

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 meant 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.



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

| | | |
|-------------------|----------------------------|--|
| ✓ GARS SANDVIK | 2717 Richmond Hwy | |
| ✓ Alice Birchett | 437 Mussel Swamp | |
| ✓ Roxanne Johnson | 427 Mussel Swamp | |
| Sarah E. Dixon | 878 Berry Hill Rd Tapp. | |
| Dorothy Gresham | Tapp, VA | |
| ✓ MR. DAVIS | | |
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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 sill A-2 but the future subdividable 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 that 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 many 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



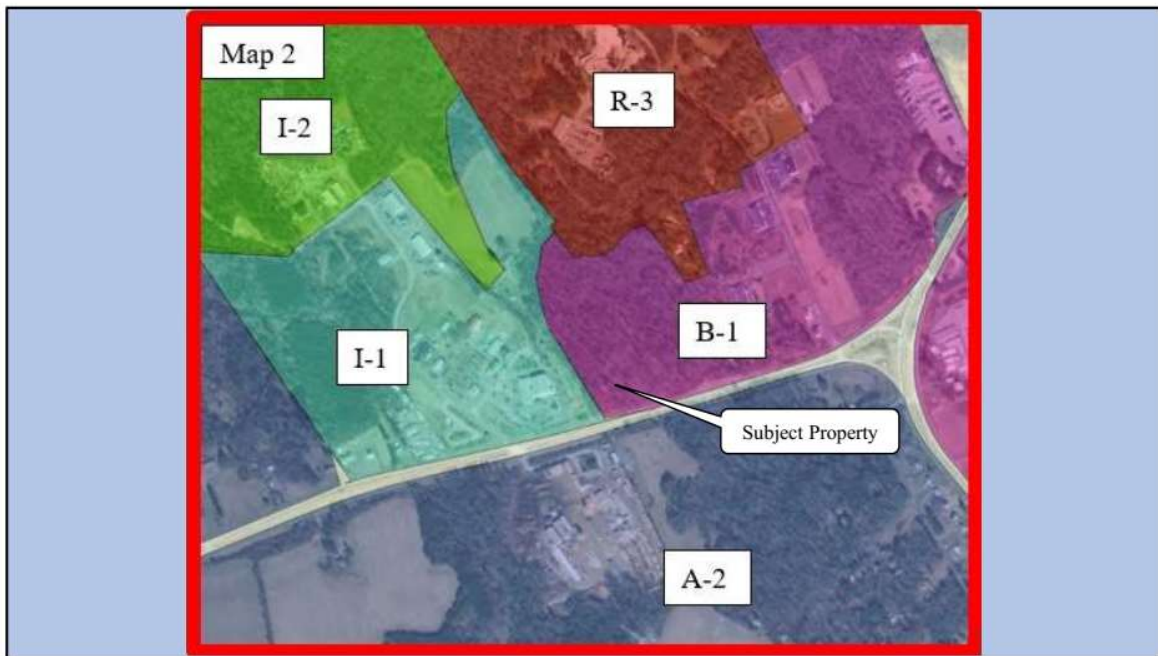
Rezoning Request Case Number R-2023003: In the Central Magisterial District, 7 AND M Virginia, LLC requests rezoning from B-1, Local Business District to PUD, Planned Unit Development District of 13.186 acres with exceptions to ordinance requirements related to project size, private roads and access 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.



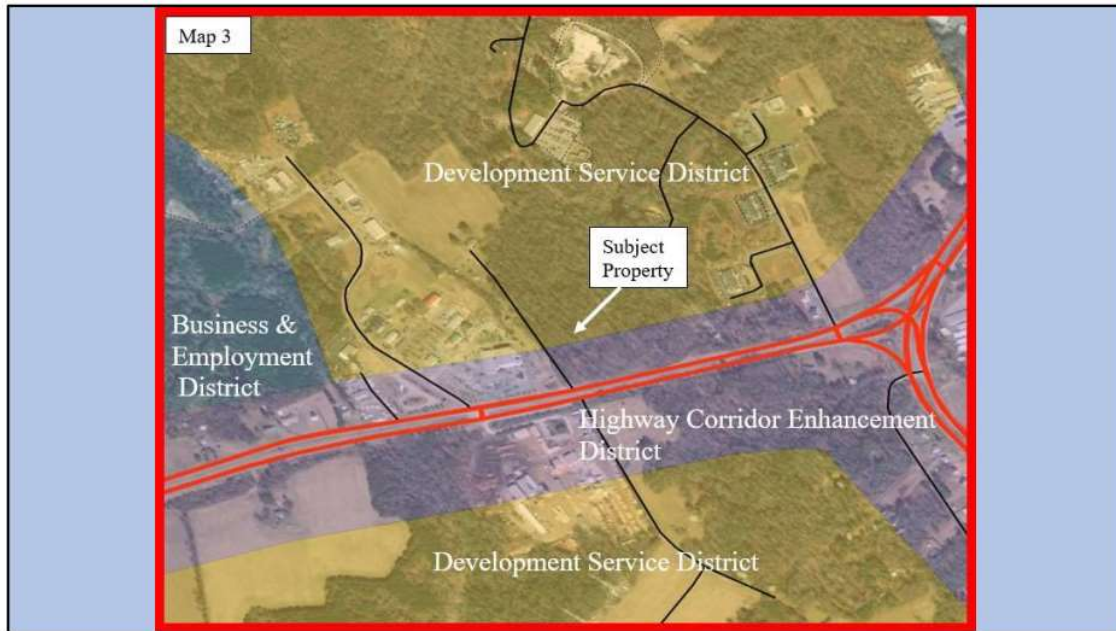
Closer look at the subject property; Mount Clement Road; generally development area in red; proximity to hospital, lumber co and LaGrange Industrial Park



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.

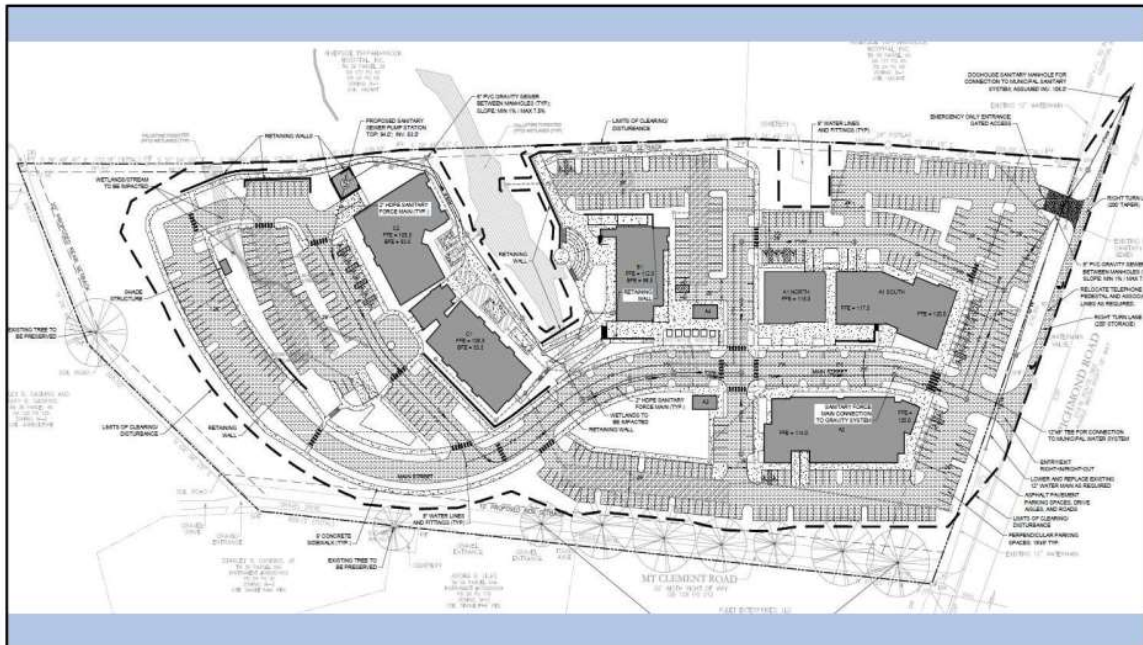
The Plan further provides that PUDs “can be brought to land only in those areas which meet the standards framed in the County ordinance and consistent with the Plan concepts”. The subject property is located west of Bray’s Fork, away from the Town’s edge. The Plan suggests development should be of a 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.



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

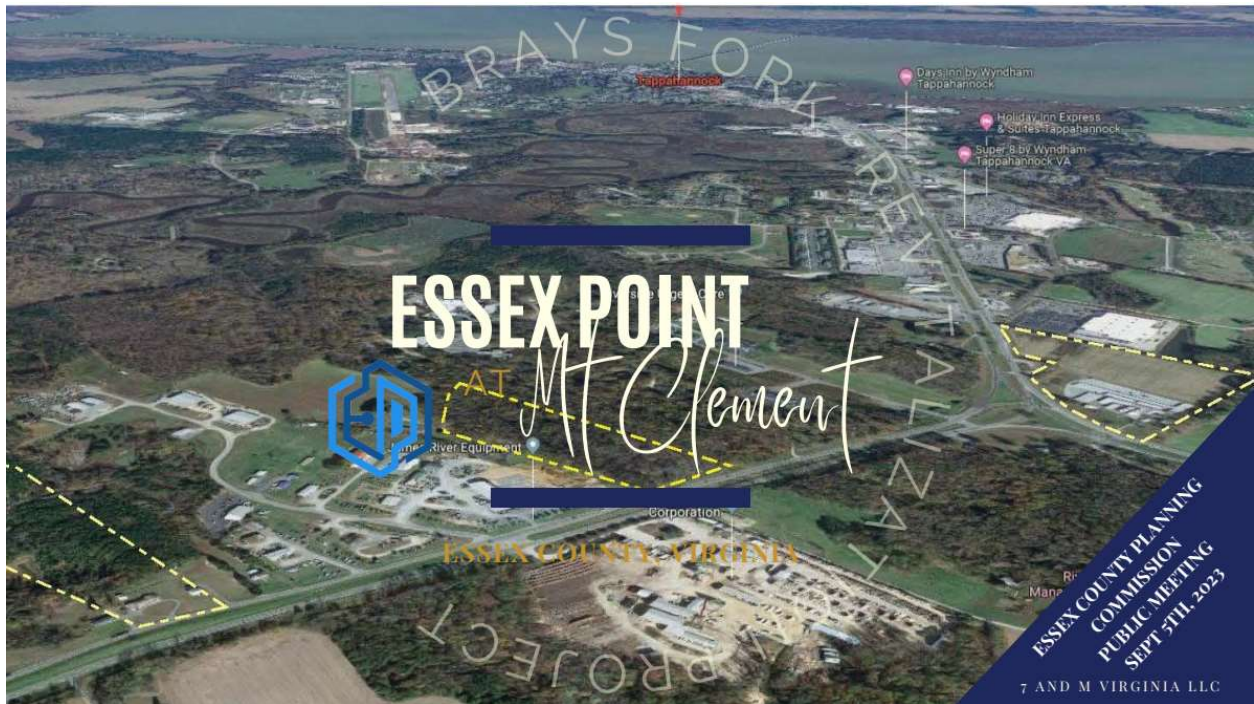
- Recommend Approval subject to the Condition & acceptance of the Proffered Conditions
- Recommend Denial
- Defer action to a date certain for further analysis & consideration



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.

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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

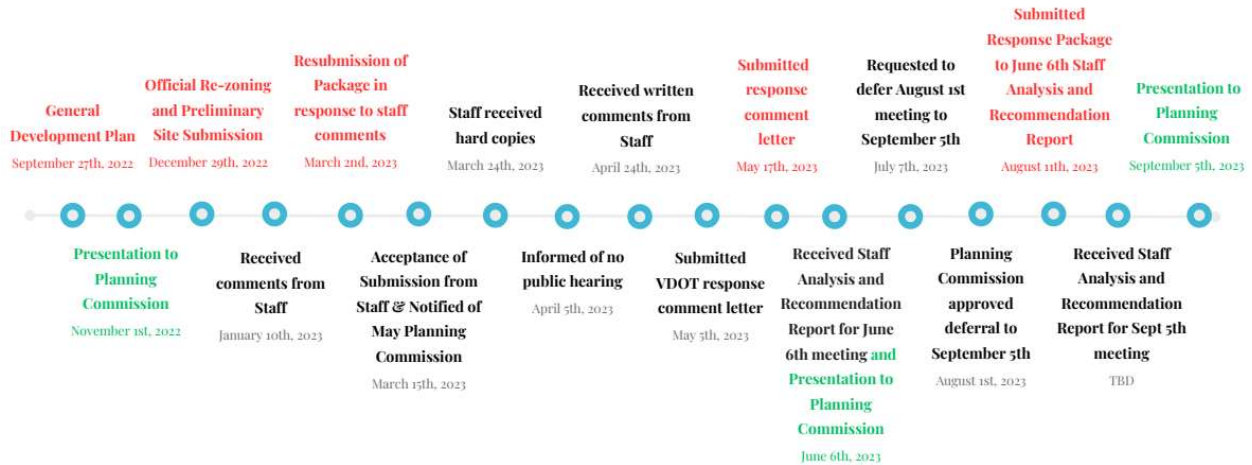
ordinance we have incorporated a mix of uses to achieve a village like setting and unified community. To take everything a step forward they focused on maintaining rural character, needs of the community and bringing back the vibrancy of Essex County and they look forward to them reviewing the application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



7 AND M VIRGINIA LLC

TUESDAY, SEPTEMBER 5TH, 2023

APPLICATION TIMELINE



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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



| RESIDENTIAL | COMMERCIAL | OFFICE | RECREATION |
|---|---|--|--|
| <ul style="list-style-type: none"> 1. 55+ Active Adult: 91 units 2. Workforce: 48 units 3. Community Center: 14,307 gsf 4. Commercial: 64,737 gsf 5. Parking: 395 spaces | <ul style="list-style-type: none"> 1. Retail: 10,000 gsf 2. Office: 50,000 gsf 3. Community Center: 14,307 gsf | <ul style="list-style-type: none"> 1. Office: 20,000 gsf 2. Retail: 10,000 gsf | <ul style="list-style-type: none"> 1. Community Center: 14,307 gsf 2. Office: 20,000 gsf |



| RESIDENTIAL | COMMERCIAL | OFFICE | RECREATION |
|---|---|--|--|
| <ul style="list-style-type: none"> 1. 55+ Active Adult: 56 units 2. Workforce: 28 units 3. Community Center: 11,799 gsf 4. Commercial: 41,494 gsf 5. Parking: 456 spaces | <ul style="list-style-type: none"> 1. Retail: 10,000 gsf 2. Office: 31,494 gsf 3. Community Center: 11,799 gsf | <ul style="list-style-type: none"> 1. Office: 20,000 gsf 2. Retail: 10,000 gsf | <ul style="list-style-type: none"> 1. Community Center: 11,799 gsf 2. Office: 20,000 gsf |

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.

TUESDAY, SEPTEMBER 5TH, 2023



7 AND M VIRGINIA LLC

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



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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



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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.



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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.

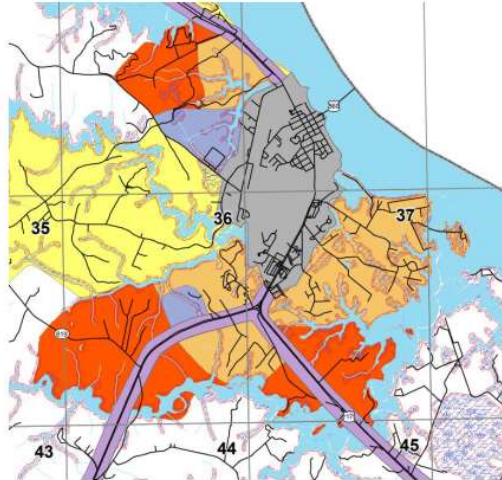
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There is discussion about the section of the ordinance that talks about the development service district,

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 RESERVED FOR INDUSTRIAL



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The Areas 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.



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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 | 30 |
| 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

VENABLE LLP

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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.”



7 AND M VIRGINIA LLC

ECONOMIC IMPACTS

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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

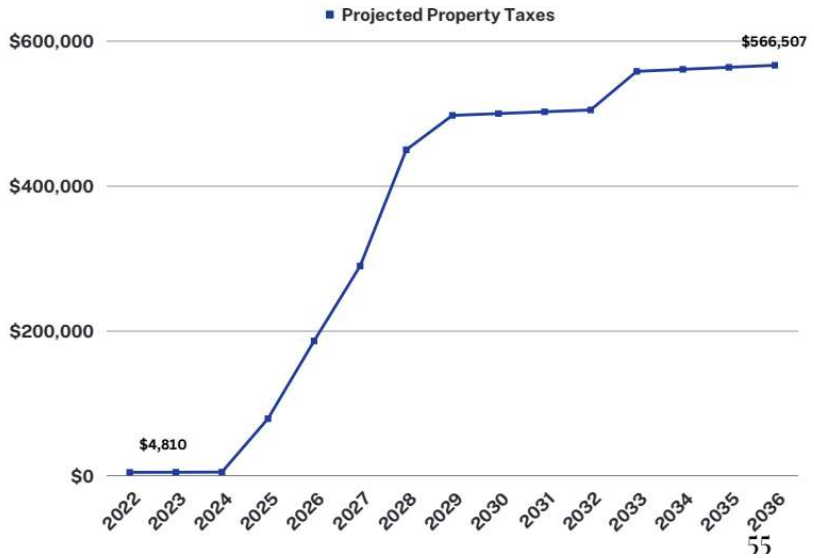
\$100,000

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

PUBLIC HEARING SIGN IN SHEET 9/5/2023

ITEM: JUNE MONTARIO C/O 7&M DEVELOPMENT

| NAME | ADDRESS | VOTING DISTRICT |
|---|---|-------------------|
| Dorothy Gresham | | |
| ✓ Mark Romey | 5510 Riverside Dr Richmond | |
| ✓ Rev. C.R. Holmes | 103 Noels P Tapp. | |
| ✓ Joanne C Moor | P/O Box 38 Caret, VA | |
| ✓ Linda Barnes | 370 Laurel Park Rd. Tapp. | Central |
| ✓ Barry Bates | 857 Crabbecks Mill Rd Tapp. VA | North |
| ✓ Ray Whitaker | 115 Chesapeake Pk Circle SUNNYSIDE | South |
| ✓ Sandra Baytops | 461 Meadow Dr | Central |
| ✓ Hannah Tiffany | 407 Prince St Tapp'k | Business Owner |
| ✓ Perry Hickman | 251 Aickman Tappahannock, VA | North |
| ✓ Robert Pollins Jr | 6437 Tidewater Trail Champlain VA 22438 | North |
| ✓ Benny Whittaker | 513 Rockingham Rd Dunnsville, VA | |
| ✓ Tracy J Roberts | 828 Lake Dr Tappahannock 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 | 1957 Tidewater Trail TAPP VA 22438 | Central |

Harry Thomas

| | | |
|----------------|----------------------|--|
| ✓ Harry Thomas | Scho / Division - | |
| ✓ Maria Pitts | Tapp. Planning Comm. | |

✓ Orlando Washburn

✓ Donnan Gresham

~~John Aschley~~

✓ Nancy Ellen Kean

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 prestaton 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 conviences. 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 Powhatan. 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, brought 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 Gresham 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 agreeance 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