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Established 1692

MEMORANDUM

Date: September 18, 2023

To: Essex County Board of Supervisors

From: Brian Barnes, Zoning Administrator

Subject: Change of Zoning District Classification Application # R-20230003

Public Hearing: October 2, 2023

Project Description

Case # 20230003. June C. Monterio, owner c/o 7 AND M Development, LLC, requests rezoning from B-1, Local Business District to PUD, Planned Unit Development District pursuant to Article IV, Division 3, section 36.240, of the Essex County Zoning Ordinance, located on a 13.186 acre +- parcel, Tax Map # 36-43, located off Richmond Highway, zoned B-1, Local Business, partly within the Development Service District and the Corridor Enhancement District, respectively, and wholly within the Central Supervisory District. The property fronts approximately 554 feet on the westbound lane of US Highway 360 approximately 1500 feet west of the light at the Bray's Fork intersection.

Parcel Identification: 36-43

Acreage: 13.186 +-

Zoning: B-1, Local Business

Land Use Area District: Development Service District

Overlay: Corridor Enhancement District (along roadway area)

Magisterial/Voting District: Central Supervisory

The applicant requests a change of zoning district classification in order to pursue the development of a mixed-use development including residential and business space as depicted in site plan submittals.

Requested Change of Zoning District

This request for change of zoning district will be guided by the following zoning ordinance article in the Essex County Zoning Ordinance:

Article III, Division 3, section 36.111.- Standards and Procedures.

a) Initiation of Change.

(1) Pursuant to § 15.2-2286(7), any amendment to this Ordinance or the Zoning Map may be initiated by:

a. Resolution of the Board of Supervisors stating that the public necessity, convenience, general welfare and good zoning practice requires the amendment;

b. Resolution or motion of the Planning Commission stating that the public necessity, convenience, general welfare, and good zoning practice requires the amendment; or

c. Application of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed Zoning Map amendment (rezoning), addressed to the Board of Supervisors or the local Planning Commission, who shall forward such petition to the Board of Supervisors.

Upon initiation by either the Board of Supervisors or the Planning Commission, the proposed amendment is automatically referred to the Planning Commission.

This request has been initiated by the owner of the property who is also the applicant with 7&M Development, LLC., being the designated agent and representative for the owner.

This same article and division, under section (a) above, outlines the procedure for considering approval:

(b) Application; Review.

(1) Applications for amending this Ordinance or the Zoning Map shall be reviewed using the procedures set forth in this Ordinance and minimum submission requirements established by the Zoning Administrator. Upon receipt of an application for a zoning text amendment or rezoning, the Zoning Administrator will review the application for completion.

a. The application shall be accompanied by a preliminary site plan, as required in Division 7 below, and such written and graphic material as may be necessary to enable the Planning Commission and the Board of Supervisors to make the recommendation and determinations set forth below. Applicants may, in advance of filing an official application, submit 15 copies of a general development plan to the Zoning Administrator and request review by the Planning Commission for the purpose of guidance and comment. No official action shall be taken by the Planning Commission at said meeting; no unreasonable proffers shall be requested pursuant to Code of Virginia, § 15.2-2303.4; and no commitments shall be made by the County or any agency thereof at said meeting. The submitted general development plan may be general and schematic but shall show the following:

1. *A certified plat of the subject property showing metes and bounds of all property lines.*
2. *Proposed land uses to be developed.*
3. *The approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.*
4. *If any, the general location of proposed open space and recreational areas.*
5. *If any, the general location and type of commercial uses to be developed.*
6. *The general location and character of the proposed major roads, trails, public utility and storm drainage systems.*
7. *A statement on the proposed development schedule.*
8. *A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the planned development.*
9. *Any additional information as deemed reasonably necessary by the Zoning Administrator.*

The Planning Commission is tasked with hearing public comments, reviewing this application based on the aforesaid requirements and then making a recommendation to the Board of Supervisors for consideration of approval.

This recommendation has been made following a public hearing, deliberation, and vote for recommendation on September 5, 2023. The draft minutes from this proceeding have been included and made an attachment to this staff memo.

Planned Unit Development

Article IV (4), Division 3, section 36.240, Essex County Zoning Ordinance, defines the Planned Unit Development District Requirements. This is the district petitioned for by the applicant. Ordinance Article IV, Division 3, section 36.240, et seq., would then guide the future uses of the subject property. The purpose of the PUD district is codified as follows:

Overall Guidelines and Design.

- (1) *The purpose of the PUD, Planned Unit Development District, is to offer areas where higher density and more intense development can be accommodated. A variety of uses are permitted within this District that create a unified livable community. Generally, an integrated mix of higher-density residential development with some smaller scale neighborhood-serving commercial uses is permitted in a village-like setting.*

The PUD ordinance, by reference, uses standards from the R-3, *Higher Density Residential District*, The B-1, *Business Limited District* and to a lesser extent, the B-2, *Business District*. These Ordinance sections have been included in this memo for study and use.

Existing Development/Activities

The subject property is currently a lightly forested and vegetated area with a soil road entering the property from the westbound lanes of Route 360. No taxable improvements are listed for this parcel, currently.

Comprehensive Plan

The Essex County Comprehensive Plan is an important tool in guiding land use decisions, which may come before the Planning Commission and the Board of Supervisors. The staff memo submitted for the September 5, 2023, hearing details the Comprehensive Plan applicability on page three and four. Planning Commissions are charged with hearing certain items of land use and other matters and weighing them against the language of the adopted Comprehensive Plan.

Zoning Ordinance

The Essex County Zoning Ordinance allows for a change of Zoning District Classification following a Public Hearing and recommendation from the Planning Commission as outlined previously with the citation of Article III, Division 3, section 36.111 and §15.2-2286(7), Code of Virginia, 1950, as amended.

This application is also asking for three exceptions for this project as part of the approval process. These three exceptions are for project size, emergency access, and private internal roads instead of public roads. "Standards Exceptions" is included in the PUD ordinance, section 36.242.(5), Essex County Zoning Ordinance, and are as follows:

(5) Standards Exceptions:

- a. An applicant may request to develop portions of the development at higher densities than stated for that particular use or may request flexibility in Ordinance standards to accommodate the planned design and to encourage innovative and creative design and high-quality development. In granting development standard exceptions, consideration shall be given as to:
 - 1. Whether the exceptions are solely for the purpose of promoting an integrated development plan which would be equally beneficial to the development's design, its future occupants, and the surrounding area as would be obtained under this Ordinance's development standards;*
 - 2. Whether the exceptions are necessary, desirable and appropriate with respect to the primary purpose of the development; and*
 - 3. Whether the exceptions are not of such a nature or located so as to have a detrimental influence on the area;*
 - 4. Lot Area Reductions. The minimum lot area requirements may be decreased without limitation, provided that land in an amount equivalent to that by which each residential lot or building site is diminished is provided in common area within the development;*
 - 5. Amendment of Conditions of Approval. Except as outlined below, amendment of conditions of approval for a PUD shall occur through the same process as the original approval:
 - i. Conditions allowing amendment by the planning commission, staff or others may be amended per the language of the condition; and***

ii. Conditions establishing setbacks may be amended through the granting of a variance by the Board of Zoning Appeals provided relief applies solely to a single lot and not the overall area encompassed by the PUD.

Staff Analysis

Case # R-20230003 has been processed by county staff and sent to a public hearing with the Planning Commission as required by ordinance. The Planning Commission entertained a motion to recommend denial, which received a vote of 5 to 2 for the motion. This item of consideration is now before the Board of Supervisors for hearing, deliberation, and action. In general, Boards may approve such a request, deny it, or remand the item back to the Planning Commission for further recommendation. This decision item only changes the Zoning District Classification. A Site Plan Approval process would be required to come at some point in the future, if and when, the owner of the property decided to pursue further development of the land in question.

Planning Commission decisions come to Boards of Supervisors and other similar bodies as a recommendation. Boards have the authority to adopt ordinances, ordinance exceptions (Conditional Use Permits, etc.) and have the ability to interpret their own ordinances. While the Planning Commission has the charge of fidelity to the Comprehensive Plan and the Zoning Ordinance, a Board has the duty and the prerogative to serve the county as a whole. The Board may take into consideration wider issues in making a formal land use decision.

The information contained with this memo contains the following documentary items and should help Board members to understand the applicants' request and the issues to weigh and consider in making these decisions.

October 2, 2023, file:

1. Staff memo to the Board of Supervisors, October 2, 2023
2. Copies of the Essex County Zoning Ordinance *Purpose and Intent and District Requirements* PUD, R-3, B-1, B-2
3. Staff memo for Planning Commission, September 5, 2023
4. Applicant Submittal for Planning Commission, September 5, 2023
 - a. Application
 - b. Final Development Conditions-Proffers and Signatures
 - c. Exhibit A-Preliminary Site Plan
 - d. Exhibit B-Elevations and Renderings
 - e. Exhibit C-Landscaping Plan
 - f. Responses to previous meetings, staff comments
5. Draft minutes for Planning Commission, September 5, 2023

Section 36.211. - Purpose and Intent of Zoning Districts.

(a) *Primary Zoning Districts.*

- (1) *A-1 Agricultural and Forestry, Preservation District.* The purpose of the A-1 district is to encourage continued agricultural and forest uses and preserve the natural beauty and ecology or environmental health of rural areas through large lots with wide expansive areas of farming and forestry. This district generally corresponds to areas of the County represented as the Agricultural Preservation District in the County Comprehensive Plan. At the same time, the district is intended to provide for very sparse residential development for those who own or manage on site farm and forestry lands or choose to live in a rural environment. In order to protect against premature subdivision of land and the formation of urban clusters where none are planned, subdivisions are restricted to maintain and protect the land base necessary to support the County's agricultural economy. This district shall not be confused with, but may include, properties designated as Agriculture and Forestal Districts through the Agricultural and Forestal Act, as described in the Code of Virginia, § 15.2-4300 et seq.
- (2) *A-2 Agricultural and Forestry, General District.* The purpose of this district is to protect existing and future farming operations, allow accessory uses that boost the agriculture economy, and at the same time allow for low density residential uses. This district generally corresponds to areas represented as the Countryside District and Rural Residential Development in the County Comprehensive Plan. Generally, this district covers certain portions of the County now devoted entirely or predominantly to various open uses, such as farms, forest, parks or lakes, into which residential or other types of development could reasonably be expected to expand in the foreseeable future. In order to protect against premature subdivision of land and the formation of urban clusters where none are planned, subdivisions are restricted to maintain the rural character of the district. This district shall not be confused with, but may include, properties designated as Agriculture and Forestal Districts through the Agricultural and Forestal Act, as described in the Code of Virginia, § 15.2-4300 et seq.
- (3) *R-1 Very Low Density Residential District.* The purpose of this district is to provide for very low-density residential development of no more than one unit per acre together with such public, civic, recreation and accessory uses as may be necessary or are normally compatible with residential surroundings. Since substantial tracts of vacant land are or may be included in the R-1 district, agricultural and open uses are permitted, but in general, urbanization is planned, and adequate utilities and public services exist or should be planned for the types of development contemplated. The regulations for this district are designed to provide for

individuals and families who desire spacious homesites without fear of encroachment of dissimilar uses. The R-1 districts will be generally located in the Rural Residential District as shown in the Essex County Comprehensive Plan.

- (4) *R-2 Low Density Residential District.* The purpose of this district is to provide for low-density residential development of no more than two units per acre together with such public, civic, recreation and accessory uses as may be necessary or are normally compatible with residential surroundings. The regulations for this district are designed to prohibit commercial activities but promote and encourage a suitable environment for family life by providing a mix of housing types located in closer proximity to shopping and employment. The R-2 district will generally be located in the Rural Residential Districts as shown on the Essex County Comprehensive Plan.
- (5) *R-3 Medium Density Residential District.* The purpose of this district is to provide for medium-density residential developments of no more than four units per acre and to encourage a mixture of residential uses with certain public and semipublic land uses. The regulations for this district are designed to provide a suitable environment for those desiring dense community living and close proximity to shopping, employment, and other community facilities. The R-3 district will generally be located in the Development Service and Deferred Development Service District as shown on the Essex County Comprehensive Plan.
- (6) *R-4 Residential, Restricted District.* The purpose of this district is to allow for medium density residential development, on nonconforming lots of record, provided said lots were recorded prior to October 16, 1976, and provided their development is consistent with the requirements of the Chesapeake Bay Preservation District, Section XV-1 of this Ordinance. After November 10, 2022, R-4 zoning shall no longer be granted. Properties zoned R-4 on or before November 10, 2022, shall continue to be subject to the provisions of the R-4 district standards.
- (7) *MH-1 Mobile Home Park District.* The purpose of this district is to provide for the establishment of attractive, safe, and well-designed mobile home parks and to ensure that space is provided for moderately priced housing. The MH-1 district will generally be located in the Development Service Districts as shown on the Essex County Comprehensive Plan.
- (8) *PUD Planned Unit Development District.* This district is intended to permit development in accordance with a master plan of cluster type communities. Within such communities, the location of all improvements shall be controlled in such a manner as to permit a variety of housing accommodations in an orderly relationship to one another, with the greatest amount of open area and the least disturbance to natural features. A planned unit development may include light commercial facilities to the extent necessary to serve the needs of the particular planned unit development. Lands currently designated as the Agricultural Preservation (A-1)

district shall not be considered appropriate for Planned Unit Development (PUD) district designation. The PUD district will generally be located in the Rural Residential and Development Service Districts as shown on the Essex County Comprehensive Plan.

- (9) *B-1 Local Business District.* The purpose of this district is to provide primarily for retail shopping and personal service uses, to be developed either as a unit or in individual parcels to serve the needs of a relatively small section of the County or the needs of the traveling public on the highways. To enhance the general character of the district, its function of local services, and its compatibility with its surroundings, the size and design of certain uses is limited. The B-1 district will generally be located in the Development Service District, and Rural Service Centers as shown on the Essex County Comprehensive Plan.
 - (10) *B-2 General Business District.* The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial, automotive, and miscellaneous recreational and service activities, generally serving a wide area of the County and generally located near the Town of Tappahannock where a general mixture of commercial and service activity now exists or is planned. The district is not characterized by extensive warehousing, frequent heavy trucking activity, or the nuisance factors of dust, odor, and noise associated with industrial activities. The B-2 district will generally be located in the Development Service District as shown on the Essex County Comprehensive Plan.
 - (11) *I-1 Light Industrial District.* The purpose of this district is to provide areas in which the principal use of land and buildings is for light manufacturing and assembly plants including processing, storage, warehousing, wholesaling and distribution. It is the intent that permitted uses be conducted so that noise, odor, dust, smoke, and glare of each operation is confined within an enclosed building. The I-1 district will generally be located in the Business and Employment Districts and select locations within the Development Service District as shown on the Essex County Comprehensive Plan.
 - (12) *I-2 Industrial District.* The intent of this district is to permit certain larger scale manufacturing with large outside storage, warehousing, and product display. The creation of any offensive noise, smoke or odor shall be mitigated with industry best practices for the compatibility of the surrounding uses and the preservation of the environment. The I-2 district will generally be located in the Business and Employment District or the Development Service Districts as shown on the Essex County Comprehensive Plan.
- (b) *Special Purpose Zoning Districts.*
- (1) *CBPA-OD Chesapeake Bay Preservation Area Overlay District.* This district is enacted to implement the requirements of Code of Virginia, § 62.1-44.15:67 et seq., as amended, (The Chesapeake Bay Preservation Act) and Regulation 9VAC25-830 et seq. The Chesapeake Bay

Preservation Act, Article 2.5 of Chapter 3.1 of Title 62.1 of the Code of Virginia (1950), as amended, recognizes that healthy State and local economics are integrally related to each other and the environmental health of the Chesapeake Bay.

- (2) The purpose of the District is to assist in protection of the Chesapeake Bay and its tributaries from non-point source pollution from land uses or appurtenances within the Chesapeake Bay drainage area and minimize pollution and deposition of sediment in wetlands, streams, and lakes in Essex County which are tributaries of the Chesapeake Bay. The district encourages and promotes:
 - a. Protection of existing high quality state waters;
 - b. Restoration of all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
 - c. Safeguarding of the clean waters of the Commonwealth from pollution;
 - d. Preventing any increase in pollution;
 - e. Reducing existing pollution; and
 - f. Promoting water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the Commonwealth.
- (3) This district is enacted under the Authority of Code of Virginia, § 62.1-44.15:74 (the Chesapeake Bay Preservation Act) and Code of Virginia, § 15.2-2283. Code of Virginia, § 62.1-44.15:74 states that zoning ordinances shall "comply with all criteria set forth in or established pursuant to Code of Virginia, § 62.1-44.15:72."

DIVISION 3. PLANNED DISTRICT REQUIREMENTS

Section 36.240. PUD Planned Unit Development District Requirements.

Overall Guidelines and Design.

- (1) The purpose of the PUD, Planned Unit Development District, is to offer areas where higher density and more intense development can be accommodated. A variety of uses are permitted within this District that create a unified livable community. Generally, an integrated mix of higher-density residential development with some smaller scale neighborhood-serving commercial uses is permitted in a village-like setting.
- (2) PUDs are intended to develop contiguous to existing development or as an infill development that has a compact design with a mix of housing types, commercial uses and open space and recreational areas that are all interconnected with access that facilitates walking, cycling, transit and driving.
- (3) PUDs shall be located on tracts having sufficient size to accommodate the development and provide appropriate transitions. Primary access for the development would be provided directly to a major roadway and not through an existing residential development having an average lot size larger than that of the proposed development.
- (4) The PUDs development design and quality should enhance the surrounding area, preserve scenic assets and natural features and be designed with the influence of the historic and architectural character of the community.
- (5) Edges of the development adjacent or near to established neighborhoods would be required to buffer the edges to minimize impact to established neighborhoods. This approach acknowledges existing development patterns and recognizes historic development conditions.
- (6) Quality design standards are required to include provision of sidewalks, street trees, site and individual lot landscaping, recreational amenities, a comprehensive system of pedestrian, bike and bridle paths, where appropriate, and quality and variety of the architectural design and materials. Further, it is the intent of the district to be designed to the human scale with neighborhood connectivity. Consideration should be given to height of buildings, mixture of homes to accommodate various incomes, neighborhood parks, recreational areas, greens, walking distances, interconnected streets, and traffic calming techniques.
- (7) These higher density, mixed use developments will only be permitted in areas where infrastructure in the form of public water and sewer, transportation systems and other public facilities such as parks and community facilities would not be adversely impacted or provisions are made for such facilities to accommodate demands resulting from the development.

Section 36.241. Permitted Uses.

An integrated mix of higher density residential development with smaller scale neighborhood-serving commercial uses, public spaces and community and recreational uses are permitted:

- (1) *Residential Use.* The majority of the development should be residential units of varying types. Permitted residential uses include: Attached and detached single-family dwellings, duplexes, townhouses and attached and detached multi-family (condominiums and/or apartments) units. Multi-family residential uses would be permitted to be vertically integrated with non-residential uses within

buildings, with residential uses on the upper floor(s) of a building and non-residential uses on the ground floor.

- (2) *Non-Residential Use.* Permitted non-residential uses should primarily be smaller-scale and serve a neighborhood wide trade area as permitted in the Business Limited (B-1) District. Limited commercial uses that serve broader trade areas as permitted in the Business (B-2) District may be permitted under circumstances that minimize impacts of vehicular traffic on the desired development pattern and surrounding area. These uses would not include automobile-oriented uses such as automobile repair, service and sales; automobile parts sales; and car-washes.
- (3) *Guaranteed Mixed Use.* Non-residential uses are required to be developed in conjunction with the development's residential uses such that:
 - a. Minimum of 30% of the total land area of the PUD must include non-residential uses (Overall not less than 20% commercial uses and not less than 10% public/recreational and open space uses)
 - b. Maximum of 50% of the total residential uses for the project are permitted to receive certificates of occupancy until such time as construction is complete on 40% of the non-residential uses for the project.

Section 36.242. Density, Minimum Development Standards and Development Standard Exceptions.

While the standards below offer the minimum development standards, PUDs often are substantially different in character than traditional single use developments such that additional standards and exceptions to existing standards are needed through the approval process. Considerations for granting exceptions are provided in Section (5) below.

- (1) *Residential Uses.*
 - a. For the residential uses, development shall comply with the standards for permitted uses in the R-3 (Higher Density Residential) Zoning District and Use and Development Standards sections for these uses. These standards address requirements including, but not limited to, densities, lot areas, frontage, width, setbacks, buffers, landscaping, parking, building heights, open space ownership and maintenance and architectural standards.
- (2) *Non-Residential Uses.*
 - a. For non-residential uses, development shall comply with the standards for permitted uses in the B-1 (Business Limited) Zoning District and Use and Development Standards sections for these uses. These standards address requirements including, but not limited to, lot areas, frontage, width, setbacks, buffers, screening, landscaping, parking, building heights, open space ownership and maintenance and architectural standards.
- (3) *Streets, alleys and pedestrian circulation:*
 - a. Streets and alleys shall be provided pursuant to the Ordinance and shall be constructed in compliance with current standards and accepted for maintenance by VDOT.
 - b. Safe and appropriate vehicular circulation on-site and between adjacent properties shall be provided.
 - c. Pedestrian ways shall be incorporated into each development and extended to adjacent properties. Pedestrian ways shall be designed to minimize conflicts with vehicular traffic.
 - d. The orientation of streets shall enhance the visual impact of common open space and prominent scenic assets and natural features.

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- e. Alley easements shall be owned, controlled, and maintained by a property owners' association (POA) or similar association or owned by individual property owners with control and maintenance by a POA or other association. The County shall be granted emergency ingress and egress to alleys but shall have no maintenance or ownership responsibilities.

(4) *Architecture:*

- a. In addition to standards provided in R-3 and B-1 District and in Use Performance Standards, the following shall be met with the planned development:
 - 1. A consistent architectural treatment shall be developed for the project to ensure quality design and architecture are provided throughout. Architectural treatment of buildings, including materials, color and style, shall be compatible.
 - 2. Architectural compatibility may be achieved through the use of similar building massing, materials, scale, colors and other architectural features.

(5) *Standards Exceptions:*

- a. An applicant may request to develop portions of the development at higher densities than stated for that particular use or may request flexibility in Ordinance standards to accommodate the planned design and to encourage innovative and creative design and high-quality development. In granting development standard exceptions, consideration shall be given as to:
 - 1. Whether the exceptions are solely for the purpose of promoting an integrated development plan which would be equally beneficial to the development's design, its future occupants, and the surrounding area as would be obtained under this Ordinance's development standards;
 - 2. Whether the exceptions are necessary, desirable and appropriate with respect to the primary purpose of the development; and
 - 3. Whether the exceptions are not of such a nature or located so as to have a detrimental influence on the area;
 - 4. *Lot Area Reductions.* The minimum lot area requirements may be decreased without limitation, provided that land in an amount equivalent to that by which each residential lot or building site is diminished is provided in common area within the development;
 - 5. *Amendment of Conditions of Approval.* Except as outlined below, amendment of conditions of approval for a PUD shall occur through the same process as the original approval:
 - i. Conditions allowing amendment by the planning commission, staff or others may be amended per the language of the condition; and
 - ii. Conditions establishing setbacks may be amended through the granting of a variance by the Board of Zoning Appeals provided relief applies solely to a single lot and not the overall area encompassed by the PUD.

(6) *Conditions and Guarantees:*

- a. Conditions and restrictions may be imposed on the use, operation, establishment, location and construction of the development or any portion thereof as necessary to protect the public interest and ensure compliance with the guidelines of this Ordinance and the Comprehensive Plan. In addition, a guarantee or bond may be required to ensure that conditions and Ordinance standards are satisfied. Reasonable guarantees shall be provided that required common area and other commonly owned portions of the development will always remain available and be reasonably maintained.

(7) *Application and Review:*

- a. Establishment of a PUD District shall be pursuant to the rezoning procedure set forth in Article III.
- b. In addition to the rezoning application requirements listed in Article III, the following application requirements shall apply:
 1. A master plan showing:
 - i. General location of streets and alleys;
 - ii. Land uses by type, function, density and intensity;
 - iii. Transitional areas between uses and adjacent properties;
 - iv. Proposed open space, specifically designating areas for passive and active use, and an inventory of scenic assets and natural resources to be considered for preservation; and
 - v. Preliminary plans for drainage and erosion control, transportation improvements, water and sewer service, and other public utilities and facilities as may be required.
 2. A textual statement explaining in specific detail any and all exceptions to this Ordinance that are being requested for the development and written justification for such exception request(s).
 3. A tabulation of the proposed program of development by general area and in total providing:
 - i. Proposed dwelling units by residential type;
 - ii. Proposed non-residential square footages by use type;
 - iii. Calculations of percentages of land area covered by the various land uses;
 - iv. Illustrative building, parking, and alley layouts;
 - v. Descriptions and illustrations of screening, buffering and transitions to be provided between residential and non-residential uses and along development's edge;
 - vi. Standards for the landscaping and lighting;
 - vii. Standards for the landscaping and lighting;
 - viii. Street, loading areas and parking design;
 - ix. Screening;
 - x. Architectural guidelines for all building types; such guidelines need not set specific floor plans or elevations, but shall describe the style and materials of buildings;
 - xi. A written description of how the proposed plan and design guidelines for the proposed PUD meet the objectives outlined in this section;
 - xii. A statement regarding the timing of construction of common and/or public facilities;
 - xiii. A general statement as to how parks, squares, common open spaces and common facilities are to be owned and maintained; and

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- xiv. Detailed conceptual plan of each residential type, commercial areas, recreational amenities, and open space areas.

Sections 36.243—36.254. Reserved.

Section 36.225. - R-3 Medium Density Residential District Requirements.

Table 36.5 R-3 District Requirements - Single Family Residential and Non-Residential Use	
A. Lot Standards	
1. Lot area and width	
a. Area (square feet)	10,500
b. Width (feet)	80
2. Lot coverage (maximum %)	30
B. Road Frontage for lots intended for dwelling purposes (feet)	
1. Family subdivision lot	20
2. Other lots	
a. Permanent cul-de-sac or radius of loop road	25
b. Other roads	50
C. Principal Building Setbacks (feet)	
1. Front setback	
a. Fronting US Primary Highway	50
b. All other fronts	35
2. Interior side setback	15
3. Corner side setback	
a. Back to side with another corner lot	30

b. Back to back with another corner lot	25
4. Rear setback	
a. Through lot	35
b. All other lots	25
D. Principal Building Heights (maximum)	
1. Single-family dwellings	Lesser of 2.5 stories or 35 feet
2. Other permitted principal structures	Lesser of 2.5 stories or 35 feet
E. Accessory Building Requirements	Subject to Article VI, Use Performance Standards

Table 36.6. R-3 District Requirements	Residential Townhouse Use - Subdivision, Lot, and Building Standards	Residential Multi-Family Use - Project and Building Standards
A. Project Size (minimum)	8 acres	15 acres
B. Common Area (passive and active recreational space of total development)	30%	10%
C. Density	8 units per acre	10 units per acre
D. Maximum Number of Attached Lots in Each Row	8	N/A
E. Maximum Number of Multi-Family Dwelling Units Per Floor	N/A	10

F. Minimum Access Points into Project from Public Road		
1. For 50 or fewer units	1	1
2. For 51—200 units	2	2
3. For more than 200 units	Determined in conjunction with zoning	Determined in conjunction with zoning
G. Lot Standards		
1. Lot area (square feet)	2,000	N/A
2. Lot width (feet)	30	N/A
3. Lot coverage (maximum %)	50%	40%
H. Private Pavement Setbacks from Roads (feet)		
1. Fronting US. Primary Highway	50	50
2. Fronting Other Roads	15	15
I. Road Frontage for Townhouse Units		
J. Townhouse Principal Building Setbacks (feet)		
1. Front yard	20	N/A
2. Side yard		
a. Interior units and Corner sides	20	

b. End unit in a row of less than 5 attached lots	10	N/A
c. End unit in a row of 5 or more attached lots	15	N/A
3. Rear yard	20	N/A
K. Multi-Family Principal Building Setbacks (feet)		
1. Project Property Lines	N/A	50
2. Public Roads	N/A	50
3. Parking spaces	N/A	15
4. Distances Between Buildings	N/A	30
L. Pavement Width of Other Drives (feet)	24	24
M. Principal Building Height (maximum feet)	35	35
N. Accessory Building Requirements	Subject to Article VI, Use Performance Standards	Subject to Article VI - Use Performance Standards

(a) *Other Required Townhouse Subdivision Standards.*

- (1) *All lots shall have frontage on a road.* If approved by the County as part of a rezoning application, lots may front on private pavement which has direct access to a public road when the private pavement is designed and constructed in accordance with the provisions of the Essex County Subdivision Article.
- (2) *Common Areas Design.* Within required common area, except where lots abut a public street, a 5-foot-wide common area shall be provided around the perimeter of each group of attached lots.

- (3) *Common Areas Ownership.* Open space shall be owned and maintained by the developer and/or owner of the townhouse development, until such time as it is turned over to the ownership and maintenance of an approved homeowners' association, whose members shall include all of the individual owners of townhouses in the development, or to a nonprofit council of co-owners as provided under the Code of Virginia. This land shall be used solely for the recreational and parking purposes of the individual townhouse lot owners. Such land conveyance shall include deed restrictions and covenants, in a form acceptable to the county attorney, that shall provide, among other things, that assessments, charges and costs of the maintenance of such areas shall constitute a pro rata lien against the individual townhouse lots, inferior in dignity only to taxes and bona fide duly recorded deeds of trust of each townhouse lot. An applicant seeking to subject property to townhouse development under this section whose ownership or interest in the property is held by a valid lease, shall provide for an initial term of not less than 99 years in such lease.
 - (4) *Attached lots.* The number of lots in each group of attached lots shall be varied throughout the subdivision.
- (b) *Additional Townhouse Subdivision and Multi-family Project Standards.*
 - (1) *General Design and Building Layout.* The development shall be designed with special attention to compatibility of adjacent land uses, topography, existing vegetation, and orientation. The development shall incorporate an attractive building layout which relates to and enhances natural vegetation and terrain or incorporates natural design features such as preservation of scenic vistas or other unique elements of the site.
 - (2) *Architecture.* Buildings shall be designed to impart harmonious proportions and avoid monotonous facades and large bulky masses. Buildings shall maintain possess architectural variety while at the same time maintain an overall cohesive residential character. Residential character may be achieved through the creative use of design elements such as, but not limited to, balconies, terraces, articulation of doors and windows, sculptural or textural relief of facades, architectural ornamentation, varied roof lines, or other appurtenances such as lighting fixtures and plantings. The facades of individual units within any contiguous row of townhouses shall be sufficiently varied in their materials, design, or appearance as to visually distinguish them as individual dwelling units.
 - (3) *Public Water and Public Sewer.* All developments shall be provided with public water and public sewer.
 - (4) *Pedestrian Access.* Pedestrian access shall be provided to all common area elements, including mail kiosks, parking lots, refuse collection areas, recreational amenities and to adjoining properties and along public roadways as required through plans review.
 - (5)

Roads and Private Pavement. All roads and private pavement shall have concrete curb and gutter.

- (6) *Landscaping and Architectural Plans.* In conjunction with site plan submission, landscape and architectural renderings or elevations, as well as any development phasing plans shall be submitted for approval.
- (7) *Landscaping and Buffer.* Landscaping as required in Article VII shall be installed within the private pavement setback and the building setbacks.
- (8) *Screening of Mechanical Equipment and Refuse Collection.* Whether ground-level or rooftop, any refuse collection or mechanical equipment visible from adjacent property or roads shall either be integrated into the architectural treatment of the building or screened from view.
- (9) *Phasing.* Unless a phasing plan is approved through preliminary plat review, construction shall be completed prior to issuance of building permits. An approved phasing plan may include limitations on the issuance of building permits for individual multi-family units.
- (10) *Multifamily Building Placement.*
 - a. A multifamily building constructed along a public road shall front the road.
 - b. The front yard setback of each unit shall be varied at least 2 feet from the adjacent unit and every third unit shall be varied at least 4 feet from the adjacent unit.

Section 36.255. - B-1 Local Business and B-2 General Business Requirements.

Table 36.10 B-1 and B-2 District Requirements		
A. Setbacks (feet)		
1. Road type	a. U.S. Primary Highway	75
	b. Other roads	50
2. Interior side	a. Adjacent to A, R or MH-1 Districts	50
	b. Adjacent to B or I Districts	10
3. Rear	a. Adjacent to A, R or MH-1 Districts	50
	b. Adjacent to B or I	20
B. Building Heights (maximum)		Lesser of 3 stories or 45 feet [1]
Notes for Table 36.10 B-1 and B-2 District Requirements		
[1] Within 100 feet of a R District, the height shall not exceed the lesser of 2.5 stories or 35 feet.		

(a) *Other Required Conditions.*

(1) *Architecture.* Buildings shall meet the following architectural requirements:

- a. Building facades visible to a road or A, R or MH District shall not be constructed of unadorned concrete block, unfinished corrugated metal or unfinished sheet metal. A façade shall not consist of architectural materials inferior in quality, appearance or detail to any other façade, except that use of different materials on different facades shall be permitted.
- b.

Views of junction and accessory boxes visible from roads or adjacent property shall either be integrated into the architectural treatment of the building or their view minimized by landscaping.

- c. For developments within Rural Service Centers, as identified in the Comprehensive Plan, buildings shall possess architectural variety while still maintaining compatibility with existing structures, especially those of high historic interest and shall employ an overall cohesive character as reflected in existing structures through the use of design elements including, but not limited to, materials, balconies, terraces, articulation of doors and windows, sculptural or textual relief of facades, architectural ornamentation, varied roof lines, or other appurtenances such as lighting fixtures and landscaping. Compatibility may be achieved through the use of similar building massing, materials, scale, colors and other architectural features.

Applicant Submittal



Land DEVELOPMENT & ZONING APPLICATION

DEPARTMENT OF BUILDING & ZONING

202 S Church Lane

P O Box 1079

Tappahannock, VA 22560

(804) 443-4951

(804) 445-8023 fax

CASE NUMBER: _____ PERMIT NUMBER: _____

1. TYPE OF REQUEST - Check all/any that apply.

- Rezoning: From b-1 To: pud district
- Site Construction Plan Major - Name of Development: _____
 Minor - Name of Development: Essex Point at Mt Clement
- Conditional Use Permit (ordinance section): _____
- Subdivision
Types: Minor Family Major
 Boundary line adjustment/Lot Consolidation
 Preliminary Name & Phase/Section: _____
 Final/Record Name & Phase/Section: _____
 Final/Record Name: _____
- Land Disturbance Chesapeake Bay Exception
- Right-of-way Vacation Major WQIA Minor WQIA
- Administrative Appeal (zoning/building): _____
- Zoning Variance/Special Exception: Specify ordinance section: _____
- Subdivision Variance: Specify ordinance section: _____

Zoning Permit - GENERAL INFORMATION FOR ALL ZONING PERMITS:

Tax Map Number: _____ Site Address: _____
 Water/Sewer Supply: Well/Septic Central Public
 Existing Land Use: _____ Proposed Land Use: _____
 Proposed Building Use: _____
 New Building Addition Change-in-Use/Modification Accessory Structure

Residential - Zoning District: _____ Magisterial District: _____
 Subdivision Name: _____
 Single-Family Dwelling Size (Length by Width) _____ Height _____ No. of Stories: _____
 Mobile Home Size (Length by Width) _____ Height _____
 Setbacks for Principal Building - Required: Front _____ Rear _____ Side _____
 Proposed: Front _____ Rear _____ Side _____
 Accessory Building Size (Length by Width) _____ Height _____ No. of Stories: _____
 Setbacks for Accessory Building - Required: Rear _____ Left side _____ Right Side _____
 Proposed: Rear _____ Left side _____ Right Side _____
 Existing Impervious Percentage: _____ Post Impervious Percentage: _____

Commercial - Zoning District: _____

Type of Structure: _____
 Size Length _____ Width _____ Height _____
 Accessory Building Size (Length by Width) _____ Height _____ (ft.)
 Setbacks - Required: Front _____ Rear _____ Left side _____ Right Side _____
 Proposed: Front _____ Rear _____ Left side _____ Right Side _____

*NOTE: All measurements in Feet (round to nearest whole foot). Impervious % is the sum of the square feet of all areas that is covered by roofs, sidewalks, driveways, decks, or accessory structures divided by the total square footage of the lot. Example: a 1 acre lot =43560 sq.

2. APPLICANT INFORMATION

OWNER(S) OF RECORD (use additional sheets if more than one-party)

June C Monterio

703-971-6650

Owner

DAYTIME PHONE NUMBER

7012 Clifton Knoll Court Alexandria A 22315

MAILING ADDRESS, CITY, STATE, ZIP CODE

jcmonterio@gmail.com

Fax Number

E-mail Address

Applicant (if different from owner)

7 and M Virginia LLC

202-854-0479

Applicant

DAYTIME PHONE NUMBER

23263 Tidewater Trail Tappahannock VA 22560

MAILING ADDRESS, CITY, STATE, ZIP CODE

703-832-1467

shiree@7andM.com

Fax Number

E-mail Address

Agent/Contractor (if different from owner/applicant)

Applicant

DAYTIME PHONE NUMBER

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number

E-mail Address

3. PROPERTY INFORMATION (FOR REZONINGS, SITE PLANS, SUBDIVISIONS, CONDITIONAL USE, SPECIAL EXCEPTIONS & VARIANCES)

Tax Map Number	36 43	Total Acreage	13.186			
Subdivision Name		Section	Block		Lot	
Physical Address	Richmond Hwy Rte 360 Tappahannock, VA 22560					
Current Zoning	B-1	Existing Structures	NONE			
Proposed Utilities		Acreage of Request	13.186			

4. NARRATIVE – REQUIRED FOR ALL REZONINGS, CONDITIONAL USE, VARIANCES, SPECIAL EXCEPTIONS AND APPEALS. THE NARRATIVE SHALL DESCRIBE THE NEED AND/OR REASONS FOR THE APPLICATION AND HOW THE REQUEST IS CONSISTENT WITH THE GOALS AND OBJECTIVES OF THE COMPREHENSIVE PLAN.

5. SIGNATURE(S)

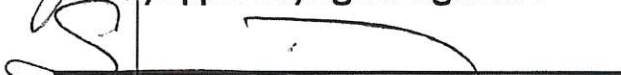
I/WE HAVE READ THIS COMPLETED APPLICATION, UNDERSTAND ITS INTENT AND FREELY CONSENT TO ITS FILING. THE INFORMATION PROVIDED IS ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. I UNDERSTAND THAT THE COUNTY MAY APPROVE, CONDITIONALLY APPROVE, APPROVED WITH MODIFICATIONS OR DENY THE REQUEST FOR WHICH I AM APPLYING. FURTHERMORE, I GRANT PERMISSION TO THE DEPARTMENT OF BUILDING AND ZONING AND ANY OTHER AUTHORIZED GOVERNMENT AGENTS TO ENTER THE PROPERTY AND MAKE SUCH INVESTIGATIONS AS THEY DEEM NECESSARY TO EVALUATE THE REQUEST AND ENSURE THAT CONDITIONS PLACED ON THE REQUEST HAVE BEEN IMPLEMENTED AND/OR MAINTAINED AS PROSCRIBED BY THE APPROVING AUTHORITY. ADDITIONALLY, IF OUTSIDE REVIEW IS NEEDED BY THE COUNTY TO EVALUATE THIS REQUEST I ACKNOWLEDGE AND AGREE TO REIMBURSE THE COUNTY OF ESSEX FOR THESE OUTSIDE REVIEW AGENCY COSTS.



12.30.2022

Owner/Applicant/Agent Signature

Date



12.30.2022

Owner /Applicant/Agent Signature

Date

Owner /Applicant/Agent Signature

Date

Owner /Applicant/Agent Signature

Date

6. APPROVAL/DISAPPROVAL

APPROVED AUTHORIZED SIGNATURE: _____ DATE: _____

DISAPPROVED AUTHORIZED SIGNATURE: _____ Date: _____

REASONS FOR DISAPPROVAL: _____

IF DISAPPROVED/DENIED: Any person aggrieved by the disapproval of this application may appeal to the Board of Zoning Appeals* in accordance with provisions of the Essex County Zoning Ordinance. Such an Appeal must be filed with the Zoning Administrator on approved application forms within thirty (30) days from the date of this denial. Application shall be accompanied by a filing fee of \$250.00, made payable to the County of Essex for the Administrative Appeal. This decision in written order shall be final and unappealable if not appealed within thirty (30) calendar days from the date of this letter.

*NOTE: DENIAL OF BOARD OF ZONING APPEALS, BOARD OF SUPERVISORS, AND PLANNING COMMISSION DECISION(S) MUST BE FILED WITH THE ESSEX COUNTY CIRCUIT COURT WITHIN 30-DAYS OF THE DENIAL AS PROVIDED BY THE CODE OF VIRGINIA, 1950, AS AMENDED.

6. FEES

Rezoning		_____
Conditional Use Permit		_____
Site Construction Plan		_____
Subdivision		
Major	_____	
Minor	_____	
Family	_____	
Preliminary/Tentative	_____	
Final/Record	_____	
Right-of-way Abandonment	_____	
Bay Act Exception		
Major/Minor WQIA		
Zoning/Subdivision Variance		_____
Zoning - Administrative Appeal		_____
Building - Appeal		_____
Land Disturbance		_____
Major/Minor WQIA		_____
Zoning Permit		_____

Total Fees Collected	_____
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*NOTE: AN APPLICATION SHALL NOT BE DEEMED OFFICIALLY FILED UNTIL ALL REQUIRED PLANS, PLATS, FEES AND SUPPORTING DOCUMENTATION ARE SUBMITTED TO THIS DEPARTMENT. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

FINAL DEVELOPMENT CONDITIONS

Case #: R-20230003

August 31, 2023

By the signature below, 7 and M Development LLC and June C Monterio (the “Applicant”) offers the following Proffered Conditions in conjunction with Case #R-20230003 related to property located in Essex County, Virginia (the “County”) with an address of 0 Richmond Highway (Route 360) and identified as Tax Map Parcel No. 36 43 (the “Property”). These proffered conditions shall be binding on the Applicant and their successors and assigns (the “Owner”) with respect to the Property. Each proffered condition herein was made voluntarily and complies with applicable law. No agent of the County has suggested or demanded a proffered condition that is unreasonable under applicable law, and the proffered conditions herein supersede all previous proffers and letters of clarification, if any, made with respect to the Property.

I. Preliminary Site Plan

1. The development of the Property will be in substantial conformance with Exhibit A: the Conceptual Plan (the “Plan”), dated 7/26/2023, as determined by the Zoning Administrator at the time of final site plan review.
2. The architectural treatment of the buildings within the Property will be in substantial conformance with Exhibit B: Elevations and Renderings (“Elevations”) as determined by the Essex County Zoning Administrator at the time of final site plan review, dated 2/15/2023.
3. The landscaping on the Property will be in substantial conformance with Exhibit C: the Landscape Plan (the “Landscape Plan”), dated 6/30/2023, as determined by the Zoning Administrator at the time of final site plan review.

II. Land Use

1. **Land Area 1:** As depicted on the Plan; Land Area 1 shall contain two multifamily residential buildings (referred to herein as “Building C1” and “Building C2”). The total gross floor area for Building C1 and Building C2 will not exceed 75,000 square feet. Building C1 will have between 4 and 10 units per floor and Building C2 will have between 4 and 7 units per floor. The height of Building C1 and Building C2 will be no greater than 35 feet as measured and defined under the zoning ordinance. The building program for Building C1 and Building C2 includes up to a combined maximum of fifty-six (56) 55+ Active Adult Housing (defined below) units with interior and exterior amenity spaces for building residents.
2. **Land Area 2:** As depicted on the Plan; Land Area 2 shall be delivered as one public/civic/recreation building (referred to herein as “Building B1”) and one commercial building (referred to herein as “Building A4”) as shown on the Plan.
 - a. Building B1 will be a maximum of two stories over a below-ground walk-out basement. The total gross floor area for Building B1 will not exceed 14,500 square feet. Of that, the building program includes all non-residential uses: a maximum of 11,260 square feet of gross floor area will be for public/recreation: Place of Assembly, and a maximum 3,050 square feet of gross floor area will be for commercial: office, general. The height of the building will not exceed 42 feet as measured and defined under the zoning ordinance.

defined below in Section IV.2. The Owner will provide 55+ Active Adult Housing to serve the following economic mix:

- a. **Low Income Units:** A maximum of four (4) 55+ Active Adult Housing units will be designated as Low-Income Units.
 - b. **Moderate Income Units:** A maximum of twenty (20) 55+ Active Adult Housing units will be designated as Moderate-Income Units.
 - c. **Middle Income Units:** A maximum of twenty-one (21) 55+ Active Adult Housing units will be designated as Middle-Income Units.
 - d. **Unrestricted/Upper Income Units:** A maximum of eleven (11) 55+ Active Adult Housing units will be designated as Unrestricted/Upper Income Units.
2. **Land Area 4:** The Owner will provide a maximum of twenty-eight (28) Workforce Housing units. The Owner will provide Workforce Housing units to serve the following economic mix:
- a. **Low Income Units:** A maximum of three (3) Workforce Housing units will be designated as Low-Income Units.
 - b. **Moderate Income Units:** A maximum of eight (8) Workforce Housing units will be designated as Moderate-Income Units.
 - c. **Middle Income Units:** A maximum of twelve (12) Workforce Housing units will be designated as Middle-Income Units.
 - d. **Unrestricted/Upper Income Units:** A maximum of six (6) Workforce Housing units will be designated as Unrestricted/Upper Income Units.
3. **Income Mix Agreement:** The Income Mix Agreement shall mean those declarations of covenant agreements to ensure the provision of both the 55+ Active Adult Housing (“55+ Covenant”) and the Workforce Housing (“Workforce Covenant”) that each detail the specific number of units at each income level that is consistent with the applicable State or Federal program and is approved by the County Attorney and benefitting the County or its designee and recorded in the land records in the Clerk’s Office of the Circuit Court of Essex County, Virginia prior to Certificate of Occupancy of the first building in the Land Area. To ensure compliance with the Workforce Covenant, the Owner agrees to submit annual reports on the leasing of Workforce Units to the County Administrator on or before January 31st for the prior calendar year.
- a. **Low Income Units** shall mean those rental units restricted to tenants with incomes up to forty percent (40%) of Area Median Income.
 - b. **Moderate Income Units** shall mean those rental units restricted to tenants with incomes above forty percent (40%) of Area Median Income and at or below sixty percent (60%) of Area Median Income.
 - c. **Middle Income Units** shall mean those rental units restricted to tenants with incomes above sixty percent (60%) of Area Median Income, but at or below eighty percent (80%) of Area Median Income.
 - d. **Upper Income Units** shall mean those rental units to tenants with incomes above eighty percent (80%) of Area Median Income and will be market rate units.
 - e. Area Median Income shall refer to such incomes published for Essex County, Virginia Statistical Area Median Income ("AMI") as required by United States Treasury and subject to the regulations of the federal program administered by the US Treasury and Virginia Housing.

IV. 55+ Active Adult Housing

1. **Unit Mix:** The fifty-six (56) 55+ Active Adult Housing units will consist of a maximum of 8 studios, 32 one-bedrooms, and 16 two-bedrooms.

2. **Age Restriction:** The 55+ Active Adult Housing units must be operated in compliance with these conditions and all applicable federal, state, and local laws, including 42 U.S.C. § 3601 et seq. as amended, including the Fair Housing Amendments Act of 1988 (FHAA) and the Federal Housing for Older Persons Act of 1995 (HOPA), and as implemented by U.S. Department of Housing and Urban Development (“HUD”) regulations at 24 C.F.R part 100.300 (collectively, the FHA), Virginia Fair Housing Law, Section § 36-96.1 et seq. of the Code of Virginia, as amended, and the Essex County Zoning Ordinance. All the 55+ Active Adult Housing units shall be operated for occupancy by persons 55 years of age or older in accordance with HOPA.
3. The 55+ Covenant will include an obligation that the Owner (defined as the Applicant or any future owner of an applicable portion of the Property) of the 55+ Active Adult Housing units will have an on-site management and leasing office in Land Area 1, Building C2; to annually budget for operating costs to hire a part-time resident service coordinator to provide support to the property manager and for coordination of resident services and coordination of activities for the benefit of the 55+ Active Adult Housing residents. This will be recorded in the land records in the Clerk’s Office of the Circuit Court of Essex County, Virginia prior to Certificate of Occupancy of the first building in the Land Area.
4. **Marketing:** Prior to the first certificate of occupancy for the 55+ Adult Active Housing Units, materials related to the availability of such units will be provided to the County.
5. **Universal Design:** All of the 55+ Active Adult Housing units shall be fully compliant with universal design elements in accordance with Virginia Housing Universal Design Certification guidelines.
6. **Handicap Accessibility:** No fewer than six (6) of the 55+ Active Adult Housing units will be constructed to be fully accessible and meet the standards of Section 503 of the 1973 Rehabilitation Act. Final site plan and zoning permit applications shall identify each fully accessible unit. Building plans demonstrating accessibility compliance shall be submitted to the Department of Building and Development for review and approval prior to approval of the first zoning permit for any building in which any proposed fully accessible unit will be located.
7. **Green Building:** Building C1 and Building C2 shall be certified and designed in accordance with green building standards as set forth by EarthCraft Gold or equivalent program standards that comply with Virginia Housing standards for energy efficient buildings. Prior to approval of the first zoning permit for the 55+ Active Adult Housing units, the Owner shall provide certification from a certified project manager accredited by the applicable organization to the Zoning Administrator verifying that green building elements have been incorporated into the project consistent with the green building standards defined herein.

V. Workforce Housing

1. **Unit Mix:** The twenty-eight (28) Workforce Housing units will consist of a maximum of six (6) studios, sixteen (16) one-bedrooms, and six (6) two-bedrooms.
2. The Workforce Covenant will include an obligation that the Owner of the workforce housing units will have an on-site management and leasing office in the building; to annually budget for operating costs to hire a part-time resident service coordinator to provide support to the property manager and for coordination of potential resident services and coordination of activities for the benefit of the workforce housing residents. This will be recorded in the land records in the Clerk’s Office of the Circuit Court of Essex County, Virginia prior to Certificate of Occupancy of the first building in the Land Area.
3. **Amenities:** Building A1-North and Building A1-South will include amenities generally in accordance with those shown on the Landscape Plan, such as open space and public seating areas.

4. **Marketing:** Prior to the first certificate of occupancy for the Workforce Housing Unit, materials related to the availability of such units will be provided to the County.
5. **Universal Design:** No fewer than three (3) of the Workforce Housing units shall be fully compliant with universal design elements in accordance with Virginia Housing Universal Design Certification guidelines.
6. **Handicap Accessibility:** No fewer than three (3) of the Workforce Housing units will be constructed to be fully accessible and meet the standards of Section 503 of the 1973 Rehabilitation Act. Final site plan and zoning permit applications shall identify each fully accessible unit. Building plans demonstrating accessibility compliance shall be submitted to the Department of Building and Development for review and approval prior to approval of the first zoning permit for any building in which any proposed fully accessible unit will be located.
8. **Green Building:** Building A1-North and Building A1-South shall be certified and designed in accordance with green building standards as set forth by EarthCraft Gold or equivalent program standards that comply with Virginia Housing standards for energy efficient buildings. Prior to approval of the first zoning permit for the Workforce Housing Units, the Owner shall provide certification from a certified project manager accredited by the applicable organization to the Zoning Administrator verifying that green building elements have been incorporated into the project consistent with the green building standards defined herein.

VI. Public Schools Contribution

1. In Building A2, at least 10,230 gross square feet of commercial use shall be used to provide day care and educational services to the broader community. Examples may include, but are not limited to, child development center, before and after school programming, tutoring, and SAT prep.

VII. Transportation

1. The Owner will construct a stub out in Land Area 2 for a future road connection to existing Mount Clement Park and a stub out in Land Area 3 for a future road connection to existing Hospital Road. On or before issuance of the first Certificate of Occupancy for the first building adjacent to each applicable stub out, Owner shall complete construction of the stub outs at no cost to the County.
2. The Owner shall provide adequate secondary access along Richmond Highway to the site for Emergency Service vehicles, subject to approval by the County and the Virginia Department of Transportation (“VDOT”). Nothing shall be placed or constructed on the Property that would prohibit or restrict Emergency Service vehicles from mounting curbs or accessing structures. Such secondary access shall be secured with a lockbox or electronic gate, or otherwise designed to allow for 24/7 access by emergency personnel as approved by the County.
3. Within 6 months of zoning approval, the Owner will coordinate a transportation design meeting with VDOT, the County Administrator, and neighboring property owners/businesses to discuss traffic flow on Route 360.
4. The Owner will make a one-time, aggregate \$297,000 contribution to the County which may be applied toward transportation, safety, bicycle, pedestrian, or other improvements within the rights-of-way in the vicinity of the Richmond Highway/Lagrange Industrial Drive intersection or other surrounding area which may be completed by VDOT, Essex County, or others. The contribution shall be made pro-rata with each building on the Property, with a pro-rata share of the aggregate total to be provided to the County on or before the issuance of the Certificate of Occupancy for each building within each Land Area on the Property.

5. Subject to VDOT approval, the Owner will install appropriate median channelization to prevent left turn movements along the main entrance at the first internal drive aisle. The design of the median channelization will be shown on the final site plan.
6. The Owner will design, construct, and maintain all private roads in accordance with VDOT public road requirements, and will provide public access over such private roads at the time of final site plan approval.
7. All off-Property transportation improvements identified on the Plan, including for example transportation improvements required by VDOT as part of the approved final site plan will be constructed at no cost to the County as part of the site work for the initial Land Area and completed prior to the issuance of the first Certificate of Occupancy on the Property. All off-Property transportation improvements will be dedicated to and accepted by VDOT at no cost to the County. All transportation improvements within each Land Area shall be constructed at no cost to the County as part of the initial site work for the respective Land Area and completed prior to issuance of the first Certificate of Occupancy for a building in such Land Area.

VIII. Public Facilities/Stormwater Management

1. The Owner shall construct and install all water and sewer extensions to the Property and shall provide all connections necessary for development of the Property at no cost to the County and/or Town of Tappahannock and such extensions and connections shall be constructed and installed in accordance with applicable standards. The Owner shall acquire at no public cost any offsite easements, if needed, to extend public water and/or sanitary sewer lines to the Property and will convey all water and sanitary lines and structures over to the Town of Tappahannock at no cost to the County or Town of Tappahannock, in accordance with the Town's Ordinances and Regulations, and any agreement between the Town and County regarding utility infrastructure and capacity. The Owner must obtain approval of all necessary extensions from the Board of Supervisors prior to approval of final site plan.
2. If water or sewer is extended to the Property, the Owner will make a one-time, aggregate \$403,000 contribution to the County to be utilized for capital improvements related to providing public water/sewer infrastructure that serve the Property and surrounding area, including within the rights-of-way and upgrades to withdrawal, transmission, and treatment capacity. The contribution shall be made pro-rata with each building on the Property, with a pro-rata share of the aggregate total to be provided to the County on or before the issuance of the Certificate of Occupancy for each building within each Land Area on the Property.
3. The Property will be designed and constructed in accordance with the State's Runoff Reduction requirements for Stormwater Management (SWM) and in compliance with the Essex County SWM Ordinance at the time of final site plan approval.

IX. Noise Attenuation

1. Residential buildings will set back not less than 200 feet from existing industrial buildings and will set back not less than 100 feet from the boundaries of neighboring industrial zoned land.
2. The 55+ Covenant and the Workforce Covenant will include an obligation that the Owner will (A) acknowledge that the Property is adjacent to an existing industrial use, (B) not make complaint to the neighboring property owner regarding any impact from the existing industrial use that is in accordance with the Essex County Zoning Ordinance and other applicable law, including but not limited to use, sound, odor, or lighting, and (C) provide to all future residents of the Property written notice of the existence of the proximity to industrial uses, along with evidence of receipt of such

- notice. Such a covenant will be enforceable by the neighboring industrial property owner and will be recorded prior to the issuance of a building permit for the Property.
3. The Owner will have third-party, reasonably acceptable to both the Owner and the County, conduct an Acoustics and Noise Abatement study included but not limited to site, exterior, and interior modeling, and analysis prior to submission of a final site plan. The report shall include a noise mitigation plan which will be provided to the County and mitigation measures identified in such a plan shall be incorporated into the final site plan and building design, as determined by the Zoning Administrator.

X. Open Space/Recreational Facilities

1. The Owner will include no less than 10 percent of land area as public/recreational and open space uses as outlined on the Plan and shall provide public easements over such areas at the time of final site plan approval. Such easements shall be in a form approved by the County Attorney and recorded prior to final site plan approval.
2. In Building A2, the Owner will provide a minimum of 11,400 gross square feet and in Building A3, the Owner will provide a minimum of 600 gross square feet of commercial uses that shall provide personal services or personal improvement services to the broader community. For example, but not limited to fitness, wellness, group exercise, gymnasium (basketball/pickleball), and yoga.
3. Any diseased or dead landscaping required by the Zoning Ordinance, an exception condition, or these proffered conditions shall be replaced within one season of dormancy.
4. All lighting fixtures used in parking areas and on building exteriors shall be fully cutoff, fully shielded, directed downward, and designed to prevent glare onto adjacent properties and public streets.

XI. Miscellaneous

1. The Owner shall maintain the Property in a clean and orderly manner free of trash, litter, and debris.
2. The existing cemetery in Land Area 3 will not be disturbed. The cemetery will be buffered, landscaped, and fenced in accordance with the Plan.

EXHIBITS

Table of Contents


- Exhibit A – Preliminary Site Plan
 - Boundary Survey
 - GIS Zoning Map
 - Existing Conditions and Demolition Plan
 - Traffic Circulation Plan
 - Grading Plan
 - Land Use Exhibits
 - Site and Building Data
 - Land Area Exhibit
- Exhibit B – Elevations and Renderings (for the purposes of building materials only. Height and form are described above.)
- Exhibit C - Landscaping Plan

VOLUNTARY PROFFER STATEMENT

Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. No agent of the County has suggested or demanded a proffer that is unreasonable under applicable law.

SIGNATURES

Applicant: 7 and M Development LLC



Signature

Date: 8/31/2023

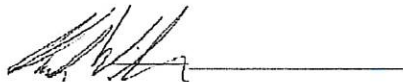
Owner of Record: June C. Monterio



Signature

Date: 8/31/2023

Agent: Kedrick N. Whitmore



Signature

Date: 8/31/2023

CONDITIONS AGREEMENT

I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.

SIGNATURES

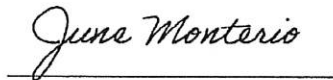
Applicant: 7 and M Development LLC



Signature

Date: 8/31/2023

Owner of Record: June C. Monterio



Signature

Date: 8/31/2023

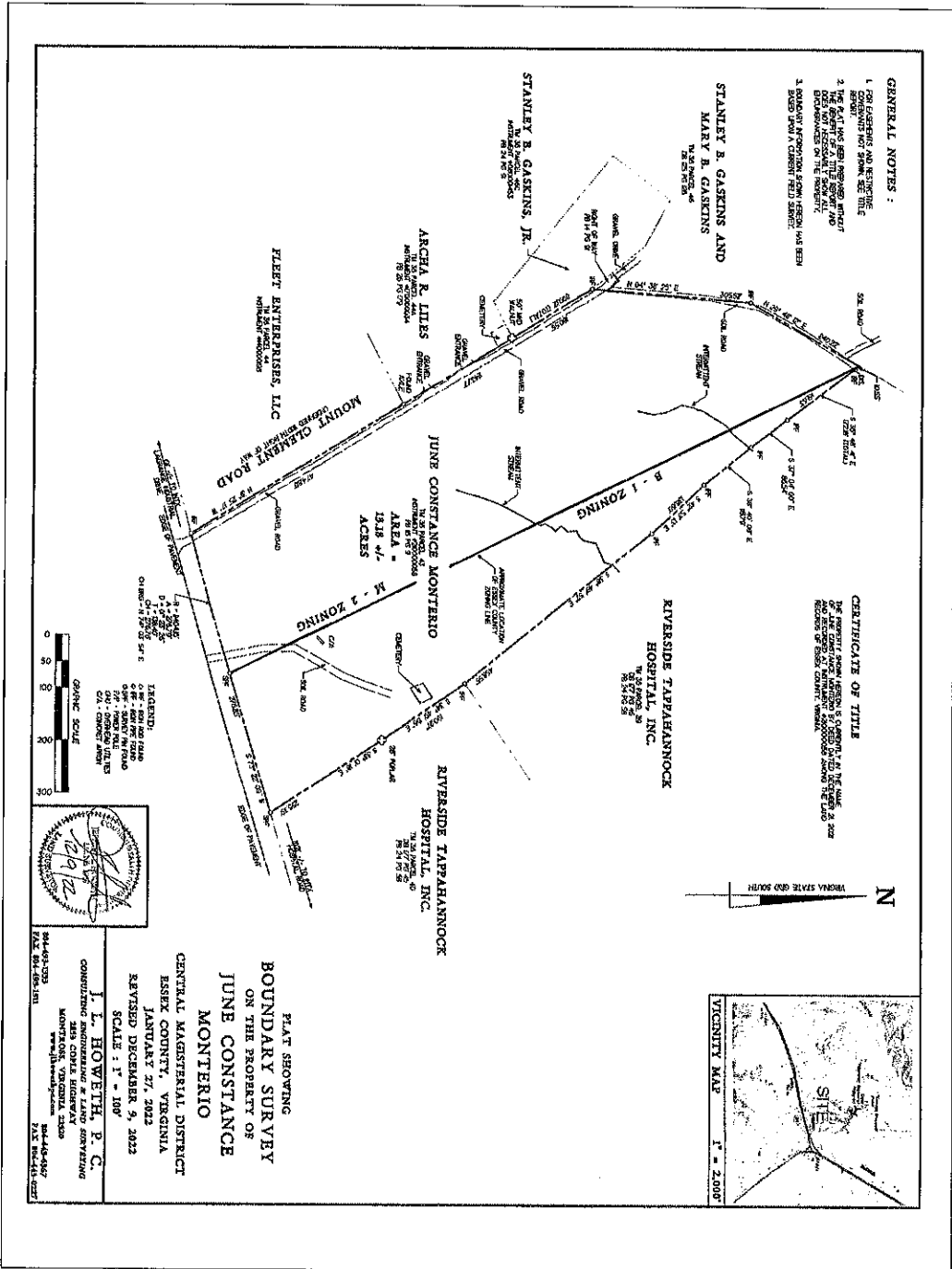
Agent: Kedrick N. Whitmore



Signature

Date: 8/31/2023

EXHIBIT A – PRELIMINARY SITE PLAN

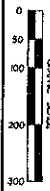


GENERAL NOTES:

1. FOR EASEMENTS AND RESTRICTIONS, REFER TO THE RECORDS OF THE COUNTY.
2. THE PLAT HAS BEEN PREPARED AND DOES NOT REPRESENT A SURVEY OF THE PROPERTY. THE PROPERTY BOUNDARIES SHOWN ARE BASED ON THE RECORDS OF THE COUNTY.
3. A COPY OF THE RECORDS FROM WHICH THIS PLAT WAS PREPARED HAS BEEN FILED WITH THE CLERK OF THE CIRCUIT COURT OF THE COUNTY OF SHIPPENSBURG, VIRGINIA.

CERTIFICATE OF TITLE

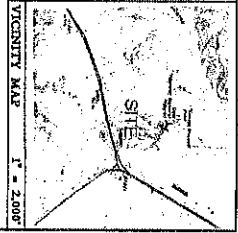
THE PROPERTY SHOWN HEREON IS A CERTAIN LOT OF LAND, AS SHOWN ON THE RECORDS OF THE COUNTY OF SHIPPENSBURG, VIRGINIA, AND IS NOT SUBJECT TO ANY EASEMENTS, ENCUMBRANCES, OR OTHER INTERESTS OF WHICH RECORD HAS BEEN MADE.



**PLAT SHOWING
BOUNDARY SURVEY
ON THE PROPERTY OF
JUNE CONSTANCE
MONTERIO**

CENTRAL MAGISTERIAL DISTRICT
ESSEX COUNTY, VIRGINIA
JANUARY 27, 2012
REVISED DECEMBER 9, 2012
SCALE: 1" = 100'

I. I. HOWETH, P. C.
CONSULTING ENGINEERING & LAND SURVEYING
4455 CIVIL HIGHWAY
MOUNTAIN VIEW, VIRGINIA 22871
PHONE: 540-443-4300
FAX: 540-443-4301
WWW.IIHOWETH.COM



NOTE: THIS SURVEY IS ONLY FOR THE BOUNDARY LINES AND DEMONSTRATES METERS AND BOUNDS OF THE PROPERTY.

TIMMONS GROUP

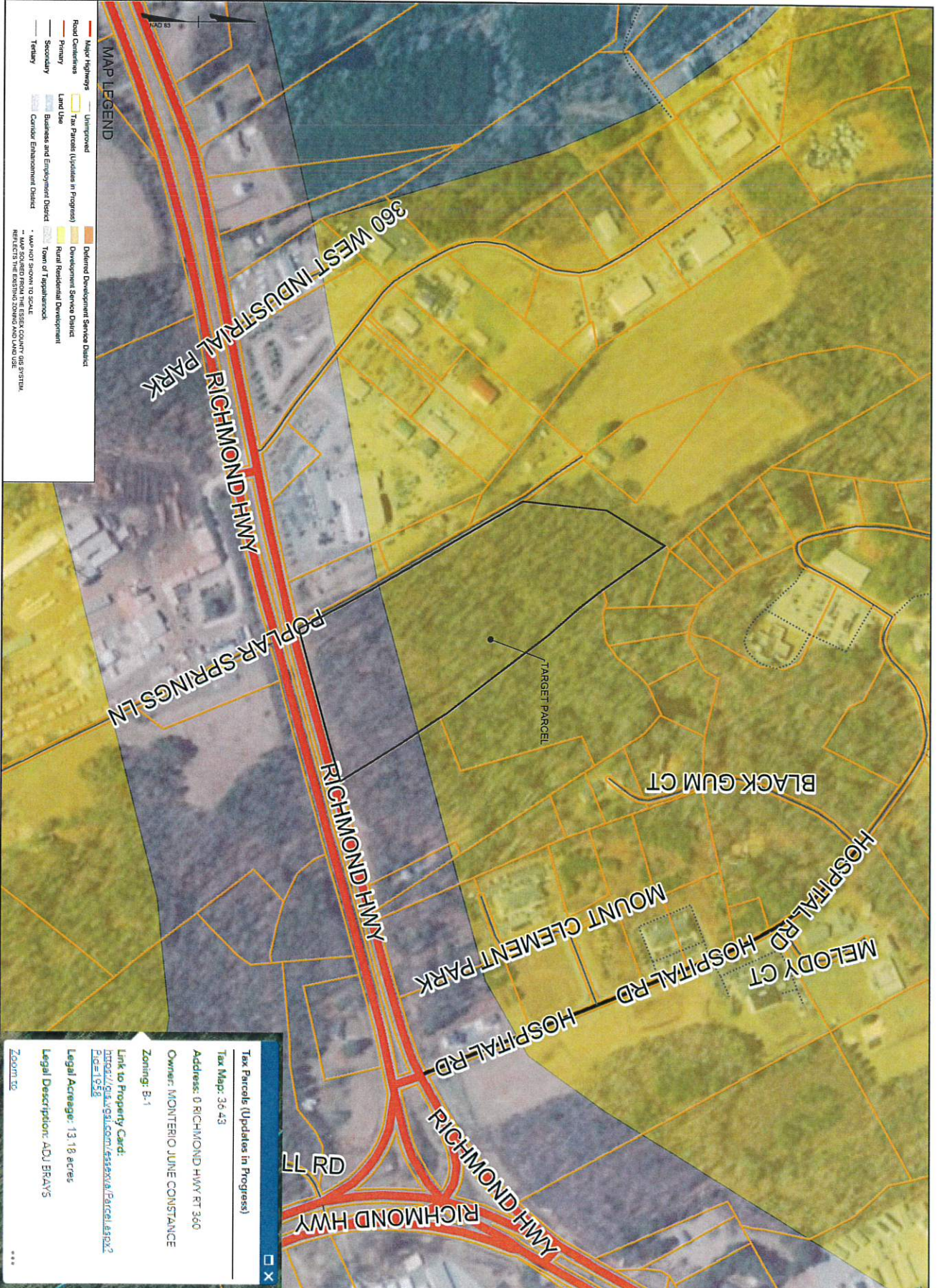
ESSEX POINT AT MOUNT CLEMENT
TAPPANNOCK, VIRGINIA
BOUNDARY SURVEY

YOUR VISION ACHIEVED THROUGH OURS.

THIS DRAWING PREPARED AT THE
CLARK COUNTY SERVICE OFFICE
603 Preston Avenue, Suite 200 | Chesapeake, VA 23062
TEL 414-755-5234 FAX 414-755-8317 www.timmons.com

NO.	DATE	REVISION DESCRIPTION

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Tax Parcel (Updates in Progress)
 Tax Map: 36 43
 Address: 0 RICHMOND HWY RT 360
 Owner: MONTERIO JUNIE CONSTANCE
 Zoning: B-1

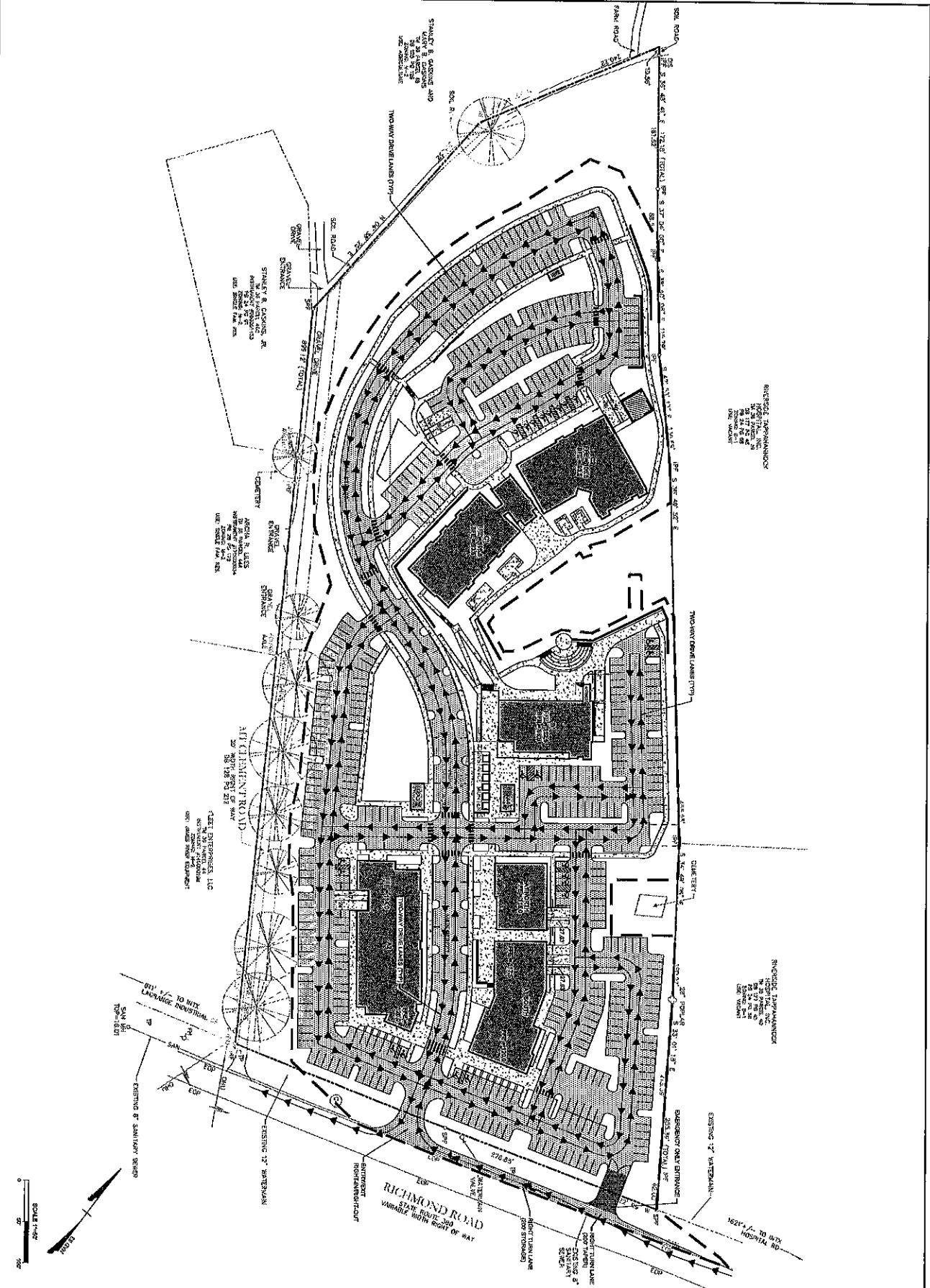
Link to Property Card:
<https://gis.charlottesville.gov/arcgis/rest/services/Parcel/MapServer/2/entry?tid=2>

Legal Acreage: 13.18 acres
Legal Description: ADJ BRAY'S

Zoom To

<h1>TIMMONS GROUP</h1>		YOUR VISION ACHIEVED THROUGH OURS.		THIS DRAWING PREPARED AT THE CHARLOTTESVILLE OFFICE 606 Preston Avenue, Suite 200 Charlottesville, VA 22903 TEL 434-295-5624 FAX 434-295-8317 www.timmons.com	
		ESSEX POINT AT MOUNT CLEMENT TAPPAHANNOCK, VIRGINIA ZONING AND LAND USE MAP		REVISION DESCRIPTION	
DATE 1/25/2023	DRAWN BY K. BERGER	CHECKED BY C. BERGER	SCALE N.T.S.	DATE 1/25/2023	
PROJECT NO. 55310	SHEET NO. C1.1				

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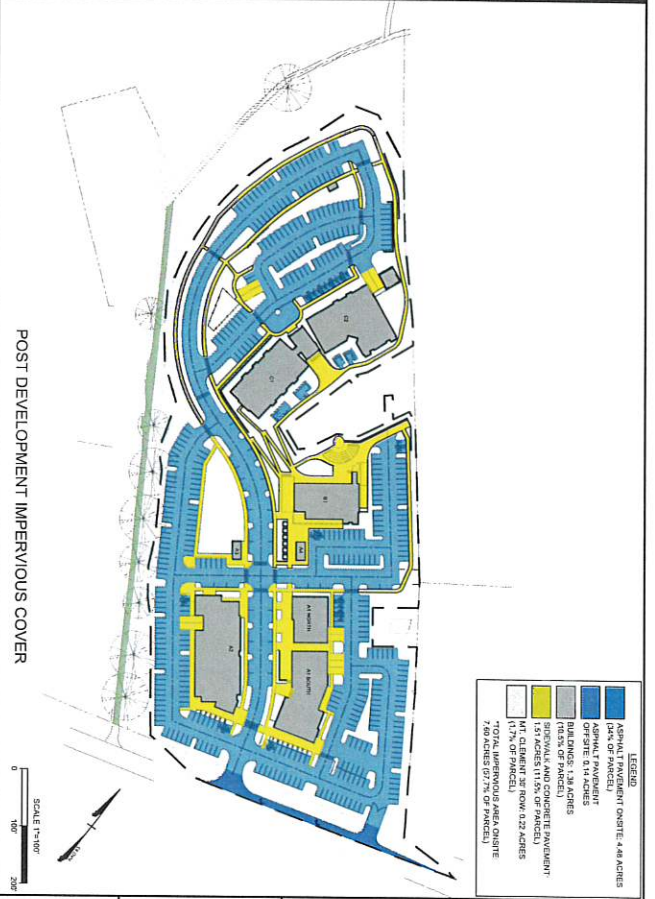
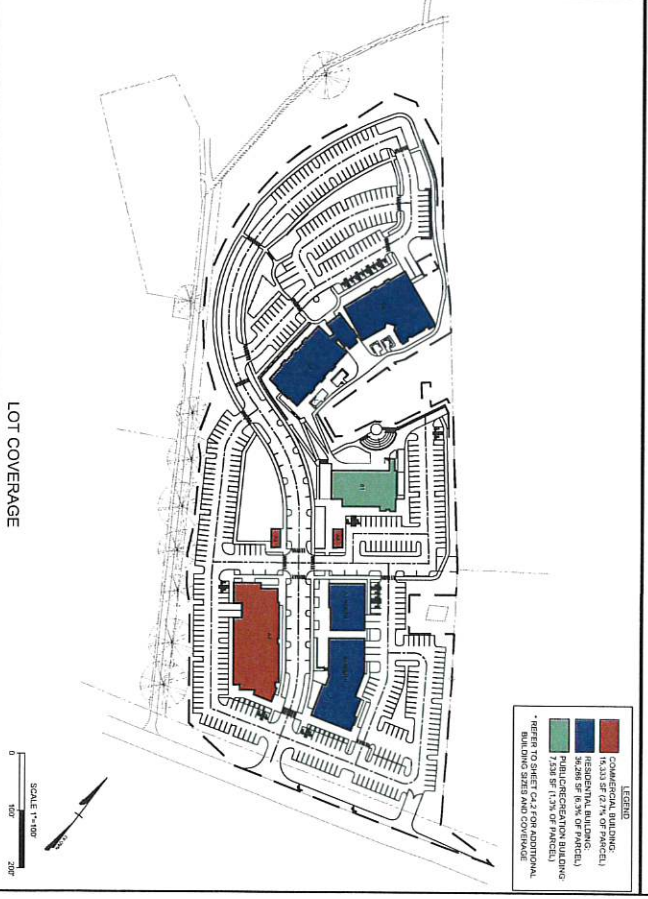
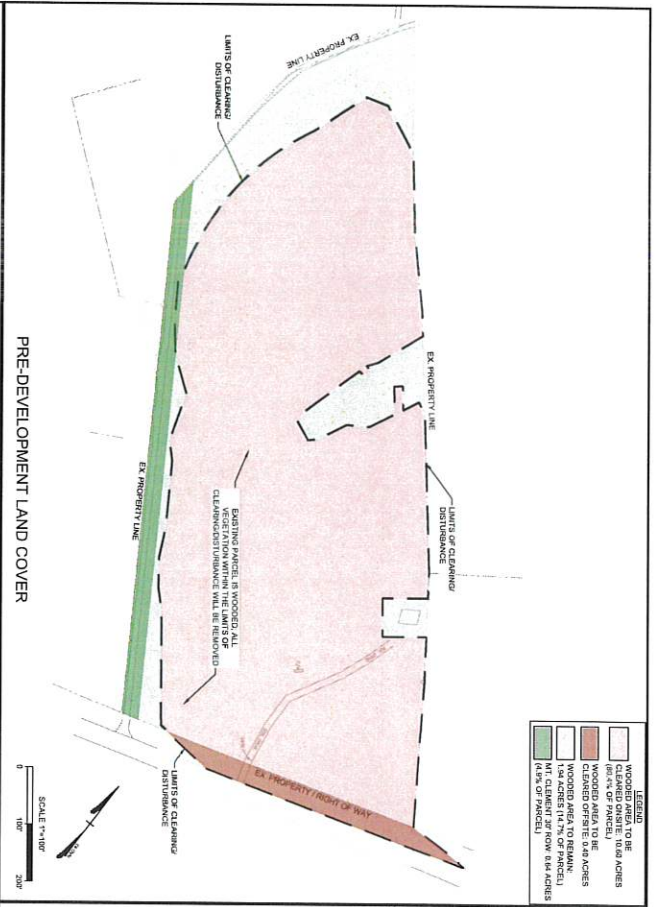
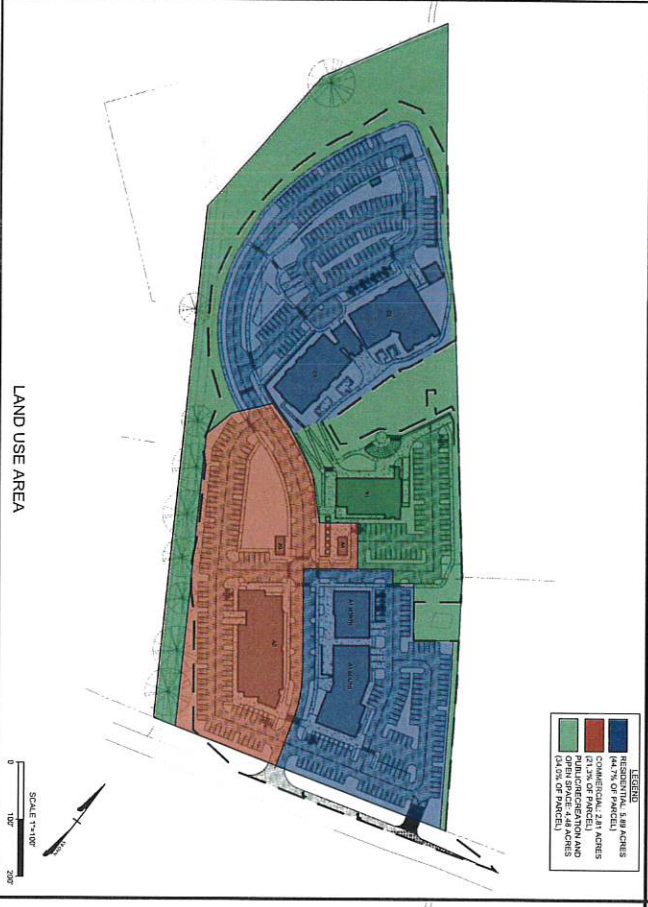
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 606 Princeton Avenue, Suite 200 | Charlotte, VA 22903
 TEL 434.295.5624 FAX 434.295.8317 www.timmons.com

DATE 05/23/03 02.1	PROJECT ESSEX POINT AT MOUNT CLEMENT TAPPANNOCK, VIRGINIA TRAFFIC CIRCULATION PLAN	DRAWN BY K. BARBER	CHECKED BY C. DALY	DATE 7/27/03	REVISION DESCRIPTION
					NO.

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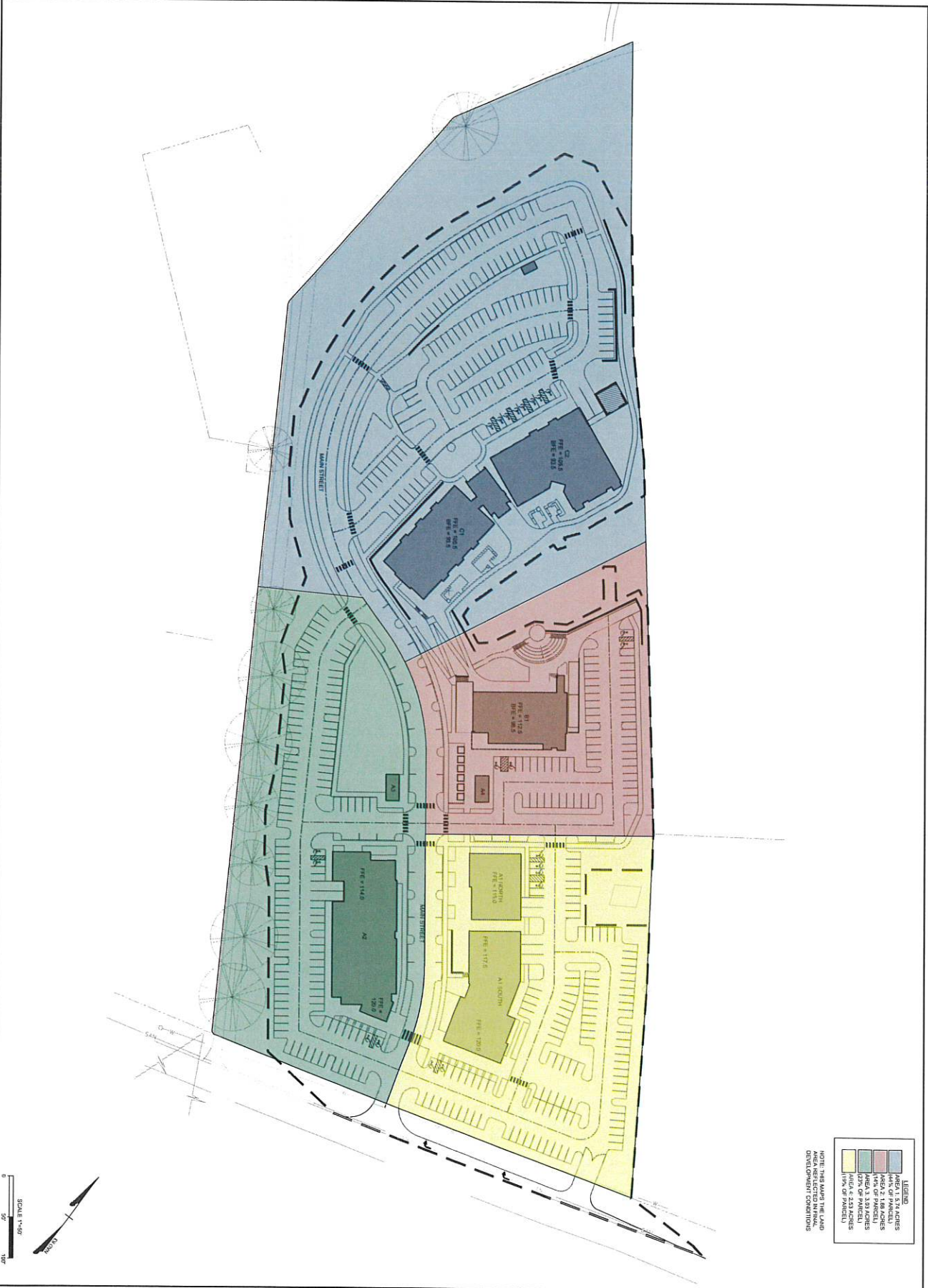
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 606 Preston Avenue, Suite 200 | Charlottesville, VA 22903
 TEL 434.295.5624 FAX 434.295.8317 www.timmons.com

PROJECT 55310 ESSEX POINT AT MOUNT CLEMENT C4.0	TAPPAHANNOCK, VIRGINIA LAND USE EXHIBITS		DATE	REVISION DESCRIPTION
	DESIGNED BY K. ANDERSON	CHECKED BY C. BIRD FOW	7/20/2023	
	DRAWN BY C. BIRD FOW	SCALE 1" = 100'		

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NOTE: THIS MAP IS THE LAND DEVELOPMENT CONDITIONS

AREA	ACRES
AREA 1	1.74 ACRES
AREA 2	3.19 ACRES
AREA 3	3.29 ACRES
AREA 4	2.33 ACRES
AREA 5	1.96 ACRES

TIMMONS GROUP

ESSEX POINT AT MOUNT CLEMENT
 TAPPAHANNOCK, VIRGINIA
LAND AREA EXHIBIT

YOUR VISION ACHIEVED THROUGH OURS.		THIS DRAWING PREPARED AT THE CHARLOTTEVILLE OFFICE 606 Preston Avenue, Suite 200 Charlottesville, VA 22903 TEL 434-295-5624 FAX 434-295-8317 www.timmons.com	
DATE	2/20/2023	REVISION DESCRIPTION	
DATE			
DATE			
DATE			

THIS MAP AND ASSOCIATED DOCUMENTS ARE THE PROPERTY OF TIMMONS GROUP. IT MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF TIMMONS GROUP.

Building	Building				Total
	C1	C2	B1	A1 - north	
Building footprint SF	10,841	10,315	7,539	5,064	14,255
Percentage	18%	17%	13%	9%	24%
Lot Coverage - Building Footprint SF					59,138
Total					100%

Building	Height	Total Building Square Footage	Total Residential Square Footage		Total Non-Residential Square Footage	Residential Care Factor	Number of floors
			Residential Square Footage	Residential Square Footage			
C1	35	39,430	39,430	-	-	89% 3 + basement	2
C2	35	34,784	34,784	-	-	88% 3 + basement	2
B1	42	14,310	-	14,310	-	2 + basement	2
A1 - north	35	15,457	11,238	4,229	-	77.7%	3
A1 - south	35	29,656	21,437	8,239	-	75.2%	3
A2	42	24,835	-	24,835	-	-	2
A3	35	1,139	-	1,139	-	-	2
A4	21	539	-	539	-	-	1
Total		160,181	106,869	53,292			

Building	Loading Spaces Required	Number of Loading Spaces Provided	Number of Loading Spaces
C1	2	2	2
C2	2	2	2
B1	2	2	2
A1 - north	3	3	3
A1 - south	2	2	2
A2	-	-	-
A3	-	-	-
A4	-	-	-
Total	13	13	13

Table 1
Mkt. Client Property
Parking - Ordinance Requirement Summary (1)

Use/Building	Size	Unit	Ordinance Requirement (1)	Parking Provided
Senior Housing / Building C1	56	DU	2	112
Senior Housing / Building A1	28	DU	2	56
Residential/Student				288
Commercial / Buildings A1, A2, A3, A4	8,280	GSF	1	21
	2,300	GSF	1	58
	4,600	GSF	1	116
	13,000	GSF	1	325
	5,300	GSF	1	133
	7,350	GSF	1	184
	2,631	GSF	1	66
	129	GSF	1	32
	539	GSF	1	135
	400	GSF	1	100
	115	GSF	1	28
TOTAL - Ordinance Required				456

Overall Parking Provided: 456

Notes:
(1) Based on Essex County Zoning Ordinance.
(2) Includes designated outdoor dining (1,335 SF).
(3) Based on higher occupancy event.
(4) Based on maximum capacity.

Building	Total Number of Units	Studio	One Bedroom	Two Bedroom
C1	53	8	18	7
C2	23	-	14	9
B1	-	-	-	-
A1 - north	10	2	6	2
A1 - south	18	2	12	4
A2	-	-	-	-
A3	-	-	-	-
A4	-	-	-	-
Total	84	12	50	22
Percentage	100%	14%	60%	26%

Building	Lower Level	Level One	Level Two	Level Three	Total Number of Units
C1	4	9	10	10	33
C2	4	5	7	7	23
B1	-	-	-	-	-
A1 - north	-	-	5	5	10
A1 - south	-	-	9	9	18
A2	-	-	-	-	-
A3	-	-	-	-	-
A4	-	-	-	-	-
Total	8	14	31	31	84

Building	Studio	One Bedroom	Two Bedroom
C1	588	805	1,339
C2	-	794	1,229
B1	-	-	-
A1 - north	620	841	1,158
A1 - south	633	882	1,157
A2	-	-	-
A3	-	-	-
A4	-	-	-

Residential Rental Units - Average Unit Size

Building	Public/Reservation Breakdown				Commercial Breakdown				TOTAL
	Emergency Management Services	Office, general	Office, medical/clinic	Retail Store	Personal Improvement Services	Dry Care Center	Restaurant, general	Personal Services Institution	
Building C1	-	-	-	-	-	-	-	-	-
Building C2	-	-	-	-	-	-	-	-	-
Building B1	-	-	-	-	-	-	-	-	-
Building A1 - North	11,260	3,050	-	4,100	-	-	-	129	14,439
Building A1 - South	-	-	-	-	-	-	-	129	4,229
Building A2	-	5,030	2,500	-	11,400	5,200	706	-	24,836
Building A3	-	539	-	600	-	-	-	-	1,139
Building A4	-	-	-	539	-	-	-	-	539
TOTAL	11,260	8,080	2,500	4,639	12,000	5,200	6,314	2,631	59,292

Non-Residential Uses - Interior Building Square Footage

TIMMONS GROUP

ESSEX POINT AT MOUNT CLEMENT
TAPPAHANNOCK, VIRGINIA
SITE AND BUILDING DATA

DATE: 7/29/2016
DRAWN BY: K. BURNES
CHECKED BY: C. MCDONALD
SCALE: N/A

THIS DRAWING PREPARED AT THE
TIMMONS GROUP OFFICE
608 Proton Avenue, Suite 200 | Charlottesville, VA 22909
TEL: 434.293.5624 FAX: 434.265.8317 www.timmons.com

EXHIBIT B – ELEVATIONS AND RENDERINGS



LEGEND

- RESIDENTIAL
- COMMUNITY USE
- COMMERCIAL
- MIXED USE

A2 BUILDING

- 01** Proposed YMCA Fitness Center - 11,400 gsf
Proposed fitness center including group exercise, wellness center, museum area (basketball/pickleball), rehab space, and child watch
- 02** Ground Floor Commercial Space - 706 gsf

03

- Learning facility - 6,261 gsf
Proposed YMCA children's development center w/before and after school program, indoor program area, and Stryan learning center.

04

- Commercial Space - 6,469 gsf

C1 BUILDING

- 05** 55+ Active Adult Housing - 33 units
3 story multifamily building with amenities including on-site management office convenience store, bike storage, pet spa, telehealth area, library, great room, club room, terrace, game/activity room, outdoor seating, terrace, putting green etc.

C2 BUILDING

- 06** 55+ Active Adult Housing - 23 units

B1 BUILDING

- 07** Community Center (Indoor/ Outdoor) - 11,260 gsf
Envisioned for meetings, seminars, trainings, children's activities events, graduations, concerts, weddings, seasonal festivals, pop-up shops, retreats etc. can be held. Capacity - 400 people (indoor)

- 08** Commercial Space - 3,050 gsf

AMPHITHEATER

- 09** Amphitheatre
Envisioned for activities, festivals, concerts, outdoor movie nights, etc. can be held. Capacity - 125 people

A4 BUILDING

- 10** Ground floor commercial space - 540 gsf

A3 BUILDING

- 11** Emergency services offices - 539 gsf

- 12** Commercial space - 600 gsf

A1- NORTH BUILDING

- 13** Workforce housing units - 10 units
3 story multifamily building with amenities including onsite management office and ground floor commercial.
- 14** Ground floor commercial space - 4,229 gsf

A1- SOUTH BUILDING

- 15** Workforce housing units - 18 units
- 16** Ground floor commercial space - 8,239 gsf

PUBLIC PLAZA

- 17** Public Plaza Area
Envisioned for gathering areas, seasonal markets, pop-up shops, etc. can be held.
- 18** Walking / Bicycle Trail
- 19** Planting garden
- 20** Playground / Dogpark
- 21** Gazebo
- 22** Existing Harris Family Cemetery

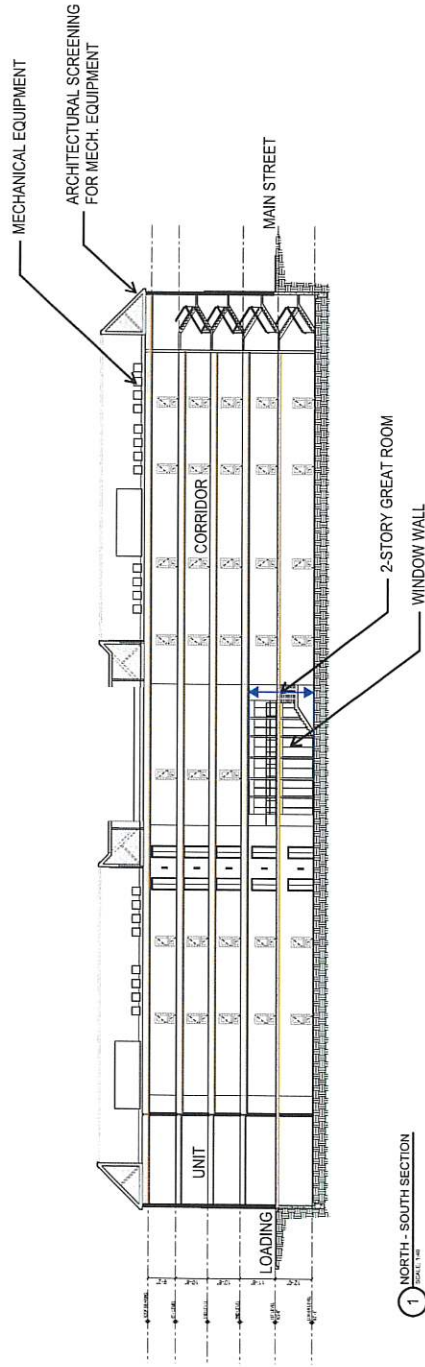
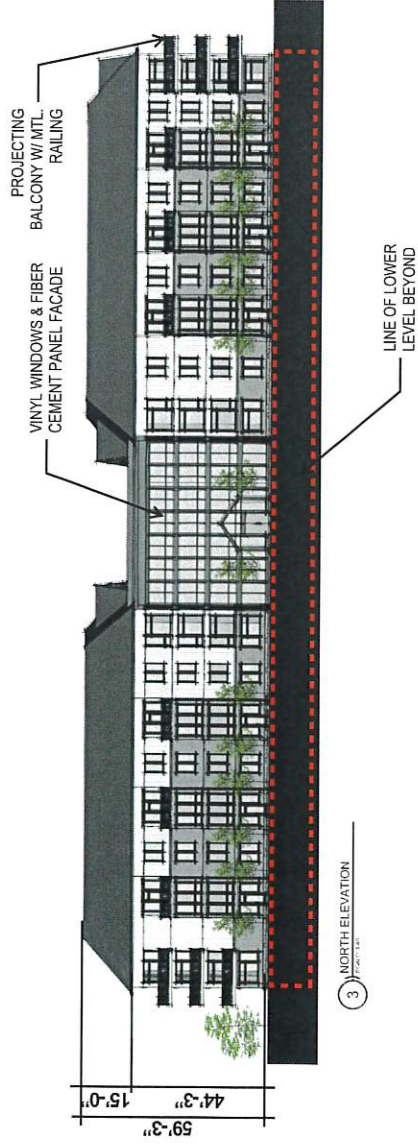
MT CLEMENTS

Tappahannock | VA

ILLUSTRATIVE PLAN WITH LAND USE

ParkerRodriguez

Date : 07-17-2023



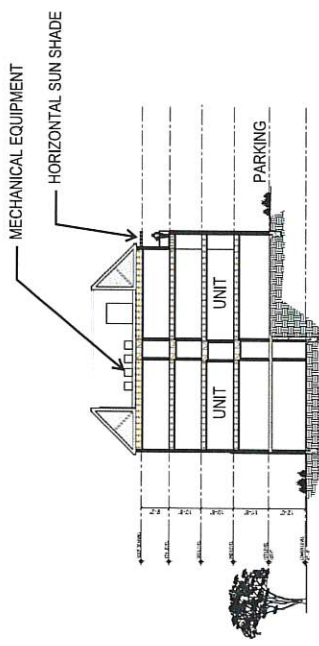
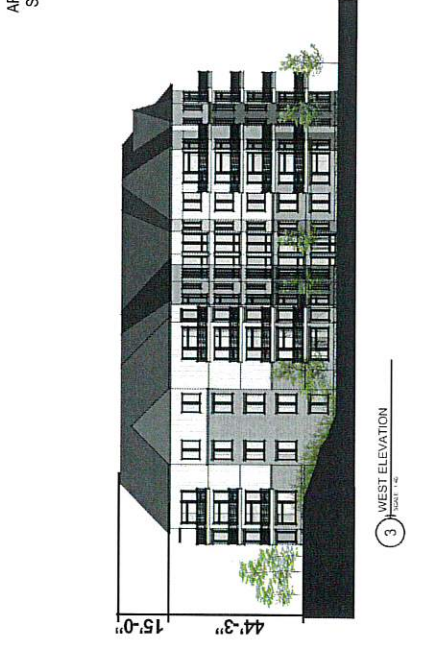
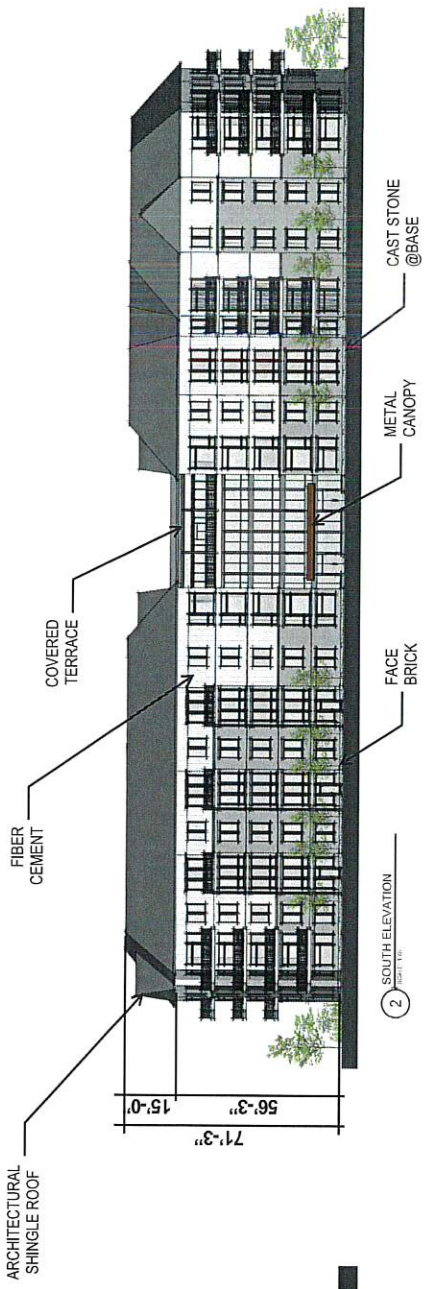
ESSEX POINT AT MOUNT CLEMENT

TAPPAHANNOCK, VA

GTM ARCHITECTS DC PROJECT #21.0593



ELEVATIONS



1 EAST - WEST SECTION



ESSEX POINT AT MOUNT CLEMENT

TAPPAHANNOCK, VA
GTM ARCHITECTS DC PROJECT #21.0593



ELEVATIONS

Definition: Building height of: means the vertical distance measure from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs.



MAIN ST - B1 & A1

Section 36.290: Height Modifications. The height limitations of this Ordinance shall not apply to: (11) Ornamental towers and spires, domes, cupolas.

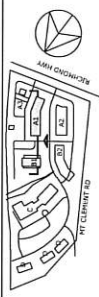


SECTION - B1 & A2

General Notes: The exterior elevations, including door and window sizes and locations, the interior partition locations, the number, size, and locations of residential units, outdoor space, stairs, balcony and elevators are preliminary and shown for illustrative purposes only.



DATE: 02/14/2023
SCALE: 1" = 40'-0"
ELEV & SECTIONS - MAIN ST/E
AB-21



ESSEX POINT AT MOUNT CLEMENT
Mt. Clement Drive, Tappahannock, VA 22560 / Essex County
7 and M Development, LLC
80 M Street SE | 1st Fl, Washington, DC 20003

TRANSPORTATION PLANNER
Wells + Associates
SUSTAINABILITY
Steven Winter Assocs.

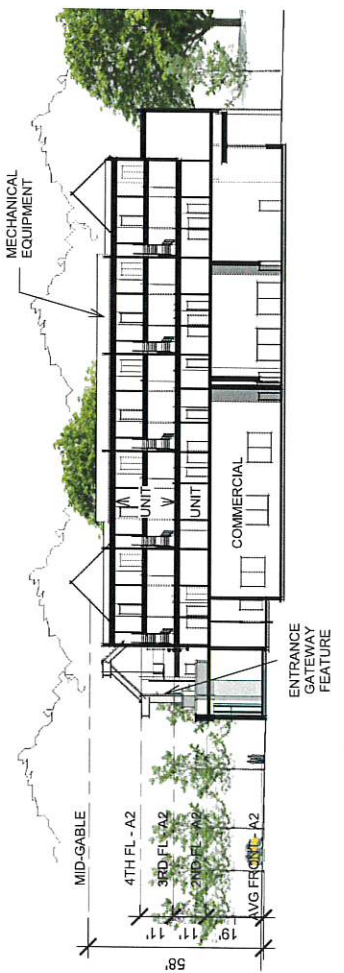
HEAVY ENGINEER
Allen and Sharif
DRY UTILITIES
Utility Pro. Services

ARCHITECT
Measure Architects
ARCHITECT
GTM Architects

CIVIL ENGINEER
Timmons Group
LANDSCAPE ARCHITECT
Parker Rodriguez



MAIN ST - A2 & B2



SECTION - A2



SECTION - B2

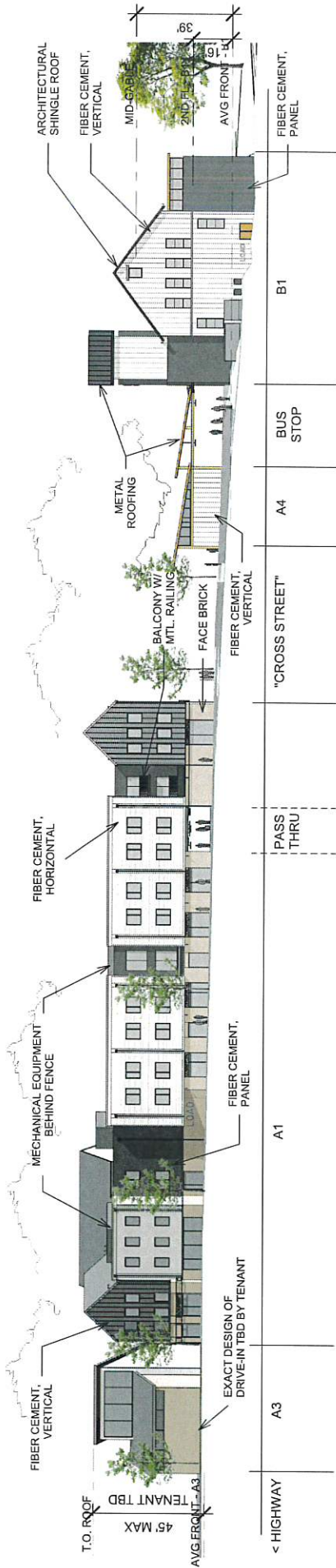


ESSEX POINT AT MOUNT CLEMENT
Mt. Clement Drive, Tappahannock, VA 22560 / Essex County
7 and M Development, LLC
80 M Street SE | 1st Fl, Washington, DC 20003

TRANSPORTATION PLANNER
Wells + Associates
SUSTAINABILITY
Steven Winter Assocs.

CIVIL ENGINEER
Timmons Group
LANDSCAPE ARCHITECT
Parker Rodriguez

MEVP ENGINEER
Allen and Shariff
DRY UTILITIES
Utility Pro. Services



BACK ELEVATION - A3, A1 & B1



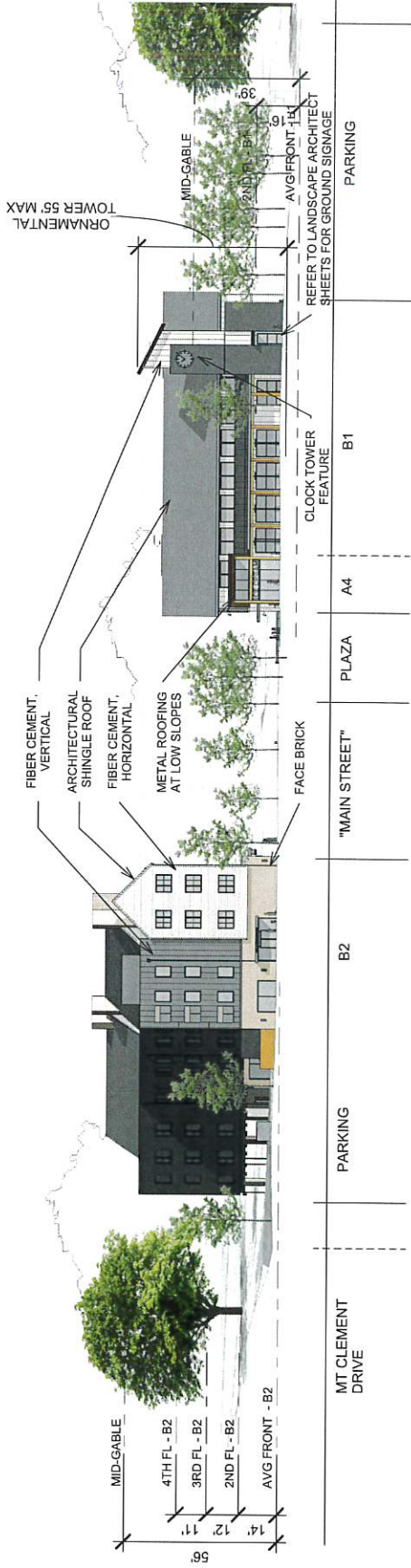
BACK ELEVATION - B2 & A2



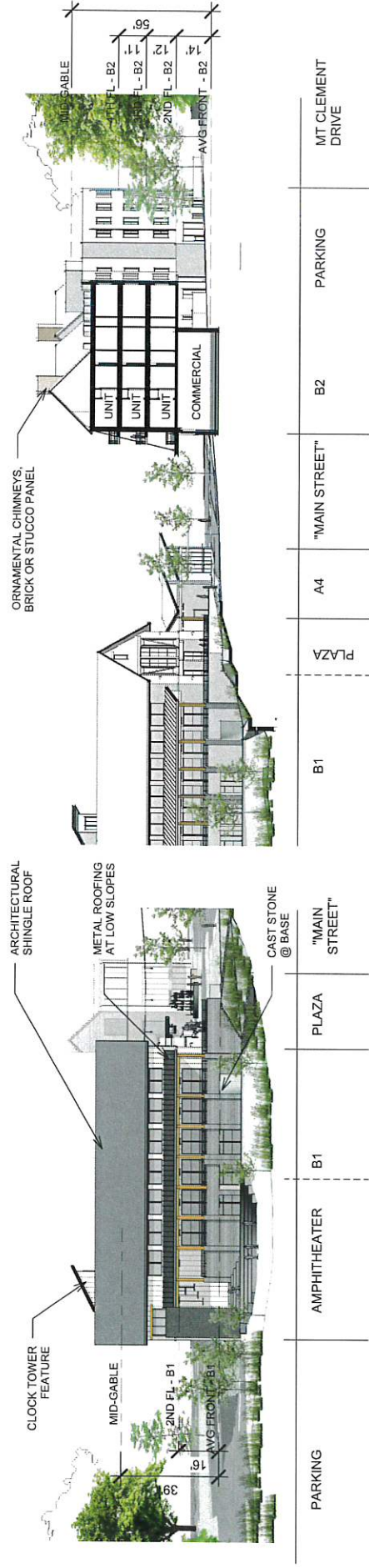
ESSEX POINT AT MOUNT CLEMENT
Mt. Clemon Drive, Tappahannock, VA 22560 / Essex County

7 and M Development, LLC
80 M Street SE | 1st Fl, Washington, DC 20003

ARCHITECT	CIVIL ENGINEER	TRANSPORTATION PLANNER	HEAVY ENGINEER
Measure Architects	Timmons Group	Wells + Associates	Allen and Shariff
ARCHITECT	LANDSCAPE ARCHITECT	SUSTAINABILITY	DRY UTILITIES
GTM Architects	Parker Rodriguez	Steven Winter Assoc.	Utility Pro. Services



ELEVATION CROSS ST - B2 & B1



ELEVATION B1 WETLAND

WETLAND SECTION - B1 & B2

ARCHITECT Measure Architects ARCHITECT GTM Architects	CIVIL ENGINEER Timmons Group LANDSCAPE ARCHITECT Parker Rodriguez	TRANSPORTATION PLANNER Wells + Associates SUSTAINABILITY Steven Winter Assocs.	MECH/E ENGINEER Allen and Shariff GRY UTILITIES Utility Pro. Services	DATE: 02/14/2023 ELEV & SECTIONS - CROSS ST AB-24
ESSEX POINT AT MOUNT CLEMENT Mt. Clement Drive, Tappahannock, VA 22560 / Essex County 7 and M Development, LLC 80 M Street SE 1st Fl, Washington, DC 20003				SCALE: 1" = 40'-0"
				MEASURE ARCHITECTS WWW.MEASUREARCHITECTS.COM

Retirement Community

Community Center

Workforce Housing

Introducing



ESSEX POINT

Development



For more information, check out www.TandM.com

Richmond Highway, Rte 360, 22560, Essex County, Virginia

Phase I of the Brays Fork Revitalization Project
conceptual rendering - 2023



Retirement Community

Workforce Housing

Community Center

Commercial



introducing

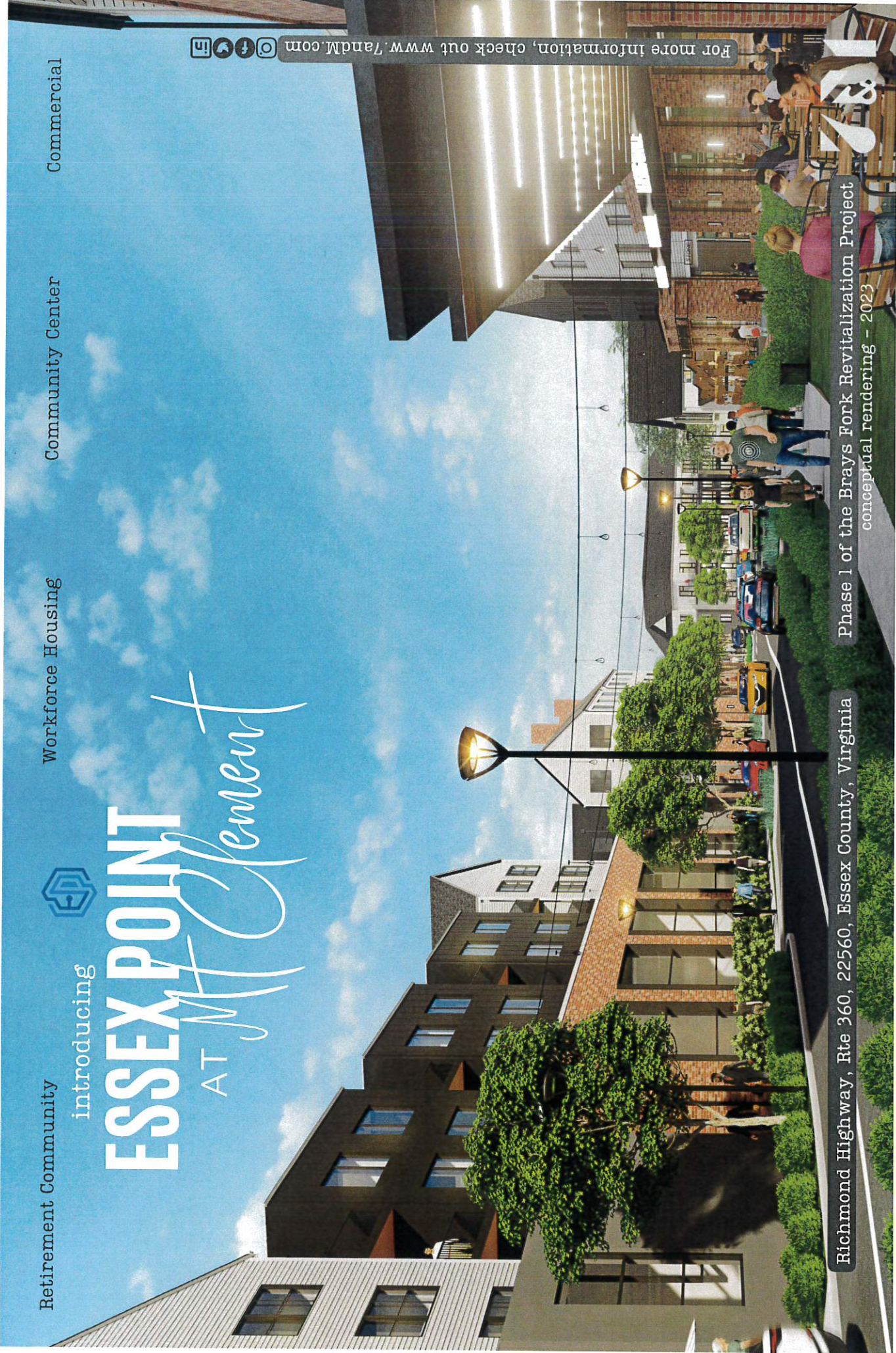
ESSEX POINT AT *Mill Point*

For more information, check out www.7andM.com



Richmond Highway, Rte 360, 22560, Essex County, Virginia

Phase 1 of the Brays Fork Revitalization Project
conceptual rendering - 2023



LET'S STRENGTHEN THE COMMUNITY TOGETHER



ESSEX POINT
AT M. Glenn Center

Phase I of the Brays Fork Revitalization Project
conceptual rendering - 2023

Richmond Highway, Rte 360, 22560, Essex County, Virginia

For more information, check out www.7andM.com





ESSEX POINT

AT

Mount Cement



DISTINCTIVE RETIREMENT COMMUNITY COMING TO ESSEX COUNTY

Richmond Highway, Rte 360, 22560, Essex County, Virginia

Phase 1 of the Brays Fork Revitalization Project
conceptual rendering - 2023

For more information, check out www.7andM.com    



ESSEX POINT
AT *Mt. Cement*



BE A PART OF **LIVE** + **WORK** + **PLAY** COMING TO ESSEX COUNTY

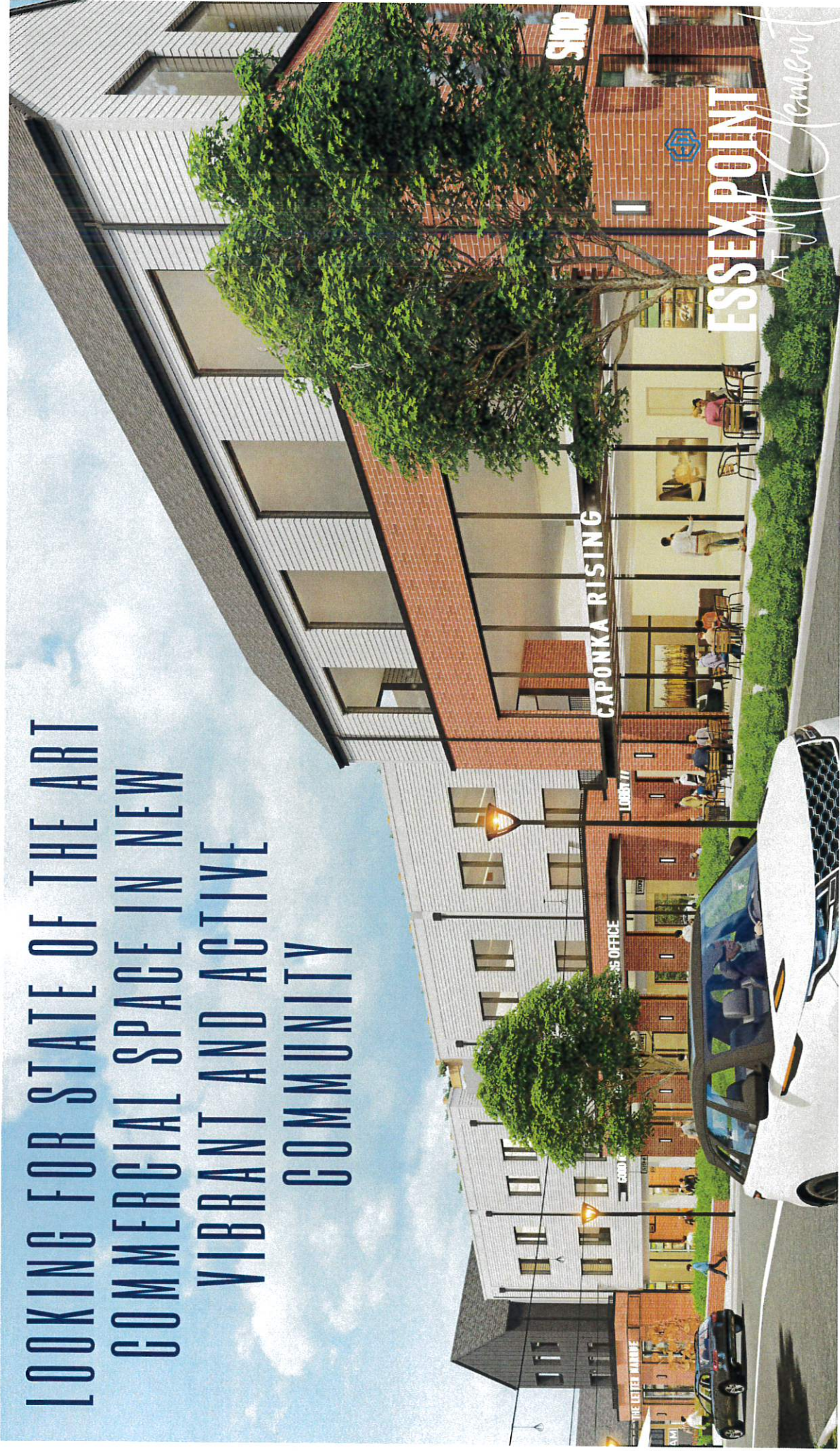
Richmond Highway, Rte 360, 22560, Essex County, Virginia

Phase 1 of the Brays Fork Revitalization Project
conceptual rendering - 2023

For more information, check out www.7andM.com    



LOOKING FOR STATE OF THE ART COMMERCIAL SPACE IN NEW VIBRANT AND ACTIVE COMMUNITY



Phase 1 of the Brays Fork Revitalization Project
conceptual rendering - 2023

Richmond Highway, Rte 360, 22560, Essex County, Virginia

For more information, check out www.7andM.com    

EXHIBIT C – LANDSCAPING PLAN

LANDSCAPE ARCHITECT
ParkerRodriguez
181 New Street, Suite 200
Boston, MA 02111
781.452.1234

7-94 Commonwealth St.
Boston, MA 02111
781.452.1234

ARCHITECT
MAYOR ARCHITECTS
100 State Street
Boston, MA 02109
617.552.3300

ARCHITECT
MAYOR ARCHITECTS
100 State Street
Boston, MA 02109
617.552.3300

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617.552.3300

ARCHITECT
MAYOR ARCHITECTS
100 State Street
Boston, MA 02109
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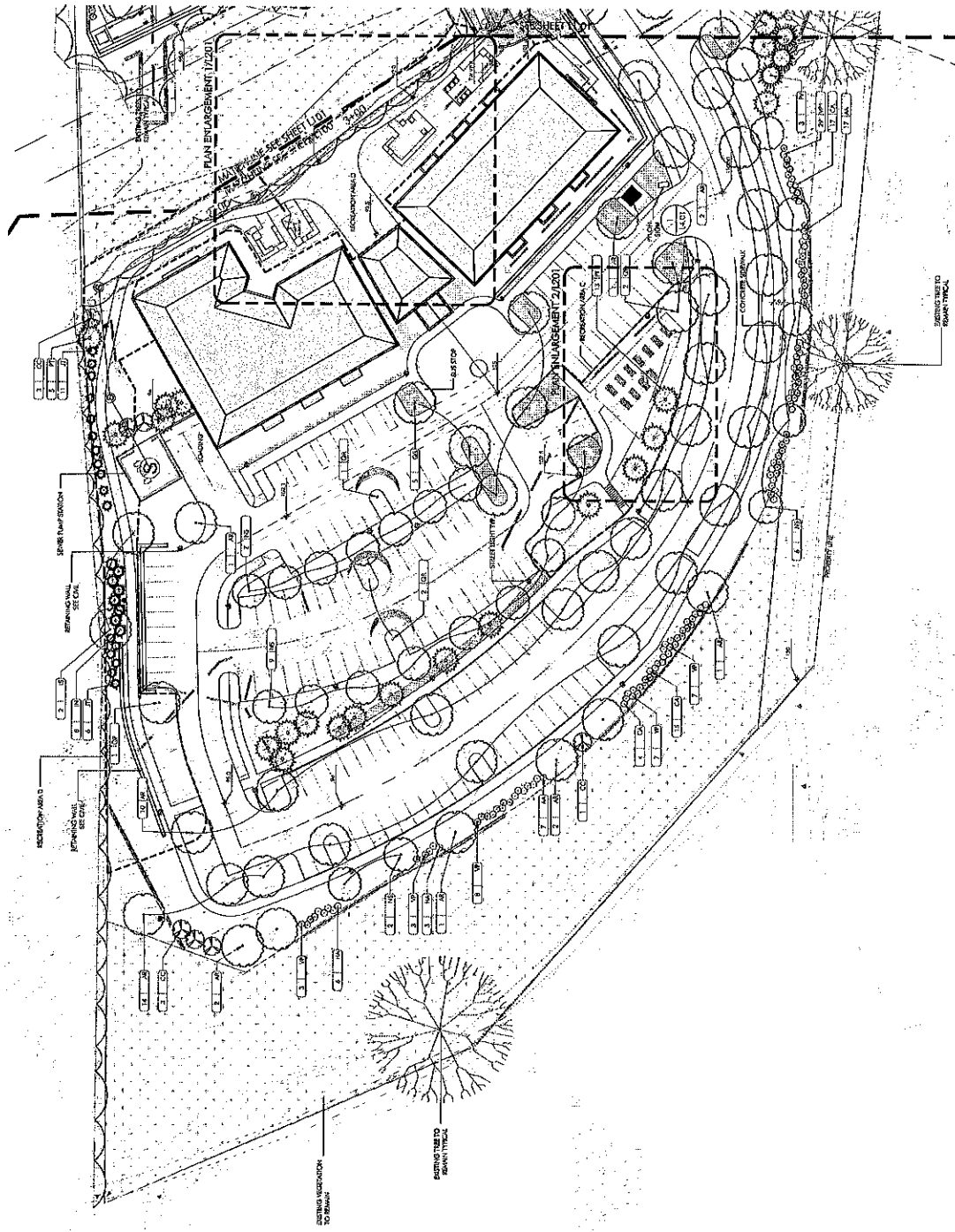
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- RECREATION USES**
1.39 ACRES TOTAL
- AREA A PLAZA 0.13 ACRES
 - PLAZA
 - SEATING
 - PLANTING
 - OUTDOOR DINING
 - AREA B COMMUNITY CENTER PLAZA 0.47 ACRES
 - PLAZA
 - SEATING
 - PLANTING
 - OPPORTUNITY FOR MARKET STALLS
 - OVERLOOK
 - AREA C COMMUNITY GARDEN 0.20 ACRES
 - COMMUNITY GARDEN
 - SEATING
 - AREA D TRAIL AND GARDENS 0.24 ACRES
 - TRAIL
 - SEATING
 - PLANTING
 - AREA E RECREATION AREA 0.19 ACRES
 - PLAZA
 - SEATING
 - PLANTING

LEGEND

- PROPOSED TREE
- PROPOSED SHRUBS
- PLANT BED WITH MIX OF SHRUBS PERENNIALS, GRASSES AND GROUNDCOVER
- VEGETATION TO REMAIN
- RECREATION SPACE
- STREET LIGHT
- POLE MOUNTED FLOOD LIGHT
- WALL LIGHT



ESSEX POINT AT
MT CLEMENT

ESSEX POINT AT
MT CLEMENT
ParkerRodriguez

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1000 North Lincoln Avenue, Suite 200
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OWNER
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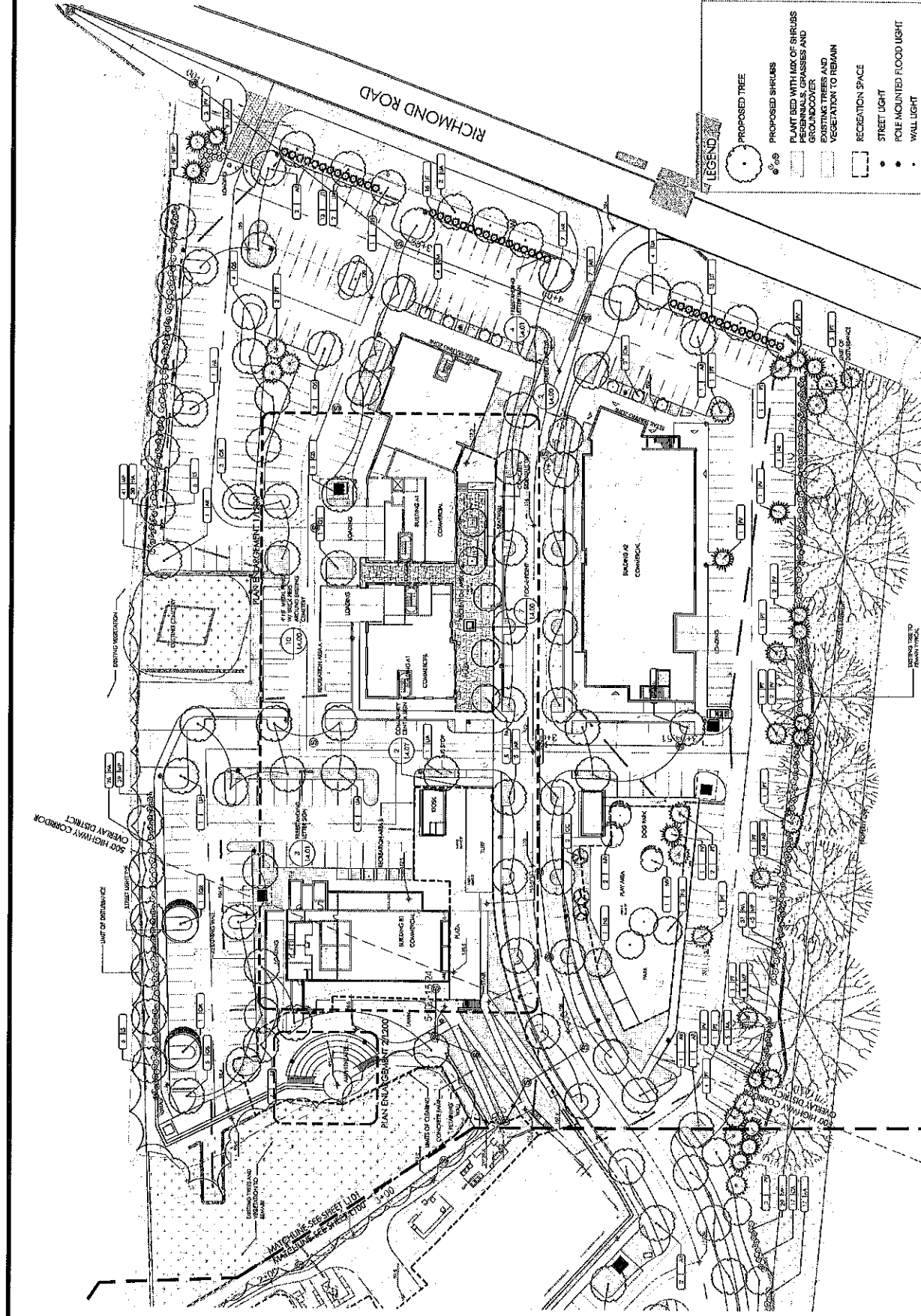
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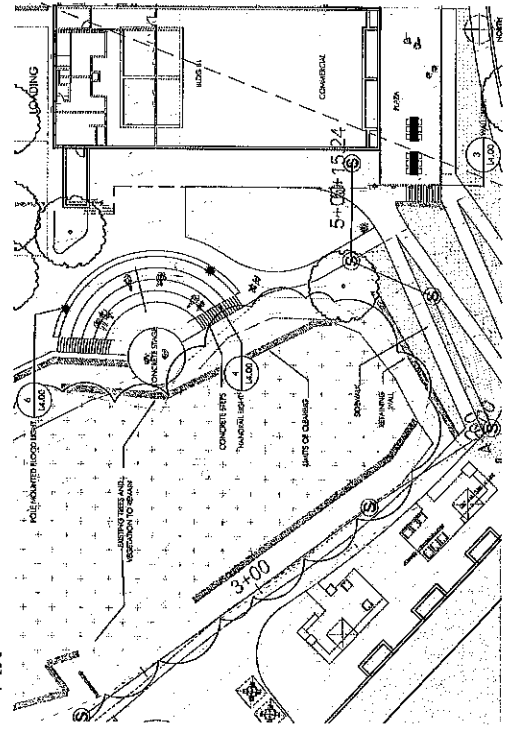
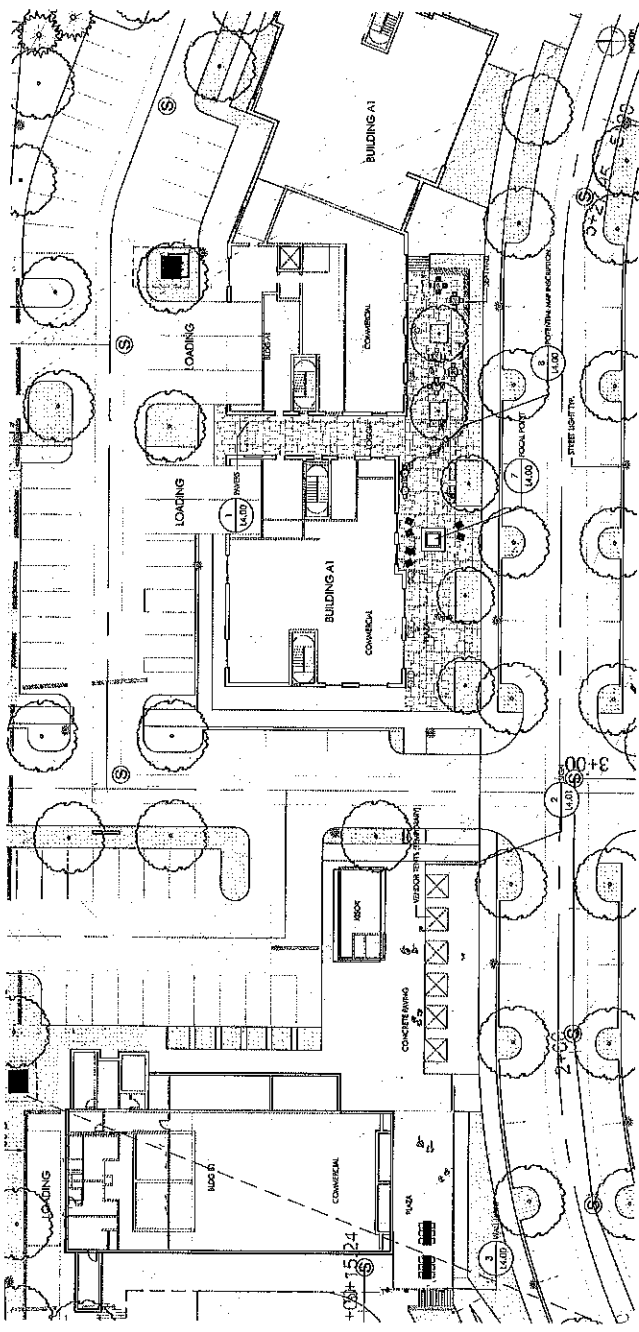
LEGEND

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- PLANT BED WITH MIX OF SHRUBS PERENNIALS OR GRASSES AND GROUNDCOVER
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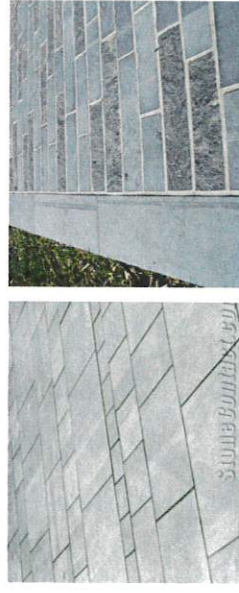


01 LANDSCAPE PLAN
1"=50'-0"

L101



IMAGES ARE CONCEPTUAL AND MAY
NOT REPRESENT FINAL MATERIALS



01 BLUESTONE PAVERS
NOT TO SCALE



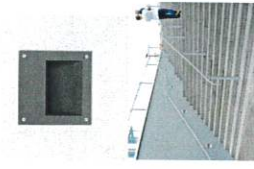
02 STREETLIGHT CONCEPTS
NOT TO SCALE



07 FOCAL POINT CONCEPT - SCULPTURE OR FOUNTAIN TBD
NOT TO SCALE



09 WIRE FENCE AT GARDEN
NOT TO SCALE



03 WALL LIGHT
NOT TO SCALE



04 HANDRAIL LIGHT
NOT TO SCALE



05 EX-TREE UPLIGHT
NOT TO SCALE



06 POLE-MOUNTED EVENT LIGHT
NOT TO SCALE



8 TAPPAHANNOCK FEATURE MAP CONCEPT FOR PLAZA
NOT TO SCALE



10 BRICK PIER WITH METAL FENCE AT FAMILY CEMETERY
NOT TO SCALE



DESIGNER: PARKER RODRIGUEZ ARCHITECT

ParkerRodriguez
101 North Beaver Street, Suite 200
Arlington, VA 22202
703.443.5810

OWNER:
F. J. and B. J. Development, LLC
10000 Northpark Drive
Northpark, VA 22089

ARCHITECT:
WALTON ARCHITECTS
4005 Westpark Drive, Suite 200
Northpark, VA 22089
703.318.1200

ARCHITECT:
City
7135 Old Lee Highway
Northpark, VA 22089

CIVIL ENGINEER:
10000 Northpark Drive
Northpark, VA 22089
703.318.1200

DESIGNED BY:
LA
CONTRACTOR:
SC
CITY/CDP:

REVISIONS:
DATE: 12.28.2022
BY: PARKER RODRIGUEZ
DATE: 07.14.2023
BY: PARKER RODRIGUEZ
DATE: 06.19.2023

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LANDSCAPE ARCHITECT
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Fax: 617.452.1501
www.parkerrodriguez.com

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Fax: 617.452.1501

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VICKER ARCHITECTS
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Fax: 617.452.1501

CONTRACTOR
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Boston, MA 02118
Tel: 617.452.1500
Fax: 617.452.1501

DATE
1/23/2018

DESIGNER
100 Auburn Turnpike
Boston, MA 02118

PROJECT NO.
100

DATE
1/23/2018

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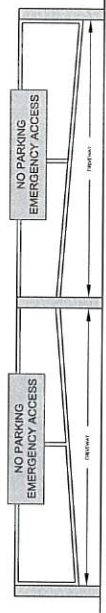
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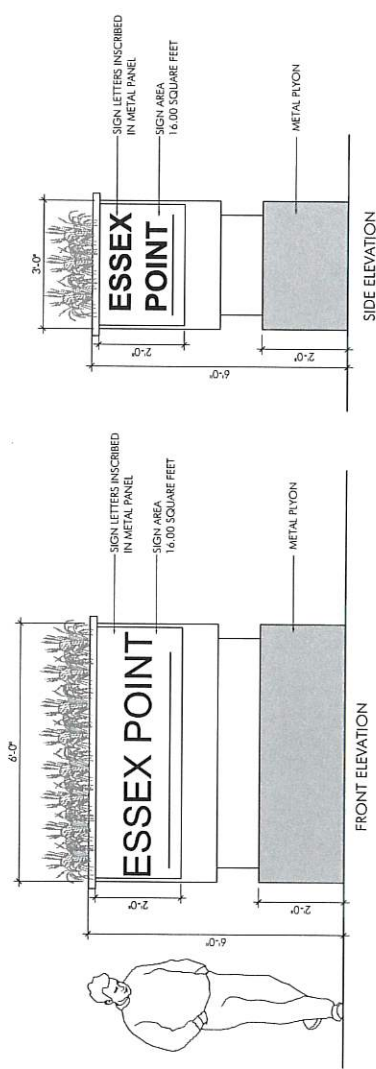
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1/23/2018



05 EMERGENCY ACCESS GATE
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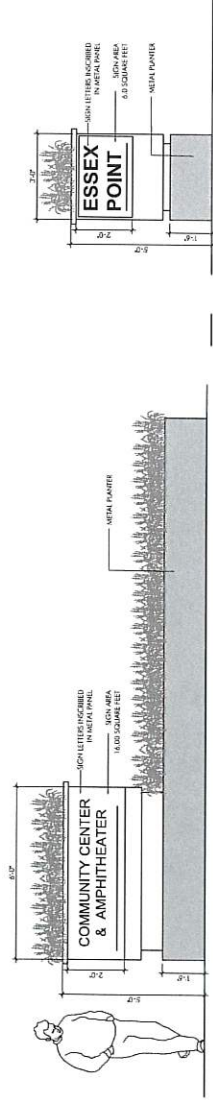


06 ENTRY SIGN CONCEPT
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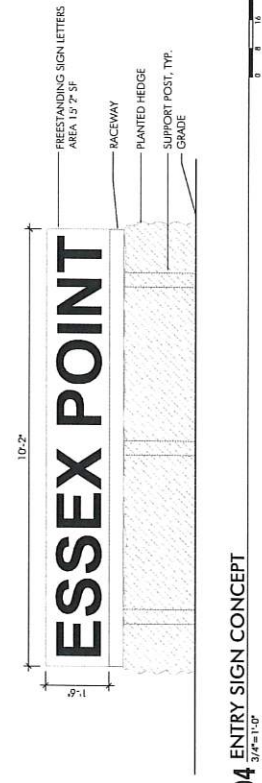
01 PYLON SIGN CONCEPT
3/4"=1'-0"

NOTE: SIGNAGE IS NOT FINAL. DRAWINGS ARE PROVIDED TO INDICATE FORM AND AREA.



02 FRONT ELEVATION OF COMMUNITY CENTER SIGN
1/2"=1'-0"

03 SIDE ELEVATION OF MINOR SIGN
1/2"=1'-0"



04 ENTRY SIGN CONCEPT
3/4"=1'-0"

SIGNAGE

Friday, August 11th, 2023

Brian Barnes; Essex County Planning and Zoning Administrator
Ernie Sadler; Building Official, Environmental Codes Compliance Officer
202 South Church Lane
P.O. Box 549
Tappahannock, VA 22560
(804) 443-4329

Subject: Applicant Response to June 6th Staff Analysis and Recommendation

Dear Mr. Barnes and Planning Commission,

Thank you for providing feedback during the June 6th Planning Commission meeting. While the meeting did not have the outcome that we were hoping for, it was helpful to receive feedback to move this project along. Development is a collaborative process, and we need to work together to see this through. We don't see this as a siloed effort but as a collaborative process to make this much needed and impactful community come to fruition. Accordingly, we have made a number of revisions in order to respond to these comments, and we believe that we have addressed all of them while maintaining a proposal that is in line with County policy.

The purpose of the PUD Planned Unit Development District is to “integrate mix of higher-density residential development with some smaller scale neighborhood-serving commercial uses is permitted in a village-like setting” as referenced in the Essex County Zoning Ordinance. We heard from staff, the Planning Commission, and the community regarding certain concerns with the proposal, and we have addressed these concerns with the following changes:

- Eliminated residential buildings closest to neighboring industrial use.
- Reduced 55+ Active Adult by **39%** from 91 units to 56 units.
- Reduced Workforce by **42%** from 48 units to 28 units.
- Reduced Commercial Footprint by **36%** from 64,737 gsf to 41,494 gsf
- Reduced Community Center space by **18%** from 14,307 gsf to 11,799 gsf
- Increased Number of Parking by **16%** from 395 spaces to 456 spaces.
- Increased green space, buffering and open space.
- Added Secondary Emergency Only Egress Access
- Reduced waiver and special exception request from 1. Density; 2. Maximum Number of Multifamily Dwelling Units Per Floor; 3. Height; 4. Parking; 5. Project Size; 6. Off-street loading; 7. Freestanding Sign; 8. Wall Sign; 9. Landscape; 10. Access Points; and 11. Private Roads. To 1. Project Size; 2. Access Roads; and 3. Private Roads.

7 AND M DEVELOPMENT, LLC

DC office: 80 M Street Southeast 1st Floor/WeWork Washington, DC 20003 | VA office: 23263 Tidewater Trail Tappahannock, VA 22560

email: shiree@7andm.com | phone: 202-854-0479 | fax: 703-832-1467 | website: www.7andm.com



- Expanded Proffers/Development Conditions.
- Addition of significant financial contributions to Essex County to offset any impacts of the development.

As we have discussed, it has been nearly 12 months since the initial plans were submitted. While we are aware that there have been staff changes at Essex County, we believe that the lack of responsiveness by previous staff has been detrimental to the development and the benefits that it can bring to Essex County. We ask that you help us in moving things forward as soon as possible.

Below provides a timeline and documentation of the efforts during this rezoning process.

- **General Development Plan**
 - General Development Plan Submitted to Zoning Administrator – **September 27th, 2022.**
 - <https://www.dropbox.com/scl/fo/ukes41ee1w6cg0t6fauuq/h?rlkey=8143g20pwtwf2yy0hgvkk5myi&dl=0>
 - Presentation to Planning Commission – **November 1st, 2022.**
 - <https://www.dropbox.com/s/ksf1i4vic7nw44/Mt%20Clement%20-%20Presentation%20to%20Planning%20Commission%20-%2010.31.2022.pdf?dl=0>
- **Preliminary Site Plan**
 - **Official Re-zoning and Preliminary Site Submission to Zoning Administrator – December 29th, 2022.**
 - <https://www.dropbox.com/sh/eookavw7w1irneu/AABaLK0kN1vsIV6mS5Xe9Y-la?dl=0>
 - Received comments back from Zoning Administrator – **January 10th, 2023.**
 - **Resubmission of Package to Zoning Administrator – March 2nd, 2023.**
 - <https://www.dropbox.com/sh/oed5zohb8adpoqp/AAAUcIfbCh4xOJxuUCzoLGiea?dl=0>
 - Acceptance of Resubmitted Package & notified May Planning Commission from Zoning Administrator – **March 15th, 2023.**
 - Zoning Administrator received hard copies for PC, BOS, & County Administrator of submission – **March 24th, 2023.**
 - Requested confirmation of May Planning Commission – **April 4th, 2023.**
 - Informed of no public hearing date – **April 5th, 2023.**
 - Received written comments from Zoning Administrator – **April 24th, 2023.**
 - VDOT response comment letter to Zoning Administrator – **May 5th, 2023.**
 - <https://www.dropbox.com/sh/ldd6pn8588jp31u/AACHoJMbjTCuGfKTIQ5dDsnla?dl=0>
 - **Submission response to Zoning Administrator – May 17th, 2023.**
 - Applicant and Planning Commission receive Staff Analysis Report – **June 6th, 2023**
 - Presentation to Planning Commission – **June 6th, 2023**
 - <https://www.dropbox.com/s/dugi3l0bs95ycwv/June%206th%20Planning%20Commission%20Meeting.pdf?dl=0>
 - Request to defer August Planning Commission to September 5th Planning Commission – **July 7th, 2023**
 - County staff acknowledged request – **July 7th, 2023**
 - Submitted draft development conditions – **July 17th, 2023**

Essex Point at Mt Clement – 7.7.2023 Revised Response

- Planning Commission votes to accept September 5th deferral – **August 1st, 2023**
- **Submission response to Zoning Administrator – August 11th, 2023**
 - <https://www.dropbox.com/scl/fo/h1ua4ybv1x8jmneajnpwg/h?rlkey=ii4cgipvdu313d0y8nk83kegb&dl=0>

Look forward to working together to bring this much needed asset and services to Essex County. If you have any questions and/or concerns, please feel free to contact us at either shiree@7andM.com or 202-854-0479.

Thank you,

Shiree C Monterio
7 and M Development LLC

June C Monterio
Land Owner

Enclosed:

Appendix 1: June 6th Staff Analysis Report
Appendix 2: Applicant Response to June 6th Staff Analysis Report
Appendix 3: Preliminary Site Plan
Appendix 4: Revised Landscape Plan
Appendix 5: Revised Illustrative Site Plan
Appendix 6: Revised Water and Sewer Analysis
Appendix 7: Draft Proffered Development Conditions (provided on July 17th, 2023 – pending feedback from county)

APPLICANT RESPONSES TO STAFF DENIAL RECOMMENDATION COMMENTS

1. Staff Comment: The development proposal lacks clarity necessary to offer relative findings as to the exact mix of residential housing types proposed, except that between 80 and 100% of the senior occupied units may be rent restricted based on AMI and between 0 and 100% of the non-senior occupied units may be rent restricted. The application and proffered conditions include language that allows modifications in rent restricted housing types based on the applicant's final financing structure which is undetermined.

Applicant Response: Density, uses, and AMI restrictions have been specifically defined in the proffers.

2. Staff Comment: While the Land Use Map of the County's Comprehensive Plan (Plan) designates the subject property as part of a Development Service District where the County should channel future development, the Plan offers growth objectives where new development should concentrate at the edges of the Town of Tappahannock given the need for centralized sewer and water facilities and that adequate public facilities should be in place or proposed prior to development approval, regardless of where the development is located. Public sewer is not planned to serve the subject property, unless a modification is approved by the County in its contract for sewer capacity to offer a portion of the capacity to the development. The Plan states that the County has reserved its sewer capacity for industrial development.

Applicant Response:

- a. **The property is located within ½ mile of Town. This is the edge of Town. Further, there are no other properties that are capable of development with a PUD and located within the Development Service District that are closer to Town than the subject property. As a result, not only does the Applicant's proposal meet the recommendations of the Comprehensive Plan, but there is also no other opportunity to fulfill the recommendations of the Comprehensive Plan in a proximity closer to Town than that proposed by the Applicant.**
- b. **There is no defined distance in the Comprehensive Plan nor Zoning Ordinance that defines edges of town.**
- c. **The property currently has existing extensions for sewer and water facilities allowing for the simple and efficient extension of water and sewer to the property. There are two existing water mains and one sewer main at the edge of property line on Route 360.**
- d. **The Plan does not state that the County has reserved its capacity for industrial development. Despite this, the Applicant has agreed to construct infrastructure**

(on-site and off-site) at no cost to the county and proffer cash contributions to enhance the ability to extend water and sewer to industrial properties.

- e. Applicant separated the agreement for access to public water and sewer from the application based on recommendation of previous Zoning Administrator.
 - f. The Comprehensive Plan states that services are aimed to be provided by “sewer and water facilities that can service development at greater residential densities or can service industrial or commercial uses.”
3. Staff Comment: The Plan states that PUDs “can be brought to land only in those areas which meet the standards framed in the County ordinance and consistent with the Plan concepts”. The subject property is located west of Bray’s Fork, away from the Town’s edge. The Plan suggests development should be of a controlled nature, channeled into the most appropriate areas necessary to effectively sustain adequate levels of public services, such as at the edges of the Town of Tappahannock. While some supporting services are possible with the proposed B-1 uses and “could include” services geared toward seniors, there is no commitment that the uses will be limited or developed as those that will support the residents’ convenience and personal service needs.

Applicant Response:

- a. The property is located within ½ mile of Town. This is the edge of Town. Further, there are no other properties that are capable of development with a PUD and located within the Development Service District that are closer to Town than the subject property. As a result, not only does the Applicant’s proposal meet the recommendations of the Comprehensive Plan, there is no other opportunity to fulfill the recommendations of the Comprehensive Plan in a proximity closer to Town than that proposed by the Applicant.
 - b. The Applicant has agreed to proffer business uses and services at the property.
4. Staff Comment: The Plan suggests that the County should encourage development that is in keeping with the character of existing land uses. While the proximity to the hospital may be appropriate for a higher density mixed housing development, residential use immediately adjacent to a County industrial park is not compatible.

Applicant Response:

- a. The PUD District and Comprehensive Plan call for mixed-use developments.
- b. Industrial uses are in close proximity to residential in many existing locations in Essex County.
- c. The Essex County Zoning Ordinance provides for the ability of industrial and residential property to be located in close proximity to one another. If a

residential use adjacent to an industrial use were truly “not compatible”, these provisions would not exist.

- i. Division 6 provides for minimum setbacks of industrial properties to residential property lines.
 - ii. Section 36.489.b provides for landscape buffers when industrial properties abut residential or PUD districts.
 - iii. Section 36.256 provides for height restrictions on industrial uses when located within 100 feet of an R district.
 - d. The Applicant has revised its plans to remove the residential buildings in closest proximity to adjacent industrial uses and increased buffering.
 - e. The Applicant has proffered to provide a covenant that the owner of the development will not object to the location of the adjacent industrial property.
 - f. There are no requirements or provisions in the Comprehensive Plan or Zoning Ordinance that states residential is incompatible with Industrial uses rather the plan calls for mixture of uses including residential and non-residential uses.
5. Staff Comment: The front 500 feet of the subject property is identified by the Plan as part of a Highway Corridor Enhancement District which is given to properties lying along major transportation corridors where site design should be considered to protect and improve the quality of visual appearances. The Plan’s policy recommendations and the design standards of the Zoning Ordinance ensure reasonable, quality developments result. For PUD developments, the Plan suggests that threshold size and location requirements will be framed by County ordinances to guide decisions regarding their location. Standard Exceptions requested with this proposal include exceptions to permit a reduced project size which correlates to an overall design with reduced open space and increased overall density. Exceptions also include increased building heights and massing; larger signs; reduced landscaping; and less parking and loading areas provided. Justification, beyond the need for increased density on a smaller than ordinance required 15-acre project size, for these modifications have not been demonstrated to give considerations that they would promote an integrated development plan equally beneficial to the development than would be obtained under the Ordinance’s existing development standards and that they would not have a detrimental influence on the surrounding area.

Applicant Response:

- a. The Comprehensive Plan states that this policy is “not intended to restrict or prevent construction of buildings within each Corridor”.
- b. The Comprehensive Plan states that the Highway Corridor will be implemented through zoning which will establish standards for access, buffering and setbacks.

This implementation has not taken place, so no standards have been established in the Zoning Ordinance to provide design guidance to the Applicant.

- c. Zoning Ordinance calls for higher densities or request of flexibility in Ordinance standards to accommodate the planned design. However, the Applicant has revised its proposal to eliminate nearly all standard exceptions.**
 - d. The Applicant has revised its proposal to provide for significant buffering and design enhancements along its highway frontage.**
6. Staff Comment: While housing variety is important to the overall vitality of a community, oversaturation and/or a lack variety within a development such as this could negate the benefits. The applicant has not provided substantive analytics supporting the need for what may become a fourth Low Income Housing Tax Credit (LIHTC) property in Essex County or the surrounding region.

Applicant Response:

- a. The proposed housing types are solely lacking in Essex County and the region as a whole, and the Applicant has provided evidence of this to the staff.**
 - b. The Comprehensive Plan does not call for analysis of funding mechanisms in the implementation of its Plan; however, the Comprehensive Plan does call for affordable housing:**
 - i. "Lack of affordable housing also contributes to the disproportionate number of mobile homes located in the County. The pace of residential development has remained slow."**
 - ii. "These developments will be limited to locations within the Development Service District where public benefits, in the form of highway improvements, provision of affordable housing, provision of parks, provision for sites appropriate for construction of needed community facilities, are provided as part of the development approval process in exchange for higher densities."**
7. Staff Comment: A Standard Exception is proposed to reduce points of vehicular access into the development from two to one and to allow private roads. For safety and convenience of access, the Zoning Ordinance requires two (2) points of access for developments with over 51 residential units. The property does not contain the necessary frontage to meet VDOT entrance separation requirements without a VDOT approved waiver. Staff is concerned that a lack of a second access, and thereby less traffic distribution could cause safety issues, especially in an emergency, and have a negative influence on area traffic at the project's intersection and internally for residents and commercial patrons. In addition, the traffic impact analysis indicates the levels of service of Route 360 would likely be diminished.

Applicant Response:

- a. Applicant provided sufficient analysis that this development will not diminish the service levels of Route 360.
 - b. VDOT accepted circulation plans, secondary access, and traffic impact analysis. VDOT does not require any additional off-site improvements other than right-turn lane.
 - c. Applicant has proffered two future road connections to neighboring properties and roads to support additional means of access in the future.
 - d. The proposal is aligned with Comprehensive Plan and Zoning Ordinance, as primary access for the development is provided directly to a major roadway. Despite this, the Applicant has agreed to construct infrastructure (on-site and off-site) at no cost to the county and proffer cash contributions to enhance the ability for transportation and/or safety improvements in the vicinity of the intersection of Richmond Highway and Legrange Industrial drive.
8. Staff Comment: The Preliminary Site Plan does not reflect the proposed increase in gross floor areas of uses allowed in Proffered Condition 6. It would be appropriate for the plan to be revised to offer modified site designs/layouts to reflect the variations and to offer clarity in where reductions would occur in other uses such as for increased residential gross floor area.

Applicant Response: All proffers are reflected in the updated plans. The Applicant requests that staff identify any concerns with consistency through comments to Applicant and prior to publishing staff reports.

9. Staff Comment: Proffered conditions, last revised 6.1.2023, need to be modified before they are accepted to ensure enforceability. Clarity is needed in proffer language relative to: the date of the General Development Plan (Proffered Condition 2); conflicting use of terms multi-family residential, senior and senior living units, workforce housing, residential buildings, residential architecture and building exteriors (Multiple conditions); clarity of the B-2 uses proposed (Proffered Condition 5); use of the term Standard Exception (Proffered Condition 4); assurance that general care and housing will not include assisted living operations (Proffered Condition 9); exterior building materials proposed, definition/treatment of rear elevations and timing for approval (Proffered Condition 13 and 14); ensure the number of parking spaces to be provided – minimum or maximum of 395 spaces (Proffered Condition 15 and Standard Exceptions); and verify standards for private road construction is to VDOT standards for construction and dimensions. (Proffered Condition 17).

Applicant Response: Proffers have been revised to be consistent. The Applicant requests that staff identify any concerns with consistency through comments to Applicant and prior to publishing staff reports.

10. Staff Comment: Clarity is needed in the relative to Standard Exceptions requested for building height. The application indicates that the site's topography would allow a 5-story building to appear as a 4-story building, but the Standard Exceptions limit buildings to a maximum of 4-stories or 60 feet whichever is less. In addition, clarity is needed for the proposed number of units per floor in Building C, the difference between the parking exceptions proposed and the minimum of 395 spaces offered in Proffered Condition 15, and for loading area parking.

Applicant Response: The proposed plans have been revised to remove these standard exceptions.

January 20, 2023
Revised: March 1, 2023
Revised: July 5, 2023

Essex County
202 So. Church Lane
P.O. Box 1079
Tappahannock, VA 22560

Re: Impact Analysis of Essex Point at Mount Clement on Public Utility System

Essex Point at Mount Clement is a proposed mixed-use development located along Route 360 (Richmond Highway), between the Route 17 (Church Lane) intersection and the Lagrange Industrial Park. The project includes approximately 53,292 sf of commercial space along with a mix of housing typologies, providing 84 total units. It is the project's desire to tie to both the public water and sewer system.

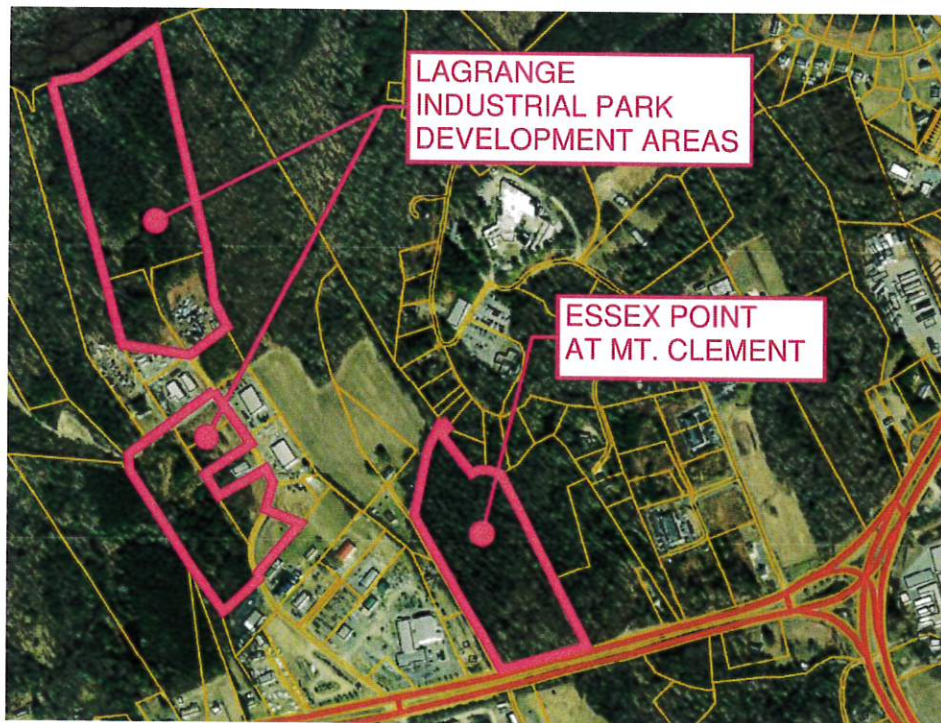


Image 1: Overall Area Map

Introduction

While public water and sewer are available within Route 360, it is our understanding that approval must be granted by Essex County for any entity to tie to the public infrastructure. Per a meeting held with representatives of both Essex County and the Town of Tappahannock, we have learned the following:

- The wastewater treatment plant is operated by the Town of Tappahannock
- An expansion of the wastewater treatment plant increased the original capacity by 400,000 GPD. There is an agreement between the County and Town that 200,000 GPD of that additional capacity is ear-marked for Essex County.
- Essex County representatives indicated the importance of preserving the wastewater treatment plant capacity for industrial development at Lagrange in line with the Conceptual Plan that was prepared as a part of the Site Certification Report for Lagrange Industrial Park, prepared in April 2020 by the Middle Peninsula Alliance and Draper Aden Associates.
- There was no concern with regards to capacity to tie into the public water system.

This analysis has been prepared to demonstrate that the request to tie to the public utility systems will not adversely effect Essex County’s ability to attract industrial development to the region. Furthermore, this project will provide additional revenue to the County and provide needed space for both commercial and residential uses.

Overall Wastewater Demand

As noted, Essex County has 200,000 GPD of availability within the Town’s wastewater treatment plant. It is our understanding that the County has used some of that capacity, but the vast majority of it is still available. The County has stated that it desires to maintain a portion of that capacity for the expansion of the Lagrange Industrial Park.

The request for the Essex Point at Mt. Clement site is based on the development of 56 senior housing units located on the north side, with 28 apartment units located over top of approximately 53,292 sf of commercial space. The overall wastewater demand would be just over 30,000 GPD, with our request being at 30,300 GPD of usage.

Use	Units/SF	Rate	Total
Senior Housing	56	200 GPD	11,200 GPD
Apartment Units	28	200 GPD	5,600 GPD
Commercial	53,292	250 GPD per 1,000 sf	13,500 GPD
		TOTAL	30,300 GPD

Table 1: Wastewater Demand Generated by Essex Point at Mt. Clement
Rates are based on BOCA National Plumbing Code

Per the Site Certification Report for the Lagrange Industrial Park, additional development could add 315,000 sf of industrial development over 29.24 acres. Industrial development averages a water/sewer demand of 50 GPD per 1,000 sf of development, which on this site could see a demand of 15,750 GPD. It should also be noted that maximum development of ground floor industrial sites is typically between 8,000 sf – 12,000 sf, which appear to be achieved here, as the Conceptual Development Plan measures in at approximately 10,700 sf per acre.

In accepting wastewater for development both at Essex Point at Mt. Clement and Lagrange Industrial Park the overall additional demand would be 46,050 GPD, leaving approximately 105,000 GPD for additional development, which could be split across other development opportunities (industrial, commercial, and residential) to further support the County’s economic vitality and potential. That excess capacity could support an additional 1,000,000 sf of industrial development on top of the conceptually planned Lagrange Industrial Park expansion, while still having 55,000 GPD available which is enough other types of projects similar to this one.



Image 2: Conceptual Development Plan Excerpt from Site Certification Report for Lagrange Industrial Park

Alignment with Essex County Comprehensive Plan

The Essex Point at Mt. Clement site falls within the Development Service District of the Comprehensive Plan. This district is described as “the most suitable areas for new population growth” within the County, noting its ability to preserve the rural nature of the County with a focused area for development. Moreover, the Comprehensive Plan also states that growth and development in these areas “can be economically provided with utilities, services, and employment.” The Comprehensive Plan further notes that services within this District are aimed to be serviced by “sewer and water facilities that can service development at greater residential densities or can service industrial or commercial uses.”

The provision of those items results in protection of the resource protection areas and agricultural uses. Furthermore, the rezoning of this parcel will further enhance the needs of the County in accordance with the stated goals of Planned Unit Developments, as it will provide affordable housing, dedicated green space, as well as community based facilities focused around health and wellness.

Conclusion

Overall, provision of public water and wastewater service to Essex Point at Mt. Clement can serve as a catalyst to industrial expansion, while also being aligned with the County’s Comprehensive Plan. The utility impact of this project does not disallow the County to provide water and wastewater to future industrial uses, as a significant amount of development can be supported by the current capacity, beyond the expansion of the Lagrange Industrial Park. Moreover, this request for public service of water and wastewater is in line with the description of the Development Services District, being offset by the quality of the project and its provision of affordable housing, green spaces, and community-based facilities and services that will benefit the general public.

**ESSEX COUNTY PLANNING COMMISSION
AGENDA ITEM
STAFF REPORT**

Meeting Date: September 5, 2023

Case Number: R-20230003

SUBJECT:

REZONING REQUEST CASE NUMBER R-20230003 (AS AMENDED): In the Central Magisterial District, 7 AND M Development, LLC, and June C. Monterio request rezoning from B-1, Local Business District to PUD, Planned Unit Development District of 13.186 acres with Standard Modifications in accordance with Zoning Ordinance Section 36.242(5) related to reduced project size and number of vehicular access points, and to allow for private roads within the development.

PROJECT DESCRIPTION(AMENDED):

Since the Commission's June 6, 2023 public hearing, the Applicants have amended their rezoning request and development proposal to reduce the overall proposed density and total building square footages, and to remove their requests for Standard Modifications except for those related to reduced project size and number of vehicular access points, and to allow for private roads within the development. The Standard Modifications that were removed from the request are those that would allow the development to: exceed ordinance density; increase the number of dwelling units per floor of a building; exceed building height maximums; reduce numbers of parking spaces and loading areas; allow for signs in excess of ordinance standards; and, reduce parking lot landscaping. A revised conceptual plan, provided as Exhibit A, eliminates residential buildings closer to the northern and western property boundaries adjacent to the LaGrange Industrial Park. In addition, the Applicants submitted revised proffered conditions. (Attachment 2)

Still planned as a mixed-use development, the project proposal now includes 84 studio and one- and two-bedroom multi-family residential dwelling units for rent (a density of 6.37 dwelling units per acre (reduced from 139 units with a density of 10.54 dwelling units per acre) in a maximum of 108,000 square feet of gross floor area (reduced from 200,000 square feet); a maximum of 42,050 square feet of gross floor area of commercial/retail uses (reduced from 73,000 square feet); and, up to 11,260 square feet of community center uses (down from 20,000 square feet) (Proffered Condition II). The Applicants' Conceptual Plan divides the property into four (4) land areas to identify their specific proposed land uses and site development. (Exhibit A and Proffered Condition II.)

The revised application provides clarity on the numbers of proposed age restricted and income-based rental units which are offered as maximum standards, instead of being dependent upon financing received for the development. Fifty-six (56) of the eighty-four (84) multi-family dwelling units will be reserved for 55+ age restricted independent (active senior) housing units with a maximum of 11 of those units being unrestricted/upper income units and the remaining units being low-, moderate- and middle-income units, as defined (Proffered Conditions III.1. and IV.1). Twenty-eight (28) of the eighty-four (84) total multi-family units will not be age restricted, but will be offered for rent based on the economic mix defined in Proffered Condition III.2. as workforce housing units.

The amended application and proffered conditions list specific non-residential uses permitted to include: place of assembly; general and medical/clinic office use; neighborhood convenience, general and specialty stores; restaurants; and day-care center use.

It is important to note that final site and building design and construction would be required to be accomplished in compliance with Zoning Ordinance and other regulations such as those for stormwater conveyance/treatment, and wetlands or any other environmental impacts; the provision of open space, landscaping, buffering, building heights and construction, parking, and signage, as well as the provision of public water and sewer to serve the development. The Applicants will be required to provide evidence of compliance with these standards during preliminary and final site plan review and approval.

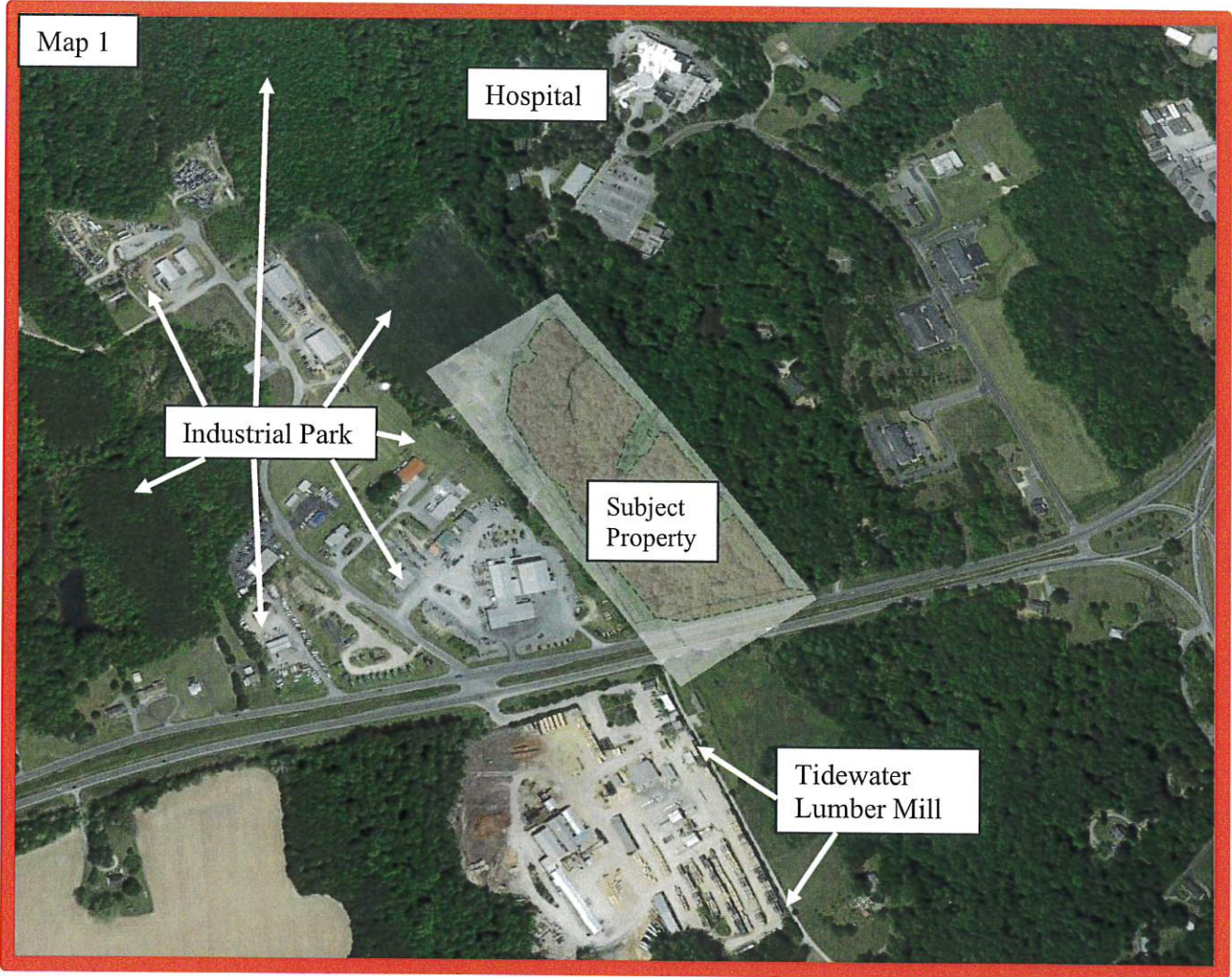
PLANNING COMMISSION ACTION REQUESTED:

At the conclusion of the public hearing, the Planning Commission may by majority vote:

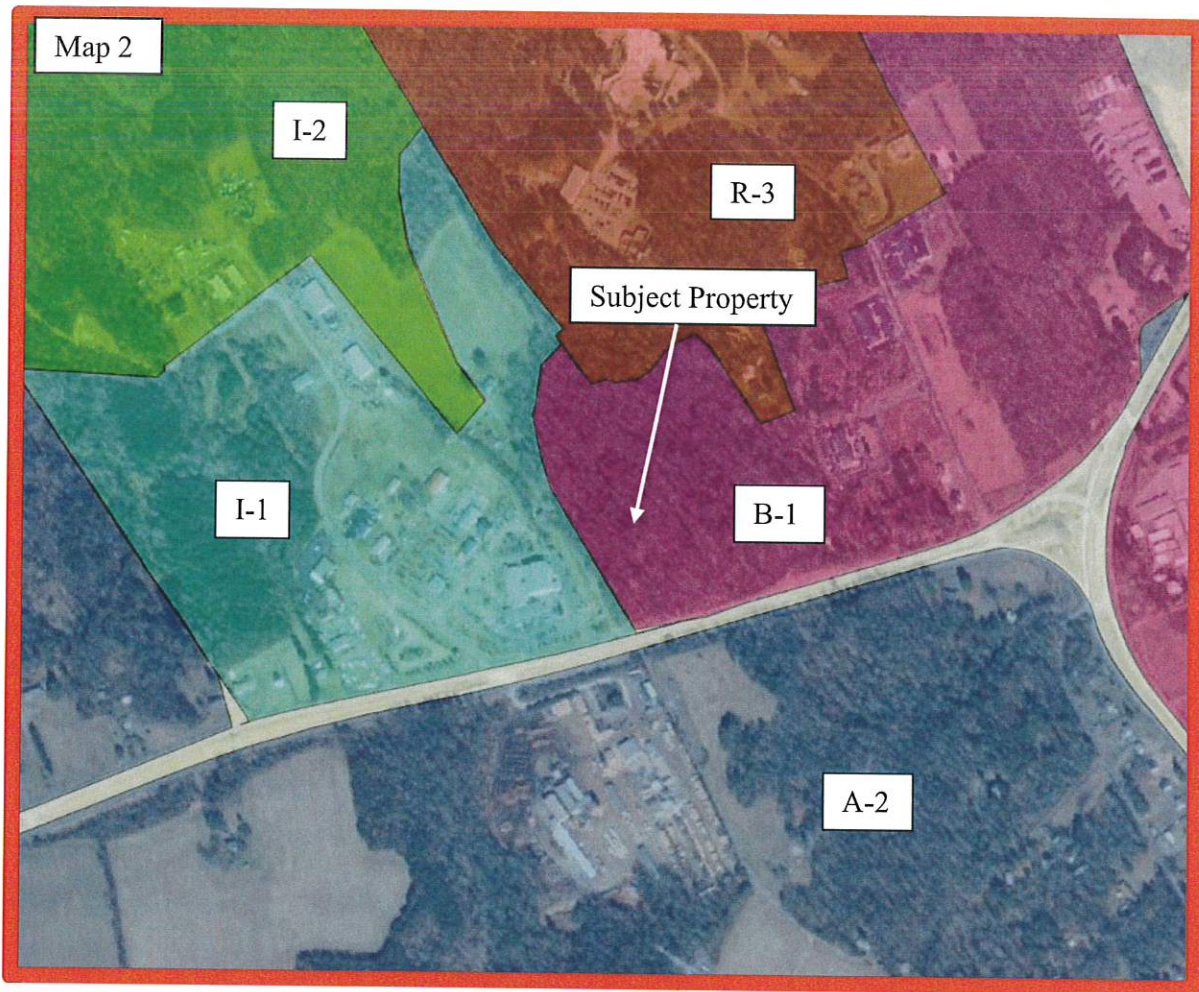
- Recommend approval of this request to the Board of Supervisors subject to the Condition and Proffered Conditions in Attachments 1 and 2;
- Recommend denial of this request to the Board of Supervisors; or,
- Defer action on this request to a date certain for further analysis and consideration.

ZONING AND LOCATION:

In the Central Magisterial District, the subject property fronts approximately 554 feet on the westward lane of Route 360 approximately 1500 feet west of the light at the Bray's Fork intersection, and is known as Tax ID 36_43. The property is located in the vicinity of Brays Fork, VCU hospital, Tidewater Lumber Corporation, and is adjacent to the LaGrange Industrial Park which includes properties zoned Light Industrial (I-1) and Industrial (I-2). The red area (inside the white rectangle) on Map 1 depicts the location of the subject property.



Map 2 depicts the current zoning of the subject property and properties to the north and east as Local Business (B-1) and Medium Density Residential (R-3); Properties to the north and west are zoned Light Industrial (I-1) and Industrial (I-2); and properties to the south are zoned General Agricultural and Forestry (A-2).



COMPREHENSIVE PLAN:

Map 3 on Page 5 shows the future land use designations of the subject and surrounding properties per the County’s adopted Comprehensive Plan. The subject and surrounding properties are designated as Development Service District areas as indicated in yellow, with properties along the major corridors, shown in pink, as Highway Corridor Enhancement District areas. Properties west of the subject property are designated as part of the Business and Employment District shown in blue.

The Development Service District areas are identified as areas where development is appropriate when adequate public facilities can be provided and consideration is given to the impact of a proposed use on the character of an area. The Development Service District is identified for the purpose of guiding growth; therefore, a variety of land uses are mentioned as being appropriate within this District. These land uses are also identified in the Zoning Ordinance where certain zoning districts may be appropriate in specific areas of the Comprehensive Plan. The Plan recognizes the Development Service District as areas that may appropriate for Light Industrial (I-1) and Industrial (I-2) uses, Local and General Business (B-1 and B-2) uses, Planned Unit (mixed use) Developments (PUD), Mobile Home Parks (MH-1) and Medium Density Residential (R-3). Planned Unit Developments as proposed with this case are also suggested as appropriate within areas identified as Rural Residential within the County’s Comprehensive Plan.

The purpose of the Development Service District designation is to steer more intense growth to the Tappahannock town center and away from agricultural/rural areas. The Plan provides that the Development Service District areas, which contain approximately 3,200 acres, generally correspond to locations where growth can be most cost effectively supported. The Plan adds that how development in this area will be managed/allowed will be dependent on both the County and Town's relationship as they will guide growth in the area based on mutual decisions. The Plan notes the importance of the County and Town to determine how growth objectives in these areas may be best accommodated while protecting the qualities of rural character both currently enjoy. Further, the Plan provides that these considerations are provided as the basis for a number of County actions and management decisions, and serve as a tool for evaluating the merits of proposals.

An important consideration is the Plan's growth objective that suggests the County should encourage development that is in keeping with the character of existing land uses – considering an area's existing character when assessing the merits of introducing new land uses in an area. In this case, existing area land uses include largely industrial uses with vacant/agricultural properties, sparse commercial use, and large-lot single family residential uses. Regarding industrial land uses, the Plan provides that limited land area is designated for industrial use along sections of major routes and that the County, in corporation with the Economic Development Authority, is looking at ways to expand and attract industrial jobs such as manufacturing to the county. The Town and County have agreed to a joint water and sewer agreement whereby water and sewer services can be extended into the County by the Town to serve future industrial and commercial users. The Plan provides that the first area to be served is the industrial districts at Bray's Fork on Rt. 360 where development has begun and identifies that this service can be further extended along Rt. 360 where the County owns 700 acres for additional job-creating growth. The Plan further suggests that properties within the area of Bray's Fork meet major arterial transportation needs for industrial growth and are generally removed from residential development.

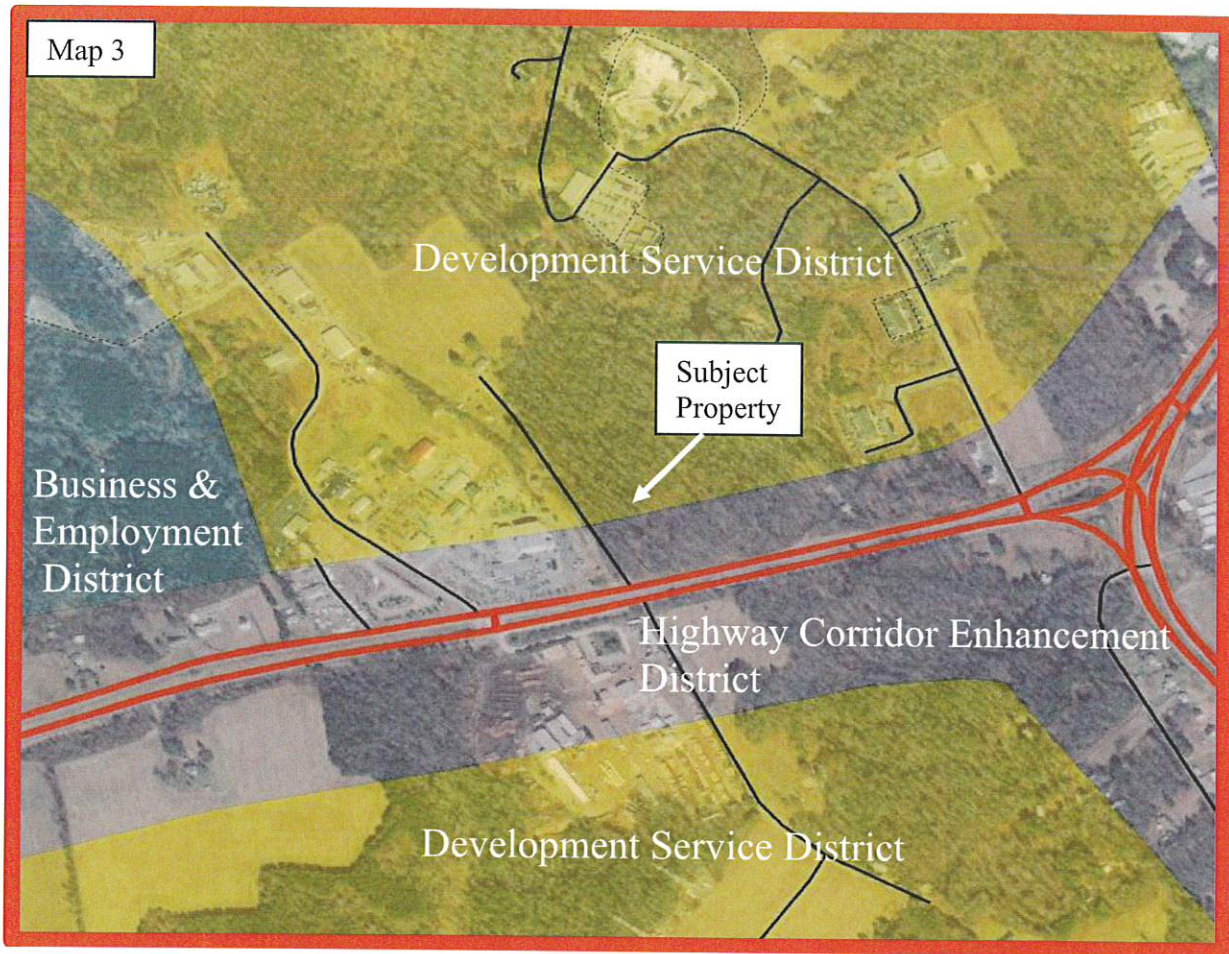
Additionally, the Plan offers growth objectives that provide that new development should concentrate within or at the edges of the Town of Tappahannock given the need for centralized sewer and water facilities and that adequate public facilities should be in place or proposed prior to development approval, regardless of where the development is located.

The Plan provides that PUDs can be brought to land only in those areas which meet the standards framed in the County ordinance; those consistent with the Plan concepts; and, that development approval should not proceed absent substantial public benefits and demonstrated consistency with Plan objectives. The subject property is located west of Bray's Fork, away from the Town's edge and adjacent to existing and future planned industrial development. The Plan suggests development should be of a controlled nature, channeled into the most appropriate areas necessary to effectively sustain adequate levels of public services. The Plan states that threshold size and location requirements would be framed by County ordinance for planned unit developments. The Zoning Ordinance establishes the minimum threshold or project size for planned developments to be a minimum of fifteen (15) acres.

The Plan prioritizes the protection of the County's natural environment. The Plan provides that the impact of future growth and development on environmental quality in the County is a concern such that wetlands and sensitive environmental areas should be protected and that Best Management Practices for storm water management and water runoff are implemented for all site development.

As noted, the frontage of the subject and area properties is designated as a Highway Corridor Enhancement District. This designation is given to properties lying along major transportation corridors where site design should be considered to protect and improve the quality of visual appearances. The Plan's policy recommendations and the design standards of the Zoning Ordinance ensure reasonable, quality developments result.

Finally, the Plan speaks to the importance of continuing to support the existing and future growth of the County's agricultural industry, both in protecting agricultural and forestal lands and existing and future agriculture-supportive businesses/industries. The Tidewater Lumber Company is located across Route 360 just southwest of the subject property.



ZONING ORDINANCE AND PUD REZONING PROPOSAL:

7 & M Development, LLC, and June C. Monterio request rezoning of the 13.186-acre subject property from B-1, Local Business District to PUD, Planned Unit Development District with Standard Modification in accordance with Zoning Ordinance Section 36.242(5) related to the reduced project size and vehicular access points, and to allow for private roads within the development. The Applicants have submitted proffered conditions with this rezoning request as permitted by Article III, Division 4 of the Zoning Ordinance.

The Zoning Ordinance states in Section 36.211 – Purpose and Intent of Zoning Districts that the Planned Unit Development (PUD) District is intended to permit development in accordance with a master plan of cluster type communities. Within such communities, the location of all improvements shall be controlled in such a manner as to permit a variety of housing accommodations in an orderly relationship to one another, with the greatest amount of open area and the least disturbance to natural features. A PUD may include light commercial facilities to the extent necessary to serve the needs of the particular development. Lands currently designated as the Agricultural Preservation (A-1) district shall not be considered appropriate for Planned Unit Development (PUD) district designation, but PUDs may be located in the Rural Residential and Development Service Districts as shown on the Essex County Comprehensive Plan.

Section 36.240 of the Zoning Ordinance provides overall guidelines and design for PUD districts. The Ordinance states the PUDs shall be located on tracts having sufficient size to accommodate the development and provide appropriate transitions; enhance the surrounding area; and preserve scenic assets and natural features. Further, a PUD district is required to include provisions for sidewalks, street trees, landscaping, recreational amenities, and quality and variety of architectural design and materials. The PUD district is intended to offer areas where higher density and a variety of uses create a unified, interconnected, and livable community for its residents.

STANDARD EXCEPTIONS REQUESTS:

The Applicants are requesting exceptions to Zoning Ordinance requirements (Standard Modifications) with this request, as outlined in the table on the below. The Ordinance provides that an applicant may request flexibility in ordinance standards to accommodate a planned design to encourage innovative and creative site design and high-quality development. In this case, the Applicants have included one (1) 13.186-acre property owned/controlled by them in their request. The size of the subject property and its frontage along Route 360 likely contribute to the need for the Standard Modifications requested.

Standard Exceptions	Location	Request	Zoning Ordinance Standards	Comment
Private Roads	Main Entrance and throughout	Main entrance and site roads are proposed as private instead of public; Applicants have committed to design, construct, and maintain roads in accordance with VDOT public road requirements	VDOT maintained roads	A project with the proposed density will be better served by VDOT maintained roads
Project size	Sitewide	13.186 acres	Minimum of 15 acres; PUDs should be located on tracts having sufficient size to accommodate the development and provide transitions	Approximately 8% of the project area is a private road (Mt Clements) that is planned to be maintained; this reduces the developable area of the project; density is calculated on the complete acreage; A minimum of 15 acres is required for single use multi-family residential development; a larger project size would be appropriate when incorporating mixed uses
Access Points	Sitewide	One (1) Full Vehicular Access and One (1) Emergency Only Access	Two (2) full vehicular accesses for over 51 residential units for safety and convenience of access	Subject property does not have the necessary frontage to meet VDOT entrance separation requirements without a VDOT approved waiver to the standard; without a waiver, purchase of off-site right of way to build the required turn lane(s) would likely be required; the proposed second emergency access will aide access for safety; ingress/egress for all other traffic will utilize the one (1) full vehicular access; this may have a negative influence on area traffic at the projects intersection with Route 360 and for internal vehicular movements

SITE DEVELOPMENT:

Development of the property would be in substantial conformance with the Conceptual Plan provided as Exhibit A (Proffered Condition I.1). The Conceptual Plan and proffered conditions portray development of the site and outline permitted uses, site design, recreational amenities, and development standards in four (4) 'Land Areas' (Exhibit A and Proffered Condition II), A mixed use development with density limited to a maximum of 84 multi-family residential units (56 age restricted 55+ Independent/Active Adult units and 28 income-based/Workforce Housing units) in a maximum of 108,000 square feet of gross floor area. Non-residential uses (commercial and recreational uses) are proposed in individual buildings and as the first-floor use in some residential buildings for a maximum of 53,310 square feet of gross floor area. Ten percent (10%) of the site will be held for recreation and open space, as required by the Zoning Ordinance.

Proffered Conditions provide the maximum number of bedrooms permitted for the residential unit types, limiting the overall number of two (2) bedroom units to a maximum of twenty-two (22) (Proffered Conditions IV.1. and V.1.). Proffered Conditions also address the applicable state and federal fair housing laws related to the age restricted units, accessibility for all residential units, and green building design within Land Area 3 (Proffered Conditions IV.5 – 7. and V.5., 6. and 8.). The Applicants have proffered that a covenant will be recorded for the Active Adult Housing to require the Owner to have an on-site management/leasing office and resident service coordinator for the residents (Proffered Condition IV.3.). It is important to note that the County will ensure that the covenant is recorded but will not be responsible for its enforcement.

The Applicants have also proffered that the architectural treatment of buildings in the development will be in substantial conformance with the Elevations and Renderings provided in Exhibit B (Proffered Condition I.2.). Building designs and treatments are important to the development's quality design, to provide pedestrian-scale, and to break up the mass of the larger buildings.

The Applicants have proffered to keep the development clean and free of waste; to maintain the existing on-site cemetery (Proffered Conditions XI.1. and 2.), and to provide personal services and personal improvement services to serve the broader community (Proffered Condition X.2.). Further, although required by the Zoning Ordinance, the Applicants have proffered that lighting will be with fully cut-off/shielded fixtures with downward directed lighting to prevent glare onto adjacent properties and public streets. (Exhibit A and Proffered Condition X.4.)

LANDSCAPING AND BUFFERING:

Exhibit C is proffered by the Applicants to offer an illustrative example of proposed landscaping throughout the site for parking, perimeter landscaping and to create public spaces such as the proposed recreational areas and public plaza (Proffered Condition I.3.). Site landscaping will be required to meet minimum ordinance standards and to provide for enhanced landscaped areas proposed by the Applicants for public spaces. Maintenance of landscaping shall meet minimum Zoning Ordinance standards. The Applicants have proffered that any diseased or dead landscaping will be replaced within one season of dormancy. (Proffered Condition X.3.)

The subject property is adjacent to industrially zoned land within the LaGrange Industrial Park. The Applicants modified their conceptual plan to provide a greater setback for buildings containing residential units from the boundaries adjacent to the industrial zoning. Section 36.489 of the Zoning Ordinance establishes standards for buffers that are intended to provide a year-round visual screen between two or more properties in order to minimize visual and other adverse impacts. Buffering may consist of fencing, evergreens, boulders, mounds, or a combination of materials. Final details, including assessing how the 30-foot-wide private road easement for Clement Road may impact buffer provision along the northern and western property boundaries, will be reviewed and approved by the County at the time of final site plan review.

HOUSING AND AFFORDABILITY:

The revised application provides clarity on the numbers of proposed age restricted and income-based rental units by providing "maximums" for the various types of units. These maximum standards no longer rely on financing the project may receive. Fifty-six (56) of the eighty-four (84) multi-family dwelling units will be reserved for 55+ age restricted independent (active senior) housing units with a maximum of 11 of those units being unrestricted/upper income units, and the remaining units being low-, moderate- and middle-income units, as defined (Proffered Conditions III.1. and IV.1). The remaining twenty-eight (28) units will not be age restricted but will be offered based on the economic mix defined in Proffered Condition III.2. as workforce housing units. The Applicants have proffered to provide marketing materials to the County for the residential units to assist in reaching local employees needing affordable housing. (Proffered Conditions IV.4. and V.4.)

An Income Mix Agreement to ensure the provisions of both the workforce housing and age-restricted active adult housing units will be followed has been offered by the Applicants. The Owners will submit this Agreement as a covenant benefitting the County for County Attorney approval. The Owner agrees to submit annual reports to the County each calendar year to ensure compliance with the Agreement. (Proffered Condition III.3)

ADJACENT INDUSTRIAL LAND USES AND NOISE ATTENUATION MEASURES:

The adjacent industrial land uses include the LaGrange Industrial Park and the Tidewater Lumber Company, a lumber mill on property across Route 360 from the subject property. These uses frequently produce noise and odors from their operations, machines/equipment, and tractor-trailer trips during various hours of the day and night. Typically, these sites also include brighter and taller lighting to accommodate their uses. The subject property is currently zoned to permit business use, not residential use. Future development of industrial uses in the area would likely be impacted by introducing residential use on the subject property. These impacts may come through requirements for greater setbacks/buffers, reduced lighting, or other controls. The provision of a livable community for future residents may be disrupted by the existing uses and residents may likely be concerned about impacts from future industrial uses or expansions in the area. Portions of the LaGrange Industrial Park zoned I-1 have developed with buildings closer to the common property line with the subject property without greater development standards because the subject property was not zoned to permit residential uses when those businesses located within the Industrial Park.

The Applicants have provided their residential buildings will be setback a minimum of 100 feet from the western property boundary adjacent to the industrial zoned land and a minimum of 200 feet from the existing industrial buildings (Proffered Condition IX.1.). A minimum 25-foot wide landscaped buffer or combination of landscaping, fencing or berm will be required along the subject property's western property boundary per the Zoning Ordinance. This will assist in visually screening the industrial buildings and operations.

To evaluate the noise impact from the adjacent industrial uses, the Applicants have offered in Proffered Condition IX.3. to have a third-party consultant conduct an Acoustics and Noise Abatement study for the site with interior and exterior modeling and analysis to be submitted with the final site plan. The study will include a mitigation plan and will identify mitigation measures to be incorporated into the final site and building plans.

In addition, Proffered Condition IX.2. would require covenants, enforceable by the neighboring property owners, to be recorded that will require the owner to acknowledge that the subject property is adjacent to an existing industrial use; that the Owner will not make complaints to the neighboring property owners regarding the impacts of existing industrial uses that are operating in compliance with applicable laws; and, that the Owners will provide written notice to all future residents of the subject property of the proximity of the multi-family units to industrial uses. The covenants will be recorded prior to building permit issuance. It is important to note that the County will ensure that the covenants are recorded but will not be responsible for their enforcement.

TRANSPORTATION:

The Virginia Department of Transportation (VDOT) has accepted the Traffic Impact Analysis submitted prior to the amendment to reduce project density. VDOT must approve the location, design and construction of the proposed full vehicular access and emergency access, including turn lanes where warranted, and assuring safe site distance is achieved along Route 360. VDOT approval will be required in conjunction with final site plan review and approval for the property's development. The traffic impact analysis indicates the levels of service of Route 360 would be diminished with the additional traffic from the proposed development; however, exact trip generations based on the reduced density have not been made available to staff.

To provide connectivity to adjoining properties to the east, Proffered Condition VII.1. would require the Owner to construct stub road connections to Mount Clement Park and for Hospital Road.

To address concerns expressed from neighboring industrial landowners and others concerning the development's traffic impact on Route 360 and the crossover at LaGrange Industrial Park Drive, the Applicants have proffered that the Owner will coordinate a transportation design meeting with VDOT, County Administration and neighboring property owners/businesses to discuss traffic flow on Route 360. (Proffered Condition VII.3.)

The Applicants have also proffered to make a one-time contribution of \$297,000 to the County which may be applied to transportation improvements such as for safety, pedestrian or cyclists, or other improvements in the vicinity of the Route 360/LaGrange Industrial Park Drive intersection, or surrounding area. Payments are proposed to occur on a pro-rata share with each building. It is important to note that prior to final acceptance of this proffered condition, the method to calculate the pro-rata share per building must be clarified.

A Standard Modification is requested with this case to permit the roads within the development to be privately maintained; however, Proffered Conditions VII.5. - 7. would require all on-site roads and off-site improvements to be designed, constructed, and maintained by the Owner in accordance with VDOT public road standards. The justification to permit private maintenance for the roads is unclear, especially when, as proffered, the roads will be designed and constructed to meet VDOT standards.

GATED EMERGENCY ACCESS:

An access gate operational only for emergency personnel will be constructed by the Owner at the access on the Conceptual Plan closest to the eastern property boundary (Exhibit A and Proffered Condition VII.2.). Essex County Emergency Services provided that having the entrance will enhance emergency response for incidents where multiple apparatus will need to respond and stage for assignments. The exact design of the emergency access including the access gate and emergency only signage will be approved by the County at the time of site plan review.

PUBLIC UTILITIES:

Public water and sewer are required for the project. Contracts/agreements with the Town of Tappahannock and Essex County for the provision of public water and sewer to serve the subject property have not been agreed upon. The Town of Tappahannock has reiterated that all water and sewer plans must be approved by the Town; that the water utilization for the subject property, if approved, would be deducted from the 200,000 GPD allotment agreement between the Town and County dated October 21, 1997; and, water capacity may be a concern due to the Town's annual DEQ withdrawal permit.

The Applicants have proffered to construct all water and sewer extensions and all connections necessary for the development at no cost to the County or Town, and they must obtain approval from the Board of Supervisors for the needed allocation for water and sewer prior to final site plan approval. (Proffered Condition VIII.1)

Further, the Applicants have proffered that if water and sewer is extended to the subject property, the Owner will make a one-time \$403,000 contribution to the County for capital improvements related to providing public water and sewer infrastructure to the subject and surrounding properties (Proffered Condition VIII.2.). Payments are proposed to occur on a pro-rata share with each building. It is important to note that prior to final acceptance of this proffered condition, the method to calculate the pro-rata share per building must be clarified.

ENVIRONMENTAL:

Protecting all aspects of its natural environment is a priority within Essex County. The subject property is 13.186 acres. Approximately 90% of the parcel (11.82 acres) will be cleared to construct the proposed project. Assuring compliance with local, state, and federal laws relative to protecting environmental resources, including wetlands and Chesapeake Bay Resources, will be required prior final site plan approval. Approval of a Water Quality Impact Assessment (WQIA) was not submitted with the application, but will be required based on the amount of clearing and development proposed. In addition, the Virginia Department of Environmental Quality (DEQ) has not yet reviewed the proposed project, but DEQ review and approval will be required in conjunction with final site plan review.

The Applicants detailed plans for stormwater management have not yet been submitted; The Applicants have proffered that the subject property would be designed and constructed in accordance with the State's Runoff Reduction requirements for Stormwater Management and Essex County's Stormwater Management Ordinance. (Proffered Condition VIII.3.)

OPEN SPACE/RECREATIONAL FACILITIES:

The Zoning Ordinance requires PUD developments to provide a minimum of 10% of the project as public/recreational and open space uses. With Proffered Condition X.1., the Applicants have committed to provide public use easements over such areas prior to final site plan approval to ensure public enjoyment of those areas.

EDUCATION:

The Applicants have offered their proposed day care center use to provide day care and educational service to the broader community, where services could be offered such as child development, before and after school programming, tutoring and SAT prep (Proffered Condition VI.1.). It should be noted that this proffered condition does not commit participation by Essex County or area schools in the day care center use or for the purposes listed.

CONDITION – STANDARD EXCEPTIONS, CASE 2023

With the approval of Case 20230003, the following Standard Modifications shall be granted. All other requirements of the Essex County Zoning Ordinance and other applicable ordinances shall be met, in addition to the Applicants' Proffered Conditions in Attachment 2, as accepted by the County or as otherwise required by law.

1. Project Size: A 1.814-acre exception to the minimum 15-acre project size requirement for the PUD District shall be granted to permit development of the 13.186-acre property as a PUD.
2. Emergency Access: An Emergency Only Access shall be permitted to be constructed by the Owner, at no cost to the County, to serve as the second access for the development. The exact design and details of the emergency access shall be approved by the County at the time of site plan review.
3. Internal Private Roads: An exception shall be granted to permit the internal roads within the development to be privately maintained by the Owner at no cost to the County.

FINAL DEVELOPMENT CONDITIONS

Case #: R-20230003

August 31, 2023

By the signature below, 7 and M Development LLC and June C Monterio (the “Applicant”) offers the following Proffered Conditions in conjunction with Case #R-20230003 related to property located in Essex County, Virginia (the “County”) with an address of 0 Richmond Highway (Route 360) and identified as Tax Map Parcel No. 36 43 (the “Property”). These proffered conditions shall be binding on the Applicant and their successors and assigns (the “Owner”) with respect to the Property. Each proffered condition herein was made voluntarily and complies with applicable law. No agent of the County has suggested or demanded a proffered condition that is unreasonable under applicable law, and the proffered conditions herein supersede all previous proffers and letters of clarification, if any, made with respect to the Property.

I. Preliminary Site Plan

1. The development of the Property will be in substantial conformance with Exhibit A: the Conceptual Plan (the “Plan”), dated 7/26/2023, as determined by the Zoning Administrator at the time of final site plan review.
2. The architectural treatment of the buildings within the Property will be in substantial conformance with Exhibit B: Elevations and Renderings (“Elevations”) as determined by the Essex County Zoning Administrator at the time of final site plan review, dated 2/15/2023.
3. The landscaping on the Property will be in substantial conformance with Exhibit C: the Landscape Plan (the “Landscape Plan”), dated 6/30/2023, as determined by the Zoning Administrator at the time of final site plan review.

II. Land Use

1. **Land Area 1:** As depicted on the Plan; Land Area 1 shall contain two multifamily residential buildings (referred to herein as “Building C1” and “Building C2”). The total gross floor area for Building C1 and Building C2 will not exceed 75,000 square feet. Building C1 will have between 4 and 10 units per floor and Building C2 will have between 4 and 7 units per floor. The height of Building C1 and Building C2 will be no greater than 35 feet as measured and defined under the zoning ordinance. The building program for Building C1 and Building C2 includes up to a combined maximum of fifty-six (56) 55+ Active Adult Housing (defined below) units with interior and exterior amenity spaces for building residents.
2. **Land Area 2:** As depicted on the Plan; Land Area 2 shall be delivered as one public/civic/recreation building (referred to herein as “Building B1”) and one commercial building (referred to herein as “Building A4”) as shown on the Plan.
 - a. Building B1 will be a maximum of two stories over a below-ground walk-out basement. The total gross floor area for Building B1 will not exceed 14,500 square feet. Of that, the building program includes all non-residential uses: a maximum of 11,260 square feet of gross floor area will be for public/recreation: Place of Assembly, and a maximum 3,050 square feet of gross floor area will be for commercial: office, general. The height of the building will not exceed 42 feet as measured and defined under the zoning ordinance.
 - b. Building A4 will be one story. The total gross floor area for Building A4 will not exceed 539 square feet for commercial uses. The commercial use is for a store, general; store, neighborhood convenience; store, specialty; store, specialty food. The height of the building will not exceed 21’-0” as measured and defined under the zoning ordinance.
3. **Land Area 3:** As depicted on the Plan; Land Area 3 shall be delivered as two commercial buildings (referred to herein as “Building A2” and “Building A3”) as shown on the Plan.
 - a. Building A2 will be two stories. The total gross floor area for Building A2 will not exceed 25,000 square feet. Of that, the building program includes all non-residential uses: a maximum of 11,400 square feet of

gross floor area is for commercial: personal improvement services or personal services; a maximum of 5,200 square feet of gross floor area is for commercial: day care center; a maximum of 5,030 square feet of gross floor area is for commercial: office, general; a maximum of 2,500 square feet of gross floor area is for office, general; or office, medial/clinic; and a maximum of 706 square feet of gross floor area is for commercial: restaurant, general. The height of the building will be a maximum of 42'-0" as measured and defined under the zoning ordinance.

- b. Building A3 will be two stories. The total gross floor area for Building A3 is a maximum of 1,200 square feet. Of that, the building program includes all non-residential uses: a maximum of 1,139 square feet of gross floor area is for commercial: personal improvement or personal services. The height of the building will be a maximum of 35'-0" feet as measured and defined under the zoning ordinance.
4. **Land Area 4:** As depicted on the Plan; Land Area 4 shall be delivered as two multifamily residential buildings (referred to herein as "Building A1 North" and "Building A1 South") shown on the Plan. Both buildings will be a maximum of three stories inclusive of a maximum of two multifamily residential floors over ground floor commercial space.
- a. The total gross floor area for Building A1 North will not exceed 11,500 square feet for multifamily residential uses and will not exceed 4,300 square feet for commercial uses. Building A1 North will consist of no greater than 5 units per floor. The building program includes up to a maximum of ten (10) Workforce Housing Units, consistent with the obligations set forth in the Workforce Covenant in Section III.3 below.
 - b. The total gross floor area for Building A1 South will not exceed 21,500 square feet for multifamily residential uses and will not exceed 8,500 square feet for commercial uses. Building A1 South will consist of no greater than 9 units per floor. The height of the building will be no greater than 35'-0" as measured and defined under the zoning ordinance. The building program includes up to a maximum of eighteen (18) Workforce Housing Units, consistent with the obligations set forth in the Workforce Covenant in Section III.3 below.
 - c. Both Building A1 North and Building A1 South will have an aggregate maximum 12,800 gross square feet of ground floor commercial uses. Out of the commercial uses, a maximum of 5,608 square feet is for commercial: restaurant, general; a maximum of 4,100 square feet is for commercial: store, general; store, neighborhood convenience; store, specialty; store, specialty food; a maximum of 2,631 square feet is for commercial: personal services or personal improvement services; and a maximum of 129 square feet is for commercial: financial institution.

III. Affordable Housing

1. **Land Area 1:** The Owner will provide a maximum of fifty-six (56) residential rental units that are 55+ active adult housing units ("55+ Active Adult Housing"). 55+ Active Adult Housing is defined below in Section IV.2. The Owner will provide 55+ Active Adult Housing to serve the following economic mix:
 - a. **Low Income Units:** A maximum of four (4) 55+ Active Adult Housing units will be designated as Low-Income Units.
 - b. **Moderate Income Units:** A maximum of twenty (20) 55+ Active Adult Housing units will be designated as Moderate-Income Units.
 - c. **Middle Income Units:** A maximum of twenty-one (21) 55+ Active Adult Housing units will be designated as Middle-Income Units.
 - d. **Unrestricted/Upper Income Units:** A maximum of eleven (11) 55+ Active Adult Housing units will be designated as Unrestricted/Upper Income Units.
2. **Land Area 4:** The Owner will provide a maximum of twenty-eight (28) Workforce Housing units. The Owner will provide Workforce Housing units to serve the following economic mix:
 - a. **Low Income Units:** A maximum of three (3) Workforce Housing units will be designated as Low-Income Units.
 - b. **Moderate Income Units:** A maximum of eight (8) Workforce Housing units will be designated as Moderate-Income Units.

- c. **Middle Income Units:** A maximum of twelve (12) Workforce Housing units will be designated as Middle-Income Units.
 - d. **Unrestricted/Upper Income Units:** A maximum of six (6) Workforce Housing units will be designated as Unrestricted/Upper Income Units.
3. **Income Mix Agreement:** The Income Mix Agreement shall mean those declarations of covenant agreements to ensure the provision of both the 55+ Active Adult Housing (“55+ Covenant”) and the Workforce Housing (“Workforce Covenant”) that each detail the specific number of units at each income level that is consistent with the applicable State or Federal program and is approved by the County Attorney and benefitting the County or its designee and recorded in the land records in the Clerk’s Office of the Circuit Court of Essex County, Virginia prior to Certificate of Occupancy of the first building in the Land Area. To ensure compliance with the Workforce Covenant, the Owner agrees to submit annual reports on the leasing of Workforce Units to the County Administrator on or before January 31st for the prior calendar year.
- a. **Low Income Units** shall mean those rental units restricted to tenants with incomes up to forty percent (40%) of Area Median Income.
 - b. **Moderate Income Units** shall mean those rental units restricted to tenants with incomes above forty percent (40%) of Area Median Income and at or below sixty percent (60%) of Area Median Income.
 - c. **Middle Income Units** shall mean those rental units restricted to tenants with incomes above sixty percent (60%) of Area Median Income, but at or below eighty percent (80%) of Area Median Income.
 - d. **Upper Income Units** shall mean those rental units to tenants with incomes above eighty percent (80%) of Area Median Income and will be market rate units.
 - e. Area Median Income shall refer to such incomes published for Essex County, Virginia Statistical Area Median Income ("AMI") as required by United States Treasury and subject to the regulations of the federal program administered by the US Treasury and Virginia Housing.

IV. 55+ Active Adult Housing

- 1. **Unit Mix:** The fifty-six (56) 55+ Active Adult Housing units will consist of a maximum of 8 studios, 32 one-bedrooms, and 16 two-bedrooms.
- 2. **Age Restriction:** The 55+ Active Adult Housing units must be operated in compliance with these conditions and all applicable federal, state, and local laws, including 42 U.S.C. § 3601 et seq. as amended, including the Fair Housing Amendments Act of 1988 (FHAA) and the Federal Housing for Older Persons Act of 1995 (HOPA), and as implemented by U.S. Department of Housing and Urban Development (“HUD”) regulations at 24 C.F.R part 100.300 (collectively, the FHA), Virginia Fair Housing Law, Section § 36-96.1 et seq. of the Code of Virginia, as amended, and the Essex County Zoning Ordinance. All the 55+ Active Adult Housing units shall be operated for occupancy by persons 55 years of age or older in accordance with HOPA.
- 3. The 55+ Covenant will include an obligation that the Owner (defined as the Applicant or any future owner of an applicable portion of the Property) of the 55+ Active Adult Housing units will have an on-site management and leasing office in Land Area 1, Building C2; to annually budget for operating costs to hire a part-time resident service coordinator to provide support to the property manager and for coordination of resident services and coordination of activities for the benefit of the 55+ Active Adult Housing residents. This will be recorded in the land records in the Clerk’s Office of the Circuit Court of Essex County, Virginia prior to Certificate of Occupancy of the first building in the Land Area.
- 4. **Marketing:** Prior to the first certificate of occupancy for the 55+ Adult Active Housing Units, materials related to the availability of such units will be provided to the County.
- 5. **Universal Design:** All of the 55+ Active Adult Housing units shall be fully compliant with universal design elements in accordance with Virginia Housing Universal Design Certification guidelines.
- 6. **Handicap Accessibility:** No fewer than six (6) of the 55+ Active Adult Housing units will be constructed to be fully accessible and meet the standards of Section 503 of the 1973 Rehabilitation Act. Final site plan and zoning permit applications shall identify each fully accessible unit. Building plans demonstrating accessibility compliance shall be submitted to the Department of Building and Development for review and approval prior to approval of the first zoning permit for any building in which any proposed fully accessible unit will be located.

7. **Green Building:** Building C1 and Building C2 shall be certified and designed in accordance with green building standards as set forth by EarthCraft Gold or equivalent program standards that comply with Virginia Housing standards for energy efficient buildings. Prior to approval of the first zoning permit for the 55+ Active Adult Housing units, the Owner shall provide certification from a certified project manager accredited by the applicable organization to the Zoning Administrator verifying that green building elements have been incorporated into the project consistent with the green building standards defined herein.

V. Workforce Housing

1. **Unit Mix:** The twenty-eight (28) Workforce Housing units will consist of a maximum of six (6) studios, sixteen (16) one-bedrooms, and six (6) two-bedrooms.
2. The Workforce Covenant will include an obligation that the Owner of the workforce housing units will have an on-site management and leasing office in the building; to annually budget for operating costs to hire a part-time resident service coordinator to provide support to the property manager and for coordination of potential resident services and coordination of activities for the benefit of the workforce housing residents. This will be recorded in the land records in the Clerk's Office of the Circuit Court of Essex County, Virginia prior to Certificate of Occupancy of the first building in the Land Area.
3. **Amenities:** Building A1-North and Building A1-South will include amenities generally in accordance with those shown on the Landscape Plan, such as open space and public seating areas.
4. **Marketing:** Prior to the first certificate of occupancy for the Workforce Housing Unit, materials related to the availability of such units will be provided to the County.
5. **Universal Design:** No fewer than three (3) of the Workforce Housing units shall be fully compliant with universal design elements in accordance with Virginia Housing Universal Design Certification guidelines.
6. **Handicap Accessibility:** No fewer than three (3) of the Workforce Housing units will be constructed to be fully accessible and meet the standards of Section 503 of the 1973 Rehabilitation Act. Final site plan and zoning permit applications shall identify each fully accessible unit. Building plans demonstrating accessibility compliance shall be submitted to the Department of Building and Development for review and approval prior to approval of the first zoning permit for any building in which any proposed fully accessible unit will be located.

(Staff Note: There is no item numbered as "7.")

8. **Green Building:** Building A1-North and Building A1-South shall be certified and designed in accordance with green building standards as set forth by EarthCraft Gold or equivalent program standards that comply with Virginia Housing standards for energy efficient buildings. Prior to approval of the first zoning permit for the Workforce Housing Units, the Owner shall provide certification from a certified project manager accredited by the applicable organization to the Zoning Administrator verifying that green building elements have been incorporated into the project consistent with the green building standards defined herein.

VI. Public Schools Contribution

1. In Building A2, at least 10,230 gross square feet of commercial use shall be used to provide day care and educational services to the broader community. Examples may include, but are not limited to, child development center, before and after school programming, tutoring, and SAT prep.

VII. Transportation

1. The Owner will construct a stub out in Land Area 2 for a future road connection to existing Mount Clement Park and a stub out in Land Area 3 for a future road connection to existing Hospital Road. On or before issuance of the first Certificate of Occupancy for the first building adjacent to each applicable stub out, Owner shall complete construction of the stub outs at no cost to the County.
2. The Owner shall provide adequate secondary access along Richmond Highway to the site for Emergency Service vehicles, subject to approval by the County and the Virginia Department of Transportation ("VDOT"). Nothing shall be placed or constructed on the Property that would prohibit or restrict Emergency Service vehicles from

mounting curbs or accessing structures. Such secondary access shall be secured with a lockbox or electronic gate, or otherwise designed to allow for 24/7 access by emergency personnel as approved by the County.

3. Within 6 months of zoning approval, the Owner will coordinate a transportation design meeting with VDOT, the County Administrator, and neighboring property owners/businesses to discuss traffic flow on Route 360.
4. The Owner will make a one-time, aggregate \$297,000 contribution to the County which may be applied toward transportation, safety, bicycle, pedestrian, or other improvements within the rights-of-way in the vicinity of the Richmond Highway/Lagrange Industrial Drive intersection or other surrounding area which may be completed by VDOT, Essex County, or others. The contribution shall be made pro-rata with each building on the Property, with a pro-rata share of the aggregate total to be provided to the County on or before the issuance of the Certificate of Occupancy for each building within each Land Area on the Property.
5. Subject to VDOT approval, the Owner will install appropriate median channelization to prevent left turn movements along the main entrance at the first internal drive aisle. The design of the median channelization will be shown on the final site plan.
6. The Owner will design, construct, and maintain all private roads in accordance with VDOT public road requirements, and will provide public access over such private roads at the time of final site plan approval.
7. All off-Property transportation improvements identified on the Plan, including for example transportation improvements required by VDOT as part of the approved final site plan will be constructed at no cost to the County as part of the site work for the initial Land Area and completed prior to the issuance of the first Certificate of Occupancy on the Property. All off-Property transportation improvements will be dedicated to and accepted by VDOT at no cost to the County. All transportation improvements within each Land Area shall be constructed at no cost to the County as part of the initial site work for the respective Land Area and completed prior to issuance of the first Certificate of Occupancy for a building in such Land Area.

VIII. Public Facilities/Stormwater Management

1. The Owner shall construct and install all water and sewer extensions to the Property and shall provide all connections necessary for development of the Property at no cost to the County and/or Town of Tappahannock and such extensions and connections shall be constructed and installed in accordance with applicable standards. The Owner shall acquire at no public cost any offsite easements, if needed, to extend public water and/or sanitary sewer lines to the Property and will convey all water and sanitary lines and structures over to the Town of Tappahannock at no cost to the County or Town of Tappahannock, in accordance with the Town's Ordinances and Regulations, and any agreement between the Town and County regarding utility infrastructure and capacity. The Owner must obtain approval of all necessary extensions from the Board of Supervisors prior to approval of final site plan.
2. If water or sewer is extended to the Property, the Owner will make a one-time, aggregate \$403,000 contribution to the County to be utilized for capital improvements related to providing public water/sewer infrastructure that serve the Property and surrounding area, including within the rights-of-way and upgrades to withdrawal, transmission, and treatment capacity. The contribution shall be made pro-rata with each building on the Property, with a pro-rata share of the aggregate total to be provided to the County on or before the issuance of the Certificate of Occupancy for each building within each Land Area on the Property.
3. The Property will be designed and constructed in accordance with the State's Runoff Reduction requirements for Stormwater Management (SWM) and in compliance with the Essex County SWM Ordinance at the time of final site plan approval.

IX. Noise Attenuation

1. Residential buildings will set back not less than 200 feet from existing industrial buildings and will set back not less than 100 feet from the boundaries of neighboring industrial zoned land.
2. The 55+ Covenant and the Workforce Covenant will include an obligation that the Owner will (A) acknowledge that the Property is adjacent to an existing industrial use, (B) not make complaint to the neighboring property owner regarding any impact from the existing industrial use that is in accordance with the Essex County Zoning Ordinance and other applicable law, including but not limited to use, sound, odor, or lighting, and (C) provide to all future

residents of the Property written notice of the existence of the proximity to industrial uses, along with evidence of receipt of such notice. Such a covenant will be enforceable by the neighboring industrial property owner and will be recorded prior to the issuance of a building permit for the Property.

3. The Owner will have third-party, reasonably acceptable to both the Owner and the County, conduct an Acoustics and Noise Abatement study included but not limited to site, exterior, and interior modeling, and analysis prior to submission of a final site plan. The report shall include a noise mitigation plan which will be provided to the County and mitigation measures identified in such a plan shall be incorporated into the final site plan and building design, as determined by the Zoning Administrator.

X. Open Space/Recreational Facilities

1. The Owner will include no less than 10 percent of land area as public/recreational and open space uses as outlined on the Plan and shall provide public easements over such areas at the time of final site plan approval. Such easements shall be in a form approved by the County Attorney and recorded prior to final site plan approval.
2. In Building A2, the Owner will provide a minimum of 11,400 gross square feet and in Building A3, the Owner will provide a minimum of 600 gross square feet of commercial uses that shall provide personal services or personal improvement services to the broader community. For example, but not limited to fitness, wellness, group exercise, gymnasium (basketball/pickleball), and yoga.
3. Any diseased or dead landscaping required by the Zoning Ordinance, an exception condition, or these proffered conditions shall be replaced within one season of dormancy.
4. All lighting fixtures used in parking areas and on building exteriors shall be fully cutoff, fully shielded, directed downward, and designed to prevent glare onto adjacent properties and public streets.

XI. Miscellaneous

1. The Owner shall maintain the Property in a clean and orderly manner free of trash, litter, and debris.
2. The existing cemetery in Land Area 3 will not be disturbed. The cemetery will be buffered, landscaped, and fenced in accordance with the Plan.

EXHIBITS

(PROVIDED UNDER SEPARATE COVER BY STAFF)

Table of Contents

- Exhibit A – Preliminary Site Plan
 - Boundary Survey
 - GIS Zoning Map
 - Existing Conditions and Demolition Plan
 - Traffic Circulation Plan
 - Grading Plan
 - Land Use Exhibits
 - Site and Building Data
 - Land Area Exhibit
- Exhibit B – Elevations and Renderings (for the purposes of building materials only. Height and form are described above.)
- Exhibit C - Landscaping Plan

Minutes
Essex County Planning Commission
Regular Meeting
September 5, 2023
7:00 P.M.

A regular meeting of the Essex County Planning Commission was held on September 5, 2023, at the Essex County School Board Office, Tappahannock, Virginia.

Present:

David Jones – Chairman
Angelo Stevens – Vice Chairman
Stephen Walters
Jean Segar
Trent Taliaferro
Benjamin Scott Mundie
Wright Andrews – via phone at 7:28 PM

Absent:

Also present:

Brian Barnes – Zoning Administrator
Kelly McKnight – Planning and Zoning Office Manager
Max Hlavin – County Attorney

CALL TO ORDER

David Jones, Chairman, called the regular meeting of the Planning Commission to order at 7:00 pm.

ROLL CALL

Chairman Jones asked Ms. McKnight to call the roll. A quorum was met.

MEETING AGENDA

Chairman Jones stated he would like to move the new business cases ahead of the Monterio case.

APPROVAL OF MINUTES

Chairman Jones asked if there were any corrections or additions needed for the August 1st minutes? Commissioner Taliaferro made a motion to approve the minutes as presented. Commissioner Stevens seconded the motion. AYES: 6 NAYES: 0 ABSENT: 1

PUBLIC COMMENTS

None

NEW BUSINESS

Case #20230226 – Lloyd AG., LLC – conditional Use Permit

Chairman Jones stated that Lloyd Ag., LLC has applied for a Conditional Use Permit to establish a “Place of Assembly” on Tax Map 30-33 located off Mt. Landing Road Pursuant to Article III, Division 5, section 36.142(a)(5) of the Essex County Zoning Ordinance for the Conditional Use permitted in Article V, section 36.31, Assembly, place of. On a parcel of land that is 721.79 acres+- in an area zoned A-2, Agriculture and Forestry General in the Countryside District defined by the Essex County comprehensive plan and within the Central Supervisory District.

Zoning Administrator Brian Barnes stated that this consideration is for a Conditional Use permit as Mr. Jones just said on a 721 acre parcel off of Mt. Landing Rd. The desire of this applicant is to have basically a wedding venue. As a zoning guy you take into consideration what somebody wants to do and you look through the zoning book and the comprehensive plan and try to find what box that fits in. Sometimes it’s a nice clean box and sometimes you have to find a word like ‘assembly place of’. If you read the definition of assembly place it does sound like what the individual wants to achieve. One question you might have is why wouldn’t the owners of this property want to avail themselves of the special events process with the county. They could do that. The special events process of Essex County, you may be familiar with it or you may not be, is a pretty good process but it does involve bigger events. 500-1,000 people, fundraisers, stuff like that. If you just have a wedding venue it will be a lot simpler for business if you have the conditional use permit for the location, although it is a bit burdensome. We can ask for conditions on the rezoning where we can not ask for proffers. On a conditional use permit you can. That is the direction this applicant wants to go. He and Tim met with this individual via zoom phone calls to flush out what they wanted to do and that is what led to the application that you have.

Mr. Barnes stated that many of you know and the applicant has made no secret of, they came to us, it was not triggered by any citizen complaint. The applicant came to them and said the events had been taking place before he purchased the property. When he purchased the property he thought it was a legal wedding venue. In checking the County Records they could not find anything on that and that is when we indicated to them that they would need to start this process. It is technically an after the fact application. It is not triggered by any enforcement proceedings. In your staff memo there are several possible conditions that you could recommend. In no way are these conditions they absolutely should recommend to the Board of Supervisors. There are things looking back through files at other conditional use permits you have granted. You are looking for location, character in extent , public welfare and safety and protecting the neighbors near by. With that in mind under the third one down with the noise producing activities, that is not in the noise ordinance but in the Essex County code of ordinances. The noise ordinance is actually 10PM not midnight so you might need to adjust that a little. Of course it is a 721 acre property

with 300 acre of AG land. The adjacent properties on the roadside are still pretty far away. You could have a little bit of music and talking after 10PM and would probably not be able to hear it from the property line. Then again that is subjective. They recommend access be provided and maintained for Emergency Vehicles at all times. Generally with Special Events permits you have to pay to make sure that Emergency Vehicles are on site. With this process that will not be guaranteed. He wants to make sure there is access in case something goes wrong. There is a 4 bedroom VDH septic system permit onsite. There is also some bathrooms in the even barn but probably is not adequate from what they have seen to provide for a 200 person event wedding. One condition he sees as a CYA is to have a porta potty on site. Posted speed limits might not be a bad idea. The Essex High school prom was held there last year and he was told everything went off fine. But kids like to burn tires so the speed limits sign might help. The staff recommendation as a conversation starter would be to cap the maximum at 200 people. Without any sort of cap there is nothing to stop a place from becoming the next Woodstock. Sometimes as a zoning person you have to think about the most crazy conclusion with a set of circumstances. If there is no upper limit even if it is 300, whatever you decide, there is nothing to stop them from having a bigger event but that would be a special events permit from the County Administrator not from zoning staff.

Commissioner Walters asked if the noise producing activities was regulated by the County currently?

Mr. Barnes stated yes.

Commissioner Walters asked if we said something like 'setting it to match our code' or stating 'you have to be in compliance with Essex County Code'?

Mr. Barnes stated the second may be the better option because if the ordinance is adjusted you don't have to go back and look for a filed away conditional use permit to amend that. He thinks the Essex County noise ordinance is pretty good compared to what other rural Eastern Virginia Counties have.

Commissioner Mundie asked if he knew what the size of the gathering was for last years prom?

Mr. Barnes stated he wasn't sure but would imagine it was north of 200 with all of the student body in attendance, guests, teachers and chaperones. That 200 number may be something you want to tweak. 200 may be more appropriate but 200 was the conversation starter.

Commissioner Taliaferro asked if he knew how long they had been holding events there?

Mr. Barnes stated that he shouldn't repeat hearsay but 2012 is kind of a starting point he has heard from neighbors and friends.

Commissioner Taliaferro asked if there had been any real complaints thus far?

Mr. Barnes stated he has not gone door to door with the neighbors but has not heard of a real complaint and could find one on the file either.

Chairman Jones asked what they all thought. If you look at the barn it's a barn but the house is fairly new. So we know that it is in pretty good shape. Should we consider putting something in there that the buildings being used should be inspected by the building inspector maybe once a year? If not this could get further into deterioration and when you have 150-200 people they could have an event during the

winter. If you say up a tent the building inspector is supposed to inspect the tent so at least once a year every building being used should be inspected.

Commissioner Taliaferro asked what would he be looking for?

Chairman Jones stated he would be looking for the same thing he would look for with a tent. That it isn't leaning or have a rafter that is busted. That it would be safe.

Commissioner Taliaferro stated if we are worried about liability could we put in there to require liability insurance?

Mr. Barnes stated that is a typical component of many conditional use permits and other county permits. Whether it is a solar facility there are various insurance requirements the county can have. That is something you could recommend. It is something when it gets to the board level if the County Attorney doesn't think it is needed they can strike it.

Commissioner Segar stated there should be more than 200 with the size. It should be 300-350.

Commissioner Mundie made a motion to open for public hearing. Commissioner Taliaferro seconded.
AYES: 6 NAYES: 0 ABSENT: 1

William Walters (Online), one of the owners of Paynefield farm has very little to add. They had the Essex County prom that was a very good bunch and they left the place spotless. He heard the conversation about the number of people and it is somewhere between 250-300.

Commissioner Walters asked if this was an ongoing operation?

Mr. Walters stated as far as the weddings and other events, yes. It is ongoing, it is not aggressively marketed like other venues. They probably have 10-12 per year and the Essex County prom was kind of a pro-bono that the school had a hard time finding a venue so they donated that to the Prom this year. If you are looking for a number they would say 10-12 per year. They are not marketing it that aggressively compared to other places that buy the property because it is a wedding venue.

Commissioner Mundie asked what the target audience gather size would be?

Mr. Walters stated he heard one member, a lady, say something about 200 and he would say 250-300 once you get families and guess there. He also heard a comment about the washrooms. They have two large washrooms in the barn and they have never had any problems and it is probably because it is not used daily. It is used once a month for an event and it gives the septic system plenty of time to recover.

Chairman Jones asked if he was aware of the staff recommended conditions and if he had any issues with any of them?

Mr. Walters asked if he could repeat them for him?

Chairman Jones read the staff recommendations.

- Access must be provided and maintained for emergency vehicles at all times. If a gate is desired in the future, a lock pad system can be established with local emergency services.

- Mr. Walters stated they keep the two entrance roads open at all times. If someone parked too close to the road they would ask for them to move their car to keep the egress open 100%
- Restrooms were already addressed
- Noise producing activities audible from adjacent properties should end by 10PM and start no earlier than 8:00. The commission may wish to establish a decibel limit, also.
 - Mr. Walters stated that he thinks that is fair. He thinks 11:00PM is more realistic for a wedding. Everything is pretty much wrapped up by 10:30-11:00 PM
- Cap the maximum event attendance at 200 people, if the applicant and owners wish to have a larger event, they would be able to apply for the Essex County Special Event Permit.
 - Mr. Walters stated he would like to change it to 300. If someone came with 325 they could go get a special events permit. He agrees with a cap because they don't want it to become a huge party.

Commissioner Segar stated that there are some evening weddings that start at 6 and 6-10 is not a lot of time to party. He may want to consider that before agreeing to 10PM.

Mr. Walter stated that most have started by 5 and cleaned out by 11.

Chairman Jones stated that one thing was to maintain liability insurance.

Mr. Walters stated they do have a substantial liability insurance and they also require the renters to carry a \$1,000,000 general liability coverage.

Chairman Jones asked if they would have a problem with that being one of the conditions?

Mr. Walters stated that they would not. He thinks it would keep them all in the group in good shape.

Commissioner Mundie made a motion to come out of the public hearing. Commissioner Stevens seconded the motion. AYES: 6 NAYES: 0 ABSENT: 1

Commissioner Andrews joined the meeting at 7:28 via phone.

Commissioner Mundie stated although this is a 700+ acre venue that could easily accommodate a larger attendance. The infrastructure that surrounds it especially the roads. Crittenden's Mill Rd, Waring's Mill Rd, and Mt. Landing Rd. That's how you get there and that's how you leave. The residents along those roads have been reaching out with concerns with the amount of traffic on those narrow roads and that should be considered in the max attendance.

Chairman Jones asked what he would suggest?

Commissioner Mundie's didn't know he just doesn't want to frame it as such. 300 isn't a lot for the venue but it is a lot when they are leaving and arriving. More so when they are leaving.

Commissioner Segar stated you can't really look at that because like oyster fest people leave at the same time and you have no control over it. She doesn't know how you could prevent it.

Chairman Jones stated he would be more concerned if it were happening every weekend. It would be a problem but also not everyone leaves a wedding at the same time. He thinks a wedding of 250-300 is sufficient.

Commissioner Mundie would feel better at 250.

Chairman Jones stated he could always ask for a larger event.

Commissioner Segar stated it should be 300 because he had 250 from the high school. 300 is not a lot and he has a large venue.

Commissioner Mundie stated they aren't stopping it but if they have more than 250 they need a special events permit.

Commissioner Taliaferro stated it doesn't address the traffic problem. 300 people doesn't mean 300 cars. It might be only 100 cars. He is with Commissioner Segar on the number.

Commissioner Segar made a motion to approve with the staff recommendations, adding the liability insurance with the noise ordinance at 11 PM and cap of 300 people.

Commissioner Walters asked if the County code says quiet hours are from 10 PM -8AM can we give them to 11 PM?

Chairman Jones stated that doesn't mean they are going to be noisy at 11 just opened at 11. It is up to the Sheriff to decide if they are noisy.

Sheriff Holmes stated we made an ordinance to go by and we should go by the ordinance. The ordinance is just like the law. The ordinance says anything over 250 they have to have security, EMS whatever. If they want to have the events they need to pay to play. Mt. Landing Road is a dangerous road. Crittenden's Mill is a dangerous road. If they are going to have events they need security. Alcohol and events don't mix. His recommendation is they have law enforcement, EMS, if there are gas grills they should have firemen, because that is what the ordinance says for 250 or more. They need to pay to play.

Chairman Jones asked if he was more for 249 so they are below the 250?

Sheriff Holmes stated his opinion is anything over 200. He understands Commissioner Segar but it is not the same world. The ordinance was put in place to enforce it. The County spent money for noise detectors, they need to use them and will use them. You need to determine which way the wind is blowing. That section of road is a lot of older people. They go to bed at 6, 7, or 8 PM. They don't want to be up at 11 or 12 with a disco going on. His suggestion is to keep the ordinance as is and if any want to increase they pay to play.

Chairman Jones asked Commissioner Segar if she wanted to keep her motion or change it?

Commissioner Segar stated she wanted to keep it. She thinks there should be security with those numbers but it should be 300.

Chairman stated they would require another condition and that condition would be to abide by all of the zoning ordinances. He asked Commissioner Segar if she wanted to add that to her motion.

Commissioner Segar stated yes.

Chairman Jones asked if everyone understood the motion.

Commissioner seconded the motion. AYES: 7 NAYES: 0 ABSENT: 0

Case #20230227 – C&F Davis Contracting

Chairman Jones stated the next case is #20230227 – C&F Davis Contracting. Application for changing the zoning district classification by C&F Davis contracting from A-2, Agricultural and Forestry, General, to R-2, Residential. Pursuant to Article III, Division 3, Section 36.111 of the Essex County Zoning ordinance in order to pursue a 10 lot subdivision including remainder lot on a 119+- acre parcel tax map 44-2G located off of Mussel Swamp Rd & Gordon's Mill Rd zoned A-2, Agricultural and Forestry, General within a countryside district defined by the Essex County Comprehensive Plan with the Central Supervisory District.

Mr. Barnes stated that this is a rezoning coming to you that was started by his predecessor Mr. Hodges. He began speaking with the applicant, property owner. As you see in the file the property owner has pursued several other subdivisions in recent history that Mr. Hodges felt brought him above the cumulative total of minor subdivision. That triggers the major subdivision requirements request. Mr. Davis felt it was prudent for him to pursue him getting a rezoning prior to that subdivision. What you have before you is a subdivision plat that is the justification for the rezoning. Tonight's hearing and consideration is based on a rezoning. It is important to note the reason for the rezoning is the subdivision plat you have before you. You do have adjacent property that is zoned R-1 that was rezoned and came from the same mother parcel several years ago. It is not a complete spot zoning, by definition. But just like beauty is in the eyes of the beholder, one man's spot zoning is another man's slide over. It is still relatively isolated R-1 spot, This would increase that R-1 serve on that Road. As you see in the staff memo to you he has tried to outline some of the new ordinances. Since we are operating under this new ordinance and everyone is still getting used to it. He did some cut and paste with eh new language to see how it compares to what you are used to working with. You will hear various opinions. He does not dislike the new ordinance very much. He thinks it is pretty user friendly once you get use to some of the things about it. He likes the chart system and the way it flows and makes it easy to look up uses. This property is rather larger as you see on the application. However, the applicant has indicated a 9.6 acre request on this rezoning. You don't have a narrative with this rezoning. Generally you like to see, even if it is only 2-3 paragraphs, you want to see something in writing, in paragraph form, good sentences, saying what you are doing, why you want to do it, and here is the justification for rezoning. All you have is the one little line that says despite of being a 100+ acre parcel the rezoning request at this time is for 9.6. He thinks commonsense would tell you that but he doesn't work in the business of common sense. He likes it in black and white. If you make a motion on something and an ordinance is passed or a resolution for rezoning, he would like it to be clear and written somewhere else. That might be something that you look for as you proceed discussing this with the property owner and deliberating on it. He mentioned the Comprehensive Plan in here. The Comprehensive Plan and the zoning have a little bit of a nexus here with the total lot served. It is hard to tell but he gave them a little bit of a breakdown and a little bit of history. He put together some of the former subdivisions that took place in the last couple years on this parcel to give them an ide of what your total lot serve is. You are still under that 1 lot per 5 acres but

you are around 1 lot per 7 or 8 acres. It may be a little off from that depending on the plats. Some of the plats only zoom in on one lot at a time so he is not sure how somethings were cut. That is something to think about as you proceed. You do have one written protest in the file. He included that in the submittal you received last week. He does not have, as of today any new written opposition to this. You may have some people when you open up the public hearing speak against it. The opposition that you have heard, he has had anonymous walk ins come into the office, have just like the previous consideration you had are concerns about the Road. County staff have noticed when you leave this property and turn right on Gordon's Mill Rd. It is probably the only state maintained road in Eastern VA that has grass growing up through the middle of it. Not just in one spot but every 3 or 4 ft. That one does have some issues. The bridge at the bottom is pretty narrow. He doubts that two large vehicles could pass at the same time. At least not without slowing their speed down immensely. We don't have a whole lot in the file from VDOT to go on. As he gets a little better acquainted with the VDOT people on this side of the river with this district he should hopefully have better reports for them on that. He is not sure what the future is on Gordon's Mill Rd. improvements. If you increase the lot serve in a certain area you want to make sure those people can get access back out to the main road. The same concerns you just had with your last consideration. As far as the other subdivision work you do not have on that subdivision plat, there again this is a rezoning request not a subdivision request, but that being said if it came back to you as a subdivision request you would have to have the primary and reserve septic sites identified on there, VDH has to have approved them and the well sites. Since you have a primary and reserve identified on each of the possible lots it may be that you are going to have private well on each spot too. Being small lot sizes that is a lot of strays in close proximity. That is probably doable in the piney point Aquaphor but he is not a hydrogeologist, He is not going to go on record as saying that. That is a concern but may not be germane to the rezoning. That will be up to you all and something to think about. This requests is not conditioned and you have no proffers. Basically the request you have before you is the request you have to deliberate on. You don't really have any proffers to consider.

Commissioner Walters stated in just reading the application on this is for rezoning the entire 44-2G parcel from A-2 to R-1?

Mr. Barnes stated that his answer for that is he does not have a narrative and neither do they in the application that says explicitly this is a 115 acre/120 acre parcel and we want to rezone along the hash area indicated on the plat signed and sealed by so-in-so on this date. You need something that you can stand in front of a judge and say 'Your Honor, I approved this on this dated for this reason.' You don't have that right now.

Mrs. Nancy Herman Thompson, a surveyor on this project, stated they do have a letter from VDOT dated June 22, which Mr. Barnes may not have found in the file yet. VDOT has reviewed the preliminary for this rezoning and said this plat created 9 additional lots that will add 90 daily vehicle trips. The routes already have 240 & 280 daily vehicles. It is not anticipated additional traffic generated by this development will have a detrimental impact on the level of service on

either roadway. We will make sure to get a copy to Mr. Barnes. Yes the rezoning request is for 9.6 acres not the entire farm. The purpose is for residential development. Mr. Davis of C&F Davis Contracting is here. The lots are slightly larger area wise the minimum requirements for the R-1 zone. They are wider. Preliminary work has been done for septic and there seems to be acceptable sites on each lot. That is not necessarily a part of the rezoning but the owners wanted to do that.

Commissioner Taliaferro stated one question he has is the plat shows 150 ft of road frontage on 1 lot. Do all of the lots have that same road frontage?

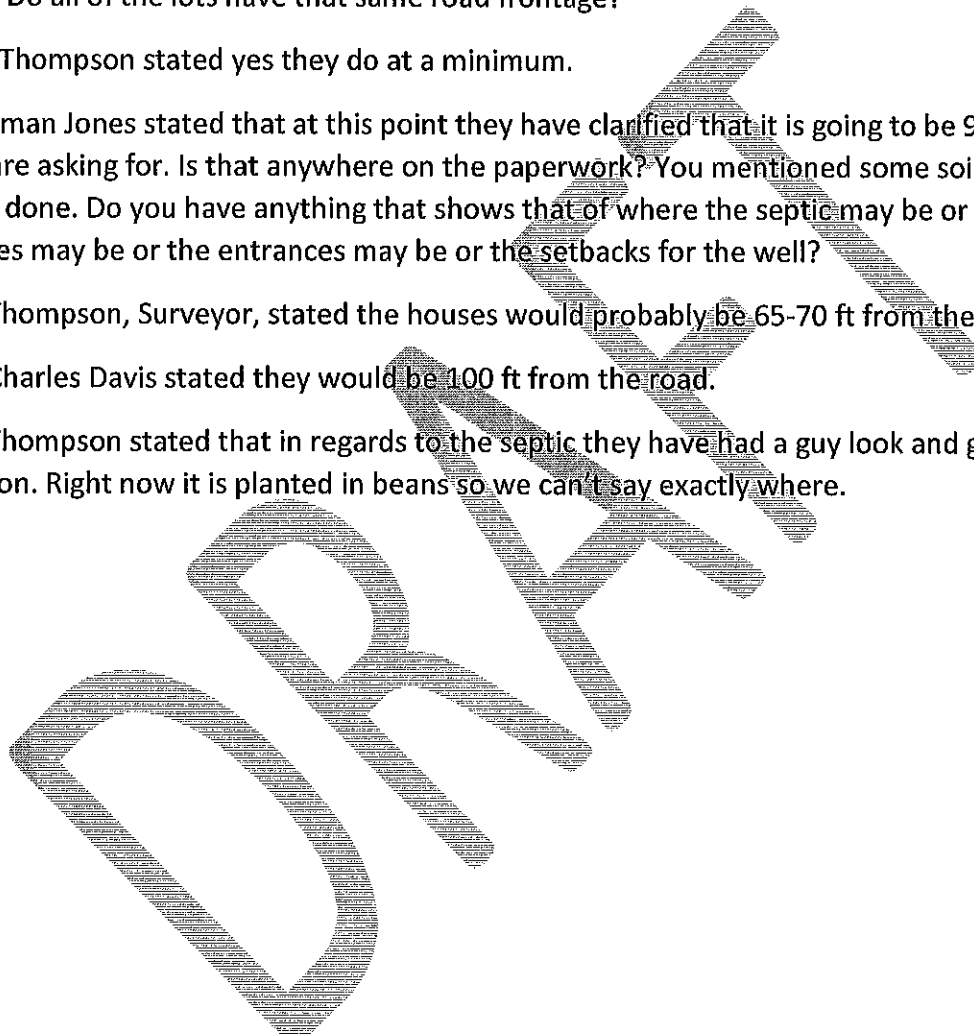
Mrs. Thompson stated yes they do at a minimum.

Chairman Jones stated that at this point they have clarified that it is going to be 9.6 acres that you are asking for. Is that anywhere on the paperwork? You mentioned some soil work had been done. Do you have anything that shows that of where the septic may be or where the houses may be or the entrances may be or the setbacks for the well?

Mr. Thompson, Surveyor, stated the houses would probably be 65-70 ft from the road.

Mr. Charles Davis stated they would be 100 ft from the road.

Mr. Thompson stated that in regards to the septic they have had a guy look and give his opinion. Right now it is planted in beans so we can't say exactly where.



Mr. Davis stated he wanted to get through this first before they worry about perking, He is not perking land until he gets over this hump.

DRAFT



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
87 Deacon Road
Fredericksburg, Virginia 22405

Stephen C. Brich, P.E.
COMMISSIONER

June 22, 2023

Essex County Planning & Zoning
Attn: Rob Hodges

Re: Mussell Swamp Estates
1st Preliminary Plat Review
Essex County, Rtes. 615 & 691

Dear Mr. Hodges:

This office has reviewed the referenced preliminary plat (License Stamp Dated 5-18-2023) in accordance with the minimum standards as received on June 16, 2023, and we offer the following comments as requested to address your concerns related to level of service, entrance spacing, and sight distance:

1. This plat creates 9 additional lots that will add 90 daily vehicle trips dispersed on Rtes. 615 and 691. These routes have 240 and 280 daily vehicles, respectively, and it is not anticipated that the additional traffic generated by this development will have a detrimental impact on the level of service for either roadway or their intersection.
2. Each lot would be permitted to have its own private entrance (PE-1) along its frontage, and spacing is not applied to private entrance per the VDOT Access Management Regulations. However, if the County has concerns about the number of private entrances along the roadway, then Essex County may want to consider shared access easements.
3. Sight distance is not applied to PE-1 entrances for private residences other than to be located at the safest location along the lot frontage as determined by VDOT at the time the owner/applicant makes application for a VDOT Land Use Permit for the entrance.

Should you have any questions concerning the plan review, contact Chad Brooks directly at (804) 761-2148.

Sincerely,

Robert Butler

Robert Butler, P.E.
Asst. Resident Engineer-Land Use

Cc: Scott Thompson, L.S.
VDOT, Lee McKnight

VirginiaDOT.org
WE KEEP VIRGINIA MOVING

Commissioner Mundie made a motion to open to public hearing. Commissioner Stevens seconded the motion AYES: 7 NAYES: 0 ABSENT: 0

PUBLIC HEARING SIGN IN SHEET 9/5/2023

ITEM: C&F DAVIS CONTRACTING-REZONING-MUSSEL S.

NAME ADDRESS VOTING DISTRICT

✓ GARY SANDVIK	2917 Richmond Hwy	
✓ Alice Birchett	437 Mussel Swamp	
✓ Roxanne Johnson	427 Musse Swamp	
Sarah E Dixon	878 Berry Hill Rd Tapp.	
Dorothy Gresham	Tapp, VA	
✓ MR. DAVIS		

Lars Sandvin, 2917 Richmond Hwy, stated back in January they purchased 2917 Richmond Hwy which he thinks is the only property directly across from this property. On it is a house that is known to some as the house that was moved down the road. It was a 1790's home. It was moved on that property and sat abandoned for 15 years. They decided back in January to purchase that spot mainly because they fell in love with the forest land around it and the pond that is on it. The pond is partially fed by an artesian well. The fish breed there naturally. They believe the fishing is spectacular in the stream that is down hill from it because of the out flow of the earthen dam that goes along the pond. They are really interested in the effect that the homes that are down stream from the property will have on that body of water. He understands about the perkable field. They have the 17 acres across from that area in order to put in a septic they had to put in a high-tech septic system and they had to pump the water to a perkable field 900 ft away because they tested all around the land it was basically unperkable. So that was a major investment. They have invested a lot to be there mostly because they fell in love with the agricultural land and forestry. He knows that A-2 land is essentially to protect, he thinks that is in the definition, forest and agricultural areas. That is why they are there. They were coming from Fairfax County. If they knew there was going to be a major residential area opened up across Gordon's Mill Rd from them that would have give them a lot to think about. They are worried how that is going to change it but also the water levels going down. Did somebody do a chapter 527 traffic analysis of how this new community is going to affect what is going to be done? Gordon's Mill Rd. is not wide at all. He has talked to some of the neighbors that are here tonight but can't speak about their concerns about the bridge. Gordon's Mill Rd comes in from Richmond Hwy and goes out to Richmond Hwy. It is a two-way rural rd. He is interested in knowing about the plans for that and the impact on the water table. We would probably not necessarily be in favor of the of the zoning change.

Alice Birchett, 437 Mussel Swamp, stated she purchased her first home by herself in in 2020. She was advised and given a plot of 5 lots. She was advised that there were not going to be any residential houses behind her or to the left of her. In her contract, it was breached by C&F Davis, that she would be notified if the left lot was going to be built to a home, she would have first right of refusal and she could purchase that lot. She was not notified and a home was built. She did not choose to live on Mussel Swamp Rd to have a ton of neighbors. She thinks that C&F is pretty unreliable. Her other concern is access for utilities, like many others have said the roadways. She has almost been hit multiple times on Mussel Swamp and Godon's Mill because of the speed and number of traffic. She is concerned that the additional residences supposedly to be built are going to lower the value of her property along with the neighbors. Houses are not selling like they used to. When houses stay for sale her property value goes down so do the others in the neighborhood or subdivision. They have no infrastructure, no jobs, first responders. For more people moving into the County not even the town but County we are short on first responders, police, EMS, we don't even have paid fire. That is a concern. Habitat, wild life is a huge part of this county. If we keep building where are they going to go. Farmland, the habitat they have now is quiet and they have less industrial waste. 'Virginian Railway Co. V.

London, 114 Va. 334. A private nuisance is the using, or authorizing the use of, one's property, or of anything under one's control, so as to injuriously affect an owner or occupier of property by diminishing the value of that property; by continuously interfering with his power of control or enjoyment of that property; by causing material disturbance or annoyance to him in his use or occupation of that property.' She wants to sum it up by saying it started off as 5 lots this is not going to end. This is a concern not only for the Mussel Swamp area but for this County.

Roxanne Johnson, 427 Mussel Swamp, stated they purchased the property in April of this year and fell in love with the house, the neighbors, the ruralness of it. You look out your back door and you can see deer. Her biggest concern is the traffic because you can not go down that road and have two vehicles pass safely. One either has to slow down and get off on the should and that is a big concern. As well as the Aquaphor can it support the additional houses. She thinks more information needs to be given or a study to address that.

Commissioner Taliaferro made a motion to come out of public hearing. Commissioner Mundie seconded. AYES: 7 NAYES: 0 ABSENT: 0

Mr. Max Hlavin, Sans Anderson, County Attorney, stated he wanted to clarify for the record that one participant is participating remotely. He did not hear an approval of that remote participation pursuant to the boards policy. He wanted to make sure that was done prior to an further action.

Chairman Jones stated that it is their policy.

Mr. Hlavin asked if that was accepted without objections and in the minutes.

Chairman Jones stated yes sir from several meetings ago.

Mr. Hlavin stated that we need to make sure that his remote participation has been accepted for this meeting by the Commissioners that are physically present.

Commissioner Mundie made a motion to accept Commissioner Andrews participation remotely. Commissioner Taliaferro seconded the motion AYES: 6 NAYES: 0 ABSTAIN: 1

Commissioner Taliaferro stated going back to Mr. Barnes comment that they have been told verbally that they are only rezoning or applying for rezoning for 9.6 acres but all of the paperwork references tax map 44-2G. So can we rezone only part of a piece of property that doesn't have a tax map number of its own? How can we rezone part of a single tax map number?

Chairman Jones stated he doesn't think you can have 2 zoning classifications on one parcel. Is that correct?

Mr. Barnes stated it is not advisable to do that. It would be preferable and cleaner if you had a subdivision of that area first. It could be a simple subdivision almost by right in that case. Then

that would come to you for rezoning. You do see split zoning in some cases and even see floating zonings but that is not typically done here.

Chairman Jones stated if you remember one of the issues with the next case was that parcel having a split zoning that got cleaned up when they were doing the zoning.

Commissioner Taliaferro asked if in the past based on the history has 44-2G been subdivided before.

Mr. Barnes stated yes.

Commissioner Taliaferro asked how many times can you subdivide a single piece of property?

Mr. Barnes stated that is why in the memo he provided what has occurred on that property since 2003 to now. Just to make sure this body doesn't run the foul of the comprehensive plan, even the 2015 comprehensive plan you are operating under now asks that you not exceed 1 dwelling per 5 acre threshold. With this you would be knocking on the door of that. That would leave the balance of this remainder property still A-2 but the future subdividability of that is kind of an open question. Would it be one more lot off that or two? Without a proffer to know 'I get these 9 lots but in return those 80 acres I will build a conservation easement or what have you' Those are the kind of things he thinks you would see in a request like this that would be pretty easy to consider. He thinks that is what the comprehensive plan is asking for. In the countryside district overlay and certainly in the A-1 and A-2 district you are looking for a much lower density because of the issues you just heard with roads and service and things like that. It is ok to have rural residences but you want to know how many you are going to have. He thinks the ordinance and the comprehensive plan are really looking for no more than 1 dwelling unit per 5 acres. As you look at the way it has been subdivided since 2003 that we could find. You can't go back further than 1988 per the ordinance but you have to look at it and see where you are with it.

Commissioner Walters stated he thinks that is a hole in the comprehensive plan because it says for A-2. You can put out 1 acre lots but only 1 acre lot per 5 acres of the total parcel. It assumes you do it all at once so the whole parcel goes. Therefore it is easy to say there is your allowed parcels. 1 acre lots and the rest of it is now unsubdividable. The problem is people do it incrementally.

Chairman Jones stated that is a part of it. He is used to seeing a package when something is being rezoned. Here is the parcel of property, here is what we are going to do with it, here is how we are going to subdivide it, here is the work done on it, here is the preliminary work. Then we decide if that is the best use for the property. This one looks like it is being incrementally done. It may not be done on purpose but looks like it is being incrementally done to circumvent.

Commissioner Walter stated in the ordinance itself under major subdivisions it specifically states 'therefore major subdivisions are permitted in A-2 districts only when the areas are

designated rural residential or developmental service' which this parcel is not. It is straight countryside.

Chairman Jones stated their thing tonight is not the subdivision on it is whether or not we want to rezone this 9 acres to residential.

Commissioner Walters said it is to subdivide the A-2 parcel that is what they are doing.

Chairman Jones stated correct but we are subdividing it but not doing a subdivision. That would come at a later date. We are trying to decide if we are going to take this 9 acres which he doesn't see how we can because it has not been parceled off yet.

Mrs. Thompson stated that is correct. She stated that the applicant would like to dress up his application and maybe come back next month which may be clearer to everyone as to what he would like to do and exactly how many pieces have come out of his farm.

Chairman Jones asked if they were requesting to defer it to next month?

Mr. Davis stated if that is what he has to do. He is only doing 9 lots its pretty cut and dry.

Commissioner Taliaferro made a motion that per the applicants request they defer until next month. Commissioner Mundie seconded the motion. AYES: 7 NAYES: 0 ABSENT: 0

Chairman Jones stated they will take a 5 minute break and start back at 8:15.

Staff update on Agricultural Rezoning

Will discuss next month.

PUBLIC HEARING

Chairman Jones called the meeting back to order.

Case #20230003 – June C. Monterio, owner c/o 7 and M Development, LLC

Chairman Jones stated that the next case #20230003, June C. Monterio, owner c/o 7 and M Development, LLC. Request rezoning from B-1, Local Business District to PUD, planned Unit Development District pursuant to Article IV Division 3 section 36.240 of the Essex County Zoning Ordinance located on a 13.86 acre parcel tax map 36-43 located off Richmond Hwy zoned B-1 local business partially within the development service district and the corridor enhancement district respectfully within the Central Supervisory District. This property fronts 554 ft of the west bound lane on Hwy 360 approximately 1500 feet west of the light at Bray's Fork intersection.

Mrs. Darla Odom gave the following presentation and staff report:

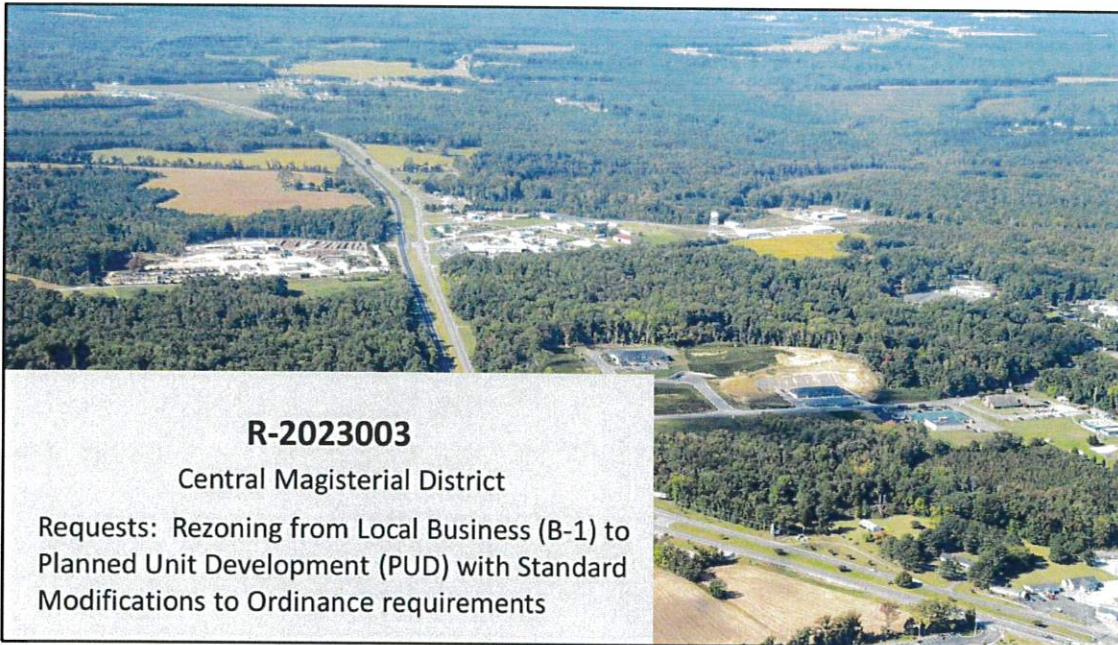


PLANNING COMMISSION
September 5, 2023

**Rezoning
Case R-2023003**

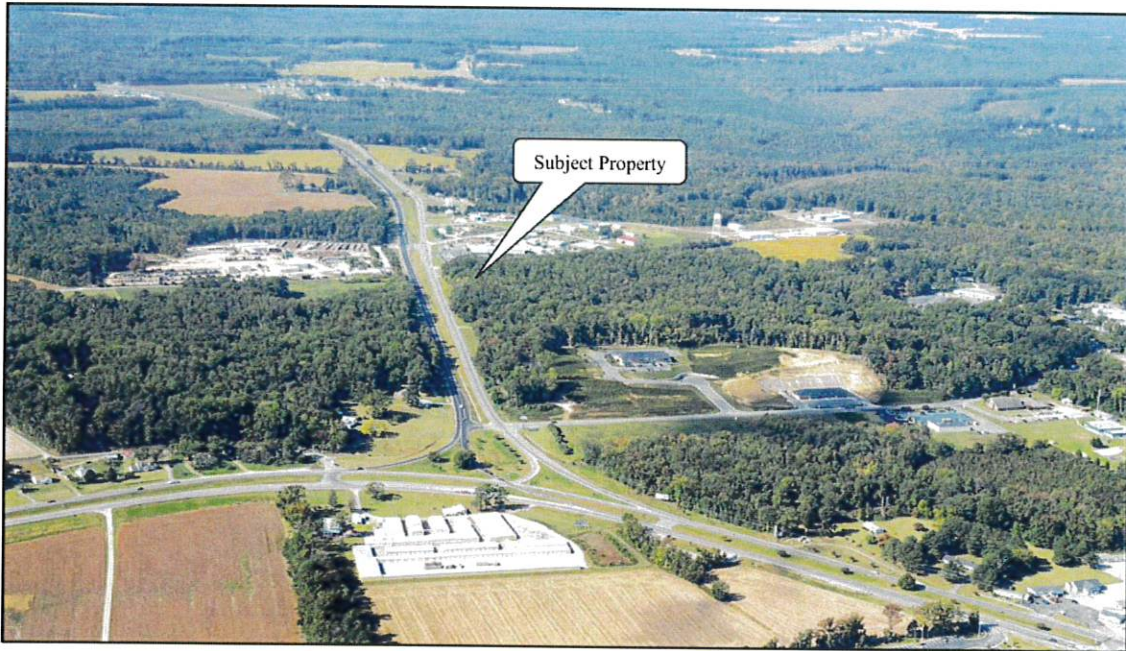
Applicants:
7 and M Virginia LLC & June C.
Monterio

DRAFT

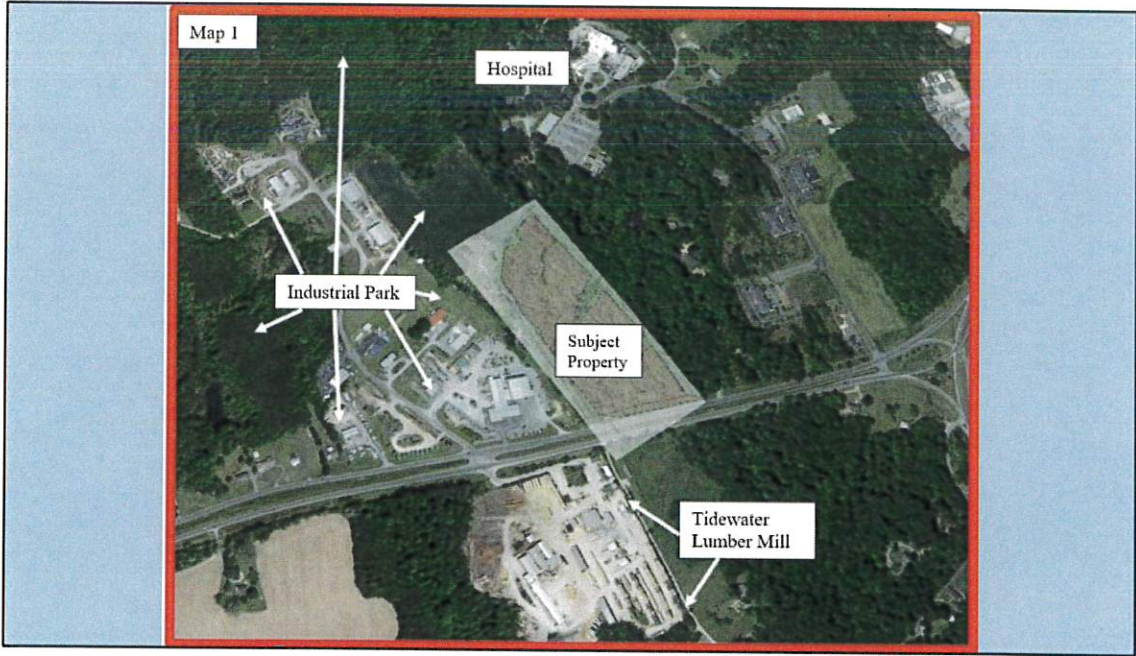


Rezoning Request Case Number R-2023003: In the Central Magisterial District, 7 AND M Virginia, LLC requests rezoning from B-1, Local Business District to PUD, Planned Unit Development District of 13.186 acres with exceptions to ordinance requirements related to project size, private roads and access points requested as Standard Modifications in accordance with Zoning Ordinance Section 36.242(5).

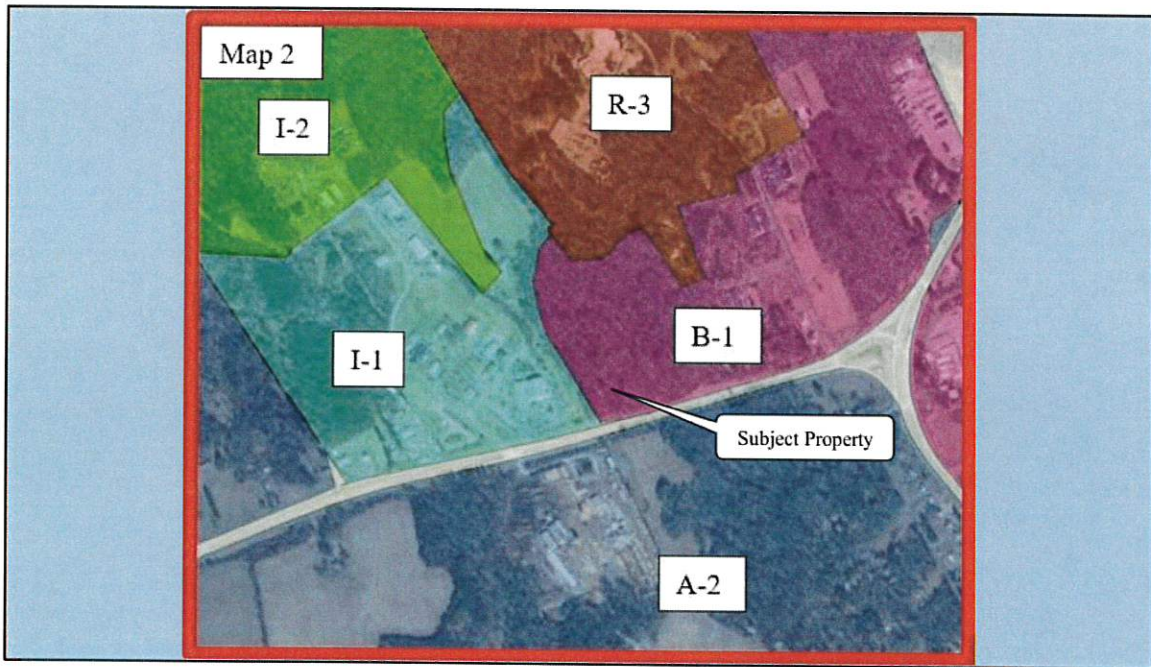




the subject property fronts approximately 554 feet on the westward lane of Route 360 approximately 1500 feet west of the light at the Bray's Fork intersection and is known as Tax ID 36_43. The property is VCU hospital, Tidewater Lumber Corporation, and is adjacent to the LaGrange Industrial Park.



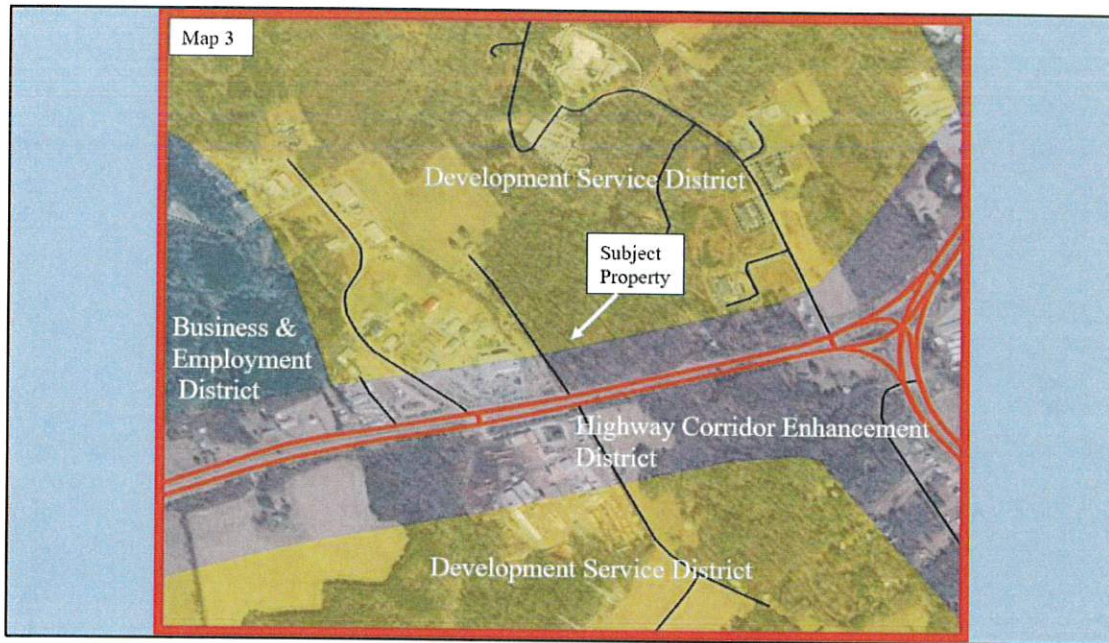
Closer look at the subject property; Mount Clement Road; generally development area in red; proximity to hospital, lumber co and LaGrange Industrial Park



This shows the property and adjacent properties zoned, The subject property is zoned light commercial B-1. Properties to the South are zoned A-2 and as we spoke properties to the west are zoned I-1 and I-2. Properties to the North and East are zoned B-1 and R-3.



Since the case came before you in June the applicants have modified their proposal and eliminated many of the standard modifications they had requested previously. With the modifications they are seeking today these are allowed in a PUD district because the ordinance allows flexibility in the standards in a PUD district to accommodate a plan design and to encourage innovative creative site design and high quality development. In this case the applicants have included 13.186 acres of property. This may be what is attributing to the need to some of these exceptions. Specifically the frontage along Rt 360 because the applicants are requesting to have private roads internal to the development. They have proffered that the roads would be designed and built to VDOT standards but would be maintained privately internal to the project. They are also asking for a reduced project size. Ordinance would require a minimum of 15 acres for a multi-family development as a single development. The PUD district refers back to that section in the zoning ordinance but again that is a minimum. You need a project size that is going to accommodate your proposed development. The applicants are requesting an exception to the project size of a minimum of 15 acres because the current project size is 13.186 acres. In addition approximately 8% of the project area is a private road, Mt. Clements Rd. that is planned to be maintained. This reduces the developable area of the project but density for the project is calculated on the total. A larger project size would be appropriate when incorporating mixed uses. The third standard exception they are requesting is relative to reduce access points on Rt 360. They had some discussions last time about the accesses they were proposing. The ordinance requires 2 full vehicular access points. They are proposing 2 access points; 1 full and 1 would be for emergency use only.



Future Land Use Map - County's Adopted Comprehensive Plan. The subject and surrounding properties are designated as Development Service District areas as indicated in yellow, with properties along the major corridors, shown in pink, as Highway Corridor Enhancement District areas.

The Development Service District areas are identified as areas to be developed where adequate public facilities can be provided and recognizes these areas as areas that may be appropriate for PUD development, subject to guidelines of the Zoning Ordinance and as provided in the Plan. Growth Tool. Other uses permitted in the Development Service District as well. Industrial, commercial, mh park, PUD, medium density residential

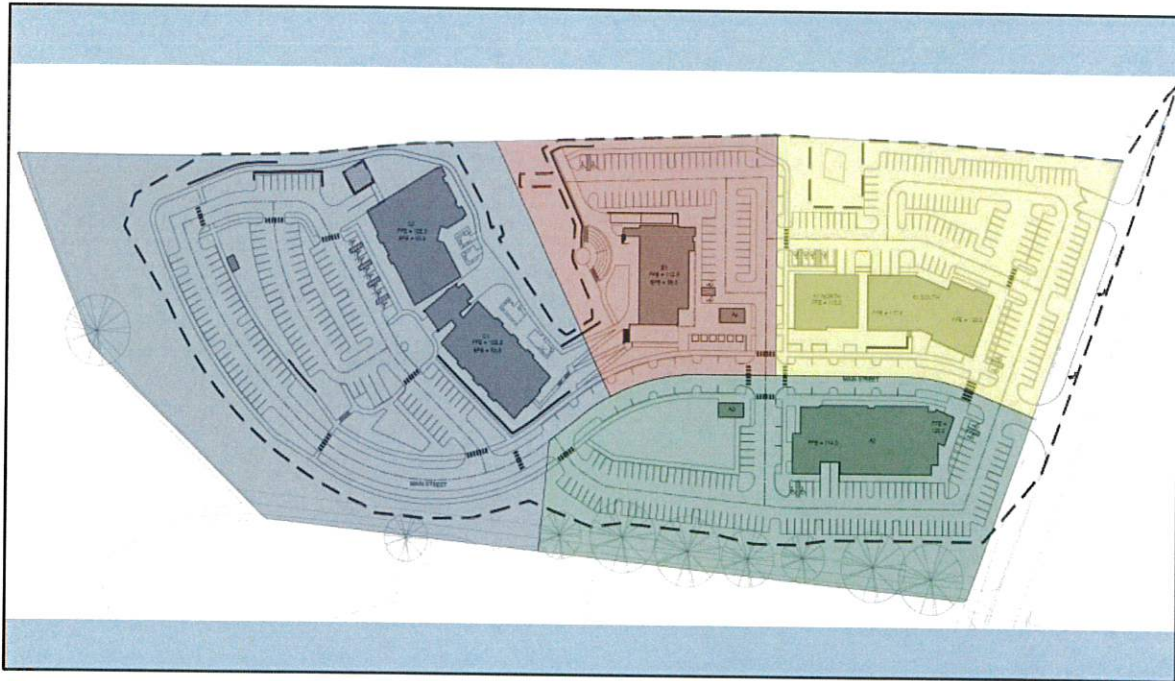
The Plan is a long-term, 20-30 year, planning document. The Plan provides that the Development Service District areas generally corresponds to locations where growth can be most cost effectively supported within the planning period and contains approximately 3,200 acres and adds that how development in this area will be managed in this district will be dependent on both the County and Town's relationship as they will guide growth in the area based on mutual decisions. The Plan notes the importance of the County and Town to determine how growth objectives in these areas may be best accommodated while protecting the qualities of rural character both currently enjoy.

One growth objective provided the Plan suggests is that the County should encourage development that is in keeping with the character of existing land uses. Additionally, the Plan offers growth objectives where new development should concentrate at the edges of the Town of Tappahannock given the need for centralized sewer and water facilities and that adequate public facilities should be in place or proposed prior to development approval, regardless of where the development is located.

The Plan further provides that PUDs “can be brought to land only in those areas which meet the standards framed in the County ordinance and consistent with the Plan concepts”. The subject property is located west of Bray’s Fork, away from the Town’s edge. The Plan suggests development should be of a controlled nature, channeled into the most appropriate areas necessary to effectively sustain adequate levels of public services, such as at the edges of the Town of Tappahannock.

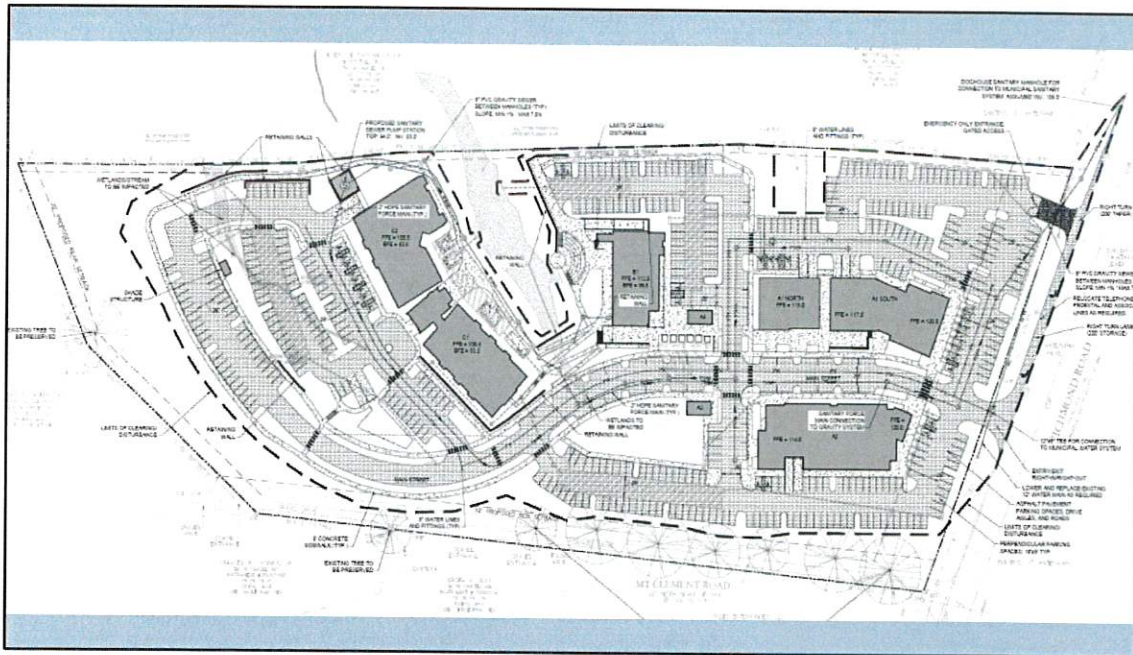
Finally, as noted, the frontage of the subject and area properties is designated as a Highway Corridor Enhancement District. This designation is given to properties lying along major transportation corridors where site design should be considered to protect and improve the quality of visual appearances. The Plan’s policy recommendations and the design standards of the Zoning Ordinance ensure reasonable, quality developments result. For PUD developments, the Plan suggests that threshold size and location requirements will be framed by County ordinances to guide decisions regarding their location.

DRY



Changes – reduced density, removed residential buildings closer to western property boundary; breaks development of site up into 4 land areas; uses, # units and types,

They now have 84 studio 1 and 2 bedroom multi-family residential units for rent. That is a density of 6.37 dwelling units per acre and is reduced from the 139 dwelling units proposed back in June. They will also reduce the sq ft of commercial uses from 73,000 sq ft to 42,050 sq ft and reduced the community center uses from 20,000 sq ft to 11,260 sq ft. The applicants have also included clarity on the number of units that would be both proposed as age restricted and income based rental or workforce housing and they have defined for the County what they would be with the income break down.



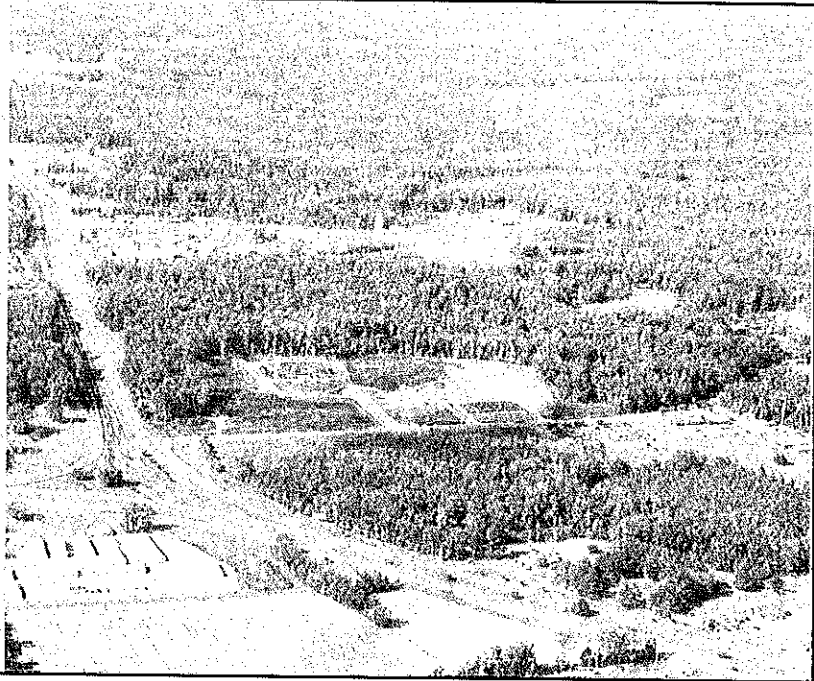
Conceptual plan; buffer area on western property boundary; however, still includes Clement Road which could effect buffer; buffer by ordinance mitigate visual impact; discussion of proffers re: sound study with mitigation measures to be constructed and incorporate into buildings

Proffered Conditions

- Last revised 8.31.23
- Define age restricted and income-based housing units
- Provide building & use details base on Land Areas
- Noise Attenuation (building setbacks, acoustic & noise abatement study with mitigation measures to be constructed)
- Income Mix Agreement with County & annual reporting
- Architectural Treatment & Building Materials
- Covenants (Proximity to industrial, leasing office/resident services)
- Utility extensions/road improvements; discussion with area property owners
- Cash contributions – Utilities, transportation

Planning Commission Action

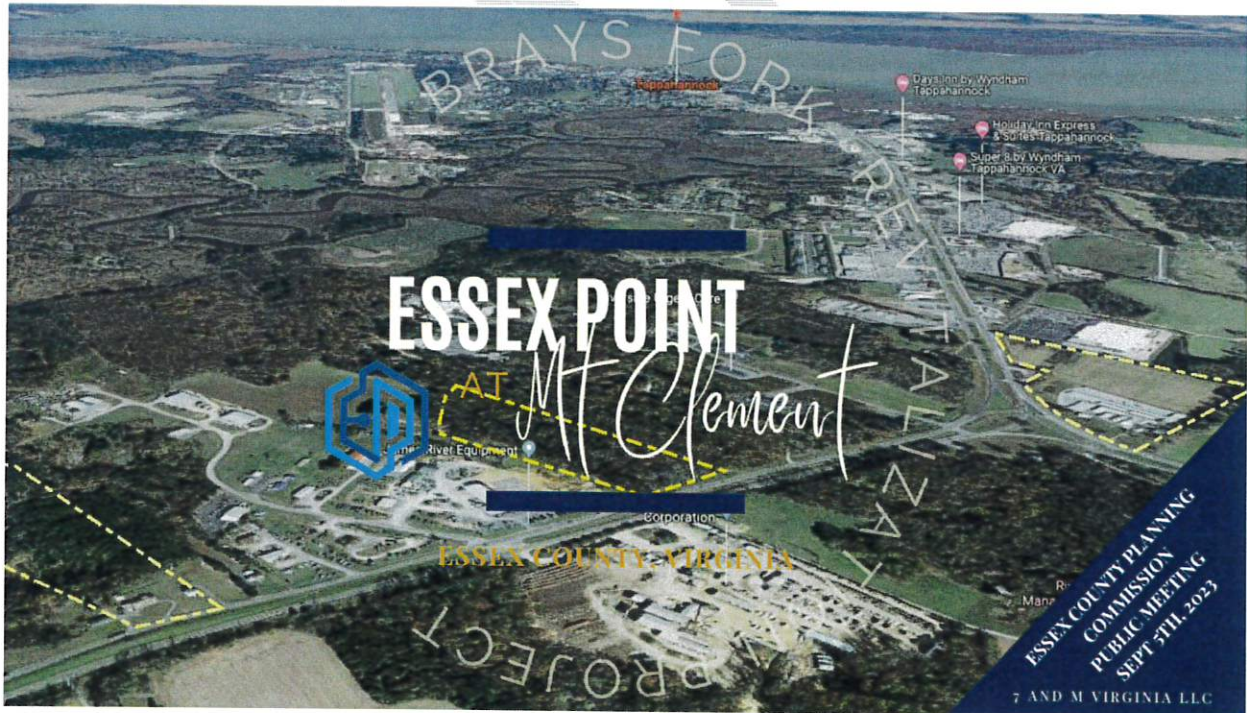
- Recommend Approval subject to the Condition & acceptance of the Proffered Conditions
- Recommend Denial
- Defer action to a date certain for further analysis & consideration



You need to look at what the plan asks you to look at. The plan asks you to look at is this appropriate are, it is within the Development Service District but it is having appropriate public facilities for this particular part of the development service district to develop at this time and also to look at, as the plan asks you to, evaluate the impact on the proposed use would have on the area. She feels like the proposal before you this evening is inconsistent with the recommendation of the plan in those two areas.

Mr. Walters asked about the covenants that is between the property owners and the county just records them. If someone walks into the zoning office and complains about the industrial park or vice versa you would still have to investigate it?

Mrs. Odom stated yes and again that is something that the applicant is offering that they won't make complaints to the existing industrial property owners but the county is not part of those covenants so they would accept input from the citizens.



Shiree Monterio stated that she is the granddaughter of Thomas and Irene Harris, the Daughter of June, known as Constance Harris Monterio. She has a bachelors in Finance from Howard University, a Masters in Real Estate from Georgetown. She spent her professional career span of 25 years in housing and development. For all of you who may not know this is our families land. Their family has been in the community since the late 1800's and has been an active participant in the community. To name a few businesses they have had a greyhound station, Esso gas station, restaurant, Harris Family Drive-in, Store-

tell storage and landscape motoring repair business. Her family has always found it to be important to contribute to the well-being of the community. In keeping with this her mother has chosen to do likewise with the land that was left to them.



7 AND M VIRGINIA LLC

TUESDAY, SEPTEMBER 5TH, 2023

REASON FOR REZONING

- Comprehensive Plan calls for development in the Land Use: Development Service District (DSD)
- Zoning Ordinance calls for areas within the DSD to be zoned within the Planned Unit Development District (PUD)
- In order to meet the standards of PUD district;
 - Required to have a mix of uses
 - Create village like setting and unified community
- Criteria for measurement for rezoning - Compliance with Comprehensive Plan and Zoning Ordinance.

4



7 AND M VIRGINIA LLC

TUESDAY, SEPTEMBER 5TH, 2023

REZONING APPLICATION REQUEST

Case R-20230003: In the Central Magisterial District, 7 and M Development LLC requests rezoning from **B-1, Local Business District to PUD, Planned Unit Development District** of 13.186 acres and **Preliminary Site Plan Submission** with exceptions to ordinance requirements generally related to project size, access points, and private roads.

A mixed-use and mixed-income development including 55+ active adult housing, workforce housing, retail and commercial uses, and community uses.

- Fifty-six (56) of the units are planned for 55+ age-restricted active adult housing; 45 of the units are proposed as affordable housing
- Twenty-eight (28) units are planned for workforce housing; 22 of the units are proposed as affordable housing.
- 41,494 gsf of retail and commercial uses
- 11,799 gsf of community uses.

5

The rezoning request is to bring an active and innovative element to Essex County. Essex County in 2015 adopted the comprehensive plan. Their land is in the Development Service District which is where the county calls for growth in development. In 2022 the zoning ordinance was adopted. The zoning district for a Development Service District is planned Unit Development. In order to meet the standards of the

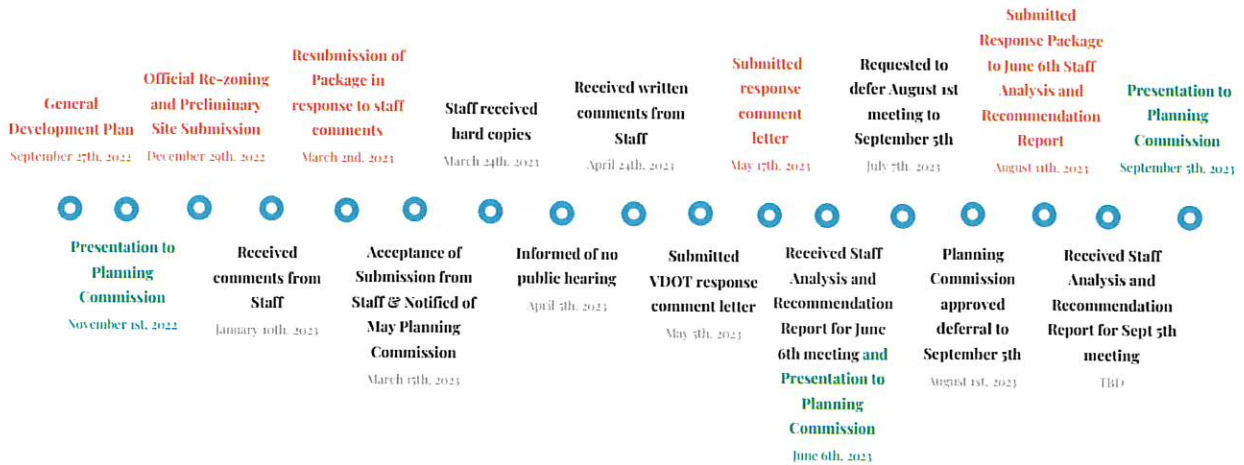
ordinance we have incorporated a mix of uses to achieve a village like setting and unified community. To take everything a step forward they focused on maintaining rural character, needs of the community and bringing back the vibrancy of Essex County and they look forward to them reviewing the application with the comprehensive plan and zoning ordinance.



7 AND M VIRGINIA LLC

TUESDAY, SEPTEMBER 5TH, 2023

APPLICATION TIMELINE



6

The request is to resize parcel 36-43 from B-1 to PUD in their preliminary site plan submission. They have been working with the county for 12 months and look forward to achieving that first step. Reminder this is not the end of the process it is the beginning.



7 AND M VIRGINIA LLC

TUESDAY, SEPTEMBER 5TH, 2023

WE HEARD YOU

- Too Many Waivers and Variances
- Too Dense & Not Enough Parking
- Comprehensive Plan & Zoning Ordinance
- Traffic & Emergency Access Concerns
- Neighboring Uses
- Who we will serve



8

They heard everyone and have worked hard to thoughtfully address the concerns while maintaining high quality and innovative design. First, they heard the industrial neighbors regarding residential use. Respectfully residential next to industrial is not a new concept for Essex County. It exists in our area today but it also exists in other areas like airport Road. Secondly, this is not a residential project. It is a mixture of uses. There is so much more than residential.



7 AND M VIRGINIA LLC

REVISED PROPOSAL

- Eliminated residential buildings closest to neighboring industrial use.
- Reduced 55+ Active Adult by **39%** from 91 units to 56 units.
- Reduced Workforce by **42%** from 48 units to 28 units.
- Reduced Commercial Footprint by **36%** from 64,737 gsf to 41,494 gsf
- Reduced Community Center space by **18%** from 14,307 gsf to 11,799 gsf
- Increased Number of Parking by **16%** from 395 spaces to 456 spaces.
- Increased buffering and open space.
- Added Secondary Emergency Only Egress Access

TUESDAY, SEPTEMBER 5TH, 2023



01 BUILDINGS	02 LANDSCAPE	03 PARKING	04 UTILITIES
01-01 55+ Active Adult (91 units)	02-01 Landscaping	03-01 Surface Parking (395 spaces)	04-01 Stormwater Management
01-02 Workforce (48 units)	02-02 Screening	03-02 Structured Parking	04-02 Sewer
01-03 Commercial (64,737 gsf)	02-03 Buffering	03-03 Access	04-03 Water
01-04 Community Center (14,307 gsf)	02-04 Open Space	03-04 Egress	04-04 Gas



01 BUILDINGS	02 LANDSCAPE	03 PARKING	04 UTILITIES
01-01 55+ Active Adult (56 units)	02-01 Landscaping	03-01 Surface Parking (456 spaces)	04-01 Stormwater Management
01-02 Workforce (28 units)	02-02 Screening	03-02 Structured Parking	04-02 Sewer
01-03 Commercial (41,494 gsf)	02-03 Buffering	03-03 Access	04-03 Water
01-04 Community Center (11,799 gsf)	02-04 Open Space	03-04 Egress	04-04 Gas

To focus back on their project they have removed all residential buildings closet to LaGrange Park, increased buffering landscaping, and screening between their development and LaGrange Park. To focus on the too dense concern they significantly reduced all footprints. They reduced their residential units, commercial units and community space. The 55+ units went from 91 units to 56 units. Workforce from 48-28. Lastly to address the traffic they have increased the amount of parking spaces, added a second

emergency only egress and proffered future secondary road connections.



7 AND M VIRGINIA LLC

TUESDAY, SEPTEMBER 5TH, 2023

STANDARD EXCEPTIONS & JUSTIFICATIONS

- Program modifications eliminated all waivers except for three

Standard Exceptions	Justification
Project Size	<ul style="list-style-type: none"> • Reduced Density • Within the DSD District • Comprehensive Plan between 10 to 15 acres • Increased Open Space
Access Points	<ul style="list-style-type: none"> • Main Entrance/Exit on Rte 360 • Secondary Emergency Only Access • Two future access points • VDOT accepted preliminary site plan • Maintains tree preservation and buffering of industrial neighbors
Private Roads	<ul style="list-style-type: none"> • Design, construct and maintain within VDOT standards • Allows to achieve high quality streetscape (sidewalks, tree and landscaping) and walkable active design • Provide public easement

Standard Exceptions

- Density
- Maximum Number of Multifamily Dwelling Units Per Floor
- Height
- Parking
- Project Size
- Off-street loading
- Freestanding Sign
- Wall Sign
- Landscape
- Access Points
- Private Roads



Standard Exceptions

- Project Size
- Access Points
- Private Roads



10

They heard everyone about too many variances we eliminated all but three. Project size was the reduction of acreage of 1.814 in overall acreage. In recognition of the project size waiver they have reduced the density and increased open space. The second which she previously discussed in access points. VDOT has accepted the preliminary site plan. Lastly private roads. This allows them to achieve a high quality street scape and walkable active design. They have proffered to meet VDOT standards and enter into public easements where applicable to ensure the overall community can enjoy and take advantage.



Aligned Design with State and County Priorities

STATE PRIORITIES
COUNTY PRIORITIES
COUNTY CHALLENGES

7 and M Virginia LLC 

19

They have submitted numerous slides to them to demonstrate their alignment in the County priorities in the comprehensive plan and zoning ordinance. She wanted to address how they align with the County plans but also align with state priorities.



7 AND M VIRGINIA LLC

VIRGINIA ECONOMIC DEVELOPMENT STRATEGY

Governor Youngkin's "Compete to Win" economic development strategy for the Commonwealth includes **housing** as a key focus area for the Commonwealth and for its localities.

*"The Administration's **Make Virginia Home** plan will promote an increased supply of attainable, affordable, and accessible housing across the Commonwealth."*

"Develop housing plans in coordination with economic development site plans to promote ample, affordable worker housing when businesses locate in Virginia; Align housing development with economic growth through public/private partnerships with developers and include workforce housing in the early stages of the site development and selection process"²⁰

On how to achieve Economic development. They are proud to work with the county to address the needs and goals outlined in the 2015 comprehensive plan but also outlined as outcomes in the 2023

joint retreat. Not only from a housing perspective but larger goals of spaces for activities, Economic Development and community Spaces.

Mr. Kedrick Whitmore, land use and zoning attorney with Venable LLP stated he wanted to talk to a few things specifically to respond to comments in the staff report related to surrounding uses.

THE PROPOSAL IS FOR MIXED-USE PUD ZONING, NOT RESIDENTIAL ZONING

(1) *Primary zoning districts.* The entire territory under the jurisdiction of the county is hereby classified into one of the following primary zoning districts to be known and cited as indicated:

- a. A-1 Agriculture and Forestry, Preservation
- b. A-2 Agriculture and Forestry, General
- c. R-1 Very Low Density Residential
- d. R-2 Low Density Residential
- e. R-3 Medium Density Residential
- f. R-4 Residential, Restricted
- g. MH-1 Mobile Home Park
- h. **PUD Planned Unit Development**
- i. B-1 Local Business
- j. B-2 General Business
- k. I-1 Light Industrial
- l. I-2 Industrial

Section 36.241. — Permitted Uses.

An integrated mix of higher density residential development with smaller scale neighborhood-serving commercial uses, public spaces and community and recreational uses are permitted:

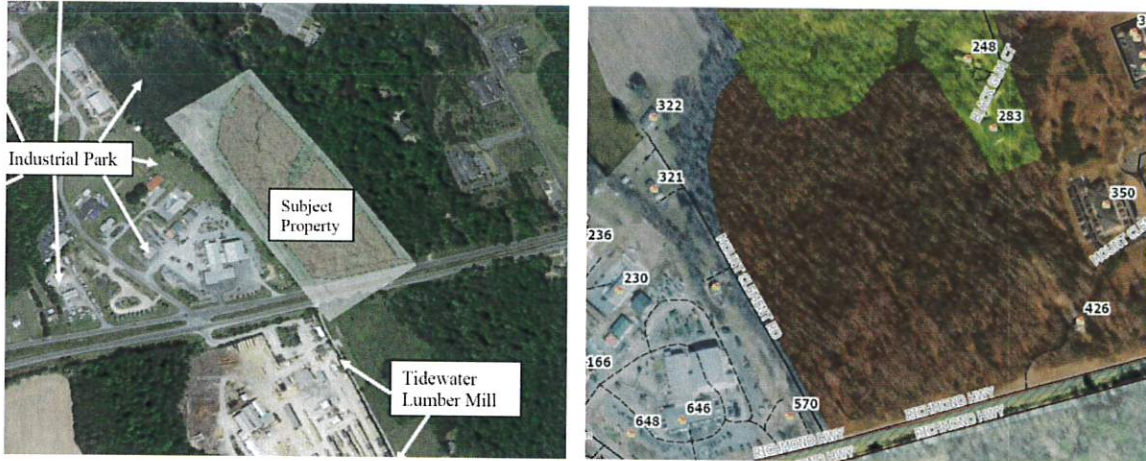
- (1) **Residential Use.** The majority of the development should be residential units of varying types. Permitted residential uses include: Attached and detached single family dwellings, duplexes, townhouses and attached and detached multi-family (condominiums and/or apartments) units. Multi-family residential uses would be permitted to be vertically integrated with non-residential uses within buildings, with residential uses on the upper floor(s) of a building and non-residential uses on the ground floor.
- (2) **Non-Residential Use.** Permitted non-residential uses should primarily be smaller-scale and serve a neighborhood wide trade area as permitted in the Business Limited (B-1) District. Limited commercial uses that serve broader trade areas as permitted in the Business (B-2) District may be permitted under circumstances that minimize impacts of vehicular traffic on the desired development pattern and surrounding area. These uses would not include automobile-oriented uses such as automobile repair, service and sales, automobile parts sales; and car-washes.
- (3) **Guaranteed Mixed Use.** Non-residential uses are required to be developed in conjunction with the development's residential uses such that:
 - a. Minimum of 30 % of the total land area of the PUD must include non-residential uses (Overall not less than 20% commercial uses and not less than 10% public/recreational and open space uses)
 - b. Maximum of 50% of the total residential uses for the project are permitted to receive certificates of occupancy until such time as construction is complete on 40% of the non-residential uses for the project.

VENABLE
LLP

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He stated this is a proposal for mixed-use PUD zoning not residential Zoning. This is a big difference in how your zoning ordinance is administrated.

THE PROPERTY IS NOT LOCATED IN A PURELY INDUSTRIAL AREA, NOR IS IT ABUTTED PRIMARILY BY INDUSTRIAL USES



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THE PLAN ALREADY RESERVES AREAS FOR INDUSTRIAL USES – BUSINESS AND EMPLOYMENT DISTRICT

Business and Employment District

The Business and Employment District is noteworthy in that it reserves specific areas of land near the County's airport and major industry settlement for future growth of the same kind. Roughly four hundred acres, of which some three hundred appear suitable for development, are identified for business and employment park development, including the airport complex.

Specific industry land area requirements and site suitability factors will need to be assessed when considering a location in this district. Therefore portions of the Development Service District, particularly along route 360 west of Bray's Fork may represent alternate sites for business and industry use. Business and industrial uses should be served with sewer and water facilities and situated with direct access to either arterial or major collector routes. Industrial development within the district or in the Bray's Fork area near Route 360 affords such access and both areas are generally removed from residential development. To encourage high development standards, "business park development form should be encouraged. This permits the collocation of businesses in an attractive campus-like setting while minimizing individual industry points of access to the highway system. The County should consider creating a conceptual master plan that includes development and design guidelines that should be implemented when development proposals are presented in fragments.

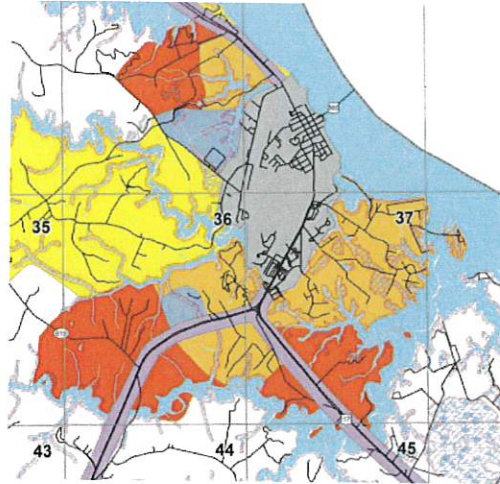
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There is discussion about the section of the ordinance that talks about the development service district,

Brays Fork and all sites for business and industry use. They need to look at in context.

PUD DEVELOPMENT HERE HAS NO IMPACT ON AREAS RSERVED FOR INDUSTRIAL



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The Area of the business and employment district is in grey.

THE ZONING ORDINANCE PROVIDES DIFFERENT STANDARDS FOR PUD AND RESIDENTIAL ADJACENT TO INDUSTRIAL

- (b) A landscape buffer area shall be required where:
- (1) A business zoning district abuts a residential zoning district;
 - (2) Industrial zoned development abuts a residential, business, or Planned Unit Development zoning district;
 - (3) Multi-family residential development abuts any property zoned R-1 or R-2; or
 - (4) Where buffering is required under the Use Performance Standards.

Section 36.256. — I-1 Light Industrial and I-2 Industrial District Requirements.

Table 36.11 I-1 and I-2 District Requirements		
A. Setbacks (feet)		
1. Road type	a. U.S. Primary Highway	75
	b. Other roads	50
2. Interior side	a. Adjacent to A, R or MH-1 Districts	50
	b. Adjacent to B or I Districts	20
3. Rear	a. Adjacent to A, R or MH-1 Districts	50
	b. Adjacent to B or I	30
B. Building Heights (maximum)		Lesser of 3 stories or 45 feet ⁽¹⁾
<i>Notes for Table 36.11 I-1 and I-2 District Requirements</i>		
⁽¹⁾ Within 100 feet of a R District, the height shall not exceed the lesser of 2.5 stories or 35 feet.		



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The zoning ordinance tells us 2 things. It tells us this occurs and has been planned for. How do you deal with it because we know there are impacts? You create a landscape buffer. There are also discussion on

set backs. There are enhanced setbacks but those setbacks are for A district, R district, or MH district not to PUD districts. Similarly there is a height restriction within 100 feet of R district not a PUD district. These concerns about there being some disretreatment that the industrial uses will have to pull back or somehow be treated differently with this rezoning are not accurate based on your ordinance.

EVEN IF YOU BELIEVE THE USES OF PUD AND INDUSTRIAL TO BE INCOMPATIBLE, THE COMP PLAN PROVIDES FOR ADDRESSING THIS CONDITION

development visual qualities. Clustering of residential development should be encouraged within the development district to maintain open space. Such development, even when exclusively residential in nature, should be buffered and separated by landscaping from major routes or adjacent incompatible land uses.

VENABLE LLP

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Mr. Walters asked when they set their building height for the residential section are they using R-3?

Mr. Whitmore stated R-3 is exactly correct. There is a required use mix a minimum of 30% of the total land area must be non residential uses. To the extent residential uses are included R-3 Standards are the ones in place.

ANY POTENTIAL IMPACTS OF ADJACENCY OF USES ARE ADDRESSED IN THE ZONING ORDINANCE AND PROFFERS

- While “R” zones would impact setbacks of future Industrial uses, “PUD” zones do not

Section 36.256. — I-1 Light Industrial and I-2 Industrial District Requirements.

A. Setbacks (feet)		
1. Road type	a. U.S. Primary Highway	75
	b. Other roads	50
2. Interior side	a. Adjacent to A, R or MH-1 Districts	50
	b. Adjacent to B or I Districts	70
3. Rear	a. Adjacent to A, R or MH-1 Districts	50
	b. Adjacent to B or I	30
B. Building Heights (maximum)		Lesser of 3 stories or 45 feet ⁽¹⁾

Notes for Table 36.11 I-1 and I-2 District Requirements
 (1) Within 100 feet of a B District, the height shall not exceed the lesser of 2.5 stories or 35 feet.

- Proffered to provide a covenant of non-complaint
- Proffered to notify residents of the adjacent use
- Proffered to conduct sound studies and undertake recommended mitigations
- Revised Plan to increase setbacks from Industrial neighbors
- Revised Plan to enhance screening and buffering
- Revised Plan to reduce residential component to mitigate impacts
- Applicant will consider any other proffers to reduce impacts and ensure no impact on future Industrial
- Support from Economic Development Authority – no issues raised on Industrial impacts

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If there are other proffers to get this completed they will do them. They also have the support of the EDA.

Ms. Monterio came back to finish out the presentation.

CHARACTER OF EXISTING USES IS ONE GOAL OF COMP PLAN AND LEGAL STANDARD OF REVIEW - THE PROPOSAL ADVANCES MANY OTHER GOALS OF THE COMPREHENSIVE PLAN

- Existing uses is one of many factors to be considered
- The proposal advances Plan goals for:
 - Concentrating population growth in DSD (p. 58) and preserving rural areas (p. 51)
 - Providing recreational open space (p. 77, 86)
 - Providing community space (p. 77-78)
 - Enhanced commercial (p. 92)
 - Workforce housing (p. 53, 57)
 - Senior housing (p. 14, 79)
 - Highway improvements (p. 57) - \$297,000
 - Water/sewer improvements - \$403,000

“These developments [PUDs] will be limited to locations within the Development Service District where public benefits, in the form of highway improvements, provision of affordable housing, provision of parks, provision for sites appropriate for construction of needed community facilities, are provided as part of the development approval process in exchange for higher densities.”



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TUESDAY, SEPTEMBER 5TH, 2023

\$1,169,829
in taxes generated at local level (direct, induced, and indirect) during construction period

\$700,000
in additional one-time budget contributions to the local level

\$384,572
in taxes generated at local level (direct, induced, and indirect) yearly during operations

520
Job Opportunities (direct, induced, and indirect) during construction period

15+
New Businesses attracted during operations

40+
Direct Subcontractor Opportunities during construction period



BUDGET CONTRIBUTIONS

\$403,000

towards *water/sewer infrastructure* for for capital improvements related to providing public water/sewer infrastructure that serve the Property and surrounding area, including within the rights of- way and upgrades to withdrawal, transmission, and treatment capacity.

IN ADDITION TO PROJECT COST AND ECONOMIC IMPACTS; APPLICANT WILL PROVIDE ADDITIONAL TOTAL CONTRIBUTION OF

\$700,000
TO THE COUNTY BUDGET

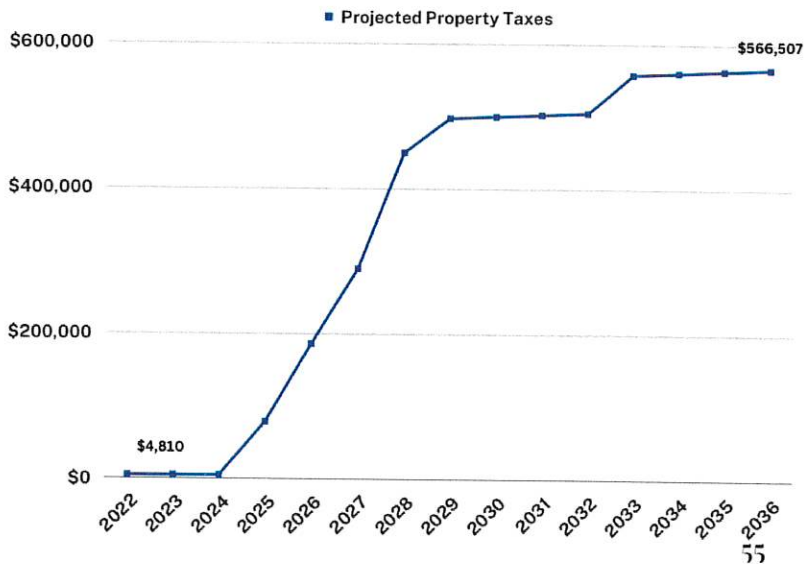
\$100,000

towards *road system infrastructure* for Rte 360 applied toward transportation, safety, bicycle, pedestrian, or other improvements within the rights of-way in the vicinity of the Richmond Highway/Lagrange Industrial Drive intersection or other surrounding area



PROJECTED PROPERTY TAXES

- 10 years from Completion Results in Annual Taxes that are 15x Year 1 Taxes
- Total of over **\$5 million** between 2024 and 2036.





SOCIAL IMPACTS

Community Space

Provide indoor and outdoor flexible and adaptable space

Activity Space

Bringing fitness/wellness spaces (i.e Expression of Interest YMCA)

Walking/Bicycle Trails

Playground

Public Space

Provide open gathering and recreational spaces.

Wrap-around Services for Education

By bringing child development center (i.e Expression of Interest YMCA), learning center (i.e Sylvan) and other tutoring programs that will assist in improving student achievement by transforming how students learn and inspire students to succeed.

ALL COMMUNITY, RECREATIONAL, AND OPEN SPACES ARE OPEN TO THE PUBLIC.

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COUNTY IMPACTS

Essex County School System

Minimal impact on school capacity standpoint but significantly positive impact on the overall school system, school budget, current employees and future employees.

55+ Active Adult

No Impact - No children

Workforce Housing

Minimal Impact -

- Maximum 34 children if every additional household member was child under 18 years old
- Equals 3 teachers using the average 2022 pupil/teacher ratio including resource teachers
- Impact to the budget is \$7,000 per child (Essex County share) to educate each child that lives on the property.

Essex County Emergency Services

Minimal impact on emergency services capacity but positive impact on the overall department, budget and abilities to expand services for future.

- Future Access Points to Medical Facilities
- Secondary Emergency Egress Access

Additional Impacts

See narrative for information regarding additional impacts. Essex Point at Mt Clement will have a net positive impact on current and future for Essex County.

- Department of Social Services
- Environment/Ground-Water Supply
- Refuse System
- Community Service

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IN SUMMARY

- Aligns with Essex County Comprehensive Plan and Zoning Ordinance
- No adverse impact on the County
- Significant social and community investments to the County
- Significant economic contributions to the County
- Development Plan revised substantially

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They have heard from everyone saying it is a great concept and definitely needed. Even those against the project say that and not just on this land. However in 2018 Essex County Planning Commission and Board of Supervisors voted and adopted the comprehensive plan that calls for the growth and development to be concentrated in the development service district. This area sits in that district. If they receive the rezoning then they can bring this development and secure unique state funding to Essex County. If we don't get the rezoning this unique state funding is going to go to the City of Richmond, Charlottesville or Fairfax County. Please let us bring that money to Essex County.



HARRIS-MONTERIO FAMILY STATEMENT

Together, we can bridge the gap in housing, job creation, support the education system, and attract businesses to spur economic development.

When we lift up the economic status of families, we lift up the economic status of communities.

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On behalf of the family they want to thank them for allowing to present. She thanks their team for the hard work over the past 12 months and longer. They hope you thoughtfully consider their application. She can remember coming as a child to Tappahannock all summers, holidays, and many weekends. They would go to Roses, play shop at her grandfathers business, go to First Baptist church and dinner at Lowerys. When she was at St. Margert's walking to Dairy Queen with her classmates. Her grandfather was passionate about the County and they want to build on that legacy of the family and the history of Tappahannock. Investing in the community allows her family, especially her niece and nephew, to continue the passion and love for this community. One day the next generations will be proud of their legacy and where they came from and see their contributions. She hopes it is not too late and become a dream deferred. For those that plan or want to say no she wants you to consider one thing. If your future generations came back to see your vision or legacy go on would you want them to get a 'no' because of fear, personal opinions or those against change. For all that knew my Grandfather and said 'He was a great man, businessman and did a lot for the community, but...' Please take into consideration does he not deserve his legacy passion and hard work to continue. If you wouldn't want this to happen to your family please consider the basis of our rezoning to continue to contribute to a place our family has loved and set roots in for so long.

Commissioner Taliaferro asked if she could go back to slide page 55. She had said something about \$500,000 per year, what was that?

Ms. Monterio stated that is the property taxes that they would pay. They currently pay around \$4,000 today just as land. Once they develop the land they will be paying roughly \$500,000.

Commissioner Taliaferro asked how that figures into that total of \$5 million in 13 years?

Ms. Monterio stated that is over a 15 year span.

Commissioner Taliaferro stated that is a 13 year span so \$5 million in 13 years.

Ms. Monterio stated that when they added all from the property tax report that they submitted when they added all of the property taxes over that time.

Commissioner Taliaferro asked if she could go to the slid about the number of students. 34 max number of students and you have a number of anticipated increase of cost is \$7,000 that is your calculation?

Ms. Monterio stated that what they are saying is that on the workforce housing side, if every additional household member was a child under 18 that would go to the school. The maximum would be 34 children. For the impact to the budget would be the Essex County share of the cost which is \$7,000 so it would be \$7,000 per child. Our taxes that they would pay cover that, double cover that over the course of time. The school system was not one where the County can accept contributions to offset that impact. They submitted it but they are not allowed to accept funds for that. But if we just look at property taxes, not all the other taxes that they would bring in, they would well exceed covering the cost of those 34 children. Which is not likely that every household is going to have a child under 18.

Commissioner Walters asked about they had put out a number that you were going to contribute in your proffer buy you also said you were going to cover the entire cost?

Ms. Monterio stated on their property line which goes to it connect they have 2 water mains and water sewer line on 360 on their property. Adjacent to their property line. They are paying in their project cost

to include connecting to that through any off site improvements and doing all of their current infrastructure. In addition to them covering their cost for water and sewer they are proffering to make a cash contribution to the County because they heard the concern of the surrounding neighbors that they have not been able to get the connections for water and sewer. They are proffering \$403,000 to the County to help them be able to bring that to the,. That is the same with the traffic. They are paying their cost for transportation and in addition \$297,000 of that will go to the County. That if VDOT choses to improve 360 that \$297,000 can go to that or if the County has other transportation needs to make in the surrounding area the money can cover that.

Commissioner Taliaferro stated in one of the slides the R-3 the max building height was 35'. On the elevation drawings one building is 71' and the other is 59'.

Ms. Monterio stated they clarified and it is in their proffered conditions but they did not re do all of their elevations and renderings to come back to you. But they wanted them to proffer the design material in the design characteristics they brought forward. So the elevations and renderings address the design materials and the characteristics that would come with the property. The height and the mix are in the narrative part of the proffered conditions to what they are offering in compliance with the zoning ordinance.

Chairman Jones asked if they had come to an agreement with the Town on the water and sewer?

Ms. Monterio stated no. She stated they can't come to an agreement with the Board of Supervisors until they get to the Board of Supervisors. They can't get to the Board of Supervisors until they get through the Planning Commission. What they have proffered is they will come to an agreement with Board of Supervisors as part of the next step and final site plan approval.

Chairman Jones stated in the comprehensive plan it says on page 54 that the Town and County have agreed to joint water and sewer agreement whereby water and sewer services can be extended in the County by the Town to serve future commercial and industrial uses. The first area to be served in the industrial district at Brays Fork where recent commercial activity has begun.

Ms. Monterio stated that they have approached the Town and County to try to get to an agreement, even prior to the last hearing. The Town has said it is a County issue. So the Board of Supervisors has to weigh in on it. The Board of Supervisors won't meet with them until they get through the planning Commission. They addressed it with, they will get through the agreement before final site plan with the Board of Supervisors because they can't meet with them until they get through the Planning Commission.

Chairman Jones stated in several places that in the industrial development within the district or in the Brays Fork area of 360 afford such access in both park development areas are generally removed from residential development. So on the water and sewer it says it in there twice that it is to be for that area west of Brays Fork for commercial and industrial and then it says to be generally removed from residential.

Ms. Monterio stated they have proffered 2 things. One they have proffered they would get to an agreement with the Board of Supervisors prior to the final site plan and we are proffering to bring water and sewer, provide the County money to bring the water and sewer to the industrial use.

Mr. Whitmore would also like to suggest that the sentence he read that talks about 'generally removed from residential development' is the section he cited in the Business and Employment district designation that talks about alternative industrial uses within the Development Service District. So if you wanted to ask for an industrial use in the Development Service District here is a place you could do it and here is why. He doesn't think that limits their ability to get water and sewer anywhere else.

Chairman Jones stated they talked about this in the last couple of meetings that it says in there that the County and Town have entered into an agreement and was given so many gallons per day. It says in there that those gallons per day should be for commercial and industrial. He is not saying they can't change it but that is what it says in the comprehensive plan.

Commissioner Mundie made a motion to open to public hearing. Commissioner Taliaferro seconded the motion. AYES: 7 NAYES: 0 ABSENT: 0

DRAFT

PUBLIC HEARING SIGN IN SHEET 9/5/2023

ITEM: JUNE MONTARIO C/O 7&M DEVELOPMENT

NAME	ADDRESS	VOTING DISTRICT
Dorothy Greenham		
✓ Mark Romey	5510 Riversdale Dr Richmond	
✓ Rev. C. R. Holmes	103 Noels P Tapp.	
✓ Joanne C. Moore	P/O Box 38 Caret, VA	
✓ Linda Barnes	370 Laurel Park Rd. Tapp.	Central
✓ Barry Bates	857 Crabbers Mill Rd Tapp. VA	North
✓ Ray Whitaker	145 Chesapeake Circle JUNE MONTARIO	South
✓ SANDRA Baytops	461 Meadow Dr	Central
✓ Hannah Tiffany	407 Prince St Tapp'k	Business Owner
✓ Perry Aickman	251 Aickman Tappahaunock, VA	North
✓ Robert Rollins Jr	6437 Tidewater Trail Champlain VA 22438	North
✓ Benny Whittaker	513 Rockingham Rd Dunnsville, VA	
✓ Tracy J Roberts	828 Lake Dr Tappahaunock VA	Business Owner
✓ Nancyellen Keane for Tidewater Lumber Corp	1957 Tidewater 661 Richmond Hwy	
✓ SARAH LAVICKA	500 SAND LANDING RD TAPP	CENTRAL
✓ Madeline Y. LAWSON	1955 Tidewater Trail TAPP VA 22438	Central

Harry Thomas

✓ Harry Thomas	Sch. / DINA -	
✓ Maria Pitts	Tapp. Planning Comm.	

✓ Orlando Washburn

✓ Donnan Gresham

~~John A. ...~~

✓ Nancy Ellen Keen

Mark Romer, 5510 Riverside Dr, owner of James River Equipment stated they have been there 20 years. They have 12 acres, 50,000 sq ft, 55 employees, over 100 pieces of equipment that are noisy and have federally mandated safety alarms when they back up. They work hard to be good citizens but they are not a good neighbor for an apartment complex. He is in favor of more housing and more apartments in particular. He would like to support it in some way. Isn't there some way we could find these people 15 acres and trade them for this piece? They have a great plan but a difficult proposed location. As he understands it the point of zoning is to manage which uses are next to each other. They do not want to be next to residential. He does not believe they would allow them to move next to a residential activity. It will end sadly if you let them locate next to us. He saw a provision with a covenant not to complain about noise. 5-10 years from now when a machine alarm wakes a baby or a grandfather there will be a lot of unhappiness regardless. He would close by saying this area needs more residential. There are components of this plan that are very well thought out but there is a fundamental flaw where they have picked a location that isn't suitable. He would ask that the county find them 15 acres and trade them in a more compatible area. Don't put those people who are going to need apartments who to the places because there are a little cheaper and put them in a situation where we have heavy trucks, dust and noise and probably most of the people in this room will be long gone 10 years from now. The nature of their business will be in the long haul. Your counter parts, the lawyers and planners will be going. The point of zoning is to protect those people who rent an apartment from being in a space that really isn't in a space meant for living.

Rev. Holmes, Pastor First Baptist Church Tappahannock, stated he lives in Hobbs Hole. They have the benefit of hearing the noise from the combine and appreciate it. They also have the benefit of hearing the lumber mill company and appreciate that. They are part of the neighborhood. He welcomes the new zoning Administrator Mr. Barnes. In reading his information in the paper he stated he wants to make sure he provides clear information so the public and the board can work together and do what is best for the County long range. He is reminded from his days in Theology the thought from the German Philosopher Soren Kierkegaard, 'Important part of having public information, good information is that we

make our decisions on sound information, empirical information and not be fooled. There are 2 ways to be fooled. One is to believe what is not true and the other is to refuse to believe what is true.' We have had a lot of experts come and say what is true. Everyone says we need this but not right here. He lives in the area, he has been sown both streets. People already live beside these institutions. We hear these sounds. That is part of who Tappahannock is. Lets' deal with the truth. The truth is we need affordable housing, that is the truth. The truth is this group is willing to make proffers to make the houses more sound proof. The truth is many of our employees have to go elsewhere to live. The truth is we need more revenue for the County. The truth is it is not about, he heard the term 'these people', he knows it wasn't meant to be not collective but we are all together. We are all in this together. If a truck makes a loud noise he hears it but the key is he appreciates it. That is part of a small town. If a small town is going to survive we have to have places for them to live and places for them to work. Lets make sure as we go forward we base our information on truth.

Joann Moore resident for at least 26 years. She has been visiting the area since 1985. When she arrived in 1997 Tappahannock was the hub of the area of the Northern Neck. People came to do their shopping because there was nothing else in the surrounding counties. However, since that time a shole lot has changed and not necessarily for the better. Essex County has been at a standstill for the past decade. The other counties have done their due diligence regarding Economic Development and developing projects that will include things for the community to do young and old. She can't say the same about Tappahannock. If anything we have gone backwards. Just this summer alone we have lost two restaurants and we don't really have a choice as to where we shop for food. There are only 2 stores. If you don't shop at Walmart or Food Lion the only places we have left are country stores. As far as dress stores the only place we have is CATO unless we go to Richmond. We though when Peebles left we would get another dress store but we got a plumbing place that does nothing for anyone. Unless you are a plumber. So there is an over abundance of Auto parts stores, car washes, gas stations, convenience stores, and vapes shops just to mention a few. Not to mention nothing for the kids to do. There are also no walking trails. She knows women that have to go up to the school in the morning because it is not safe where they have no place to walk, no place to exercise, no pool area. We now have Ms. Monterio who is proposing the Bray's Park Development that will be a benefit to everyone in the County. This development will not only benefit our area by bringing in a tremendous amount of tax revenue, in addition to the education system but for the entire community by bringing jobs, entertainment, affordable housing, and walking trails. She attended a session where she explained what her team was going to brin. It is an excellent project and we cannot pass on this. However, it seems that when she meets one goal the bar keeps moving. The studies have been done, her team has stepped up and gone way beyond what they need to do. They are offering this project basically for free. Who wants to turn that down. No other developer will offer what she is offering. It would be a detriment to the people of this County if this project doesn't go forward. Take the politics, the preconceived ideas and rumors out of the equation and do what is best for this community.

Linda Barnes, retired from Essex County Public Schools for the last time in 2013. She moved from her ancestral home to Tappahannock 25 years ago to bring her daughter where she was going to school so she could have visits from her friends. She retired in 2013 and that does not make her young. She is beginning to see another zero coming and it is not 50. Her and her husband are retired, they live on a fixed income. Thanks to the Chesapeake Bay Act she just spent \$37,000 to put in a new septic system. She did not have all that money to do that and had to do some finagling of finances to get it done.

Shortly after that she had to spend \$13,000 to bring her major bathroom up to code. Her house was built in 1967 in Laurel Park. They are getting to the point that they can't take care of the property anymore because they don't have the money to do it. Her home is in a nice location, great community. You can walk on the road in Laurel Park, You can walk down Wilson Acres Rd if you like to walk on gravel. This proposal is making it so that if her and her husband if they could procure one of these apartments can stay in this area. They have already looked at places in Mechanicsville, across the road from Memorial Hospital, in Gloucester, they have not looked in Fredericksburg yet. Their families are here. Her kids live in King and Queen so they are only 20 minutes away. A lot of them are getting to the point where they need some where to move where they don't have to worry about when the winter comes that the pipes are going to freeze. Especially since they got the fancy new system worked on Friday at the cost of \$417 only to have Saturday morning the alarm back on. She is ready to let somebody else do that. This proposal that can do walking, she can take her teaching skills down to where that want to do that for the children. She wants to live in a mixed community not just a mixed community of age. She wants to live in a community that looks like the rest of the community. She grew up in King and Queen, you can't be any more rural than that. In Laurel Park she can hear the jake brake going down 17 and the motorcycles going up 17. She is not worried about those industrial sounds. She is like Rev. Holmes, she knows that people have to work, that's a good thing. She is not worried about the noise level. Noise doesn't bother her. She is not going to have a crying baby in her house. Just think about what others are saying. She is saying this is a great place for senior citizens and she doesn't mind being a senior. She wants this to come to this community because it is needed. It is not just needed it is beyond a need.

Barry Bates, 854 Crittenden's Mill Rd, stated that this project started about 12 months ago. At the time it was under the old zoning ordinance which would have been 50 acres. Since that time, December 2022, he is assuming that Essex County did want a PUD or certainly wanted to make it more lenient so they lowered it to 15 acres which is a 70% reduction. Since that time we now have an applicant asking for another approximately 10-11% reduction from the new code so now we are talking 80%+ reduction in area size within the last 12 months since this first started being planned. If we set the precedent with this and it goes through, say you recommend it here and it makes it through to the Board, and the Variance on the acres makes it through the BZA and the Town of Tappahannock agrees to run and maintain a pump station to run the sewer. Why are we even doing acreage limit? What is going to stop the 11 acre track in that same general area from becoming high density housing and squeezing the industrial park further in the future? Zoning is in place to protect those already there who are already invested and this should be especially true for an industrial park. As far as they know there could be further investment in the industrial park waiting to see how this plays out. If their investment or future investments are going to be protected by appropriate zoning. He has another question that he brought up in June, but the more he researches he does not agree that the parcel is business. He believes it is half industrial and if we go back and read the zoning book where it talks about scaling it would probably prove that point and any dispute should be settled by the Board of Supervisors.

Ray Whitiker, 145 Chinquapin Rd., stated he comes before them to endorse this project. One reason is in 1969 he came here as a math teacher. He didn't have anywhere to stay. You heard that from the Rappahannock Times presenter the last time. There was no housing for him. Eventually thanks to Mr. Cary they were able to get Harry and Mary Jones to allow him a room in their own residency. Not an apartment but a room. Later on because he lost his parents in 1968 he became a family man. He had 4

sisters and brothers that he brought up here to stay with him. He only had one room. This is an answer to a prayer from this family on housing. As an educator he can tell you he gave this County 53 years of education. We are missing the boat as tax payers. We are missing the boat if we don't adopt something that will help the tax coffers in Essex County. There is always a need for money. He doesn't care what you do, all planners know we need money. The Essex County Public Schools are in need of staffers. Teachers aren't cheap and we still don't pay them enough. He is saying that an opportunity like this, other counties would take the influx of the revenues and find a way to make this project happen. One other concern he has is that this young lady inherited this property from her father. How dare we tell her to go somewhere else with her property. You can't do that. What is mine is mine. There are some of you sitting here that are large landowners. How would you feel if someone told you to move your business to another location? That is an insult. So he is telling them he is 76 years old, he will be 77 October 3. What's for him is for him. He is for children, he is for the County, he is for the education, he is for the educators who spoke so graciously a few minutes ago. Let's do the right thing for our folks.

Sandra Baytops, 461 Meadow Dr., stated she attended the June meeting on this very project. She did not speak because she knew nothing about the project. She was there to listen and to learn. Having sat through that meeting, hearing the pro's and con's and having attended 2 separate presentations by Ms. Monterio. She stands to speak tonight in support of the Essex Point at Mt. Clement Project. She is in support of the project for several reasons but she will give her 2 main reasons. It would address a critical need for affordable housing in Essex County. Second it would be an economic benefit to the county as far as tax revenue and to the business community. She thinks they all heard that in the presentation. If you want to attract people to Essex County you need to provide a place for them to live. As a retiree, she moved to Essex 18 years ago. She had to build a home in order to have a place to live because there was no such thing as housing for seniors. 18 years later there is still no such thing as housing for seniors. Not everyone wants to and can build a home. At her age now if she wanted to move to Essex today she would not even consider it because she wouldn't want to build a home with the maintenance and yard work that goes with it. If there was a senior housing community that would be very attractive to her. It is time for Essex County to move forward by addressing the need for affordable housing. She urges the Planning Commission to grant the necessary variance and approve the Essex point project at Mt. Clement.

Hanny Tiffany, owner of Tiffany Properties in Tappahannock, stated she was born and raised in Essex County. She lives in Warsaw but her heart is in Essex. First, history has taught us we want our youth to come back and give back to their community. We are blessed that Ms. Monterio has chosen to come back to Essex County and give back to the community. She has been in Real Estate for 20 years and there were needs for senior housing and affordable housing even 20 years ago. Ms. Monterio is willing to do the work. She has done the research to address these problems that were in existence 20 years ago. In fact senior housing has really only been the condos, if you could afford them and if you could get on the long waiting list for them. She sells homes for people who are aging out of their homes and they want to stay here and be near their families. In order to become a health society we need to meet the needs of all the people in our community, that is senior housing. The Monterio's and the 7&M project are also addressing the needs of our children and families. Families need affordable housing. The average cost of a single family home, 1,100-1,200 sq ft, which doesn't really fit a full family is \$349,000. Do you know any teachers that can afford that for a home? Do you know any nurses that can afford that? You want workers to fill business but you don't want homes that you can afford. Restaurants, the

two that closed mostly because they could not find staff. You go into 528 and most of his staff is from Colonial Beach or Fredericksburg. Every restauranter says the find employees. She doesn't shop very often so she hardly goes into Walmart. There was only one register and not he self checkout because they didn't have anyone to monitor. So at 4PM on Friday afternoon and there was one register. She guess it is because they can't find people to work because they can't find anywhere to live. She is begging them not to miss this. This project, that are putting g in the effort, putting in the money. This is a top quality plant that we don't usually get offered. Don't throw it away.

Perry Hickman, 251 Hickman Rd, stated he has been a permanent or part-time resident for 60 years. The project you have in front of you, you have heard a lot of good things about it. He thinks this project is going to create a lot of economic opportunities for the County. First, it is going to increase your tax base. Second, opportunities to lesson the outward migration of our local talent. Third, it will allow our seniors to stay near family as they age out. Fourth, job creation, several jobs, not a lot but some jobs are going to be created by this opportunity. It is going to be minimal long term expense to the County because as the prestation mentioned a lot of the upfront early cost are going to be buried by their developers. The county budget, not a lot will be added to it. Also in the comprehensive plan, this model fits what you have indicated as necessary in the comprehensive plan. Enhancements from this project, workforce housing. Several people have mentioned the opportunities for affordable housing. You aren't going to get individuals in here if they can't afford to stay. Community Centers, they are going to provide a community center as part of this development. Total impacts from this project are very minimal impact to public safety, very minimal impact to the school system because as mentioned previously 55+ won't have every many kids living with them Also as part of the waste water treatment facility its going to maximize utilization of that. With that system it is going to age out anyway. You may as well take advantage of that when you have people putting money into the system. The only drawbacks he sees with this project is the traffic issue and it has been present that VDOT is in acceptance of their plan. Earlier he heard some talk about noise pollution. Being 60 years old himself he can't hear as much as he used to. Some is intentional and some is unintentional. With that being said he doesn't think that is going to be a huge issue. He is fully behind this project because a project of this size with minimal expenses to the County he doesn't see how we cannot move forward with it.

Robert Rollins Jr., 6437 Tidewater Trail, stated he went to school here and was taught algebra by Mr. Whitiker. He moved away from this area to Richmond but moved back because he wanted to get away from the city. Being in the city he had become accustomed to a few accustomed to a few convivences. HE thought he would come and Netflix and chill but the internet isn't too good. So he thought he would join River Fitness but they didn't have a pool and closed shortly after he joined. He figured he would go to Lowerys for breakfast but they closed and then Shoney's closed. So he said he would go to Westmoreland State Park but they closed their pool on him. He listened to this families legacy and what they are bringing to the table. Let's face it, you guys run budgets. We need to create revenue to provide goods and services to our citizens. They are coming in offering to pay for things. In DC developers come in and say you want to cover the sewage, you want to cover the highway, and you want to cover the infrastructure. These people are coming in and want to make a contribution to the water and sewer. We have to step up and grow. When he first got down here some of the things were so different. He appreciates the quiet but he wants a few things here. Housing is a very tough situation. He has learned that you come with a developer ad proposal, you come with a County and a Board and they should work together, hand in hand to tweak this project so the tax paying citizens of this County are the beneficiary

of everything. He hasn't been around a lot of development on this side but he has never seen someone come so willing to supplement their own project.

Randy Whitiker, 513 Rockingham Rd, stated he owns a summer home in Essex and a commercial business and land in LaGrange Industrial Park. This proposed project, as he looks at the map seems to adjoin some of their property. He sees this plan as a disaster for several reasons. Putting a residential neighborhood next to an established industrial park will not work. Local businesses loading and unloading trucks, trailers and equipment, roll backs and so on, truck motors running all hours of the night and day. One of the biggest things of LaGrange Industrial Park is that not 100% of this is built out yet. Whatever businesses decides to come now will surely bring more noise and possibly a 24 hour a day operation. He is telling them this because he feels he has a lot of experience in cases like this as he has been on the planning commission in Hanover County for the past 12 years. He has sat on the board of plan RVA for the past 8 years that includes 9 counties, City of Ashland and the City of Richmond. One case comes to mind that is a very similarly case is Wegman's distribution in Hanover county. In 1998, 200 acres next to Hanover Industrial park was rezoned from A-1 to commercial uses. Since that land was zoned in 1998 three or more double sided signs, 4x8 letter signs were posted on the property advertising the land available for commercial uses. Since that land was rezoned in 1998 three or four residential neighborhoods have been built on the other side of Sliding Hill Rd. If you have watched any local news in the past 4 years you have heard about the people in those subdivisions suing Hanover County, Hanover County Board of Supervisors and the Wegman family. One case has been all the way to the Virginia Supreme Court. He sees these two cases as being very similar. As far as the plan goes for this project it is a great plan. It can be something Essex County can be proud of. He is sorry it is in the wrong location. They need to find a better location. He has probably heard 200 of these things in his life but this thing of someone saying 'we are going to proffer something that is going to not get you to call the Sheriff's Dept.' If he gets called and they say they proffered something so they can't do anything, that is unheard of and is not going to work. He wants to ask them one question. If any application came in asking you to put a commercial park beside a residential neighborhood he doesn't think you would even consider it.

Tracy Roberts, 828 Lake Dr., stated he is a construction contractor of over 30 years. He doesn't really have any business here in Essex or Tappahannock because there really isn't any business for someone like him. All his business is in Richmond, Henrico, Chesterfield, Hanover, Goochland, Louisa, and Powatan. This proposal looks good on the outside but the only thing it doesn't have on the inside is business to draw more into the County. What is here to help pull businesses into the County? He sees it going what not coming back in. You will constantly build more for people but you have to have places for people to work and shop and live. You don't have that so you build an other place for people to live. They are going to have to work somewhere else, the revenues will go somewhere else. They won't stay here because they don't have anywhere to shop here. He works in big areas and he sees it everyday where they are building places that is drawing people in. You need to pull business and corporations into this County. There is plenty of property to do this in. You need tax money, your residents aren't going to feed the tax coffer forever. You have to have a business to feed it better and the only way you are going to get a good base from revenue is from business. He has been in business for over 30 years and he has seen it.

Sara Lavicka, 500 Sand Landing Rd, stated she lives in the central district. She simply wants to recount a appointment she had at Riverside Medical Center recently. She talked to two office workers, a

registered nurse and a nurse practitioner. When she mentioned the project in every case they looked at her like that would be great. People here are from everywhere, they have to drive to Riverside Medical Center. We all agree this is a bonus for the community. Other communities are losing their hospitals. They are bringing people from Richmond. But, how about not bringing them from Richmond? How about having them here. These are just ordinary people who would be servicing these businesses the gentleman was speaking about. You can't have business without people to service them to work in them and serve others in the community. This particular project is directed to those essential people that will keep us safe, teach our children and keeps us healthy. Please support this project. There are ways to make this happen and you have the power to recommend it to the Board of Supervisors.

Madeline Lawson, 19551 Tidewater Trail, stated she lives in what some may say is the Gold Coast. In the Gold Coast she is awakened every morning about 4:00 by the traffic that goes up 17, so noise is everywhere in Tappahannock. She was here in June when the Monterio's presented their proposal and spoke in support of it. Since then they have made major modifications and many concessions and she wants to go on record to support them again. She wants to say it is almost a no brainer. We are spending this amount of time in looking at this proposal of this family who has been here over 100 years. They are still willing to invest in this community in such a major way. She was born in Essex, she moved away to go to school, she came back to visit and in 1009 she purchased a home here. She moved here a year ago to live full time. Since she was here it was very clear that we are missing so much in Essex County. A lot of what we are missing is because we don't have the revenue to take care of bringing in additional business and housing, to have opportunities for children and family, it is a revenue issue. How we would not consider having a development enter our community that will bring so much in such a positive way there was nothing negative about what is being proposed. We can fault with the noise or a lot of things that they have addressed in their concessions. She urges them to take option 1 which is the recommendation from the staff is to recommend to the Board of Supervisors to approve this. If you want to see progress in Essex we must bring in revenue. It is not here. If you want to continue to talk about low income housing and whose living and what we have and the opportunities to attract more people here. We have to make changes. She urges them to do that, recommend to the Board of Supervisors to approve this project.

Sarah Dixon stated she lives at Brays Fork and she is here in support of the Mt. Clement project.

Harry Thomas, superintendent of Essex County Public Schools. He chose to come and speak on behalf of this planned unit development proposal and the potential impact on the school division. He has met with Ms. Monterio on numerous occasions to study the potential impact of this project on the schools. It has been articulated by some and a concern by him of the possibility of bringing in additional low income housing. He can speak on low income housing because he was a low income student once upon a time. They currently have a free and reduced rate in the school system of 65%. Students of low income require additional funding to mitigate economic challenges, social and emotional challenges. In his time with Ms. Monterio she has indicated to him that the housing component of this project is for middle income families. Provided what he has reviewed and studied with this proposal he feels this project could be beneficial to the schools in 2 ways. To generate additional revenue and middle-income housing for public service workers, such as teachers. Going into his 5th year in the school division here two out of the prior 4 years he has experienced a budget cut of \$250,000. That total cut is \$500,000. Why has that occurred? Because the tax rate on housing here has been historically high. So what is the resolution? The resolution is additional revenue. HE supports this project for revenue to operate our schools. He

thinks the general public would be surprised how closely our students perform on the SOL's compared to Richmond County. When he compares the two school divisions the distinct differences he sees is the demographic of the students that comprise each school division. Additional funding for the school would generate more activity in terms of middle income families bringing students back to the school division. There are roughly 200 students within Essex County that do not attend the school division. They attend Richmond County Schools and a select number of private schools in the area. Why is that the case? It is the case because of additional funds we need for honors programs, additional funding needed for STEM, additional funding we need for programs like International Baccalaureate. In addition to this reason he sites the reason of middle income housing for teachers. When teachers leave the school division we administer an exit survey. Routinely one reason teachers leave ECPS and the area is because of the lack of affordable housing. Many of our young teachers commute in from Richmond and Fredericksburg and other localities because of the lack of Middle income housing. The two areas in question, additional funding to help meet the operating cost needs of the school division could come about with this project. Additionally middle income housing that we can offer prospective candidate as teachers to attract them and retain them so because of the set two reasons he asks that they support this project. He thinks it is an opportunity for the County to generate additional revenue and likewise support the schools.

Maria Pitts stated she is on the Tappahannock Planning Commission. She is 42 and born and raised in DC. They moved here in 1989. Her mom is Dr. Sonja Jons and lives with her now. Her mom is renovating her house but is getting up in age and a project like this would be helpful to someone like her. Hearing the comments from the educators makes her sad. They have the ability to be a part of history. Her mom bought her house in 1983 but she could not buy it. She had to sell it to the person who built it, who was not a person of color. A year later he sold it to her. We of Tappahannock have come very far. This town has a lot of history and the County has a lot of history. Let's not go backwards. Let's do something that can make history. You are sitting in seats that is just going to be the first, 'yes'. It has been 12 months. She looked at this project, she heard it at a music festival and she said it sounds good but lets get down to what this is really about. She wanted to make sure it was not going to be subsidized housing. This is affordable housing and there is a big difference. People have to work to pay their mortgage. People who are older can be locked in at more affordable cost. People keep saying 'residential.' This is a multi-use property. It is their property not owned by County. So it is unfortunate to hear citizens who have worked just as hard over the past 100 years to say 'send her somewhere else.' That is not OK. She encourages them to think very hard about how easy it is to say 'no' and what you are missing. When you say 'yes' you are opening doors for other people to do things for this town. And to answer the statement along the line of 'how do you create revenue?' If she wasn't married she couldn't afford to live in Tappahannock, but she is married. She pays County and Town taxes. She buys groceries here that is taxed, she gets gas that is taxed. So you all are getting her money. She is grateful for this town and this history. She wants to be a part of a community that literally came out in support of this. Sitting in these hard seats for a long time hoping for their first 'yes.' She supports it.

Orlando Washington stated many have sight but few have vision. You have the opportunity here to show that. He is honored to be in this town, to hear the people speaking for and against. Just the fact that the constitution can be delivered here in such a majorful way. He wants to thank Thomas and Irene Harris' children and grandchildren. If you knew this man it wouldn't be a question about this. He hears a lot of colonizing language tonight. He couldn't imagine owning land well over 100 years and someone tell me what to do with it. It sounds un-American to him. They are doing everything that has been asked

over and beyond. He personally gets asked weekly for places to live by residents here. There is a homeless issue in this town whether you know it or not. They just jump from couch to couch. He remembered giving a call to Mr. Harris and Mr. Cary to help someone who was sleeping in the post office. You have an opportunity to do that. He hopes they do. He hopes that everyone reaches out to the Board of Directors and getting ready for voting time. When the time comes because the buck does stop there as well. He asks tonight that 1) the gentleman complaining about the noise up there. There are already apartments up there. Noise is no big deal in this town. He lives on Marsh St., the pool is next door, the school is up the road. He gets up when he is done sleeping but the busses still go at 6 every morning. He hears the bangs, the whistles, and the kids, no problem, that is what we do in a small town. He wanted to thank Ms. Monterio, he watched her as a kid and she didn't have to do this. We send our kids off to college every year. Who comes home to do this? She chose to do this. He would expect nothing less because she is the grandchild of Tomas and Irene Harris who loved this town, brough revenue to this town, they helped this town. Here is someone wanting to do that. Please don't let them go someplace else. It doesn't make good sense to him.

Dorothy Greshem stated she has been a resident of Essex since she was 8 years old. As a matter of fact Mr. and Mrs. Harris gave her her first job as a high school student at Essex County High School. They were one of the best families you could come in contact with. She is so proud of their granddaughter who is trying to carry out her dream to do something for the seniors. We have a lot of senior residents that have to leave Essex because we don't have a project of that nature. She is hoping with all of her heart. She prays that Ms. Monterio dream will come true.

Nancy Ellen King, Attorney with Dutton, Simmons & Dutton, she is representing Tidewater Lumber, a neighbor of the parcel at tax map 36-43 that is the subject of the application to rezone from B-1 to PUD. Tidewater lumber has been located in Essex County, Brays Fork, Route 360 corridor for over 80 years. The business is the largest for wood fiber in Essex County and supports the Forestry portion of the comprehensive plan. It is one of few remaining softwood saw mills. It operates an intense manufacturing site with heavy machinery. It employs about 50 people. It receives about 100 trucks per day into its property which fronts 360. Tractor trailer delivery and pick-ups are made 24/7/365 from the mill. Various aspects of the mill work round the clock at this location. She has been authorized by a number of businesses in and near the industrial park adjacent to the parcel, are represented here tonight, including David Stokes of Essex Recycling, Scott Schooler of the Top Shop Custom Countertop manufacturing, Randy Whitiker owner of industrial building with numerous tenants, Matthew Fleet, owner of property and representative of James River Equipment as well as Mark Romer the CEO of James River Equipment. All of these businesses are not in favor of this application and ask the Planning Commission to recommend denial of the application. A lot of time has been spent over months discussing the development plans, the aesthetics, details whether there will be a gym, how the income levels for apartments will line up with local jobs and so forth. These are side issues. The only issue for the planning commission tonight is whether the zoning application to PUD should be approved for this parcel. It is a watershed issue. The Planning Commission must determine 3 things. Is the project substantially in accord with the comprehensive plan, is it compatible with surrounding land use and does it comply with existing ordinance. The answer to all three questions should be no. We urge the planning commission to recommend denial for the following reasons. First, the application is not substantially in accord with the comprehensive plan. The VA Code requires that the planning commission determine that the application is substantially in accord with the comprehensive plan in

order to rezone the property. The comprehensive plan clearly states in several places page 54, 55, & 59 that Bray's Fork and Route 360 corridor are designated as industrial area with noteworthy reference on page 55 to the industrial as generally removed from residential development. Here the application is not substantially in accord and the commission is not able to make this finding and the application should be denied. Similarly the Essex County Comprehensive plan on page 56, in the PUD section itself, says that PUD's that are floating zone district may be brought to the land only in these areas which meet the standards framed by the County ordinance which this does not. As the applicant is looking for 3 exceptions from the PUD ordinance. Essex County's comprehensive plan on page 51 which is the first page of the land use section sites objectives for the land use, future land use. By using references to compatibility being very important. For example, provide land areas for balanced future commercial and industrial development in locations which are compatible with existing and planned residential development, encourage development that is in keeping with existing land uses. The second reason you should recommend denial is the application is incompatible with adjacent land uses. A PUD zone is incompatible with adjacent industrial land use to support that. She would say on page 51 is a major issue as an objective to the comprehensive plan and is very important. Residences in this project would be exposed to noise, smells, dust, light and traffic that is allowed by right on an industrial property. These noises, smells, dust, light and traffic issues are not compatible with residential use. Imagine you are sitting on your porch at the project that has been built. It is aesthetically pleasing, you are sitting on your porch expecting to hear crickets and birds. Instead you hear noise associated with heavy machinery, business and tractor trailers, you are smelling products of the business operation and vehicle exhaust. You notice dust on your porch, vehicles and your windows. You see commercial lights around you all night and you hear squealing brakes, air compressors, motors, tools and other sound associated with business and 100's of tractor trailers. One thing she wanted to mention is the offer that was proffered as a covenant not to complain. The applicant has offered this, this tells us they know there is a problem with compatibility to offer not to complain about the properties. They don't believe it is enforceable. The County has told them they will have nothing to do with this covenant and will not enforce it. It may be unconstitutional using this as a means to correct the means of compatibility or incompatibility is not workable. That plus the final issue is they sought 3 exceptions to the zoning ordinance. They went over them in the staff report but they can't meet all the conditions of the zoning ordinance, the frame that is the third basis on which the recommendation would be denial.

Commissioner Segar stated that there were houses there before the lumber yard and before all of that was built there. Why did they build there? There were houses and families already there.

Mrs. King stated she believes there is a house down the road but does not know what the zoning is back there.

Commissioner Segar stated there is a lot of houses back there. There have always been houses there when they moved in. So why not let someone else move in.

Commissioner Taliaferro made a motion to come out of the public hearing portion. Commissioner Stevens seconded the motion. AYES: 7 NAYES: 0 ABSENT: 0

Commissioner Segar stated she probably said hers too soon but does not think it is fair to pick on this young lady. She has done everything this board has asked for. She doesn't understand and maybe she is out of place but she doesn't think it is fair to her or her family.

Commissioner Taliaferro still wants to address the cost. There has been a lot of talk about the revenue and how much revenue it is going to produce and we need revenue. But if he understands the presentation in the next 13 years from 2024-2036 this project is going to generate a revenue of over \$5,000,000 to County coffers. He went to the website today to double check numbers and he went through this exercise last time and went through it three times today. No matter how he approaches it he comes up with the same conclusion. At Essex High School last year there were 508 students enrolled, Intermediate school 365 students and the elementary school 520 students. So the Essex school enrollment was 1393 students. The 22-23 grand total budget was \$24,101,683. When you add 34 new students you don't need a superintendent, you don't need new administration, vehicles and so forth. If you go through the budget with his calculation he removed roughly \$6,000,000 from the budget to get back to student only, teacher salary, materials and student oriented costs. That was \$18,512,510. So the calculations is \$13,289 per student. If he understands her \$7,000 was over and above what your revenue was providing. He respectfully disagrees with he \$7,000 based on the numbers of the actual expenditures on the Essex County website. Long story short, if you project that for 34 students over 13 years it is a negative income to the County and not a positive.

Ms. Monterio stated on the senior housing it is 55+ so there are no children there. Everyone who lives there has to be 55+. On the workforce housing side the worst case scenario is 34 children.

Commissioner Taliaferro state that is what planners have to do is to project.

Ms. Monterio stated they are projecting the worst case scenario in terms of the number of children. If you look at the school board data that is on their site the per child cost is \$14,000. The Essex County portion is \$7,000, the state portion is \$7,000. The state covers half of the cost. It is \$14,000 per child, the state covers half and Essex County covers the other half. If it is \$14,000 the state covers \$7,000, Essex County covers \$7,000. The slide was that the cost to the County for the worst case scenario of the 34 children is \$7,000 per child.

Commissioner Taliaferro asked about the tax revenue?

Ms. Monterio stated that their tax revenue that would come to the local count, what she utilized was the example was just the example was just the land taxes. It would cover the impact to the school system of having those worst case scenarios of 34 children.

Commissioner Taliaferro asked where the \$384,572 annual direct income to the County came from?

Ms. Monterio stated the economic impact report that they provided to you.

Commissioner Taliaferro stated that it did not include the land tax.

Ms. Monterio stated that they also provided a property land tax analysis there. There were two reports provided. One was the Economic impact study that covers all tax revenue, whether it is sales tax, individual tax, business tax, projected tax revenue as a result of this.

Commissioner Taliaferro asked if that included the real estate tax?

Ms. Monterio stated the second report provided was the property tax study which was what the project property taxes would be as they go through construction and development and that is the report they provided.

Commissioner Taliaferro asked if that is where the \$5,000,000 comes from?

Ms. Monterio stated yes.

Commissioner Taliaferro asked if the \$5,000,000 is real estate tax in addition to the \$384,000 for Economic Impact?

Ms. Monterio stated that there were two numbers they provided for that. It is \$1,000,000+ during construction and \$384,000 during operations.

Commissioner Walters stated that in section 3-26.242 we talk about in the zoning ordinance standard exceptions and how do we evaluate them. One of the criteria is if these exceptions are in such a nature or located so to have a detrimental influence on the area. He likes the concept and we do need the affordable housing in this area but the detrimental aspects of it in the exception for the one ingress/egress is significant and carries a significant risk. Especially over the longer time frame. VDOT says the loading is ok but the basic fact that you have to do U-turns at LaGrange and U-turns at Hospital Rd. and with Brays Fork intersection it is not a loading problem, it is a geometry problem. He is concerned with having people who don't know the area do a U-turn at Hospital Rd., see traffic coming from all different directions and then have to get across two lanes of traffic to turn right into there and people who live there having to go to the grocery store having to turn right and do a U-turn at LaGrange which is not a square intersection either to get back down to Bray's Fork and into town that way. There is a significant risk and it is going to get worse with the traffic and all the risk of the traveling public. He also has concern that they will have to clear 11 acres at the top of the hill and the stormwater management for that is underground reservoirs that feed into a dry creek. It may be will designed but it is designed to standards we have now for weather events that exist now. With climate change these weather events are going to get worse. He has a concern that the storm water will go right into that creek bed and effect the people below and possible Hospital Rd. Hospital Rd., is in between that development and the river. He has a concern over time especially in the long term.

Mr. Whitmore stated with respect to the stormwater management he thinks it is something that Shiree reference at the beginning is the first of many steps. It is something that gets addressed at the final site plan stated. We basically designed this to be in compliance and meet all the storm water management requirements but the fact does exist that those standards do

change. The big change in 2012 with the new DEQ stormwater management standards. When we come in for the final site plan that is going to be judged and reviewed by the standards that are in place at the time. So you are right those may very well change if there are higher standards that we have to do that is something we can design. But we are not at the hyper granular level to the final site plan. With respect to that, he is sure Craig will have something to add, with respect to the traffic issues they certainly understand the concern that is why they made the proffers related to the transportation improvements having meetings with VDOT to make sure that we are minimizing any impact in that area.

Mr. Craig Catarsky, with Timmons, civil engineer, stated he had a couple of things to add. One they do have some wetlands in the area. They have mapped these and been approved by DEQ with their agreement as to where those wetlands and things. Where stormwater management is concerned, the way regulations are right now the more frequent storm events, the one year storm event, when they go through and design this they will probably end up reducing the runoff from the site to 20% of the flow as it is now that is state requirements that they would adhere to and the for the 10 year system event, the larger storm event, they are meeting the flow off of the site as it is today by creating the underground retention systems, using bioretention facilities, other best management practices and storm water managements measures to address each of those rain events and also honoring those drainage divides that exist on the site. Some of them go to the wetland area there are a few low areas on the property so we honor the drainage divides. Sucha that we aren't putting more water or more flow into one of these drainage areas.

Chairman Jones asked if that answered his question?

Commissioner Walters stated no.

Chairman Jones stated that is was said earlier that their duty tonight is not to determine if this is a good project because we could arguably say that every single need that the Monterio's said they were going to supply would meet a need. In his opinion, their duty is not to decide if it is a good project or not but does the plan meet the requirements of the zoning ordinance and the Comprehensive Plan substantially and it is the best use of land for where it is. He heard it earlier that nobody likes to be told what to do with their land including him. Unfortunately we do have zoning rules and the comprehensive plan that not only protect him but everyone of the citizens that is out there against yourself and your neighbor. So we can all get along. There are rules we have to stick by and variance which is what Shiree and them are asking for tonight. In June they had basically the same plan, way more infrastructure and a lot more exceptions that they were asking for. They heard what was said and took the plan that was much larger and reduced it. They took a lot of exceptions out so that is not like they gave a lot back because they were asking for a lot more than what they were allowed to do to begin with. He does hear they made a lot of concessions but that is concessions to what they couldn't get anyway without exceptions. They have made a much better plan that the Planning Commission asked them to do. In any proposal that is out before you there are three things they are asking exceptions

from. They are 3 major things in his opinion. 1) Size of the lot, it was brought up several times that it was 50 acres and now it is 15 acres and they are asking for 13% off of that which puts them at 13.186 acres. That is a concern because you are trying to put this density on a lot size smaller than what it is supposed to be. 2) The two entrances where we have the emergency entrance now which I there but is not a daily entrance for people to get in and out of and the reason the two entrances are in the ordinance is because that is what is needed. Two entrances on two streets. An entrance on 360 and an emergency entrance. And we have the promise of a stem road to get over to Hospital Rd which will help but he doesn't know if they access right now. 3) We have the private roads and as he has said in the past he has worked with developers and done developing himself and they have done both private and VDOT roads. It is good that the roads will meet VDOT standards but there is no guarantee that they will stay to VDOT standards. The private road thing to him is a concern. He has no doubt that the developers will do everything in their power to make this thing successful. As every project does it sells out and people either stay with it as a project for their family or they sell it or it is gone. And if 20 years from now that project decides to go or heads in a different direction or doesn't stay solvent what are we going to do about keeping the roads straight. If they are in the VDOT system at least we know the roads can stay.

Mr. Whitmore stated that the proffers do state that they will continue to maintain them and those proffers are going to run with the land.

Chairman Jones stated he understands that but if there is no money are you going to put up a bond for the road.

Mr. Whitmore stated the development conditions are all going to be there. Everything they are proffering to the County can enforce.

Chairman Jones asked how do they enforce the roads to be repaired.

Mr. Whitmore stated they can see that the roads are out of repair, they can violate the property owner and take them to court. You tell them to do it, put a lien on the property and can eventually take the property. This is what the development conditions are for.

Chairman Jones stated that is easier said than done because he has been involved in it before.

Mr. Whitmore stated there are many proffered conditions. If we are calling into question whether proffers work or not he thinks that is another conversation.

Chairman Jones asked what the hangup was to making them VDOT roads, if you are going to take them there anyway.

Mr. Catarsky stated that one of the things where you end up bumping heads with VDOT is when it comes to landscaping, utilities, and the road. This way we can build the roads, widths and curbs in accordance with VDOT requirements but we don't have to get in a pushing and pulling with regards to the water authority, where they will allow water and sewer line and VDOT

where they will allow water and sewer line. The other issue he would make is this road is more of an access drive to the property. It is not subdivided out like a residential single lot subdivision would be. Which is when he has seen a lot of problems with regards to you have parceled off and sold the parcels but then the road was never adopted by VDOT. Where this is part of the maintenance just like cutting the grass is part of the maintenance.

Chairman Jones asked if it was fair to say that the property is not large enough to do VDOT standards because of the setbacks with the utilities?

Mr. Catarsky stated he thinks that is a very different type of road that you are talking about with regard to large amounts of property then used to accommodate easements, water and sewer lines. If you place them in your roadway you can preserve more green space. You can capture a different aesthetic where you have your buildings a little closer to some of those roads and create more of a walkable type of community from that perspective.

Commissioner Segar made a motion that they approve what they have offered and have it sent to the Board of Supervisors. Commissioner Stevens seconded the motion.

Mrs. Odom asked if the motion could be amended to say subject to the conditions in attachment 1 and acceptance of the proffered conditions in attachment 2?

Commissioner Segar stated that was ok with her.

Commissioner Taliaferro stated he doesn't want to throw a monkey wrench into the works at this time but was the last revision done on 8/31/23?

Mrs. Odom stated for the proffered conditions, yes.

Commissioner Taliaferro stated that whatever that part of the revision was it was not advertised 2 weeks ago.

Mrs. Odom stated that the revision was specific to the proffered conditions and did not change the request advertised at all.

Chairman Jones asked Chuck if Commissioner Andrews was still online?

Commissioner Andrews stated that he was still online.

Chairman Jones stated they have a motion on the floor with conditions and seconded. AYES: 2 NAYES: 5 ABSENT: 0

Commissioner Mundie made a motion to recommend denial.

Commissioner Taliaferro stated he wanted to preface his response. He stated that this has been very difficult and one of the things that sticks out is the sheriffs comment early about the previous request for the venue. He says you have the ordinance and we talked a great deal if you have the ordinance then enforce it. He prefaces his vote with the comments he made.

Commissioner Taliaferro seconded the motion. AYES: 5 NAYES: 2 ABSENT: 0

OLD BUSINESS

ADJOURN

Having no further discussion, a motion to adjourn was made and seconded. AYES: 7, NAYES: 0, ABSENT: 0

Chairman

