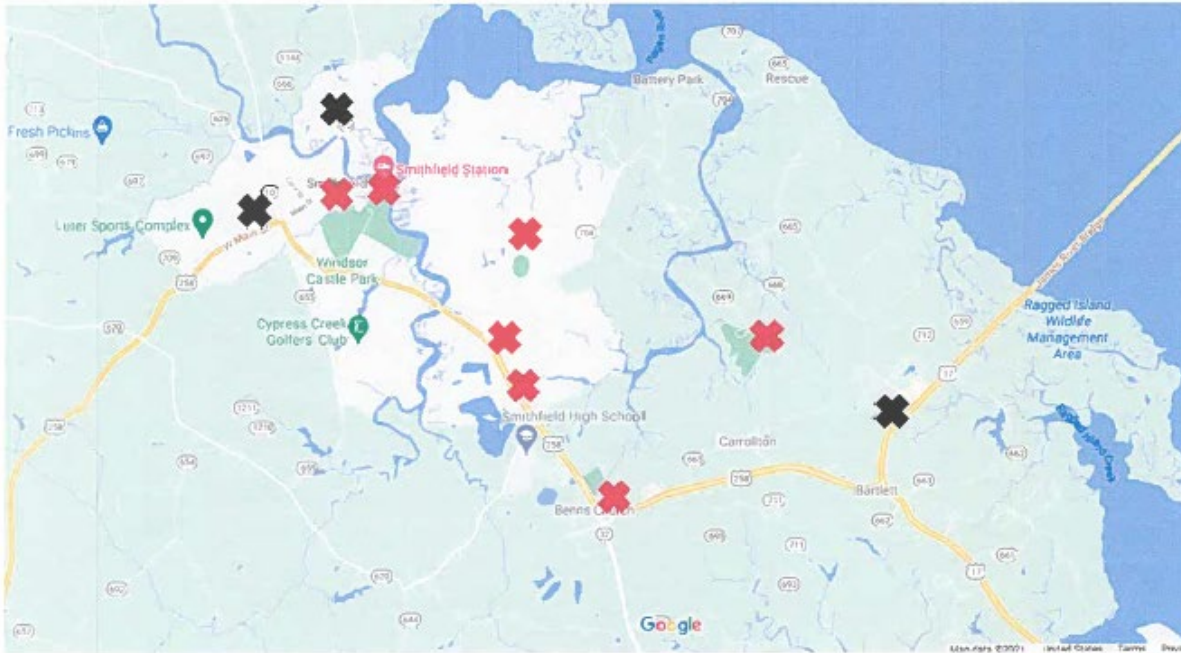
Developments in the Smithfield-Benn's Church-Carrollton Triangle

- Ideal for bike paths/walkability
- Ideal for mixed-use buildings



Proposed location for New Townhomes:

- Middle-income families (\$30,000- \$45,000 /year)
- 4-Bedroom



Proposed location for new Bus stops (Rte. 64):

- Existing locations in Black
- New locations in Red

PUBLIC HEARINGS

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

The application of Bennis Saint Luke LLC, property owner, for a conditional use permit to allow a childcare center located at 14353 Bennis Church Boulevard, Smithfield VA with tax parcel number 32-01-093. The property is in the Conditional Suburban Residential Zoning District.

Amy Ring stated that this public hearing item is coming before them again due to an error that was in the public notice for the August meeting. To prevent this rezoning from facing a potential legal challenge in the future it was decided to bring this back to the Planning Commission for a new public hearing and send it to the Board of Supervisors for their October meeting. Ms. Ring confirmed the new public hearing was advertised correctly, and the project is the same. She asked whether the Planning Commission would like to have the staff report presentation again or just bypass the presentation and hold the public hearing. Ms. Ring stated this rezoning was recommended for approval unanimously at the last meeting.

Jennifer Boykin made the motion to bypass the presentation. George Rawls seconded the motion.

Thomas Duerig commented that the Planning Commission would still allow any public comment.

Chairman Carroll clarified that the public hearing would still be open.

Chairman Carroll asked for all in favor to signify by saying aye. The motion passed unanimously.

Chairman Carroll opened the public hearing and invited anyone to speak for or against the application.

Vincent Carollo, agent for the property owner, stated he was available to clarify any answers from the previous month.

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

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

OLD BUSINESS

Ms. Ring confirmed there were no old business items.

NEW BUSINESS

Chairman Carroll called for the Planning Commission 2021 Annual Retreat Special Meeting item under New Business.

Amy Ring stated the Planning Commission By-Laws require the Planning Commission to set a date and time for any special meetings. The annual retreat is a special meeting and the Planning Commission has set October 22, 2021, as the meeting date. She added the ODU Tri-City Center has been reserved for the meeting. Ms. Ring stated that Randy Royal, a professional engineer with Kimley-Horne, was invited to speak on the different components that go into land development and the development process. Ms. Ring stated that Mr. Rawls asked for an update on the water and sewer extensions in the County and the County's Utility Service Director, Don Jennings, will give a presentation to address this topic. Ms. Ring added that Mr. Duerig suggested an update on the economic development prospects for the County, and Chris Morello, Economic Development Director, will be giving a presentation following lunch.

Mr. Duerig made the motion to hold the annual retreat on Friday, October 22, 2021, at the ODU Tri-Cities Center beginning at 8:30 AM until 4:30 PM. Mr. Rawls seconded the motion. Chairman Carroll asked for all in favor to signify by saying aye. The motion passed unanimously.

COUNTY ATTORNEY'S REPORT

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

PLANNING DIRECTOR'S REPORT

Amy Ring stated the IT department is upgrading the Planning Commission's laptops. She asked the Planning Commission to arrive an hour early at their next scheduled regular meeting or to contact the IT department to schedule an individual meeting.

Ms. Ring stated the Planning Commission previously voted to change the date of their November regular meeting to November 9, 2021, because the regular scheduled date was the week of Thanksgiving. She offered the Planning Commission may wish to do the same for the December regular meeting, since it fell the week between Christmas and New Year's holidays. Ms. Ring proposed to move the regular meeting to the work session date of Tuesday, December 14, 2021.

James Ford made a motion to move the December regular meeting to the work session date of Tuesday, December 14, 2021. Thomas Duerig seconded the motion. Chairman Carroll asked for all in favor to signify by saying aye. The motion passed unanimously.

Ms. Ring asked for the Planning Commission's approval to recognize members of the Planning Commission that recently resigned with resolutions at the October's meeting. Chairman Carroll gave staff direction to prepare the resolutions.

Chairman Carroll called for the discussion on the following item:

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

Ms. Ring gave an overview of the proposed changes to the Zoning Ordinance, Subdivision Ordinance, and Chesapeake Bay Preservation Area Ordinances..

Cynthia Taylor asked why it was proposed to remove the 200 foot set back requirement from residences on adjoining lots for a private sawmill.

Ms. Ring stated currently the ordinance requires 300 feet from any adjacent lot line.

George Rawls asked where are the requirements for ADA compliance, fire extinguishers, and smoke detectors on short term rentals located.

Ms. Ring stated this would be considered a by-right use in a private residence and didn't believe there would be a requirement, but she would verify that with the building official.

Mr. Rawls stated he believed this would be a commercial rental and should have inspections for these type of public safety requirements.

Ms. Ring stated in doing research other localities require an inspection prior to being approved to be rented out.

Mr. Rawls asked what the difference is between a short term rental and the Hampton Inn.

Thomas Duerig asked if the entire house was able to be rented out.

Ms. Ring stated at this time the whole house may be rented out.

Mr. Duerig compared this type of rental is comparable to the rentals in Nags Head.

Mr. Rawls stated it would have the ability to be advertised as ADA compliant or not but believes a fire extinguisher and smoke detector should be required.

Chairman Carroll asked what defines an owner-occupied residence.

Ms. Ring stated it would have to be the owner's primary residence for more than six months out of the year.

Ms. Taylor commented that this is being treated as a by-right use in all residential districts, however she believes there is a large difference between a lot zoned RR compared to a lot that is zoned UR. Mrs. Taylor added that she feels that smaller lots with a dense setting should not have a by-right short term rental use, but rather a conditional use would be more appropriate.

Ms. Ring asked Ms. Taylor if she would propose lots zoned RR and RAC have a by-right use, and lots with other zoning require a conditional use permit.

Ms. Taylor agreed with that statement. She stated that the Commission and the Board should consider protecting the more dense residential zoning districts from being taken over by a commercial use type.

Bobby Jones stated that rentals with five rooms or less and is occupied by the owner is exempt from ADA regulations.

James Ford asked what the County's current definition of short-term rental is.

Ms. Ring responded that the County does not currently have a definition but is proposing the following definition.

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

Mr. Jones added that any rental longer than thirty days falls under the Landlord Tenant Act which provides different rights to the tenant.

Ms. Taylor added her concern for abuse of the thirty day limit. Someone could rent for thirty days with a day break followed by another thirty days.

Mr. Ford asked if there are any regulations for signage.

Ms. Ring stated there could be no outward visible indications that the property was a short term rental.

Jennifer Boykin asked if the changes to the ordinance was because of a complaint within the County.

Ms. Ring stated the County's current ordinance allows for an owner to rent out up to two rooms to up to two unrelated people. Property owners in the County have asked that the definition be expanded to allow some flexibility to rent out a whole house or apartment.

Ms. Taylor added that may be appropriate in certain cases but would like a conditional use permit to be required for the more dense zoning districts.

Mr. Ford asked how enforcement would be handled.

Ms. Ring stated the process would start with the registration statement. The application would include a primary contact who would be responsible for resolving any complaint. If the complaint is not resolved, the County could take enforcement action on the property owner. Ms. Ring added that other localities find it difficult to enforce limits on the number of people per rental or days per year.

Ms. Taylor stated that some other localities are beginning to get inquiries about large scale battery storage areas associated with the solar farms and asked if the County has received any.

Ms. Ring responded that there has been no inquiries or application in regard to those.

Chairman Carroll asked how the County handles existing private streets that need repair.

Ms. Ring stated that if it is platted as a private ingress/egress easement on private property, the County does not have a mechanism to correct the problem. She added if it was platted as public ingress/egress, there is a process to add it to the state's Rural Additions program, which could be a twelve to fifteen year waiting period if funds are available.

Chairman Carroll asked if there is any enforcement available to require the road to be fixed.

Ms. Ring stated there is not any, especially older ones that do not have a road maintenance agreement recorded.

Bobby Bowser asked if the County still requires septic systems to be pumped out every five years.

Ms. Ring stated that if the property is in the Chesapeake Bay Preservation Area, the septic is required to be pumped out once every five years per the state mandate. She added there is a database that includes everyone in the Chesapeake Bay Preservation Area with a septic system. A letter is generated and sent out, if it is time to pump out your septic system.

Mr. Ford asked if alternative systems are required to be pumped out as well.

Ms. Ring stated the County follows the Health Department regulations for the alternative systems.

Mr. Ford asked if the Health Department is notifying the public of information pertaining to the requirements of alternative systems.

Ms. Ring stated she was not sure about their education program.

Mr. Duerig asked about the minimum lot requirement for townhomes.

Ms. Ring stated that townhomes have specific supplemental regulations that apply to them, so the changes to the minimum lot requirements would apply to single family only.

Ms. Ring suggested holding back the short term rental changes and sending the rest of the proposed changes for public hearing.

Ms. Taylor agreed and felt the short term rental section should be held back for more discussion and allow the other proposed changes to go before public hearing.

Ms. Taylor made the motion to send the ordinance revisions to public hearing with the exception of the short term rental ordinance changes. James Ford seconded the motion. Chairman Carroll asked for all in favor to signify by saying aye. The motion passed unanimously.

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 6:51 PM.

Adopted this _____ day of _____, 2021.

Chairman, Isle of Wight County Planning Commission

Attest: _____
Secretary

PLANNING REPORT

APPLICATION:

Application of Accelerated Properties, LLC, property owner, for an amendment to a conditional rezoning to change the permitted uses to allow for a laboratory. The property is located at 1 Monette Parkway with tax parcel number 14-02-037B and is zoned Conditional Limited Industrial (C-LI)

ELECTION DISTRICT:

Smithfield

LOCATION:

The subject property is located on Monette Parkway which is a private 30 foot paved road. The existing building sits on approximately 3.8 acres zoned Conditional Limited Industrial. The entire parcel consists of approximately 5.85 acres, of which approximately 1.5 acres is zoned Rural Agricultural Conservation (RAC) and consists mostly of wetlands and Resource Protection Area (RPA). The property is located outside any designated Development Service District (DSD) and is surrounded by largely agricultural land and some residential uses. To the north is another building under the same ownership that is currently used as office space and several other properties zoned RAC that are being farmed. To the south is the Pagan River and two residential structures zoned RAC along Monette Lane. To the west of the site is a single residence and a large area of agricultural lands zoned RAC. To the east is another large area of agricultural fields zoned RAC.

BACKGROUND:

The subject property is part of a parcel that was conditionally rezoned for commercial use and developed as additional office space for Smithfield Foods in the early 1980s. The property was subsequently rezoned to Conditional Limited Industrial (C-LI) in 1999 for development of a data processing facility. As a part of the 1999 rezoning, the property specifically allows for data processing and servicing of computer hardware which is classified as Business Support Services in the current Zoning Ordinance.

In June 2021, an amendment to the zoning conditions to add a garden center use without retail sales on parcel 14-02-037C was approved.

DESCRIPTION:

The applicant is requesting to amend the approved Conditional LI zoning to add a laboratory as a permitted use. No additional uses have been proposed with this amendment. The proposed use would have four employees and be located on a developed lot with an existing building and parking.

Two other parcels are also owned by the same company: 14-02-037A and 14-01-037C. No changes are proposed to the zoning for these parcels.

The existing building is a total of 19,799 square feet in size and currently contains two general office businesses. The laboratory use would occupy only the center wing of the building, which is about 5000 square feet in size. Proposed interior modifications to the building include removing existing cubicles and replacing existing fixtures. The site includes 52 existing parking spaces, which are adequate to serve the proposed laboratory use type requirement of 1 space per 1.5 employees on a major shift.

The proposed use would test products for human consumption that are found in places like GNC and other health food stores and markets. The applicant indicates that the laboratory will provide analysis to ensure the absence of prohibited or regulated material and may also provide the client with a list for labeling if requested. Some of the clients they will provide testing for are producers of vitamins, protein bars, protein shakes, pre-workout pills/drinks, and human consumption items.

According to the applicant, the testing equipment that the tenant company will use does not employ or emit any harmful or regulated substances. Laboratories that use regulated or combustible substances require additional permits from the State.

The property is currently serviced by an existing well and septic system. The Health Department has determined the existing system can accommodate the proposed change in use.

COMPREHENSIVE LAND USE PLAN:

The parcel is designated as Rural Agricultural Conservation (RAC) and Resource Conservation (RC) on the Future Recommended Land Use Map in the County Comprehensive Plan. The RAC land use is meant for very limited development and therefore is located almost exclusively outside of the DSDs. These areas should remain largely in agricultural and forest uses. Non-farm uses such as

agricultural and forest product processing and distribution, resource extraction, and uses reliant on large areas of land such as solar farms and agritourism activities might also be appropriate when sited correctly.

While the C-LI zoning of the property is not generally consistent with the future recommended RAC land use, the proposed use is typically permitted by right in the LI zoning district. This use will not include exterior alterations to the site or building, thus causing minimal impact on the property or neighboring properties.

ORDINANCE REVIEW:

The applicant has specified in the proffer statement that the only additional use to be added is a laboratory. The Zoning Ordinance includes laboratories as an office use type. Laboratories are permitted uses in the Limited Industrial zoning district, but the use was not anticipated or included in the 1999 rezoning for this parcel. As proposed, the use will include no exterior physical changes and will have no substantial impact on the surrounding community. The use itself will produce a low volume of vehicular trips generated by a maximum of four employees.

The building included in the application is existing and has been used for commercial purposes since the 1980s. This amendment will not impact public safety, schools, or services (public water and sewer or stormwater facilities) serving the existing property. There is also no anticipated increase of vehicle trips that would exceed 200 trips a day with this proposal. The proposed lot does contain a special flood hazard zone, but the existing building is located outside of this zone. This property is in the Chesapeake Bay Preservation Overlay District and includes a Resource Protection Area, but no site changes are proposed.

AGENCY REVIEW:

This application was forwarded to the following departments for their review:

- Economic Development: Economic Development supports the subject request to add the laboratory use type to the list of approved uses at this property .
- Virginia Department of Transportation: There does not appear to be any new or additional impacts to state maintained right of way with this amendment.
- Health Department: The amount of water being used can be accommodated

by the existing systems.

- County Attorney: No concerns expressed with this application.
- Inspections: No concerns expressed with this application.
- Emergency Services: No concerns expressed with this application.
- General Services: No concerns expressed with this application.

STAFF CONCLUSIONS:

Strengths:

1. Allows the reuse of an existing building and brings an additional business into the county.
2. Does not include any increase in intensity, exterior changes, or outside uses that would impact surrounding properties or onsite services.
3. The proposed use is consistent with permitted uses in the LI zoning district.

Weaknesses:

1. The proposed use is not generally consistent with the future recommended land use of RAC.

STAFF RECOMMENDATION:

Due to the low impact nature of the proposed use and the utilization of an existing building for a use otherwise permitted in the zoning district, staff recommends approval of the application.

ATTACHMENTS:

Description	Type	Upload Date
Rezoning Application	Backup Material	10/20/2021
Location Map	Backup Material	10/14/2021
Location Closeup Map	Backup Material	10/14/2021
Land Use Map	Backup Material	10/18/2021
Zoning Map	Backup Material	10/14/2021
Site Images	Backup Material	10/14/2021
Proffer Statement	Backup Material	10/14/2021

PC Resolution

Resolution

10/18/2021



Local Roots, Global Reach

ISLE OF WIGHT COUNTY, VIRGINIA

DEPARTMENT OF PLANNING AND ZONING

SUBMITTAL CHECKLIST FOR REZONING/CONDITIONAL ZONING AMENDMENT APPLICATIONS

In conjunction with Section 1-1015, *Amendments*, of the Isle of Wight County Zoning Ordinance, as amended, the following information shall be submitted for a Rezoning/Conditional Zoning Amendment Application. Please note that it is the applicant's responsibility to ensure that the application is in compliance with all Federal, State and County regulations.

No application for a rezoning shall be certified as complete unless the following information is provided; unless the required number of copies has been reduced by the Zoning Administrator.

- ☒ 1. Fifteen (15) copies of the original, executed application and one (1) original executed application. Both the applicant(s) and the property owner(s) must have their signature(s) notarized on page No. 2 of the application.
- ☐ 2. The appropriate fees have been submitted with the application. Checks should be made payable to: Treasurer, Isle of Wight County.
- ☒ 3. Fifteen (15) copies of a statement of the reasons for seeking such amendment, and if applicable, a statement of proffered conditions.
 - ☐ Any applicant proposing a conditional rezoning under the provisions of Section 1-1016, *Conditional Zoning*, of the Isle of Wight County Zoning Ordinance shall submit fifteen (15) copies of the signed proffer statement and one (1) original signed proffer statement. Proffered conditions shall be signed by the owner(s) of the property.
- ☒ 4. Fifteen (15) copies of a narrative description of the property which shall include the Tax Parcel Identification Number.
- ☒ 5. One (1) copy of the most recent deed of the property to be rezoned.
- ☐ 6. For residential subdivisions of five (5) or more lots, planned development, commercial, industrial, or miscellaneous rezoning/conditional zoning amendment applications, a concept plan of the property to be rezoned shall be submitted by the applicant. Such document shall be drawn to scale and shall include the following information:
 - ☐ A vicinity map at a scale of no less than one (1) inch equals two thousand (2,000) feet
 - ☐ Title of drawing
 - ☐ Date of drawing
 - ☐ Existing wood line
 - ☐ North arrow
 - ☐ Scale bar
 - ☐ Current zoning of parcel(s) to be rezoned, including tax map number(s) and owner(s)
 - ☐ Current zoning of adjacent parcel(s), including tax map number(s) and owner(s)
 - ☐ Street names including route number and width(s) of the right-of-way(s)
 - ☐ Fifteen (15) full size copies, with one (1) reduced 11-inch X 17 inch copy shall be submitted
 - ☐ Please note that additional information on the site layout may be requested by the Zoning Administrator during the review process in order to more effectively review the application and prepare the staff reports for the Planning Commission and Board of Supervisors.

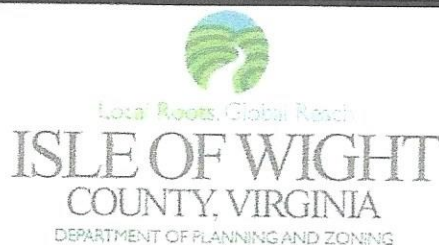
- ☐ 7. Fifteen (15) copies of such supplemental material as may be necessitated by the proposal itself or the district in which located or proposed to be located, and in accordance with Section 5-5000, *Supplementary Use Regulations*, of the Isle of Wight County Zoning Ordinance.
- ☐ 8. For residential subdivisions of five (5) or more lots, planned development, commercial, industrial, or miscellaneous rezoning/conditional zoning amendment applications, a Community Impact Statement is required in accordance with Section 1-1015.F, *Community Impact Statement*, of the Isle of Wight County Zoning Ordinance as amended on January 6, 2011. Please refer to Section 1-1015.F for detailed requirements of the Community Impact Statement. Fifteen (15) copies of the Community Impact Statement are required and shall include the following:
- ☐ Adequacy of Existing Public Facilities and Services
 - ☐ Additional On-site and Off-site Public Facilities and Services
 - ☐ Traffic Impact Analysis for projects exceeding 200 ADT, or when requested by the Zoning Administrator
 - ☐ Fiscal Impact Analysis, if the project includes residential dwellings (optional for projects without a residential component)
- ☐ 9. Fifteen (15) copies of a Water Quality Impact Assessment shall be required for any rezoning in the Chesapeake Bay Preservation Area which:
- ☐ will disturb any portion of the 100-foot buffer area of a Resource Protection Area (RPA), or any component identified in Section 3000.B.1 of the Chesapeake Bay Preservation Area Ordinance;
 - ☐ contains ten (10) acres or more for any use, other than a development of single family detached residential lots;
 - ☐ contains twenty-five (25) acres or more for the development of single family detached residential lots; or,
 - ☐ any other development that may warrant such assessment due to the unique characteristics of the site or intensity of the proposed use or development, as may be required by the Zoning Administrator.
- ☐ 10. For Planned Development, fifteen (15) copies of the required supplemental information shall be submitted in accordance with Section 4-14005, *Submission Requirements*, of the Isle of Wight County Zoning Ordinance. Please refer to Section 4-14005 for a detailed list of the submission requirements.
- ☒ 11. All real estate taxes must be paid and current at the time of submittal; otherwise, the submittal will be refused at the counter. Proof of the most recent tax payment to the County must accompany the application.
- ☒ 12. Voluntary Proffer Statement
- ☐ 13. Estoppel Certifications

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

Signature

Date

7-22-21



APPLICATION FOR REZONING/CONDITIONAL ZONING AMENDMENT

This application should be used to petition for a change to the Official Zoning Map or for an amendment of zoning conditions. The following application requirements are consistent with the procedures set forth in Section 1-1015, *Amendments*, of the Isle of Wight County Zoning Ordinance, as amended.

A. APPLICATION FOR (CHECK ALL THAT APPLY):

☐ Rezoning

☐ Conditional Rezoning (Are voluntary proffered conditions attached?): ☐ Yes ☐ No

Request to change the subject property(s) from the _____ to the _____ zoning district.

Proposed Use or Activity: _____

☒ Amendment to Conditional Zoning

Request to change conditional zoning as follows (Attach current and proposed conditions): _____

Add Laboratory to the list of approved uses

B. PROJECT DESCRIPTION:

Project Name: Laboratory Rental Client

Property Address (if any): 4 Monetta Pkwy, Smithfield, VA 23430

Election District: Smithfield

Comprehensive Plan Designation: Rural Agriculture Conservation

The rezoning will apply to 5.85 acres out of 5.85 total acres

Tax Parcel Identification # 14-02-0378 Number of Acres to be Rezoned: 5.85

Requesting Zoning District Change from: _____ to _____

Tax Parcel Identification # _____ Number of Acres to be Rezoned: _____

Requesting Zoning District Change from: _____ to _____

Tax Parcel Identification # _____ Number of Acres to be Rezoned: _____

Requesting Zoning District Change from: _____ to _____

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

Public Sewer ☐ Private Septic ☐

C. **APPLICATION INFORMATION:**

Applicant(s) Name(s): Accelerated Properties LLC

Address: 39 Monette Pkwy

City, State, Zip Code: Smithfield, VA 23430

Phone No.: 757 675-7955 Email: josh@4aats.net Fax No.: _____

Property Owner(s) Name(s): Same

Address: _____

City, State, Zip Code: _____

Phone No.: _____ Email: _____ Fax No.: _____

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

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

Applicant: Joshua Tawes
Printed or Typed Name

Applicant: [Signature] Date: 7-22-21
Signature

County of Isle of Wight, Commonwealth of Virginia

Subscribed and sworn to before me Cynthia Lynn Holbrooks,
A Notary Public in and for the County of Isle of Wight,
Commonwealth of Virginia, this 22 day of July, 2021

[Signature]
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7721474
My Commission Expires November 30, 2021

Owner: Anthony Stile
Printed or Typed Name

Owner: [Signature] Date: 7-21-21
Signature

County of Isle of Wight, Commonwealth of Virginia

Subscribed and sworn to before me Cynthia Lynn Holbrooks,
A Notary Public in and for the County of Isle of Wight,
Commonwealth of Virginia, this 22 day of July, 2021

[Signature]
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7721474
My Commission Expires November 30, 2021

Owner: _____
Printed or Typed Name

Owner: _____ Date: _____
Signature

County of Isle of Wight, Commonwealth of Virginia

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

Notary Public

My Commission Expires _____

Owner: _____
Printed or Typed Name

Owner: _____ Date: _____
Signature

County of Isle of Wight, Commonwealth of Virginia

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

Notary Public

My Commission Expires _____

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

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

FOR OFFICE USE ONLY:

Complete Application Received On: _____ Fees Paid: _____
Tax Query: ☐ Current ☐ Delinquent Distribution Date: _____
Posted/Date to Post: _____

AGENCIES REFERRALS:

____ Department of Conservation & Recreation
____ Economic Development
____ Emergency Services
____ General Services
____ Environmental Planner
____ Health Department
____ Transportation Manager
____ Commission of Revenue
____ Other _____

____ Inspections
____ Sheriff's Office
____ Town of Smithfield
____ Town of Windsor
____ VDOT
____ Schools
____ Budget & Finance
____ County Attorney

Verified By: _____ Date: _____

COUNTY OF ISLE OF WIGHT

DISCLOSURE OF REAL ESTATE HOLDINGS

Applicant Accelerated Properties LLC
 Address 39 Monette Pulcy
Smithfield Street VA 23430
 City State Zip

REAL ESTATE HOLDINGS TO BE AFFECTED

Location or Address	Description
<u>1 Monette Pulcy</u>	<u>Office Building on 5.85 acres</u>

OTHER OWNERS OF AFFECTED REAL ESTATE

(Not Required for Corporation whose stock is traded on a national or local stock exchange or having more than 500 shareholders.)

Name of Individuals Corporation/Partnership Business Association	Address
<u>Anthony Stile</u>	<u>419 Muirfield Smithfield</u>
<u>Joshua Towers</u>	<u>1511 James River way Smithfield</u>

Does any member of the Isle of Wight County Planning Commission or governing body have any interest in such property, either individually, by ownership of stock in a corporation owning such land, partnership, as the beneficiary of a trust, or the settlor of a revocable trust, or whether a member of the immediate household of any member of the Planning Commission or governing body has any such interest? Yes ☐ No ☒

If yes, names of members:

I do solemnly swear that the foregoing statement(s) and attachments(s), if any, are complete, correct and true.

Applicant: Joshua Towers Applicant: [Signature] Date: 7-22-21
 Printed or Typed Name Signature

Commonwealth of Virginia
 County of Isle of Wight

Subscribed and sworn to before me Cynthia Lynn Holbrooks
 A Notary Public in and for the County of Isle of Wight, Commonwealth
 of Virginia, this 22 day of July, 2021.

[Signature]
 Notary Public

My Commission Expires November 30, 2021



Cynthia Lynn Holbrooks
 NOTARY PUBLIC
 Commonwealth of Virginia
 Reg. #7721474
 My Commission Expires
 November 30, 2021

Statement of Reason

Accelerated Properties LLC
39 Monette Parkway
Smithfield, VA 23430

July 27, 2021

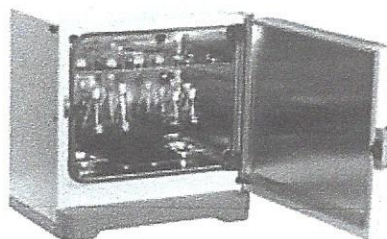
To Whom It May Concern,

Accelerated Properties LLC has submitted an application with a request to amend the conditional zoning for our commercial property building located at 1 Monette Parkway Smithfield, VA 23430, parcel number 14-02-037B. The property is currently zoned Conditional Limited Industrial with use permits for general office data processing and servicing computer hardware per the 1999 rezoning. We would like to add the use "Laboratory" which is a permitted use under Limited Industrial. This amendment will allow us to secure a tenant for this building. The potential tenant will provide testing for a variety of human consumption items. Most of the products tested are not "conventional foods" therefore are not as strictly regulated by the FDA. These items would be considered nutraceutical and are regulated by the Dietary Supplement Health and Education Act of 1994 (DSHEA) and the Office of Dietary Supplement Programs (ODSP). These products are found in places like GNC and other Health Food Stores and Markets. The Lab will provide clients with analysis to ensure the absence of prohibited/regulated material, the Lab can also provide the client a list for labeling if required. Some of the customers they will provide testing for are producers of vitamins, protein bars, protein shakes, pre-workout pills/drinks, and human consumption items for sale from independent small farms ect. The testing equipment they use **does not** use or emit any harmful or regulated substances. Laboratories that use regulated/combustible substances require additional permits from the State. Below is an example of the types of equipment the Lab will use:

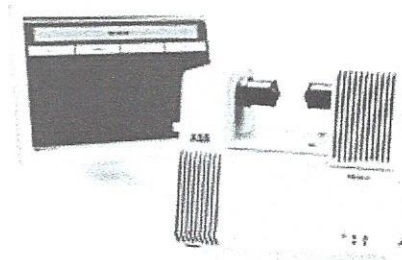
Centrifuge



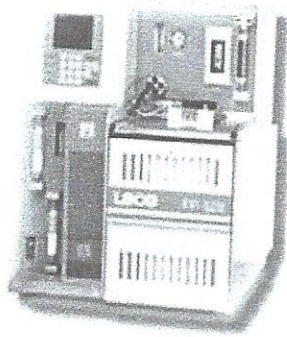
Incubator Shakers



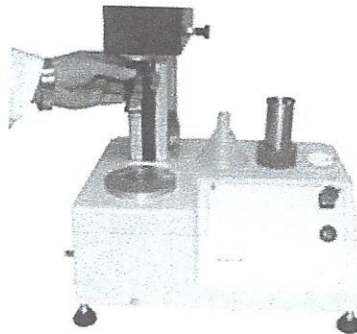
NIR Analyzer



Protein Determinator



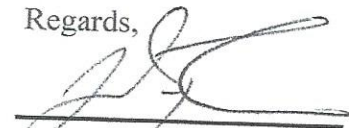
Gluten Characterization System



The Lab plans to have four full time employees and anticipates six to seven hundred thousand dollars in gross revenue receipts the first year. There are currently 60 parking spots designated to that building which is more than sufficient for the tenants proposed 4 full time employees. A private well and septic system service the building and is more than adequate for the number of employees.

Thank you for your time and consideration in this matter.

Regards,


Joshua Tawes - CEO

COUNTY OF ISLE OF WIGHT PROFFER STATEMENT

Applicant's name(s): Accelerated Properties LLC
Owner's name(s): Accelerated Properties LLC
Project name: Date: Laboratory
Parcel-Tax Map Numbers and deed book reference: 14-02-37B

These proffers are made as of the 27th of July 2021 by Accelerated Properties LLC, of Tax Map Number 14-02-37B, containing approximately 3.8 acres of land which is referred to herein as the "Property". Owner has filed a rezoning application with the Isle of Wight County Planning and Zoning Department requesting to add allowable uses of the Property all of which are contained in the permitted uses under Limited Industrial, we request to add the use Laboratory to the existing general office and data processing proffers. Owner voluntarily proffers that the development of the Property proposed for rezoning under this application shall be in strict accordance with the conditions set forth below.

These proffered conditions ("Proffers") are the only conditions offered on this rezoning. All improvements, land, easements, dedications, gifts, proffers, and other conveyances to the County shall be in fee simple, without cloud of title or encumbrance of any kind. I.

Land Use

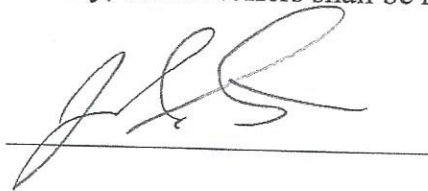
The property shall be used as permitted under the Conditional Limited Industrial Zoning and more specifically for general office, data processing and Laboratory.
Any use not listed shall be expressly prohibited on the property.

General

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 Owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

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 owner of any portion of the Property or to any government agency is he is 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.

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.



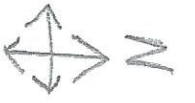
Name Applicant: Accelerated Properties LLC
by Joshua Tawes

Commonwealth of Virginia County of Isle of Wight
Subscribed and sworn to before me Cynthia Holbrooks, A Notary Public in and for the County of
Isle of Wight Commonwealth of Virginia, this 22 day of July 2021.

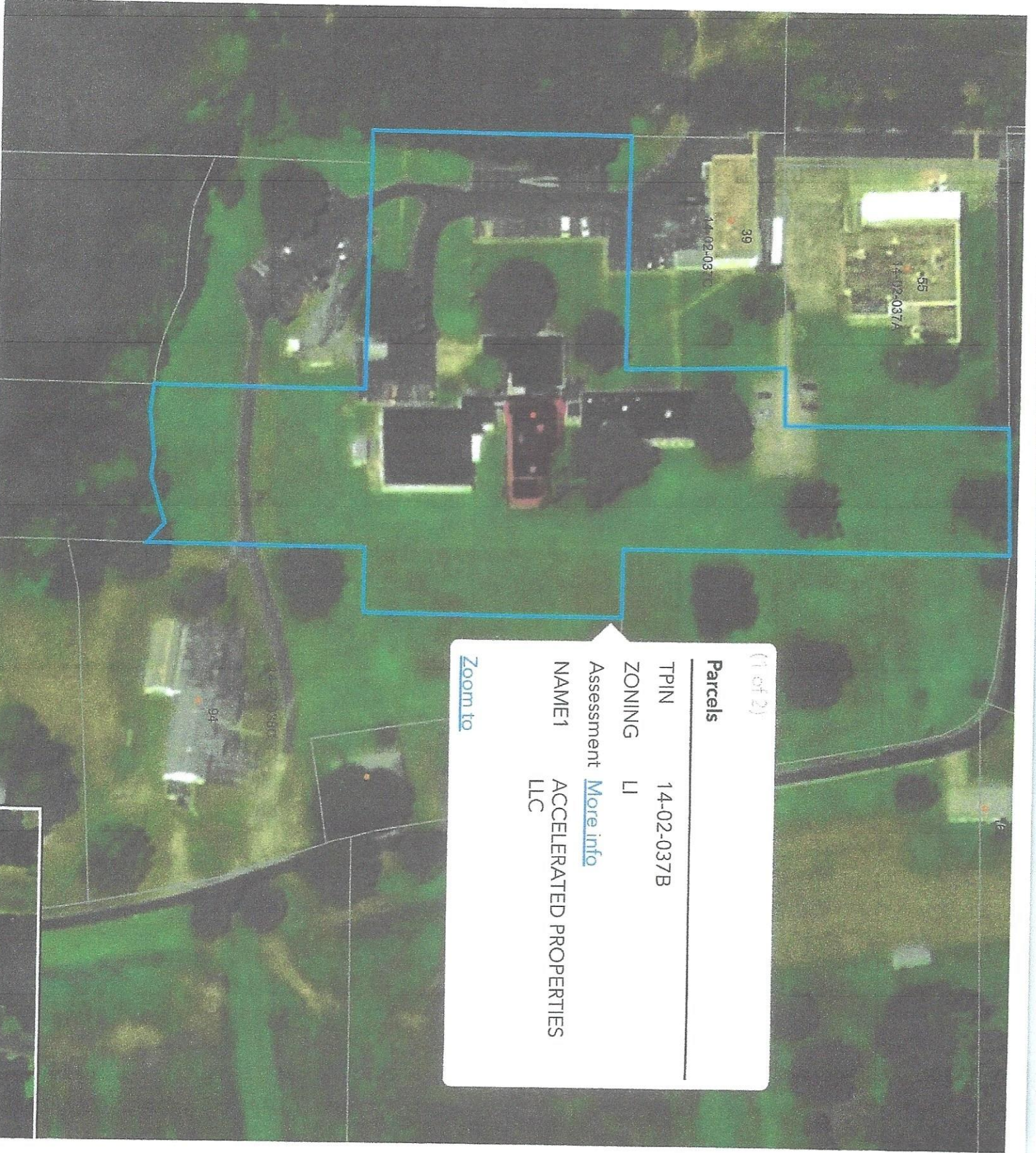
My Commission Expires November 30, 2021



Cynthia Lynn Holbrooks
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7721474
My Commission Expires
November 30, 2021



The area highlighted in red is the space the tenant would like to rent, approximately 5000 sqft



(1 of 2)

Parcels

TPIN	14-02-037B
ZONING	LI
Assessment	More info
NAME1	ACCELERATED PROPERTIES LLC

[Zoom to](#)

mc Isle of Wight County, VA

Isle of Wight County, Virginia - Code of Ordinances / APPENDIX B. - ZONING.* / Article IV. - Zoning Districts and Boundaries

VERSION: FEB 24, 2021 (CURRENT) ▼

District.

> Part 8. - Urban Residential (UR) District.

> Part 9. - Limited Commercial (LC) District.

> Part 10. - General Commercial (GC) District.

> Part 11. - Limited Industrial (LI) District.

Sec. 4-11001. - General descriptions.

Sec. 4-11002. - Permitted uses.

Sec. 4-11003. - Conditional uses.

Sec. 4-11004. - Lot size requirements.

Park and ride facility

Public sport/events facility

* Public maintenance and service facility

Public safety service

Transit station

* Utility service/minor

C. Office uses:

General office

Laboratory

D. Commercial uses:

Auction establishment

Business or trade school

Car wash

Commercial indoor amusement

PG187 JUN.29.2012

EXHIBIT A

Property Description

PARCEL I - Tax Parcel 14-02-037A

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, and the privileges and rights thereunto appertaining, situate, lying, and being in the County of Isle of Wight, Virginia, and being numbered and designated as "Now Or Formerly Monette Information Systems, Zoned Conditional Limited Industrial (C-LI), Tax Map 14(2), Parcel 37A" on that certain subdivision plat (the "Subdivision Plat") entitled "Subdivision of Property of Monette Information Systems Corporation and ATG Investments, Hardy Magisterial District, Isle of Wight County, Virginia, Scale: 1" = 60'", dated August 9, 1999, and prepared by Ernest C. Hawkins, Jr., and Associates, Surveyors and Planners, and recorded in the Clerk's Office (the "Clerk's Office") of the Circuit Court of Isle of Wight County, Virginia, in Plat Cabinet 2, Slide 68, Page 13, and being more particularly described as follows:

BEGINNING at a point on the southern right of way of State Route 673 (Day's Point Road), thence S 12° 3' 15" W 2127.31' to a point; thence S 79° 24' 43" E 30.00' to a point, said point being the southwest corner of such lot and the Point of Beginning; thence from the Point of Beginning, N 12° 3' 15" E 208.53' to a point; thence S 79° 24' 43" E 247.61' to a point thence S 12° 3' 15" W 208.53' to a point; thence N 79° 24' 43" W 247.61' to the Point of Beginning.

TOGETHER WITH a non-exclusive right and easement of ingress/egress to and from State Route 673 upon, over, across and through that certain area depicted and shown on the Subdivision Plat as "30' Ingress/Egress Easement", which constitutes a portion of that certain road commonly known and designated by the County of Isle of Wight as "Monette Parkway".

IT BEING a portion of the same property conveyed to ATG Investments, LLP by deed from Monette Information Systems Corporation dated December 31, 2003 and recorded December 31, 2003 in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia in Instrument Number 0310365.

PARCEL II - Tax Parcel 14-02-037B

First:

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, and the privileges and rights thereunto appertaining, situate, lying, and being in the County of Isle of Wight, Virginia, and being numbered and designated as "Now Or Formerly Monette

Information Systems Corporation, Zoned Conditional Limited Industrial (C-LI), Tax Map 14(2), Parcel 37B" on the Subdivision Plat, and being more particularly described as follows:

BEGINNING at a point on the southern right of way of State Route 673 (Day's Point Road), thence S 12° 3' 15" W 2127.31' to a point; thence S 79° 24' 43" E 30.00' to a point; thence S 79° 24' 43" 247.61' to a point; thence N 12° 3' 15" E 208.53' to a point, said point being the northwest corner of such lot and the Point of Beginning; thence from the Point of Beginning, S 79° 24' 43" E 120.06' to a point; thence S 12° 3' 12" W 361.55' to a point; thence S 77° 56' 45" E 63.74' to a point; thence S 12° 3' 15" W 241.15' to a point; thence N 77° 56' 45" W 455.28' to a point; thence N 12° 3' 15" E 241.15' to a point; thence S 77° 56' 45" E 216.54' to a point; thence N 12° 3' 15" E 148.54' to a point; thence S 79° 24' 43" E 55.00' to a point; thence N 12° 3' 15" E 208.53' to the Point of Beginning.

TOGETHER WITH a non-exclusive right and easement of ingress/egress to and from State Route 673 upon, over, across and through that certain area depicted and shown on the Subdivision Plat as "30' Ingress/Egress Easement", which constitutes a portion of that certain road commonly known and designated by the County of Isle of Wight as "Monette Parkway".

LESS SAVE AND EXCEPT that parcel of land described as "Parcel 'A'" on that plat entitled "Plat Showing Property Exchange Between Alan V. Monette and ATG Investment L.L.P., Isle of Wight County, Virginia", dated May 25, 2004 by Ernest C. Hawkins, Jr. and Associates, and recorded in the Clerk's Office of the Circuit Court of Isle of Wight County in Plat Cabinet 2, Slide 135, page 2.

IT BEING a portion of the same property conveyed to ATG Investments, LLP by deed from Monette Information Systems Corporation dated December 31, 2003 and recorded December 31, 2003 in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia in Instrument Number 0310365.

Second:

ALL THOSE certain lots, pieces or parcels of land situate, lying and being in Hardy Magisterial District, Isle of Wight County, Virginia shown and identified as "PARCEL B-1" and "PARCEL B-2" on that certain plat of survey entitled "Plat Showing Property Exchange Between Alan V. Monette and ATG Investment L.L.P., Scale: 1" = 100' May 25, 2004", made by Ernest C. Hawkins, Jr., Land Surveyor, a copy of which plat is recorded in Plat Cabinet 2, Slide 135, page 2 in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia, reference to which plat is here made for a more complete metes and bounds description.

IT BEING the same property conveyed to ATG Investments by deed from Alan V. Monette dated December 31, 2004 and recorded May 13, 2005 in the Clerk's Office of the Circuit Court of Isle

PG169 JUN.29.2012

of Wight County, Virginia in Instrument Number 053291, and further by deed from Alan V. Monette, Thomas E. Joyner, and Gary A. Surma dated December 31, 2004 and recorded May 13, 2005 in the aforesaid Clerk's Office in Instrument Number 053296.

PARCEL III - Tax Parcel 14-02-037C

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, and the privileges and rights thereunto appertaining, situate, lying, and being in the County of Isle of Wight, Virginia, and being numbered and designated as "Parcel A ATG Investments, Zoned Conditional Limited Industrial (C-LI), Tax Map 14(2), Parcel 37C" on the Subdivision Plat recorded in Plat Cabinet 2, Slide 68, Page 13.

TOGETHER WITH a non-exclusive right and easement of ingress/egress to and from State Route 673 upon, over, across and through that certain area depicted and shown on the Subdivision Plat as "30' Ingress/Egress Easement", which constitutes a portion of that certain road commonly known and designated by the County of Isle of Wight as "Monette Parkway".

IT BEING a portion of the same property conveyed to ATG Investments by Deed from Monette Investment Associates dated January 31, 1994 and recorded February 3, 1994 in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia in Deed Book 430 at page 284.

PARCEL IV - Tax Parcel 14-02-038A

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, and the privileges and rights thereunto appertaining, situate, lying, and being in the County of Isle of Wight, Virginia, and being numbered and designated as "Parcel B, 4.891 AC." on that certain plat entitled "Plat Showing Property of ATG Investments, Hardy Magisterial District, Isle of Wight County, Virginia, Scale: 1" = 100 FT, August 19, 1991, Earnest C. Hawkins, Jr., & Associates, Surveyors and Planners, Suffolk, Virginia", and recorded in the Clerk's Office in Plat Cabinet 2, Slide 12, Page 8.

TOGETHER WITH a non-exclusive right and easement of ingress/egress to and from State Route 673 upon, over, across and through that certain area depicted and shown on the Subdivision Plat as "30' Ingress/Egress Easement", which constitutes a portion of that certain road commonly known and designated by the County of Isle of Wight as "Monette Parkway".

IT BEING a portion of the same property conveyed to ATG Investments by Deed from Monette Investment Associates dated January 31, 1994 and recorded February 3, 1994 in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia in Deed Book 430 at page 284.

[Handwritten signature]

INSTRUMENT #120003090
RECORDED IN THE CLERK'S OFFICE OF
ISLE OF WIGHT COUNTY ON
JUNE 29, 2012 AT 03:24PM
\$1,500.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-402 OF THE VA. CODE
STATE: \$750.00, LOCAL: \$750.00

COMMONWEALTH OF VIRGINIA

IN SENATE,
January 11, 1961.

REPORT OF THE COMMISSIONER OF THE
DEPARTMENT OF SOCIAL SERVICES
ON THE
ANNUAL REPORT OF THE
DEPARTMENT OF SOCIAL SERVICES
FOR THE YEAR 1960.

ADOPTED BY THE SENATE
January 11, 1961.

127930

PG 180 JUN 29 2012

(Y)

Tax Parcels: 14-02-037A; 14-02-037B; 14-02-037C; 14-02-038A
Consideration: \$1,395,000
Title Underwriter: Fidelity National Title Insurance Company

Return Instrument to:
BridgeTrust Title Group
Virginia Beach, VA

This instrument prepared by:
Willcox & Savage, P.C.
440 Monticello Ave., Ste. 2200
Norfolk, Virginia 23510
Attn: Gregory D. Lydon, Esq.

DEED OF BARGAIN & SALE

THIS DEED OF BARGAIN & SALE (this "*Deed*") is made as of the 29th day of June, 2012, by and between ATG INVESTMENTS, LLP, a Virginia limited liability partnership ("*Grantor*"), a grantor for indexing purposes; and ACCELERATED PROPERTIES LLC, a Virginia limited liability company, as grantee for indexing purposes ("*Grantee*"), whose address is 4016 Raintree Road, Suite 140A, Chesapeake, VA 23321.

WITNESSETH:

THAT for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, bargains, sells and conveys with Special Warranty unto Grantee, in fee simple, the following described tract or parcel of land located in Isle of Wight County, Virginia, with the improvements thereon (the "*Property*"), to-wit:

SEE EXHIBIT A ATTACHED HERETO AND
INCORPORATED BY REFERENCE HEREIN.

Without limiting the foregoing, this conveyance is also made expressly subject to all covenants, conditions, restrictions, easements and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the property hereby conveyed that have not expired by time limitation contained therein or otherwise become ineffective.

[Counterpart signature pages begin on the following page.]

IN WITNESS WHEREOF, the undersigned has executed this Deed under seal.

ATG INVESTMENTS, LLP, a
Virginia limited liability partnership

By: Alan V. Monette (SEAL)
Alan V. Monette
Managing General Partner

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Richmond, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Alan V. Monette, as Managing General Partner of ATG Investments, LLP, whose name is signed to the foregoing document, appeared before me and personally acknowledged the same in my jurisdiction aforesaid, for the purposes therein stated.

GIVEN under my hand and seal this 25 day of June, 2012.

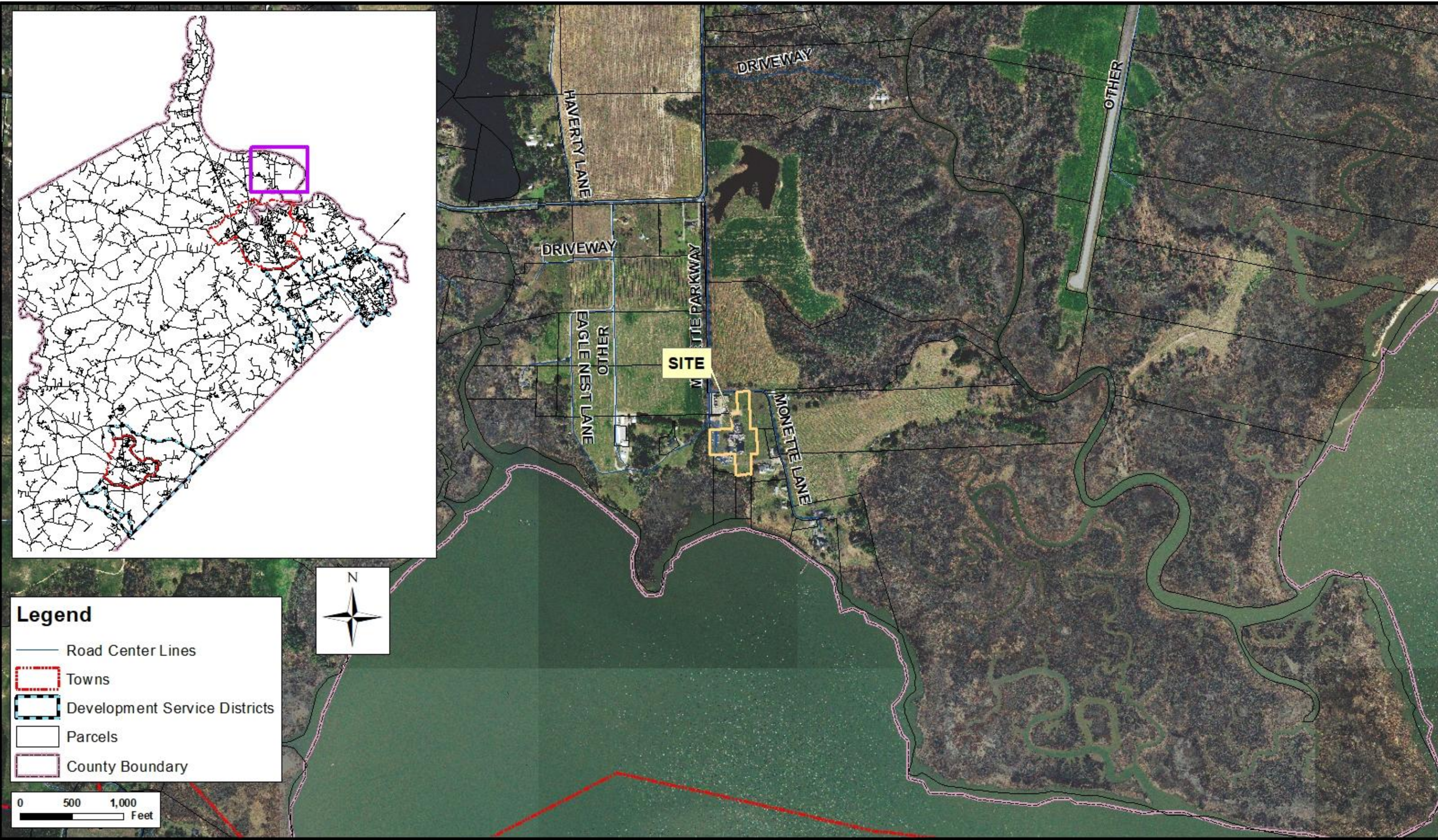
My commission expires: 11/15/13
Alan V. Monette
Notary Public

Notary Registration Number: 200000

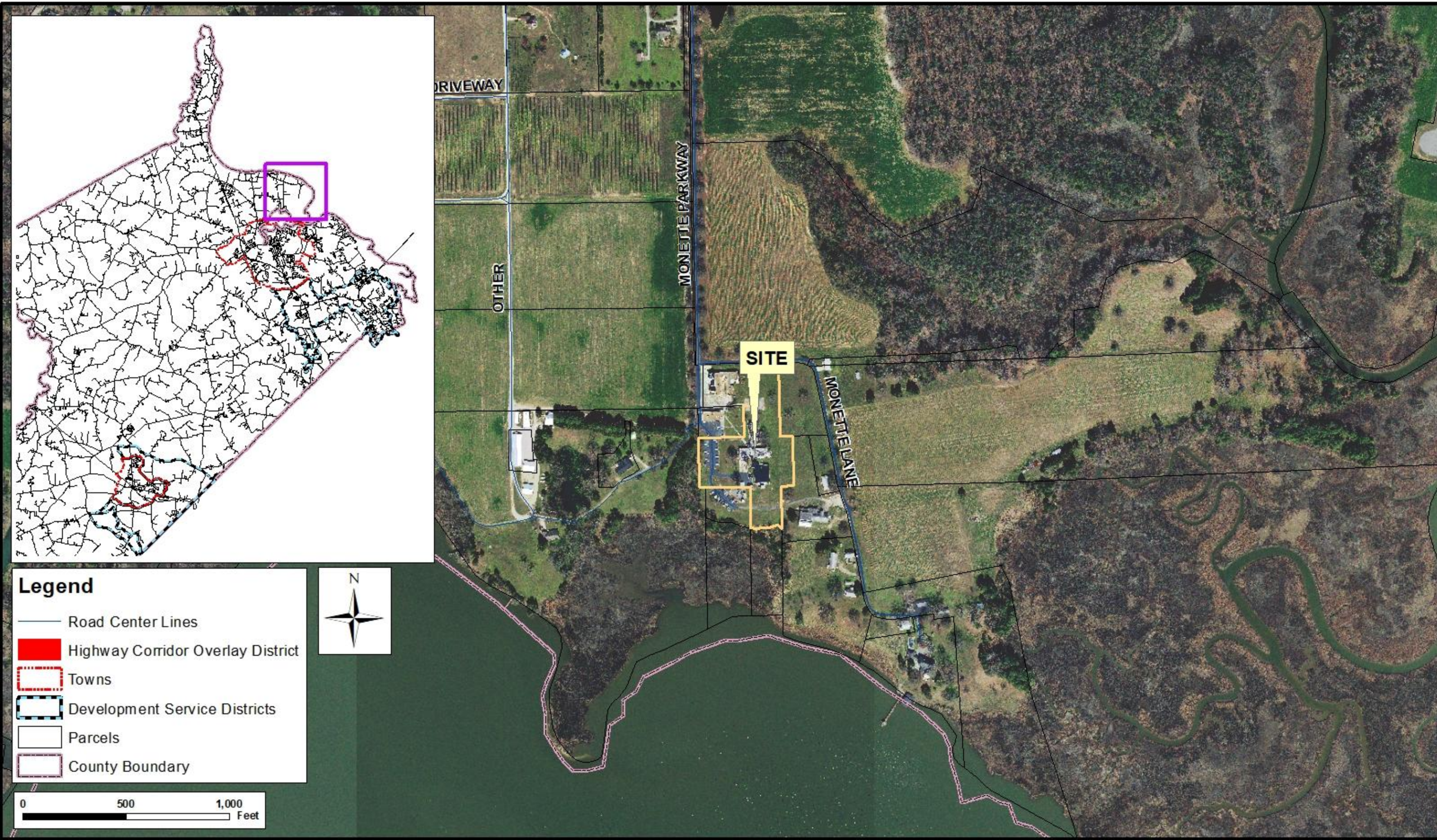
(SEAL)



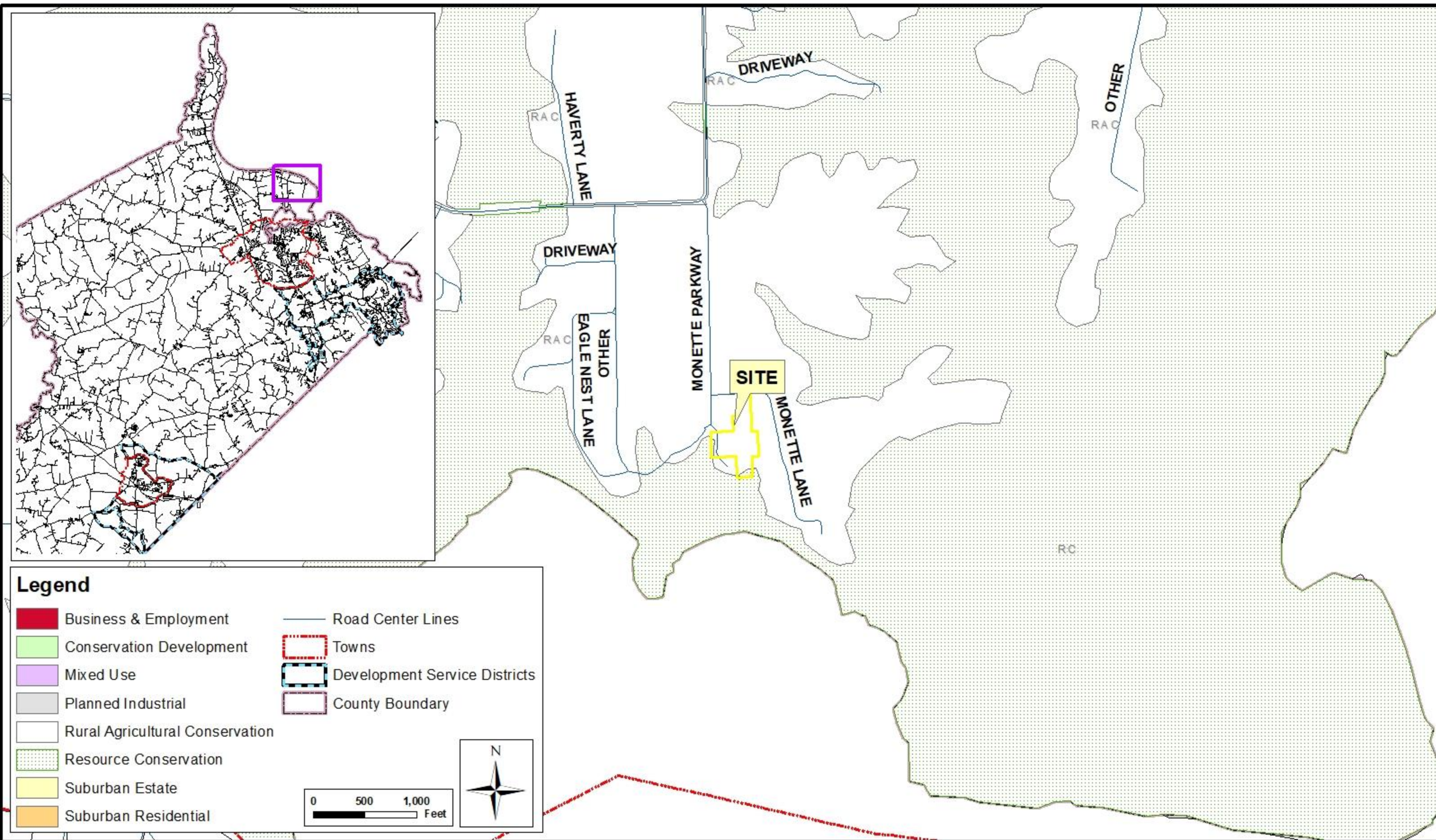
ZA-07-21 Amendment to Conditional Zoning - Location Map



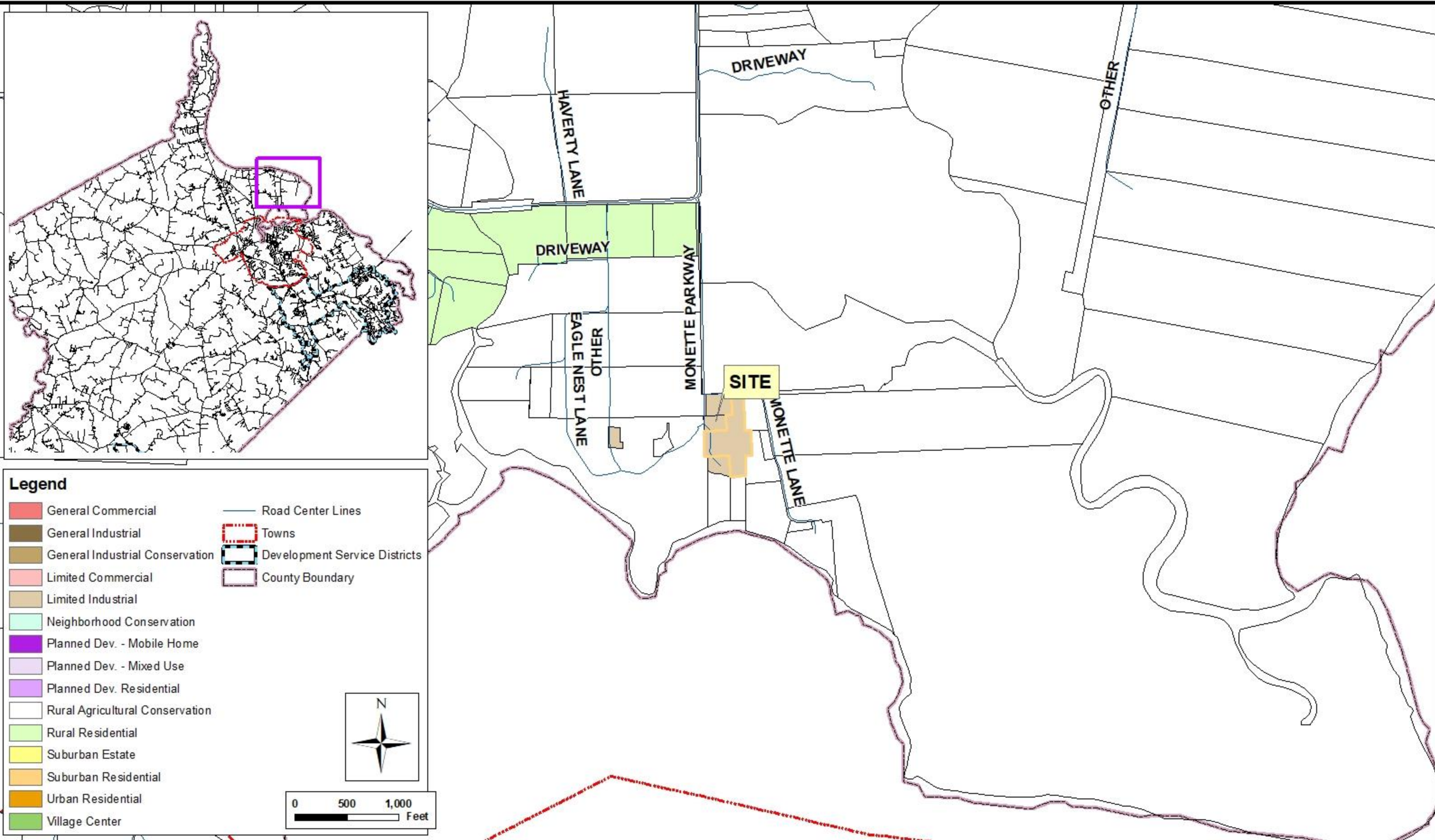
ZA-07-21 Amendment to Conditional Zoning - Location Closeup



ZA-07-21 Amendment to Conditional Zoning - Land Use Map



ZA-07-21 Amendment to Conditional Zoning- Zoning Map





Monette Parkway 30' private lane



A portion of the existing parking



Northern portion of the existing building



Center portion of the existing building



Southern portion of the existing building



Looking south from the site towards the Pagan River

COUNTY OF ISLE OF WIGHT PROFFER STATEMENT

Applicant's name(s): Accelerated Properties LLC

Owner's name(s): Accelerated Properties LLC

Project name: Date: Laboratory

Parcel-Tax Map Numbers and deed book reference: 14-02-37B

These proffers are made as of the 27th of July 2021 by Accelerated Properties LLC, of Tax Map Number 14-02-37B, containing approximately 3.8 acres of land which is referred to herein as the "Property". Owner has filed a rezoning application with the Isle of Wight County Planning and Zoning Department requesting to add allowable uses of the Property all of which are contained in the permitted uses under Limited Industrial, we request to add the use Laboratory to the existing general office and data processing proffers. Owner voluntarily proffers that the development of the Property proposed for rezoning under this application shall be in strict accordance with the conditions set forth below.

These proffered conditions ("Proffers") are the only conditions offered on this rezoning. All improvements, land, easements, dedications, gifts, proffers, and other conveyances to the County shall be in fee simple, without cloud of title or encumbrance of any kind. I.

Land Use

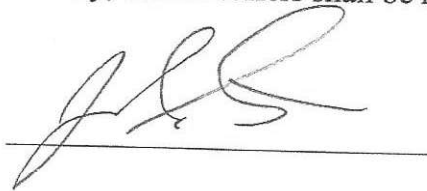
The property shall be used as permitted under the Conditional Limited Industrial Zoning and more specifically for general office, data processing and Laboratory.
Any use not listed shall be expressly prohibited on the property.

General

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 Owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

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 owner of any portion of the Property or to any government agency is he is 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.

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.



Name Applicant: Accelerated Properties LLC
by Joshua Tawes

Commonwealth of Virginia County of Isle of Wight
Subscribed and sworn to before me Cynthia Holbrooks, A Notary Public in and for the County of
Isle of Wight Commonwealth of Virginia, this 22 day of July 2021.

My Commission Expires November 30, 2021



Cynthia Lynn Holbrooks
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7721474
My Commission Expires
November 30, 2021

RESOLUTION NUMBER PC-21-08

**ISLE OF WIGHT COUNTY PLANNING COMMISSION
A RESOLUTION TO PRESENT A REPORT AND RECOMMENDATION
TO THE BOARD OF SUPERVISORS RELATING TO REQUEST ZA-07-21 FOR AN
AMENDMENT TO CONDITIONAL ZONING TO ALLOW FOR A LABORATORY ON 3.8
ACRES OF PROPERTY WITH TAX PARCEL NUMBER 14-02-037B**

WHEREAS, Accelerated Properties, LLC, owners, has requested an amendment to Conditional Limited Industrial zoning on property with tax map number 14-02-037B in order to allow for a laboratory in addition to the other permitted uses; and

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

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

Section 1. Findings.

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

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

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

Section 2. Recommendation to Board of Supervisors.

The Planning Commission recommends to the Board of Supervisors that the request, ZA-07-21, be:

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

DATE: _____

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

TESTE: _____
Secretary, Isle of Wight County Planning Commission

Approved as to Form:

Robert W. Jones, Jr., County Attorney

PLANNING REPORT

APPLICATION:

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

ELECTION DISTRICT:

All

BACKGROUND:

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

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

Following discussion of the proposed ordinance amendments at their September 28, 2021, regular meeting, the Planning Commission directed staff to advertise all of the proposed ordinance changes for public hearing at their next regular meeting except the proposed Short Term Rental ordinance changes, in order to further discuss them.

DESCRIPTION:

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

ORDINANCE REVIEW:

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

AGENCY REVIEW:

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

STAFF RECOMMENDATION:

Staff recommends approval of the proposed ordinance changes.

ATTACHMENTS:

Description	Type	Upload Date
Proposed Zoning Ord Revision Redline	Backup Material	10/20/2021
Proposed Subdivision Ord Revision Redline	Backup Material	10/20/2021
CBPA Ordinance Draft Rev 092821	Backup Material	9/21/2021
Zoning Ord Amend BOS Ordinance	Ordinance	10/20/2021
Subdivision Ord Amend BOS Ordinance	Ordinance	10/20/2021
CBPA Ord Rev BOS Ord 102021	Ordinance	10/20/2021

Proposed Zoning Ordinance Revisions

Revised October 20, 2021

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

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

Sec. 1-1015. - Amendments.

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

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

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

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

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

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

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

Table 1 Table of Permissible Uses (ATTACHED)

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

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

C. Minimum side yard setback:

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

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

C. Minimum side yard setback:

1. Principal structures: Fifteen (15) feet ~~(one (1) side)/thirty five (35) feet (both sides).~~

~~2. Accessory structures: Fifteen (15) feet (see supplementary density and dimensional requirements, #1, accessory building requirements).~~

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

C. Minimum front yard setback:

~~1. Lots with less than one hundred fifty (150) feet of width:~~

~~1. a.~~ Where rights-of-way is fifty (50) feet or greater, the minimum front yard setback is thirty-five (35) feet from property line.

~~2. b.~~ Where rights-of-way is less than fifty (50) feet, the minimum front yard setback is sixty (60) feet from centerline of road.

~~2. Lots one hundred fifty (150) feet or greater of width:~~

~~a.~~ Where rights-of-way is fifty (50) feet or greater, the minimum front yard setback is sixty (60) feet from property line.

~~b.~~ Where rights-of-way is less than fifty (50) feet, the minimum front yard setback is eighty-five (85) feet from centerline of road.

3. In the case that there are existing lots of record in a subdivision having a width that would require a front setback to be lesser or greater than the other lots within the subdivision, the setback met by the majority of the lots shall be required.

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

D. Minimum side yard setback:

1. ~~One (1) side~~ Principal Structure: Ten (10) feet.

~~2. Both sides: Twenty-four (24) feet.~~

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

A. Minimum lot area:

~~1. With private sewer and water: Thirty thousand (30,000) square feet.~~

~~2. With public sewer or water: Twenty thousand (20,000) square feet.~~

3. With public sewer and water: ~~Twelve thousand (12,000)~~ Eight thousand five hundred (8,500) square feet.

B. Minimum lot width:

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

~~2. With public sewer or water: One hundred twenty-five (125) feet.~~

3. With public sewer and water: ~~Eighty (80)~~ Sixty (60) feet.

C. Minimum lot frontage:

~~1. With private sewer and water: One hundred (100) feet.~~

~~2. With public sewer or water: One hundred (100) feet.~~

3. With public sewer and water: Fifty-six (56) feet.

4. Minimum frontage on a cul-de-sac: No less than fifty percent (50%) of minimum lot width of district. (11-17-16; 7-19-18; 11-15-18.)

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

Sec. 5-1004. - Accessory uses.

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

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

G. Reptile breeding.

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

H. Private Sawmill.

1. A ~~permanent or temporary private~~ sawmill shall be no less than three hundred (300) feet from any lot line or street right-of-way.
2. A permanent or temporary structure shall not be located on environmentally sensitive lands (RPAs) and wetlands.
3. All power saws and machinery will be secured against tampering or locked when not in use.
4. A ~~temporary private~~ sawmill shall only be established to process timber cut from the parcel on which the ~~temporary private~~ sawmill is located or on immediately adjacent parcels or to process timber for personal use only. and shall only be allowed for a period of only one (1) year. For periods exceeding one (1) year, a conditional use permit shall be obtained from the board of supervisors.
5. ~~A temporary private sawmill shall be located at least two hundred (200) feet from any residence located on an adjoining property.~~
6. No processing, milling, finishing or artificial means of drying green lumber shall be associated with a ~~temporary private~~ sawmill.
7. Green lumber and all other products and by-products from the ~~temporary private~~ sawmill shall be removed from the site at least every sixty (60) days.
8. Buildings associated with a ~~temporary private~~ sawmill shall be limited to shelter for the sawmill equipment and essential shelter for personnel. No building shall be erected for the storage, processing, or drying of green lumber.

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

M. Utility services, major.

4. Utility Scale Solar Energy Facilities.

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

- i. Along public roadways with at least fifty (50) feet of right-of-way, a minimum fifty-foot wide bufferyard shall be installed or retained with at least seventy-five (75) landscaping points per one hundred (100) linear feet shall be required in the bufferyard;
 - ii. Along public roadways with less than fifty (50) feet of right-of-way, twenty-five (25) landscaping points per one hundred (100) linear feet shall be required in the bufferyard;
 - iii. Where solar facility properties abut residential parcels, one hundred twenty (120) landscaping points per five hundred (500) square feet of bufferyard shall be required;
 - iv. Existing vegetation that meets the minimum landscaping specifications may be used to meet required landscaping points; and
 - v. No silvicultural activities or removal of required landscaping materials shall occur in the required bufferyards.
- f. Provide soil testing for any contaminants directly attributable to the solar panels before and after construction and every five (5) years during the interim until the facility is decommissioned. Owner/operator must provide copies of initial baseline report and subsequent reports to the zoning administrator. Should a negative finding indicating contamination from the solar panels occur, contamination must be remedied by the owner/operator to applicable state and federal standards.
- g. Prior to final site plan approval, an owner, lessee, or developer of real property shall enter the following agreement and provide them to the zoning administrator for review and approval:
 - i. A written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions:
 - a) If the party that enters into such written agreement with the county defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning; and
 - b) Such owner, lessee, or developer shall provide financial assurance of such performance to the county in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the county; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.
 - c) Decommissioning of discontinued or abandoned large solar energy systems shall include the following:
 - i. Physical removal of all solar energy equipment and above-ground appurtenant structures from the subject property including, but not limited to, buildings, machinery, equipment, cabling and connections to

transmission lines, equipment shelters, security barriers, electrical components, roads, unless such roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the board of supervisors that such roads remain.

- ii. Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be completely removed: however, these structures may be allowed to remain if a written request is submitted by the landowners and a waiver is granted by the Board of Supervisors.
- iii. Compacted soils shall be decompacted as agreed to by the landowner.
- iv. Restoration of the topography of the project site to its pre-existing condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted by the landowner and a waiver is granted by the board of supervisors.
- v. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal regulations.

h. During and at the end of project construction, any damage done to public roads by solar farm construction equipment shall be repaired in accordance with VDOT standards and specifications. Post construction damage shall be identified based on inspections by VDOT with the developer or their agent, prior to construction and upon completion, identifying the items for repair. Additionally, at the request of VDOT, in order to ensure the safety of the traveling public, some damages may need to be addressed immediately.

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

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

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

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

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

B. Development standards. Proposed development within the district should provide for visual compatibility and harmony with surrounding natural landforms and vegetation; be protective of views and vistas from the arterial highways within the district; and provide continuity of site design within the proposed development. These objectives include the following standards:

- 6. Vehicular movement and parking areas requiring ~~five (5)~~ twenty (20) spaces or more shall be paved with concrete, asphalt, or other similar material. Vehicular

movement and parking areas requiring less than ~~five (5)~~ twenty (20) spaces may be surfaced with gravel, slag, or other similar material but must be served by paved entrances meeting Virginia Department of Transportation standards. ~~Concrete curb and gutter or other stormwater management structure as approved by the zoning administrator shall be installed around the perimeter of all driveways and parking areas.~~ Off street parking areas shall be clearly designated by the use of borders around the perimeter of these areas using fences, walls, wooden timbers, brickwork, or other similar treatment. Drainage shall be designed so as not to interfere with pedestrian traffic.

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

Sec. 6-2009. - Development standards.

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

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

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

D. Administrative review by the zoning administrator.

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

Proposed Subdivision Ordinance Revisions

Revised October 20, 2021

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

Article 2. Definitions

2.2. Defined terms.

Driveway, shared:\ A collectively owned and maintained driveway within an unobstructed access easement or right-of-way of not less than twenty (20) feet in width and constructed of a compacted surface a minimum depth of three (3) inches and minimum width of twelve (12) feet. The right-of-way and driveway shall be maintained by adjacent property owners and guaranteed in writing with a shared driveway maintenance agreement. This agreement shall be revised upon any change in ownership and prior to any additional subdivision approval on lots served by the shared driveway. An erosion and sediment control plan may be required depending on square footage of the driveway. No shared driveway may serve more than two (2) ~~four (4)~~ lots.

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

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

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

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

Subdivision:\ The division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development. The term "subdivision" includes the following:

1. Any development of a parcel of land which involves installation of sanitary sewers, storm sewers, water mains, gas mains or pipes, or other appropriate facilities for the use, whether immediate or future, of the owners or occupants of the land.
2. Any development of a parcel of land involving two (2) or more principal structures or involving shopping centers, multiple dwelling projects and the like which require the installation of public ~~or private streets~~ and/or alleys, even though the parcel may not be divided for purposes of conveyance, transfer or sale.

Article 3. Administration and Procedures

3.2.4. Subdivision, family member.

- A. The subdivision agent may approve a family member subdivision subject to the provisions of this section, and any express requirement contained in the Code of Virginia (see specifically Section 15.2-2244, et seq. of the Code of Virginia). The purpose of a family member subdivision may not be to circumvent this ordinance or other county regulations. To approve an application for family member subdivision, the subdivision agent must find the following:
1. The property owner requesting the family member subdivision shall hold fee simple title to the subject property.
 2. No person who has previously received land within the county via family member subdivision is eligible to receive additional land through family member subdivision.
 3. The approval shall include the proposed deed(s) of sale or transfer from the property owner to the receiving family member.
 4. No more than one (1) lot ~~four (4) lots~~ resulting from a single tract may be accessed from a single easement of right-of-way unless approved by the board of supervisors upon recommendation from the planning commission. ~~These lots shall be served by an unobstructed easement of right-of-way of not less than twenty (20) feet, providing ingress and egress to an improved public street, and shall be constructed of a compact surface with a minimum depth of four (4) inches. It is recommended that an additional ten (10) feet of easement be dedicated for emergency management access to bring the easement width to thirty (30) feet. The easement of right-of-way shall be maintained by the owner or owners of the property which is to be served by said easement of right-of-way. A road maintenance agreement providing for perpetual maintenance of said easement of right-of-way shall be executed by the parties to whom the lot(s) created pursuant to this ordinance shall be conveyed. The road maintenance agreement shall be approved by the county attorney and shall be recorded in the clerk's office of the circuit court of Isle of Wight County at the time of recordation of the plat approved pursuant to the ordinance. An erosion and sediment control plan may be required depending on the square footage of land disturbance.~~
 5. ~~Shared driveways shall be required for two (2) or more contiguous lots resulting from a family member subdivision which shares frontage on a public road. A shared driveway with a minimum width of twelve (12) feet must be provided within an unobstructed access easement.~~

Article 4. Plat Requirements

4.2. Plat requirements.

4.2.1. General.

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

4.2.2. Preliminary plat requirements.

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

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

Article 5. Development Standards

5.9. Streets.

5.9.1. General standards.

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

5.9.2. Description of public and private streets.

- A. Public street. A street (or portion of a street) that has been improved to comply with the requirements of this ordinance and the VDOT subdivision street design guide and has been accepted or is proposed to be accepted into the state primary or secondary road system.

- B. Private street. A street (or portion of a street) that has not been accepted into the state primary or secondary road system.

~~5.9.3. Private street standards.~~

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

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

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

- ~~1. Single family developments: Family member subdivisions up to a maximum of four (4) lots. This subsection shall apply to parcels created after the adoption date of this ordinance; rural subdivisions up to a maximum of two (2) lots (see section 5.4, subdivision types);~~
- ~~2. Multifamily and townhouse developments;~~
- ~~3. Commercial shopping centers; and~~
- ~~4. Commercial lots which do not front on a public road in accordance with section 3.2.3 of this ordinance.~~

Proposed Revisions
DRAFT 09/16/2021

~~Deleted text~~

New proposed text

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

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

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

Article 1. - Title, Purpose, and Authority.

Sec. 1000. - Title.

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

Sec. 1001. - Findings of fact.

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

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

Sec. 1002. - Purpose and intent.

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

- a. Protect existing high quality state waters;

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

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

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

Sec. 1004. - Applicability.

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

Sec. 1005. - Severability.

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

Article 2. - Definitions.

Sec. 2000. - Purpose.

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

Sec. 2001. - Word usage.

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

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

Sec. 2002. - Definitions.

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

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

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

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

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

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

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

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

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

Sec. 3000. - Areas of applicability.

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

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

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

Sec. 3001. - Delineation and interpretation of boundaries.

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

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

Sec. 3002. - Exemptions.

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

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

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

Article 4. - Performance Standards and Development Criteria.

Sec. 4000. - General performance standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Permitted modifications to the buffer area.

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

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

2. Permitted encroachments into the buffer area.

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

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

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

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

Sec. 4003. - Water quality impact assessment.

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

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

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

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

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

Article 5. - Administrative Procedures and Enforcement.

Sec. 5000. - Plan of development process.

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

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

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

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

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

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

1. Contents of the plan.

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

2. Plant specifications.

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

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

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

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

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

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

Sec. 5001. - Nonconforming uses and nonconforming structures.

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

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

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

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

Sec. 5002. - Exceptions.

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

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

Sec. 5003. - Enforcement, violation and penalties.

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

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

Sec. 5004. - Appeals.

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

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

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

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

Article 6. - Septic Pump-Out Program.

Sec. 6000. - Purpose and findings.

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

Findings made by Isle of Wight County include the following:

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

Sec. 6001. - Authority.

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

Sec. 6002. - Severability.

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

Sec. 6003. - Effective date.

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

Sec. 6004. - Applicability.

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

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

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

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

Sec. 6005. - Exemptions.

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

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

Sec. 6006. - Definitions.

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

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

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

County:\ Isle of Wight County, Virginia.

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

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

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

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

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

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

Violator:\ Any person who:

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

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

Sec. 6007. - Administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6008. - Enforcement, violations and penalties.

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

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

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

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

**AN ORDINANCE
TO AMEND AND REENACT THE FOLLOWING SECTIONS OF
APPENDIX B. ZONING: ARTICLE I (GENERAL PROVISIONS),
ARTICLE IV (ZONING DISTRICTS AND BOUNDARIES), ARTICLE V
(SUPPLEMENTARY USE REGULATIONS), ARTICLE VI (OVERLAY
DISTRICTS), ARTICLE VII (GENERAL DESIGN GUIDELINES AND
DEVELOPMENT)**

WHEREAS, the Board of Supervisors of Isle of Wight County, Virginia, has the legislative authority to make reasonable changes to the ordinances that govern the orderly growth and development of Isle of Wight County; and

WHEREAS, the Isle of Wight County Board of Supervisors is also concerned about the compatibility of uses on public and private lands within Isle of Wight County and seeks to allow flexibility in the administration of the ordinance regulations while protecting the health, safety, and general welfare of present and future residents and businesses of the County.

NOW, THEREFORE, BE IT ORDAINED by the Isle of Wight County Board of Supervisors that the following specific sections of the Articles of Appendix B, Zoning, of the Isle of Wight County Code be amended and reenacted as follows:

Article I. General Provisions.

Sec. 1-1015. - Amendments.

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

1. Adequacy of existing public facilities and services intended to serve the proposed development. Analysis shall be made of sewer, water, drainage, schools, fire stations, roadways, and other major locally financed facilities.
2. Additional on-site and off-site public facilities or services which would be required as a result of the development.
3. A traffic impact analysis is required for:
 - a. Any development proposed which will generate two hundred (200) average daily trips (ADT) or more based on vehicular trip generation rates as defined by the Institute of Transportation Engineers' most recent publication, "Trip Generation", or the Virginia Department of Transportation. The analysis must be prepared in accordance with VDOT's Traffic Impact Analysis Regulations and Administrative Guidelines and indicate the relationship of the proposed development on the cumulative effect of the traffic and road use for the arterial and secondary roads providing access to the development and any other road or intersection impacted by the development. The traffic impact analysis shall also include traffic data from other existing development to show the cumulative impact of traffic and road use for the affected roadways. Additional areas may be required to be incorporated into the analysis where traffic and accident data warrant.
 - b. At the request of the zoning administrator, when the proposed development is

expected to significantly impact the vehicular movement on the arterial highways within the area.

4. A capital impact analysis prepared by county staff utilizing the capital impact model which shall be updated annually. If the model is not available, a fiscal impact analysis of the proposed development on the county shall be required and prepared by the applicant to be reviewed and approved by the zoning administrator when the proposal includes residential dwelling units. A fiscal impact analysis is optional when the proposal does not include any residential dwelling units. The analysis shall contain a comparison of the public revenues anticipated to be generated by the development and the anticipated capital, operations, maintenance and replacement costs for public facilities needed to service the project at the adopted county service standards, as well as employment opportunities to be generated by the development. The county shall consider the information provided by the applicant during the development review process; provided, however, that the fiscal impact analysis shall not serve as the sole basis for the approval or disapproval of an individual development proposal unless the health and safety of the community is affected by the inability to provide transportation, fire, police, emergency equipment and services, sewer or water to the proposed development.
5. A written assessment of the proposed development's impact on any of the County's environmental and historical resources on the site. A Phase I cultural resources survey may be required at the request of the zoning administrator, if the development will impact high or moderate sensitivity areas as shown in the County's archeological and architectural surveys.

Article IV. - Zoning Districts and Boundaries.

Part 1. - Zoning Districts and Boundaries.

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

Table 1
Table of Permissible Uses

[illegible]

Plot																	
Farm Employee Housing (*)	C	C	C														
Farmer's Market	P		P					P	P				P			P	
Forestry Operation, Silvicultural and/or Timbering (*)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Greenhouse, Commercial and/or Nursery																	
• In conjunction with residence	P	C	P	C	C												
• Not in conjunction with residence	P		P					P	P	P	P	P			P	C	P
Greenhouse, Private	P	P	P	P	P	C	C	C	C				C			C	
Livestock Auction Market (*)	P		C								C	P	C		C		P
Reptile Breeding (*)	C								C	C	C						
Sawmill, Private (*)	P																
Stable, Commercial (*)																	
• In conjunction with residence	P	C	C	C	C								C			C	
• Not in conjunction with residence	P		C					C	C								
Stable, Private (*)	P	P	C	C	C								C				
Viticulture	P	P	P	C							C	C	C				C
Wayside Stand (*)	P	P	P	C													
RESIDENTIAL USE TYPES																	

Accessory Apartment (*)																	
• Residential Accessory Apartment	P	P	P*	C	P*	C	C							P*		P*	
• Commercial Accessory Apartment			C					P	P					P		C	P
Boathouse (*)	P	P	P	P	P	P	C							C			C
Community Recreation (*)		C		C	C	C	C							P	P		P
Condominium (*)				C			P							P			P
Congregate Housing (*)			C			C	P							P			P
Dwelling, Multifamily Conversion (*)	C		C	C	C	C	P							C			C
Dwelling, Single-Family	P	P	P	P	P	P	P							P			P
Dwelling, Single-Family, Farm	P																
Dwelling Two-Family Duplex (*)	C	C	C	C		P	P							P			P
Family Day Care Home (*)	P	P	P	P	P	P	P							P			P
Group Home	P	P	P	P	P	P	P	C						C			C
Guest House (*)	P	P		C	C												
Home Occupation, Type I (*)	P	P	P	P	P	P	P							P	P		P
Home Occupation, Type II (*)	P	P	C	C													
Kennel, Private (*)	P	P															
Manufactured	P	P	C												P		

Home, Class A (*)																	
Manufactured Home, Class B (*)	P												P				
Manufactured Home, Class C																	
Manufactured Home, Family Member Residence (*)	P																
Manufactured Home, Temporary Residence (*)	P																
Manufactured Home Park													P				
Manufactured Home Subdivision													P				
Multifamily Dwelling (*)			C			C	P						P			P	
Temporary Emergency Housing (*)	P	P	P	P	P	P	P						P			P	
Townhouse (*)			C	C		C	P						P			P	
CIVIC USE TYPES																	
Administrative Service	P		P					P	P	P	P	P			P	P	P
Adult Care Center (*)	C		C					C	P	P	P	P	C		P	C	P
Assisted Living Facility	C		C					C	P				C			C	
Cemetery (*)																	
• Animal	C	C	C	C													
• Church	C	C	C	C	C	C	C	C	C				C			C	
• Private	C	C	C	C				C	C	C					C	C	C
• Public	C	C	C	C				C	C	C					C	C	C

Child Care Center (*)	C	C	C	C	C	C		P	P	P			C		P	C	C
Child Care Institution (*)	C	C	C					C	C				C			C	
Club	C	C	C	C	C	C	C	P	P				C		P	C	
Community Center (*)	C		P					P	P				P		P	P	
Correctional Facility	C										C	C					C
Crisis Center	C	C	C					P	P						P		
Cultural Service	C	C	P	C	C	C	C	P	P				P			P	
Educational Facility College/ University	C							C	C				C		C	C	
Educational Facility Primary/Secondary (*)	C	C	C	C	C	C	P	P	P				P		P	P	
Halfway House	C	C	C	C	C	C	C	P					C			C	
Life Care Facility	C	C	C	C	C	C	P	P	P				P			P	
Modular Classroom (*)	P	P	P	P	P	P	P	P	P				P		P	P	
Nursing Home (*)	C	C	C	C	C	C	C	P	P				P		P	P	
Park & Ride Facility	P		C					P	P	P	P	P	C	C	P	C	P
Post Office	P		P		C	C	C	P	P				P		P	P	
Public Sports/Event Facility	C		C					C	P	P					P	C	P
Public Maintenance & Service Facility (*)	C		C					C	C	P	P	P			P		P
Public Park and Recreational Area (*)	P	P	P	P	P	P	P	P	P				P			P	

Public Safety Service	P	C	P	C	C	C	C	P	P	P	P	P	C		P	P	P
Religious Assembly (*)	C	C	C	C	C	C	C	C	C				C			C	
Rehabilitation Service			C					P	P						P	P	
Transit Station	C		C					C	P	P	P	P			P	P	P
Utility Service/Major (*)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P
Utility Service/Minor (*)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
OFFICE USE TYPES																	
Financial Institution			C					P	P						P	P	
General Office			C				C	P	P	P		P			P	P	C
Laboratory			C					P	P	P	P				P	C	P
Medical Office			C				C	P	P						P	C	
COMMERCIAL USE TYPES																	
Adult Entertainment Establishment (*)											C						
Auction Establishment	C		C					C	P	P	P	P			P		P
Bed and Breakfast (*)	C	C	P	C	C	C	C	C	C				C			C	
Boarding House	C	C	C	C	C	C	C						C			C	
Boating and Fishing Facilities	C		C					C	C	C	P	P			P	C	P
Business Support Service								P	P	C					P	P	P
Business or Trade School	C		C					C	P	P	P	P			P	C	P
Campground (*)	C																

Campground, Workforce (*)	C																
Car Wash			C					P	P	P	P				P	C	
Catering								C	P						P	C	
Commercial Equipment Repair, Accessory to Dwelling (*)	P	C	P	C	C	C											
Commercial Indoor Amusement			C					C	P	P					C	C	
Commercial Indoor Entertainment			C					C	P	P			C		P	C	
Commercial Indoor Sports & Recreation (*)	C		C				C	P	P	P			C		P	C	P
Commercial Outdoor Entertainment/S ports & Recreation (*)	C							C	C	C	C				C	C	C
Commercial Outdoor Swimming Pool & Tennis Facility (*)	C	C	C	C	C	C	C	C	C				C		C	C	
Construction Office, Temporary (*)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Construction Sales & Service								C	P	P	P	P			C		P
Contractor Office and Storage Facility (*)	C		C					C	P	P	P	P			P		P
Convenience Store (*)	C		C					C	C	P	P				C	C	P
Crematorium (*)	C		C					C	C	C					C		C

Dance Hall								C	C	C							
Equipment Sales and Rental	C								C	P	P	P			C		P
Event center	C		P					P	P						P	P	
Flea Market (*)	C		C					C	C	C	C						
Funeral Home (*)	C		C					P	P	C					P	C	
Garden Center (*)	C		C					P	P	P	P	P			P	P	P
Gasoline Station (*)	C		C					C	C	C	C				C	C	C
General Store, Country	C	C	P	C													
Golf Course (*)	C	C	C	C	C	C	C	P	P				P		P	P	
Golf Driving Range (*)	C		C					P	P	P					P	C	
Hospital								C	P						C	C	
Hospital, Special Care								C	C						C	C	
Hotel/Motel/Motor Lodge/Inn			C					C	P	C					P	C	C
Itinerant Merchant			P					P	P						P	P	
Kennel, Commercial (*)	C							C	C	C	C				C		C
Laundry									C	P	P						P
Lawn and Garden Services	P							P	P	P	P						P
Manufactured Home Sales									C	C					C		
Marina (*)	C	C	C	C	C	C	C	C	P	C			C		P	C	P
Medical Clinic			C					C	P						C	C	
Micro-Brewery, Distillery, Cidery (*)								C	P	P	P	P			P	P	P
Mini-Warehouse (*)								C	C	P	P	P			P		P

Motor Vehicle Dealership/New (*)								C	P						P		
Motor Vehicle Dealership/Used (*)								C	C						C		
Motor Vehicle/Outdoor Storage									C	P	P	P			C		P
Motor Vehicle Parts/ Supply, Retail (*)			C					P	P	P	P				P	P	P
Motor Vehicle/ Rental (*)								C	P	P	P				P		P
Motor Vehicle Repair Service/Major (*)			C					C	P	P	P				C		P
Motor Vehicle Repair Service/Minor (*)			C					C	P	P	P				C	C	P
Pawn Shop								C	P	P							
Peddler			P					P	P						P	P	
Personal Improvement Service			C					P	P	C					P	P	P
Personal Service			C					P	P	C					P	P	P
Real Estate Office, Temporary	P	P	P	P	P	P	P						P	P		P	
Recreational Vehicle Sales & Service								C	C						C		
Restaurant, Drive-In Fast Food (*)			C					C	P	C					P	P	P
Restaurant, General			C				C	C	P	C					P	P	P
Retail Sales			C				C	P	P	P					P	P	

Studio, Fine Arts	C		C				C	P	P	P					P	P	
Tattoo Parlor								C	P	P	P				P	C	P
Taxidermy (*)	P		C					C	P	P	P						
Truck Stop								C	C	P	P						P
Veterinary Hospital/ Clinic	P		C				P	P	P						P	P	
Wholesale Sales	C		C					P	P	P	P	P			P	P	P
INDUSTRIAL USE TYPES																	
Abattoir or Livestock Processing (*)	C										C	P					C
Asphalt or Concrete Plant (*)											C	C					C
Brewery, Distillery, Cidery										P	P	P					P
Construction Yard (*)	C								C	P	P	P			C		P
Custom Manufacturing	C		C					C	P	P	P				P	C	P
Industry, Type I	C									P	P	P			C		P
Industry, Type II										C	P	P					P
Industry, Type III											C	C					C
Landfill, Industrial (*)	C									C	C	C					
Landfill, Rubble (*)	C									C	C	C					C
Landfill, Sanitary (*)	C																
Meat Packing											P	P					P
Recycling Center (*)	C									P	P	P					P
Refuse and Recycling	C		C						C	P	P	P			C		P

Center																	
Resource Extraction (*)	C										C	C					C
Sawmill, Commercial											C	P	P				
Scrap and Salvage Service (*)	C										C	C	C				C
Shipping Container (*)	C	C		C	C	C		C	C	P	P	P			C		P
Towing Service Storage											C	C	C				
Yard (*)																	
Transfer Station	C										P	P	P				P
Warehousing and Distribution	C										P	P	P				P
MISCELLANEOUS USE TYPES																	
Amateur Radio Tower (*)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Aviation Facility, Commercial (*)	C										C	C					C
Aviation Facility, General (*)	C										C	C			C		C
Aviation Facility, Private (*)	C	C									C	C			C		C
Communication Tower (*)	C	C	C	C				C	C	C	C	C			C	C	C
Composting System, Confined Vegetative Waste or Yard (*)	C																
Hunt Club	P		C														
Parking Facility, Surface/Structur								C	C	C	C	C			C	C	P

e																	
Reconstructed Wetland (*)	P	C	C	C	C	C	C	C	C	C	C	C	P	C	C	P	C
Shooting Range, Outdoor (*)	C										C	C					C
Turkey Shoot (*)	P										C	C					C

Sec. 4-2006, Bulk Regulations

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

C. Minimum side yard setback:

1. Principal structures: Fifteen (15) feet

Sec. 4-3007. – Bulk regulations

C. Minimum side yard setback:

1. Principal structure: Fifteen (15) feet

Sec. 4-5005. – Bulk regulations

C. Minimum front yard setback:

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

Sec. 4-7005. – Bulk regulations

D. Minimum side yard setback:

1. Principal Structure: Ten (10) feet.

Sec. 4-8004. - Lot size requirements for Single Family Residential, public water and sewer required. Refer to section 5-5002 for supplementary use regulations for townhomes and multifamily.

- A. Minimum lot area: Eight thousand five hundred (8,500) square feet
- B. Minimum lot width: Sixty (60) feet
- C. Minimum lot frontage: Fifty-six (56) feet
- D. Minimum frontage on a cul-de-sac: No less than fifty percent (50%) of minimum lot width of district.

Sec. 4-10003. - Conditional uses.

The following uses are allowed only by conditional use permit pursuant to section 1-1017. An asterisk (*) indicates additional, modified or more stringent standards which are listed in section 5-5000, use and design standards, for those specific uses.

A. Agricultural uses:

Aquaculture

Aquaculture, waterfront business

Greenhouse, private

* Reptile Breeding

* Sawmill

* Stable, commercial

- Not in conjunction with residence

Article V. Supplementary Use Regulations.

Sec. 5-1004. - Accessory uses.

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

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

G. Reptile breeding.

1. In addition to obtaining a conditional use permit, reptile breeding shall comply with the following provisions:
 - a. Each reptile shall be kept in an escape proof, temperature-controlled cage. The only

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

H. Private Sawmill.

- 1. A private sawmill shall be no less than three hundred (300) feet from any lot line or street right-of-way.
- 2. A permanent or temporary structure shall not be located on environmentally sensitive lands (RPAs) and wetlands.
- 3. All power saws and machinery will be secured against tampering or locked when not in use.
- 4. A private sawmill shall only be established to process timber cut from the parcel on which the private sawmill is located or on immediately adjacent parcels or to process timber for personal use only.
- 5. No processing, milling, finishing or artificial means of drying green lumber shall be associated with a private sawmill.
- 6. Green lumber and all other products and by-products from the private-sawmill shall be removed from the site at least every sixty (60) days.
- 7. Buildings associated with a private sawmill shall be limited to shelter for the sawmill equipment and essential shelter for personnel. No building shall be erected for the storage, processing, or drying of green lumber.

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

M. Utility services, major.

4. Utility Scale Solar Energy Facilities.

- a. In addition to any conditional use permit application requirements, the applicant shall provide the following at the time of application:
 - i. A conceptual plan showing the proposed layout of all structures, adjacent properties, screening, landscaping, internal roadways, easements, environmentally sensitive features including proposed wildlife corridors;
 - ii. A visual impact analysis demonstrating through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on the visual character of a scenic landscape, vista, or scenic corridor;
 - iii. A transportation plan showing vehicular access to the site, proposed construction traffic route to the site, parking areas, and laydown yards;

- iv. An estimated time frame and proposed hours of operation for construction activity;
 - v. Economic impact analysis of the project including projected net new tax revenue as well as loss of active agricultural and silvicultural lands and its indirect impact to associated local businesses;
 - vi. An environmental resource impact analysis discussing any proposed activities within designation resource conservation areas;
 - vii. A historical and cultural resources impact analysis; and
 - viii. Written comments from the relevant electric company regarding the capacity of the transmission lines as part of any use permit application. An applicant can satisfy this requirement by submitting proof of application for interconnection to the electricity system.
- b. Ground-mounted systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt, except when temporarily stowed in a vertical position for vegetation management or for inspection, maintenance and/or repair.
 - c. Audible sound from a solar energy system shall not exceed 60 dBA (A-weighted decibels), as measured at any adjacent non-participating landowner's property line. The level, however, may be exceeded during short-term exceptional circumstances, such as severe weather.
 - d. All equipment, accessory structures and operations associated with a large solar energy system shall be setback at least seventy-five (75) feet from all property lines and at least one hundred and twenty-five (125) feet from any residential parcels, and are subject to the following:
 - i. Setbacks shall be kept free of all structures and parking lots; and
 - ii. Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the system, setbacks must be installed along all property lines of those properties remaining within the project and which are adjacent to a parcel which has been removed.
 - e. The following landscaping standards shall apply:
 - i. Along public roadways with at least fifty (50) feet of right-of-way, a minimum fifty-foot wide bufferyard shall be installed or retained with at least seventy-five (75) landscaping points per one hundred (100) linear feet shall be required in the bufferyard;
 - ii. Along public roadways with less than fifty (50) feet of right-of-way, twenty-five (25) landscaping points per one hundred (100) linear feet shall be required in the bufferyard;
 - iii. Where solar facility properties abut residential parcels, one hundred twenty (120) landscaping points per five hundred (500) square feet of bufferyard shall be required;
 - iv. Existing vegetation that meets the minimum landscaping specifications may be used to meet required landscaping points; and
 - v. No silvicultural activities or removal of required landscaping materials shall occur in the required bufferyards.
 - f. Provide soil testing for any contaminants directly attributable to the solar panels before and after construction and every five (5) years during the interim until the

facility is decommissioned. Owner/operator must provide copies of initial baseline report and subsequent reports to the zoning administrator. Should a negative finding indicating contamination from the solar panels occur, contamination must be remedied by the owner/operator to applicable state and federal standards.

g. Prior to final site plan approval, an owner, lessee, or developer of real property shall enter the following agreement and provide them to the zoning administrator for review and approval:

i. A written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions:

a) If the party that enters into such written agreement with the county defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning; and

b) Such owner, lessee, or developer shall provide financial assurance of such performance to the county in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the county; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.

c) Decommissioning of discontinued or abandoned large solar energy systems shall include the following:

i. Physical removal of all solar energy equipment and above-ground appurtenant structures from the subject property including, but not limited to, buildings, machinery, equipment, cabling and connections to transmission lines, equipment shelters, security barriers, electrical components, roads, unless such roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the board of supervisors that such roads remain.

ii. Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be completely removed: however, these structures may be allowed to remain if a written request is submitted by the landowners and a waiver is granted by the Board of Supervisors.

iii. Compacted soils shall be decompacted as agreed to by the landowner.

iv. Restoration of the topography of the project site to its pre-existing condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted by the landowner and a waiver is granted by the board of supervisors.

v. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal

regulations.

- h. During and at the end of project construction, any damage done to public roads by solar farm construction equipment shall be repaired in accordance with VDOT standards and specifications. Post construction damage shall be identified based on inspections by VDOT with the developer or their agent, prior to construction and upon completion, identifying the items for repair. Additionally, at the request of VDOT, in order to ensure the safety of the traveling public, some damages may need to be addressed immediately.
- i. Facilities shall not be located within the limits of the County's Development Service Districts.
- j. Facilities must be within a two mile radius of existing substations and/or high voltage transmission lines.

Article VI. Overlay Districts.

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

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

B. Development standards. Proposed development within the district should provide for visual compatibility and harmony with surrounding natural landforms and vegetation; be protective of views and vistas from the arterial highways within the district; and provide continuity of site design within the proposed development. These objectives include the following standards:

- 6. Vehicular movement and parking areas requiring twenty (20) spaces or more shall be paved with concrete, asphalt, or other similar material. Vehicular movement and parking areas requiring less than twenty (20) spaces may be surfaced with gravel, slag, or other similar material but must be served by paved entrances meeting Virginia Department of Transportation standards. Off street parking areas shall be clearly designated by the use of borders around the perimeter of these areas using fences, walls, wooden timbers, brickwork, or other similar treatment. Drainage shall be designed so as not to interfere with pedestrian traffic.

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

Sec. 6-2009. - Development standards.

- E. Vehicular movement and parking areas requiring twenty (20) spaces or more shall be paved with concrete, asphalt, or other similar material. Vehicular movement and parking areas requiring less than twenty (20) spaces may be surfaced with gravel, slag, or other similar material but must be served by paved entrances meeting Virginia Department of

Transportation standards.

- F. Off street parking areas shall be clearly designated by the use of borders around the perimeter of these areas using fences, walls, wooden timbers, brickwork, or other similar treatment. Drainage shall be designed so as not to interfere with pedestrian and bicycle traffic.

Article VII. General Design Guidelines and Development Review Procedures.

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

D. Administrative review by the zoning administrator.

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

DATE: _____

READ AND PASSED: _____
Chairman

TESTE: _____
Clerk

Approved as to Form:

Robert W. Jones, Jr., County Attorney

**AN ORDINANCE
TO AMEND AND REENACT THE FOLLOWING SECTIONS OF
APPENDIX A. SUBDIVISIONS: ARTICLE 2 (DEFINITIONS), ARTICLE
3 (ADMINISTRATION AND PROCEDURES), ARTICLE 4 (PLAT
REQUIREMENTS), AND ARTICLE 5 (DEVELOPMENT STANDARDS)**

WHEREAS, the Board of Supervisors of Isle of Wight County, Virginia, has the legislative authority to make reasonable changes to the ordinances that govern the orderly growth and development of Isle of Wight County; and

WHEREAS, the Isle of Wight County Board of Supervisors is also concerned about the compatibility of uses on public and private lands within Isle of Wight County and seeks to allow flexibility in the administration of the ordinance regulations while protecting the health, safety, and general welfare of present and future residents and businesses of the County.

NOW, THEREFORE, BE IT ORDAINED by the Isle of Wight County Board of Supervisors that the following specific sections of the Articles of Appendix A, Subdivisions, of the Isle of Wight County Code be amended and reenacted as follows:

Article 2. - Definitions

2.2. - Defined terms.

Agent, subdivision:\ The person or persons appointed by the board of supervisors of Isle of Wight County to serve as the agent of said board of supervisors with respect to the subdivision of land and the plat thereof pursuant to this ordinance and to perform such other duties and functions with respect to this ordinance as said board of supervisors may require.

Alley:\ A service easement which affords only a secondary means of access to abutting property for utilities, sanitation, garages, backyards and any accessory units and are not intended for general traffic circulation.

Board of supervisors:\ The board of supervisors of Isle of Wight County, Virginia.

Building line:\ A line parallel to the front property line of a yard beyond which the foundation wall and/or any enclosed porch, vestibule, or other enclosed portion of a building shall not project, except as provided in the zoning ordinance.

Commission:\ The planning commission of Isle of Wight County, Virginia.

Cul-de-sac:\ A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

Developer:\ An owner of property being subdivided, whether or not represented by an agent.

Driveway, shared:\ A collectively owned and maintained driveway within an unobstructed access easement or right-of-way of not less than twenty (20) feet in width and constructed of a compacted surface a minimum depth of three (3) inches and minimum width of twelve (12) feet. The right-of-way and driveway shall be maintained by adjacent property owners and guaranteed in writing with a shared driveway maintenance agreement. This agreement shall be revised upon any change in ownership and prior to any additional subdivision approval on lots served by the shared driveway. An erosion and sediment control plan may be required depending on square footage of the driveway. No shared driveway may serve more than two (2) lots.

Easement:\ A grant by a property owner of the use of land for a specific purpose or purposes.

Engineer:\ An engineer licensed by the Commonwealth of Virginia.

Family burial plot:\ A burial place for up to fifteen (15) persons related by blood or marriage. This definition does not include cemeteries associated with a place of worship or cemeteries owned and operated as a business. Family burial plots shall conform with the requirements of the zoning ordinance.

Health official:\ The health director or sanitarian for the County of Isle of Wight, Virginia.

Highway engineer:\ The resident engineer employed by the Virginia Department of Transportation.

Improvements:\ All public and quasi-public utilities and facilities including, but not limited to:

- 1.Any street (public or private), curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system, or other improvement dedicated for public use and maintained by the county, the commonwealth, or other public agency;
- 2.Other site-related improvements voluntarily agreed to by the owner or a predecessor in title to be considered a "subdivision improvement";
3. Required landscaping, which shall be installed prior to acceptance of any roads into the state system of highways for maintenance; and
- 4.Other site-related improvements required by the Isle of Wight County Code for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities.

Jurisdiction:\ The area or territory subject to the legislative control of the board of supervisors.

Land surveying:\ Also known as the "practice of land surveying," as defined in Section 54.1-400 of the Code of Virginia, includes surveying of areas for a determination or correction, a description, the establishment or reestablishment of internal and external land boundaries, or the determination of topography, contours or location of physical improvements, and also includes the planning of land and subdivisions thereof. The term "planning of land and subdivisions thereof" shall include, but not be limited to, the preparation of incidental plans and profiles for roads, streets and sidewalks, grading, drainage on the surface, culverts and erosion control measures, with reference to existing state or local standards.

Lot:\ A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivision or as otherwise permitted by law.

Lot, corner:\ A lot abutting upon two (2) or more streets at their intersection.

Lot, depth:\ The mean linear distance between the front and rear lot lines.

Lot, double frontage:\ An interior lot having frontage on two (2) streets.

Lot, interior:\ A lot other than a corner lot.

Lot of record:\ A lot which has been recorded in the office of the clerk of the circuit court.

Lot, well:\ An individual lot created for the sole purpose of providing a groundwater source. The lot and groundwater source shall satisfy the requirements of 12VAC5-590-840, Groundwater Sources.

Lot, width:\ The mean linear distance between the side lot lines measured at the front setback line.

Plat:\ A map or plan of a tract or parcel of land which is to be, or which has been subdivided. Includes the terms: "map," "plan," "plot," "replat," or "replot." When used as a verb, "plat" is synonymous with "subdivide."

Property:\ Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

Pump station:\ A mechanical device that lifts (pumps) liquid sewage from a lower gravity plane to a higher gravity plane. The station shall satisfy the requirements of 9VAC25-790-380, Sewage Pumping.

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

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

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

Street, width:\ The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

Stub out:\ A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

Subdivider:\ An individual, corporation or registered partnership, owning any tract, lot or parcel of land to be subdivided, or a group of two (2) or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one (1) of their group or to another individual to act on their behalf in planning, negotiating for in representing or executing the legal requirements of the subdivision.

Subdivision:\ The division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development. The term "subdivision" includes the following:

1. Any development of a parcel of land which involves installation of sanitary sewers, storm sewers, water mains, gas mains or pipes, or other appropriate facilities for the use, whether immediate or future, of the owners or occupants of the land.
2. Any development of a parcel of land involving two (2) or more principal structures or involving shopping centers, multiple dwelling projects and the like which require the installation of public and/or alleys, even though the parcel may not be divided for purposes of conveyance, transfer or sale.

Subdivision agent:\ See Agent, subdivision.

Subdivision, major:\ The division or redivision of a lot, tract, or parcel of land by any means into ten (10) or more lots, tracts, or parcels or other divisions of land for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development. Major subdivisions shall include any development proposing a public road(s) or major utility service (as defined in the zoning ordinance), and any proposal for ten (10) or more total lots regardless of any intention to phase development in sections of less than ten (10) lots at a time.

Subdivision, minor:\ The division or redivision of a lot, tract, or parcel of land by any means into less than ten (10) lots, tracts, or parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease,

transfer of ownership or building or lot development.

Waiver:\ See section 3.2.10, waiver.

Article 3. Administration and Procedures

3.2.4. Subdivision, family member.

- A. The subdivision agent may approve a family member subdivision subject to the provisions of this section, and any express requirement contained in the Code of Virginia (see specifically Section 15.2-2244, et seq. of the Code of Virginia). The purpose of a family member subdivision may not be to circumvent this ordinance or other county regulations. To approve an application for family member subdivision, the subdivision agent must find the following:
 - 1. The property owner requesting the family member subdivision shall hold fee simple title to the subject property.
 - 2. No person who has previously received land within the county via family member subdivision is eligible to receive additional land through family member subdivision.
 - 3. The approval shall include the proposed deed(s) of sale or transfer from the property owner to the receiving family member.
 - 4. No more than one (1) lot resulting from a single tract may be accessed from a single easement of right-of-way unless approved by the board of supervisors upon recommendation from the planning commission.

Article 4. Plat Requirements

4.2. Plat requirements.

4.2.2. Preliminary plat requirements.

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

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

- A. General requirements.

1. A blank oblong space three (3) inches by five (5) inches shall be reserved with signature and date lines for the subdivision agent and VDOT resident engineer.
2. Certificates signed by surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.
3. A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds.
4. When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dash lines, and identification of the respective tracts shall be placed on the plat.

B. Specific requirements.

1. The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and centerlines of streets, boundaries of all proposed or existing easements, parks, school sites, all existing public and private streets, their names, numbers and widths, existing utility easements, and proposed utility, sidewalk, drainage, landscape, access, and open space easements, watercourses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.
2. Distances and bearings must balance and close with an accuracy of not less than one (1) in ten thousand (10,000).
3. The data of all curves along the street frontage shall be shown in detail in the curve data table containing the following: Delta, radius, arc, tangent, chord and chord bearings.
4. Location of vegetation to be retained including approximate sizes and protection measures to be used; a depiction of contours at two-foot intervals, supplemented with spot elevations when necessary, including location, description, and size of any retaining walls; dimensions of stream buffers.
5. Location and description of dedicated or reserved properties under public or private ownership including the boundaries, size, purpose, future ownership and maintenance provisions for the property. This category includes but is not limited to thoroughfares, rail corridors, greenways, recreation facilities, open space and common areas.
6. Development schedule for phased development.
7. A list of any conditions applied to the property as part of any previous approvals.

C. Additional recordation requirements.

1. If any community amenities exist, such as sidewalks, planter islands, median strips, common open space, pocket parks, best management practices, community

wastewater/well facilities, etc., a homeowners' association must be created. Mandatory membership of all buyers is required and upon composition of the deed, a condition must be added that all buyers agree to membership terms as a condition of acquisition.

Article 5. Development Standards

5.9. Streets.

5.9.1. General standards.

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

5.9.2. Description of public and private streets.

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

DATE: _____

READ AND PASSED: _____
Chairman

TESTE: _____
Clerk

Approved as to Form:

Robert W. Jones, Jr., County Attorney

**AN ORDINANCE
TO AMEND AND REENACT APPENDIX B-1. CHESAPEAKE BAY
PRESERVATION AREA ORDINANCE**

WHEREAS, the Board of Supervisors of Isle of Wight County, Virginia, has the legislative authority to make reasonable changes to the ordinances that govern the orderly growth and development of Isle of Wight County; and

WHEREAS, the Isle of Wight County Board of Supervisors is also concerned about the compatibility of uses on public and private lands within Isle of Wight County and seeks to allow flexibility in the administration of the ordinance regulations while protecting the health, safety, and general welfare of present and future residents and businesses of the County.

NOW, THEREFORE, BE IT ORDAINED by the Isle of Wight County Board of Supervisors that the following specific sections of the Articles of Appendix B-1, Chesapeake Bay Preservation Area Ordinance, of the Isle of Wight County Code be amended and reenacted as follows:

Article 1. - Title, Purpose, and Authority.

Sec. 1000. - Title.

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

Sec. 1001. - Findings of fact.

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

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

Sec. 1002. - Purpose and intent.

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

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

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

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

Sec. 1004. - Applicability.

- a. No person shall develop, alter, or use any land for residential, commercial, industrial, or civic uses, nor conduct agricultural, fishery or forestry activities in the Isle of Wight County preservation area except in compliance with the provisions of this ordinance.

- b. No development or resource utilization activity shall be permitted until all applicable approving authorities shall determine that the proposed development or activity is consistent with the goals and objectives of the Isle of Wight County preservation area program.

Sec. 1005. - Severability.

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

Article 2. - Definitions.

Sec. 2000. - Purpose.

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

Sec. 2001. - Word usage.

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

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

Sec. 2002. - Definitions.

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

- a. Act means the Chesapeake Bay Preservation Act, Article 2.5 (Section 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.
- b. Agricultural lands mean those lands used for the tilling of the soil; the growing of crops or plant growth of any kind in the open, including forestry; pasturage; horticulture; dairying; floriculture; or raising of poultry and/or livestock.
- c. Best management practices (BMPs) means a practice, or combination of practices, that are defined by a state agency or the Hampton Roads Planning District Commission guidelines to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.
- d. Buffer area means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.
- e. Chesapeake Bay Preservation Area (CBPA) means any land designated by the board of supervisors pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-70 et seq., and Section 62.1-44.15:72 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area.
- f. Construction footprint means the area of all impervious surfaces, including, but not limited to, buildings, roads and drives, parking areas, sidewalks and the area necessary for construction of such improvements.
- g. Development means the construction, or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures. This shall include any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination of these activities, including the subdivision of land.
- h. Diameter at breast height (DBH) means the diameter of a tree measured outside the bark at a point four and one-half (4.5) feet above the ground.
- i. Dripline means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.
- j. Erosion and Sediment Control Law means Article 2.4 (Section 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.
- k. Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.
- l. Land-disturbing permit means a permit issued by the county for clearing, filling, excavating, grading or transporting, or any combination thereof.

- m. Limits of clearing means the extent to which vegetation can be removed from a property as shown on a plan approved by the county.
- n. Lot coverage means the impervious area of any lot or parcel including, but not limited to, buildings, drives, parking areas, sidewalks, patios, decks, etc.
- o. Mitigation means measures taken to eliminate or minimize damage to environmentally sensitive areas from land disturbing or development activities. Such measures may include, but are not limited to, avoiding the impact altogether, limiting the degree or magnitude of the action, repairing or restoring the affected environmental area, reducing the impact over time by preservation and maintenance, or replacing or providing a substitute environmental area.
- p. Nonpoint source pollution means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land development and use.
- q. Nontidal wetlands mean those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the federal Clean Water Act, in 33 C.F.R. 328.3b.
- r. Noxious weeds means weeds such as Johnson grass, kudzu, and multiflora rose, including those identified by the Virginia Department of Conservation and Recreation as Invasive Alien Plant Species.
- s. Plan of development means any process for site plan review in Isle of Wight County zoning and land development regulations designed to ensure compliance with Section 62.1-44.15:74 of the Act and this chapter, prior to issuance of building permit.
- t. Point source pollution means pollution of state waters resulting from any discernible, defined or discrete conveyances.
- u. Public road means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to i) the Erosion and Sediment Control Law and ii) the Virginia Stormwater Management Act. This definition includes roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by local government in accordance with the standards of that local government.
- v. Redevelopment means the process of developing land that is or has been previously developed.
- w. Resource Management Area (RMA) means that component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area.
- x. Resource Protection Area (RPA) means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they

perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

- y. Silvicultural activities means forest management activities, including, but not limited to, the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.
- z. Substantial alteration means expansion or modification of a building or development that would result in a disturbance of land exceeding two thousand five hundred (2,500) square feet in the resource management area only.
- aa. Substantial work means that improvements have proceeded to where vertical construction of the basic structure or walls has begun on a building or other structure or for other land improvements, that significant progress has been made towards accomplishing the approved project.
- ab. Tidal shore or shore means land contiguous to a tidal body of water between the mean low water level and the mean high water level.
- ac. Tidal wetlands means vegetated and nonvegetated wetlands as defined in § 28.2-1300 of the Code of Virginia.
- ad. Water-dependent facility means a development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) piers, marinas, and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; (v) fisheries or other marine resources facilities; and (vi) shoreline and bank stabilization projects, where deemed necessary.
- ae. Water body with perennial flow means a body of water that flows in a natural or manmade channel year-round during a year of normal precipitation. This includes, but is not limited to, streams, estuaries, and tidal embayments and may include drainage ditches or channels constructed in wetlands or from former natural drainageways, which convey perennial flow. Lakes and ponds, into which a perennial stream flows and perennial flow exits, are part of a perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. Perennial flow can be inferred by the presence of biological indicators, benthic macroinvertebrates that require water for entire life cycles, or by using an approved stream determination protocol.
- af. Wetlands means both tidal and nontidal wetlands.
- ag. Zoning administrator means the person designated as the official responsible for enforcing and administering all requirements of the county zoning ordinance, or a duly authorized designee. (8-21-06; 4-16-15.)

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

Sec. 3000. - Areas of applicability.

- a. The Chesapeake Bay Preservation Area (CBPA) Ordinance shall apply to all lands within the Chesapeake Bay drainage basin. The limits of this area are generally shown on the Chesapeake Bay Preservation Area maps adopted by the board of supervisors, which together with all explanatory matter thereon, are adopted as a part of this ordinance. This information may be supplemented by digital mapping resources in the course of administering the provisions of this ordinance.
- b. The Chesapeake Bay Preservation Area shall be divided into two areas consisting of the following:
 1. The Resource Protection Area (RPA).which shall include:
 - a. Tidal wetlands;
 - b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
 - c. Tidal shores;
 - d. Water bodies with perennial flow, including streams, rivers, lakes and ponds;
 - e. Other lands as may be designated by the Board of Supervisors and shown on the CBPA maps; and
 - f. A vegetated buffer area not less than 100 feet in width located adjacent to, landward of, and on both sides of the resources listed in subsections a. through e. above.
 2. The Resource Management Area (RMA) shall consist of all areas within the Chesapeake Bay watershed. (8-21-06.)

Sec. 3001. - Delineation and interpretation of boundaries.

- a. The site-specific boundaries of the RPA shall be provided by the applicant. The applicant shall delineate specific boundaries of the RPA through the performance of an environmental site assessment to be approved by the Zoning Administrator in accordance with section 5000(b) of this ordinance.
 1. Delineation of the RPA shall include the designation of perennial water bodies by use of a scientifically valid system of in-field indicators of perennial flow or other means approved by the zoning administrator. The site-specific delineation of the RPA shall be undertaken by the applicant and approved by the zoning administrator.
 2. All components included in the RPA (subsection 3000(b)1. above) shall be delineated separately, and shall be prepared by a person trained, qualified and experienced in performing wetland delineation work, such as an environmental engineer, environmental scientist, soil scientist, biologist or geologist.

3. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, and shall be verified by the U. S. Army Corps of Engineers, where it determines it has jurisdiction.
 4. The Chesapeake Bay Preservation Area Maps may be used as a guide to the general location of RPAs but shall not be a substitute for an on-site delineation.
 5. This requirement may be waived by the zoning administrator when the proposed use or development and all associated land disturbing activities will clearly be located outside of a Resource Protection Area, based on an evaluation by the Zoning Administrator and after referral to the board of supervisors.
 6. Delineations shall be valid for a period of five (5) years.
- b. Where the applicant has provided a RPA delineation, the zoning administrator shall inspect the site and verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the zoning administrator may consider previously submitted delineations, County mapping resources and materials and consult with qualified specialists, including any private, state or federal resources available to the county. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of subsection 5000(h) (Denial/appeal of plan).
- (c) If the boundaries of the RMA include only a portion of a lot, parcel, or development project, the entire lot, parcel, or development project shall comply with the requirements of this ordinance. The division of property shall not constitute an exemption from this requirement. (8-21-06.)

Sec. 3002. - Exemptions.

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

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

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

Article 4. - Performance Standards and Development Criteria.
 Sec. 4000. - General performance standards.

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

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

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

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

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

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

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

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

- a. Land development in RPAs may be allowed in accordance with other county ordinances only when permitted by the zoning administrator and if it:
 - i. Is water-dependent;
 - ii. Constitutes redevelopment;
 - iii. Is a new use subject to the provisions of subsection 4002(b)2. of this ordinance;
 - iv. Is a road or driveway crossing satisfying the conditions set forth in subsection 4001.a.3. below; or
 - v. Is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed provided such facilities are allowed and constructed in accordance with the Virginia Stormwater Management Act and its attendant regulations, and provided that i) the local government has conclusively established that the location of the facility within the RPA is the optimum location; ii) the size of the facility is the minimum necessary to provide for flood control, stormwater management, or both; iii) the facility must be consistent with a stormwater management program that has been approved by the board as a phase 1 modification to the local government's program; iv) all applicable permits for construction in state or federal waters must be obtained from the appropriate state or federal agencies; v) approval must be received from the local government prior to construction; and vi) routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed. It is not the intent of this subsection to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.
- b. A new or expanded water-dependent facility may be allowed provided that the following criteria are met:
 - i. It does not conflict with the comprehensive plan;
 - ii. It complies with the performance criteria set forth in sections 4001 and 4002 of this ordinance;
 - iii. Any non-water-dependent component is located outside of the RPA; and
 - iv. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

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

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

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

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

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

- b. General performance standards for development and redevelopment.
 - 1. Permitted modifications to the buffer area.

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

- a. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, subject to approval by the zoning administrator who may require a plan of development in accordance with section 5000, to provide for reasonable sight lines, access paths, and general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
 - i. Trees may be pruned or removed as necessary to provide for reasonable sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
 - ii. Any path shall be constructed and surfaced so as to effectively control erosion.
 - iii. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees allowed as permitted by the zoning administrator pursuant to sound horticultural practices.
 - iv. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
- 2. Permitted encroachments into the buffer area.
 - a. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed through an administrative process, in accordance with sections 4003 and 5000 and the following criteria:
 - i. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 - ii. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and
 - iii. The encroachment may not extend into the seaward fifty (50) feet of the buffer area.
 - b. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989, and March 1, 2002, encroachments into the buffer area may be allowed through an administrative process in accordance with sections 4003 and 5000 and the following criteria:
 - i. The lot or parcel was created as a result of a legal process conducted in conformity with the local government's subdivision regulations;

- ii. Conditions or mitigation measures imposed through a previously approved exception shall be met;
 - iii. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated at the expense of the owner to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and
 - iv. The criteria in subsection 2.a. above for lots recorded prior to October 1, 1989 shall be met.
- 3. Establishment of the required buffer.
 - a. Where a buffer has been reduced or does not exist, a landscaping plan pursuant to subsection 5000(c) shall be submitted and approved prior to issuance of any zoning or building permit. The landscaping plan shall be implemented in full or surety provided to the county pursuant to subsection 5000(f)2. prior to issuance of a certificate of occupancy.
 - b. In determining and approving an appropriate buffer, the zoning administrator shall take into consideration adequate space around existing structures and other factors unique to the site.
 - c. In determining the need for establishing the required buffer, staff may rely on the latest aerial photographs, actual site visits, and other appropriate resources available.
 - d. This subsection shall not apply to the conversion from agricultural or silvicultural uses, which shall be governed by subsection 4002(b)5.
- 4. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area agricultural activities may encroach into the buffer area as follows:
 - a. Agricultural activities may encroach into the landward fifty (50) feet of the one hundred-foot wide buffer area when at least one (1) agricultural best management practice, which, in the opinion of the Peanut Soil and Water Conservation District, addresses the more predominant water quality issue on the adjacent land — erosion control or nutrient management — is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the one hundred-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation.
 - b. Agricultural activities may encroach within the landward seventy-five (75) feet of the one hundred-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in

the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the one hundred-foot wide buffer area.

- c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one (1) best management practice as considered by the Peanut Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land — either erosion control or nutrient management.
 - d. If specific problems are identified pertaining to agricultural activities which are causing pollution of the nearby water body with perennial flow or violate performance standards pertaining to the vegetated buffer area, the zoning administrator, in cooperation with soil and water conservation district, shall recommend a compliance schedule to the landowner and require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while taking into account the seasons and other temporal conditions so that the probability for successfully implementing the corrective measures is greatest.
 - e. In cases where the landowner or his agent or operator has refused assistance from the soils and water conservation district in complying with or documenting compliance with the agricultural requirements of this ordinance, the district shall report the noncompliance to the zoning administrator. The zoning administrator shall require the landowner to correct the problems within a specified period of time not to exceed eighteen (18) months from the initial notification of the deficiencies to the landowner. The zoning administrator, in cooperation with the district, shall recommend a compliance schedule to the landowner and require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while taking into account the seasons and other temporal conditions so that the probability for successfully implementing the corrective measures is greatest.
- 3. When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted to other uses, the full one hundred-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.
 - 4. Prior to any land disturbing activities or any development of a lot or parcel, a permanent sign shall be installed by the owner or developer identifying the landward limits of the RPA. Such signs shall conform to general guidelines established by the zoning administrator and approved by the board of supervisors as to size, design, color, material, location and content and shall be installed and maintained at the expense of the owner or

developer in accordance with those guidelines. Signs may be obtained from the county, at cost, or may be provided by the developer.

Sec. 4003. - Water quality impact assessment.

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

- (d) Contents of the major water quality impact assessment. The information required below shall be considered a minimum, unless the zoning administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land:

1. A site plan, which shall at minimum, contain the following:
 - a. Location of the components of the resource protection area, including the one-hundred-foot buffer area delineated in accordance with section 3001;
 - b. Location and nature of the proposed encroachment into the buffer area, including type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
 - c. Type and location of proposed best management practices to mitigate the proposed encroachment;
 - d. Location of existing vegetation on site, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification;
 - e. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.
2. A hydrogeological element that:
 - a. Describes the existing topography, soils, and hydrology of the site and adjacent lands.
 - b. Describes the impacts of the proposed development on topography, soils, hydrology, and geology on the site and adjacent lands.
 - c. Indicates the following:
 - i. Disturbance or removal of wetlands and justification for such action;
 - ii. Disruptions or reductions in the supply of water to wetland, streams, lakes, rivers, or other water bodies;
 - iii. Disruptions to existing hydrology including wetland and stream circulation patterns;
 - iv. Source location of description of proposed fill material;
 - v. Location of dredging and location of dumping area for such dredged material;
 - vi. Estimation of pre- and post-development pollutant loads in runoff;
 - vii. Estimation of percent increase in impervious surface on site, type(s) of surfacing material used;
 - viii. Percent of site to be cleared for project;
 - ix. Anticipated duration and phasing schedule of construction project;
 - x. Listing of all requisite permits from all applicable agencies necessary to develop project.

- d. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigative measures include:
 - i. Additional proposed erosion and sediment control concepts beyond those normally required under subsection 4000(b)5. of this ordinance; these additional concepts may include the following: minimizing the extent of cleared area; perimeter controls; reduction of runoff velocities; measures to stabilize disturbed areas; schedule and personnel for site inspection.
 - ii. When required, proposed stormwater management system for nonpoint source quality and quantity control in compliance with Chapter 14A of Isle of Wight County's Stormwater Management Ordinance.
3. A vegetative element that:
- a. Identifies and delineates the location of all woody plant material on site, including all trees on site eight (8) inches or greater diameter at breast height or, where there are groups of trees, said stands may be outlined.
 - b. Describes the impacts the development or use will have on the existing vegetation. Information should include:
 - i. General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;
 - ii. Clear delineation of all trees and other woody vegetation which will be removed;
 - iii. Description of all plant species to be disturbed or removed.
 - c. Describes the proposed measures for mitigation. Possible mitigation measures include:
 - i. Proposed design plan and replanting schedule for trees and other woody vegetation removed for construction, including a list of proposed plants and trees to be used;
 - ii. Demonstration that the re-vegetation plan supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control;
 - iii. Demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overload flow benefits from such vegetation;
 - iv. Demonstration that indigenous plants are to be used to greatest extent possible.
4. In the case of a WQIA for shoreline and bank stabilization projects, the following items shall be required:
- a. Completion of the shoreline erosion control water quality impact assessment form, as provided by the zoning administrator and kept on file with the department of planning and zoning;
 - b. An environmental assessment as follows:

- i. The environmental site assessment shall be drawn to scale and clearly delineate the environmental components identified in subsection 3000(b) of this ordinance;
 - ii. Wetlands delineations shall be performed consistent with the procedures specified in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987," and updates as they become available;
 - iii. The environmental assessment shall delineate the geographic extent of the resource protection area on the specific site or parcel as required under section 3001 of this ordinance;
 - iv. The environmental assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat;
 - c. A landscaping plan in accordance with subsection 5000(c), except that the plans may be submitted by any qualified professional, including shoreline contractors and nursery professionals;
 - d. A stormwater management plan in accordance with Chapter 14A of the Isle of Wight County Code, as required by state code Section 62.1-44.15:55;
 - e. An erosion and sediment control plan in accordance with Chapter 6 of the Isle of Wight County Code;
 - f. Project construction plans shall be certified as complete and accurate by a professional shoreline engineer or other qualified professional, as determined by the zoning administrator, as well as a determination as to the necessity of the project.
5. For phased projects, an updated WQIA shall be provided for each phase to the county planning and zoning department demonstrating the project's compliance with the criteria of the original WQIA. An updated WQIA shall be required until all phases of the project are complete.
- (e) Submission, review requirements, and evaluation procedure.
- 1. Ten (10) copies of all site drawings and other applicable information as required by subsection c. above shall be submitted to the zoning administrator for review.
 - 2. All information required in section 4003 (d) shall be certified as complete and accurate by a professional engineer or certified land surveyor qualified to prepare such information.
 - 3. Upon receipt of a water quality impact assessment, the zoning administrator will determine if review by DEQ or any other state agency is warranted. The zoning administrator will incorporate any comments received from such a review into the final report, provided that such comments are received within ninety (90) days of the request.
 - 4. Upon receipt of a completed major water quality impact assessment and receipt of all appropriate comments, the zoning administrator shall forward the information to the planning commission for consideration. For shoreline and bank stabilization projects and piers consistent with the provisions of this ordinance, the zoning administrator may grant administrative approval of the water quality impact assessment.

5. The planning commission will determine whether or not the proposed development is consistent with the spirit and intent of this ordinance and make a recommendation to the board of supervisors based upon the following criteria:
 - a. Within any RPA, the proposed development is water-dependent or redevelopment;
 - b. The percentage of existing wetlands disturbed by the development. The number of square feet or acres to be disturbed;
 - c. The development will not result in significant disruption of the hydrology of the site;
 - d. The development will not result in unnecessary destruction of plant materials on site;
 - e. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentation;
 - f. Proposed stormwater management concepts are adequate to control the stormwater runoff for compliance with Chapter 14A of the Isle of Wight County Code;
 - g. Proposed re-vegetation of disturbed areas will provide optimum erosion and sediment control benefits, as well as runoff control and pollutant removal equivalent of the full one-hundred-foot undisturbed buffer area;
 - h. The design and location of any proposed drain field will be in accordance with the requirements of section 4000.
6. The planning commission shall recommend additional mitigation where potential impacts have not been adequately addressed, subject to final approval or modification by the board of supervisors. Evaluation of mitigation measures will be made by the planning commission based on the criteria listed above and in subsection 5.
7. The planning commission shall find the proposal to be inconsistent with the purpose and intent of this ordinance when the impacts created by the proposal cannot be mitigated, subject to final approval by the board of supervisors. Evaluation of the impacts will be made by the planning commission based on the criteria listed in subsection 5.

Article 5. - Administrative Procedures and Enforcement.

Sec. 5000. - Plan of development process.

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

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

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

1. A plot plan or site plan in accordance with the provisions of County Zoning Ordinance or subdivision plat in accordance with the provisions of the County Subdivision Ordinance;
 2. An environmental site assessment;
 3. A landscaping plan;
 4. A stormwater management plan in accordance with Chapter 14A of the County Code;
 5. An erosion and sediment control plan in accordance with the provisions of Chapter 6 of the County Code.
- (b) Environmental site assessment. An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.
1. The environmental site assessment shall be drawn to scale and clearly delineate the environmental components identified in subsection 3000(b) of this ordinance.
 2. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as may be amended.
 3. The environmental site assessment shall delineate the geographic extent of the Resource Protection Area on the specific site or parcel as required under section 3001 of this ordinance;
 4. The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. This requirement may be waived by the zoning administrator when the proposed use or development will be clearly located outside of an RPA, based upon an evaluation of the zoning administrator.
- (c) Landscape plan. A landscape plan shall be submitted in conjunction with site plan review and approval or as part of subdivision plat approval. No clearing or grading of any lot or parcel will be permitted without an approved landscape plan.

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

1. Contents of the plan.
 - a. The landscape plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site eight (8) inches or greater diameter at breast height (DBH) shall be shown on the landscaping plan, or where there are groups of trees, said stands may be outlined instead. The specific number of trees eight (8) inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the landscaping plan.

- b. Any required RPA buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this ordinance, shall be shown on the landscaping plan.
 - c. Within the buffer area, trees and other woody vegetation to be removed for reasonable sight lines, vistas, access paths, and best management practices, as provided for in subsection 4002(b)1.a., shall be shown on the plan. Vegetation required by this ordinance to replace any existing trees within the buffer area shall be also be depicted on the landscape plan.
 - d. Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this ordinance shall be shown on the landscape plan.
 - e. The plan shall depict grade changes or other work adjacent to trees that would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
 - f. The landscape plan will include specifications for the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.
 - g. If the proposed development is a change in use from agricultural or silvicultural to some other use, the plan must demonstrate the re-establishment of vegetation in the buffer area.
2. Plant specifications.
- a. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
 - b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
 - c. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation shall be achieved with a ratio of three (3) planted trees to each tree removed in accordance with good woodlot management. Replacement trees shall be two (2) inches DBH at the time of planting.
 - d. Use of native or indigenous species is strongly encouraged.
3. Maintenance.
- a. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this ordinance.
 - b. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this ordinance.

- (d) Stormwater management plan. A stormwater management plan shall be submitted as part of the plan of development process required by this ordinance and in conjunction with site plan or subdivision plan approval in accordance with the provisions of Chapter 14A of the County Code.
 - 1. For phased projects, an updated stormwater management plan shall be provided for each phase to the county planning and zoning department demonstrating the project's stormwater management facilities are still meeting the pollutant removal standards of the original WQIA. Updated stormwater management plans shall be required until all phases of the project are complete.
- (e) Erosion and sediment control plan. An erosion and sediment control plan shall be submitted that satisfies the requirements of this ordinance and in accordance with Chapter 6 of the County Code, in conjunction with plot plan, site plan or subdivision plan approval.
- (f) Final plan. Final plans for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided as required in the County Zoning Ordinance.
 - 1. Final plans for all lands within CBPAs shall include the following additional information:
 - a. The delineation of the Resource Protection Area boundary, including the one hundred-foot buffer component;
 - b. Plat or plan note stating that no land disturbance is allowed in the buffer area without review and approval by the zoning administrator;
 - c. All wetlands permits required by law;
 - d. A maintenance agreement as deemed necessary and appropriate by the zoning administrator and/or the stormwater division to ensure proper maintenance of best management practices in order to continue their functions.
 - 2. Installation and bonding requirements.
 - a. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant material or facilities is completed in accordance with the approved site plan.
 - b. Installation and bonding requirements for landscaping shall be in accordance with the County Zoning Ordinance.
- (g) Administrative responsibility. Administration of the plan of development process shall be in accordance with the County Zoning Ordinance or the County Subdivision Ordinance. The zoning administrator shall approve, approve subject to conditions, or disapprove the plans in accordance with the reviewing authorities' recommendations. The zoning administrator shall return notification of plan review results to the applicant, including recommended conditions or modifications. In the event that the results and/or recommended conditions or modifications are acceptable to the applicant, the plan shall be so modified, if required, and approved.

- (h) Denial of plan, appeal of conditions or modifications. In the event the final plan or any component of the plan of development process is disapproved or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the planning commission within sixty (60) days of the administrative decision to be appealed. The planning commission shall make a recommendation to the board of supervisors. The final decision on an appeal shall be made by the board of supervisors.

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

Sec. 5001. - Nonconforming uses and nonconforming structures.

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

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

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

3. A nonconforming use and development waiver shall become null and void twenty-four (24) months from the date issued if no substantial work has commenced.
4. An application for the expansion of a nonconforming structure may be approved by the zoning administrator through an administrative review process provided that the following findings are made:
 - a. The request for the waiver is the minimum necessary to afford relief;
 - b. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this ordinance to other property owners in similar situations;
 - c. The waiver is in harmony with the purpose and intent of this ordinance and does not result in water quality degradation;
 - d. The waiver is not based on conditions or circumstances that are self-created or self-imposed;
 - e. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
 - f. Other findings, as appropriate and required by the county are met; and
 - g. In no case shall this provision apply to accessory structures.

Sec. 5002. - Exceptions.

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

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

Sec. 5003. - Enforcement, violation and penalties.

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

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

Sec. 5004. - Appeals.

- (a) Any person or persons jointly or severally subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to Board of Zoning Appeals no later than thirty (30) days from the rendering of such decision, order or requirement. The fee shall be as set forth in the Isle of Wight County Fee Schedule for such appeals. The Board of Zoning Appeals shall hear the appeal as soon as practical after receipt of the application.
 - i. In rendering its decision, the Board of Zoning Appeals shall balance the hardship to the property owner with the purpose, intent, and objectives of this chapter.
 - ii. Decisions by the Board of Zoning Appeals shall be subject to review by the Circuit Court of Isle of Wight County provided an appeal is filed within thirty (30) days from the date of the decision of the board.
- (b) Any person or persons jointly or severally aggrieved by a decision of the Board of Supervisors may present to the Circuit Court of County of Isle of Wight a petition specifying the grounds on which aggrieved within thirty (30) days after the final decision of the Board of Supervisors. Costs shall not be allowed against the Board of Supervisors, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed therefrom.

Article 6. - Septic Pump-Out Program.

Sec. 6000. - Purpose and findings.

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

Findings made by Isle of Wight County include the following:

1. Individual and group on-site sewage treatment systems continue to be heavily relied upon throughout most parts of the county, including properties located within the Chesapeake Bay Watershed.
2. Septic systems require proper management and maintenance in order to continue working as intended. Solids will accumulate over time and require pumping out.
3. Septic systems that are improperly installed or maintained are subject to clogging and/or overflow. A malfunctioning system may cause contaminants to rise to the surface, pollute

ground or surface water, create foul odors, and otherwise threaten public health, safety, and welfare.

4. Most experts recommend that on-site sewage treatment systems be inspected and pumped out as necessary every three (3) to five (5) years, according to the U.S. Environmental Protection Agency.
5. Septic systems that are properly maintained are less likely to cause pollution. Routine maintenance can help avoid the costs of emergency replacement and/or major repairs caused by neglect.

Sec. 6001. - Authority.

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

Sec. 6002. - Severability.

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

Sec. 6003. - Effective date.

This program shall go into effect on August 1, 2008.

Sec. 6004. - Applicability.

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

- A. No property owner located within the Chesapeake Bay watershed of Isle of Wight County, Virginia shall operate an on-site sewage treatment system unless such construction, installation, alteration, maintenance or operation is in compliance with all applicable sanitary regulations and this program.
- B. Septic tank pump-outs as prescribed in this article shall take place at least once every five (5) years, other than as noted in Item C. Furthermore, in lieu of requiring proof of septic tank pump-out every five (5) years, owners may submit documentation every five (5) years, certified by an operator or on-site soil evaluator licensed or certified under Chapter 23 (Section 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, maintain or design on-site sewage systems, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.
- C. If deemed appropriate by the local health department and subject to conditions the local health department may set, as an alternative to the mandatory pump-out, owners have the option of having a plastic filter installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system.

Sec. 6005. - Exemptions.

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

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

Sec. 6006. - Definitions.

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

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

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

County:\ Isle of Wight County, Virginia.

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

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

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

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

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

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

Violator:\ Any person who:

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

Zoning administrator:\ The person, or authorized designee, responsible for administering and enforcing the septic pump-out program.

Sec. 6007. - Administration.

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

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

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

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

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

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

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

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

- 1) They have filled out, signed and submitted the septic system verification forms as required by the county; and
- 2) They have had septic system pump-outs as required by the county.

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

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

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

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

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

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

The county strongly recommends that septic tank effluent filters be installed by septic tank contractors and in accordance with standards set by the Virginia Department of Health.

Sec. 6008. - Enforcement, violations and penalties.

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

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

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

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

DATE: _____

READ AND PASSED: _____
Chairman

TESTE: _____
Clerk

Approved as to Form:

Robert W. Jones, Jr., County Attorney

PLANNING REPORT