

1. CALL TO ORDER
2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF MINUTES
 - A. OCTOBER 17, 2016
5. CITIZEN COMMENT PERIOD

COMMENTS ARE LIMITED TO THOSE ON PLANNING RELATED ISSUES THAT ARE NOT SCHEDULED FOR A PUBLIC HEARING LATER ON THE AGENDA. PLEASE SIGN UP ON THE SHEET AT THE BACK OF THE ROOM PRIOR TO THE START OF THE MEETING.

6. PRESENTATION – FY 18 CAPITAL IMPROVEMENTS PROGRAM
7. UNFINISHED BUSINESS
8. PUBLIC HEARINGS

7:00 PM OR AS SOON THEREAFTER AS POSSIBLE. SPEAKERS ARE LIMITED TO THREE MINUTES EACH AND SHOULD COME TO THE PODIUM AND STATE THEIR NAME AND ADDRESS.

A. APPLICATION OA-02-16: THE COMMISSION WILL CONSIDER ZONING ORDINANCE CHANGES FOR ARTICLE II, CHAPTER 98, SECTION 98-62 OF THE NEW KENT COUNTY CODE. THE PROPOSED CHANGES TO THE COUNTY CODE WILL AMEND THE INDUSTRIAL, MANUFACTURING, PROCESSING, AND STORAGE LAND USES.

B. APPLICATION OA-03-16: THE COMMISSION WILL CONSIDER SUBDIVISION ORDINANCE CHANGES FOR ARTICLE II, CHAPTER 91, SECTION 91-27 AND ARTICLE VII, CHAPTER 91, SECTION 91-127 OF THE NEW KENT COUNTY CODE. THE PROPOSED CHANGES TO THE COUNTY CODE WILL AMEND THE CLASSIFICATION OF MINOR AND MAJOR SUBDIVISIONS, INCREASES THE MINIMUM GROSS AREA FOR OPEN SPACE OR CLUSTER SUBDIVISIONS, AND MAKES TECHNICAL AMENDMENTS.

C. APPLICATION OA-04-16: THE COMMISSION WILL CONSIDER SUBDIVISION ORDINANCE CHANGES FOR ARTICLE VII, CHAPTER 91, SECTION 91-126 OF THE NEW KENT COUNTY CODE. THE PROPOSED CHANGES TO THE COUNTY CODE WILL ADD AN EXCEPTION PROVISION TO PRIVATE ROADWAY STANDARDS FOR FAMILY SUBDIVISION.

D. APPLICATION AFD-019-16, WITHDRAWAL OF LAND FROM WAHRANI SWAMP AFD: REQUEST BY WILLIAM B. GILMAN OF GILMAN LAND & TIMBER LLC TO WITHDRAW APPROXIMATELY 215 ACRES FROM TAX MAP PARCEL 37-50, GPIN G29-2578-3576 FROM THE WAHRANI SWAMP AGRICULTURAL AND FORESTAL DISTRICT.

E. APPLICATION AFD-020-16, WITHDRAWAL OF LAND FROM YORK RIVER AFD: REQUEST BY BAKER MARTIN WALKER OF HUNT WALKER PROPERTIES, LLC TO WITHDRAW APPROXIMATELY 130 ACRES FROM TAX MAP PARCEL 37-57, GPIN G30-0217-4336 FROM THE YORK RIVER AGRICULTURAL AND FORESTAL DISTRICT.

9. **NEW BUSINESS** – DISCUSSION ON WHETHER OR NOT THE COMMISSION WISHES TO HOLD A WORK SESSION PRIOR TO THE START OF THE DECEMBER 19 MEETING.

10. **CHAIRMAN'S REPORT**

11. **RRPDC REPORT**

12. **COMMISSIONER'S REPORTS**

13. **STAFF REPORTS**

14. **MEETING SCHEDULE**

A. THE COMMISSION WILL HOLD THE NEXT REGULAR MEETING ON MONDAY, DECEMBER 19, 2016 AT 6:30 PM IN THE BOARDROOM

15. **ADJOURNMENT**



NEW KENT COUNTY
PLANNING COMMISSION - REGULAR MEETING
MONDAY, OCTOBER 17, 2016 AT 6:30 PM
COUNTY ADMINISTRATION BUILDING BOARD ROOM
MINUTES

THE REGULAR MEETING OF THE NEW KENT COUNTY PLANNING COMMISSION WAS HELD ON THE 17TH DAY OF OCTOBER IN THE YEAR TWO THOUSAND SIXTEEN IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:30 PM.

IN RE: 1. CALL TO ORDER

Chairwoman Townsend called the meeting to order at 6:30 pm.

IN RE: 2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairwoman Townsend led the Moment of Silence and Pledge of Allegiance.

IN RE: 3. ROLL CALL

Attendance:

Ms. Katherine Butler	Present
Mr. Jack Chalmers	Absent
Mr. Richard Kontny	Absent
Mrs. Charna Moss-Gregory	Present
Mr. John Moyer	Present
Mr. Edward Pollard	Present
Ms. Laura Rose	Absent
Dr. Joanne Schmit	Present
Mr. Clarence "Tommy" Tiller	Present
Mrs. Joyce Williams	Present
Mrs. Patricia Townsend	Present

Chairwoman Townsend established that there was a quorum.

Also in attendance:

Mr. Jeff Gore, County Attorney
Mr. Matthew Smolnik, Director of Community Development
Ms. Kelli L. Z. Le Duc, Planning Manager

IN RE: 4. APPROVAL OF MINUTES

A. August 15, 2016 – Regular Planning Commission Meeting Minutes

Mr. Pollard moved to approve the August 15, 2016 minutes as presented.

The members were polled:

Ms. Katherine Butler	Aye
Mr. Jack Chalmers	Absent
Mr. Richard Kontny	Absent
Mrs. Charna Moss-Gregory	Aye
Mr. John Moyer	Aye
Mr. Edward Pollard	Aye
Ms. Laura Rose	Absent
Dr. Joanne Schmit	Aye
Mr. Clarence "Tommy" Tiller	Abstained, wasn't present 08/15/16
Mrs. Joyce Williams	Aye
Mrs. Patricia Townsend	Aye

The motion carried with a 7:0:1 roll call vote.

IN RE: 5. CITIZEN COMMENT PERIOD

Comments are limited to those on planning related issues that are not scheduled for public hearings later on the agenda. The comment sign-up sheet is located at the back of the room and citizens are required to sign up prior to the start of the meeting.

No one was signed up to speak to offer any comments.

IN RE: 6. UNFINISHED BUSINESS

There was no unfinished business.

IN RE: 7. NEW BUSINESS

Mr. Smolnik indicated he would be working on revising the cluster subdivision ordinance. His department had seven cluster subdivisions in the last five years that were single family lots mainly along state route 249. They were light-weight construction with no fire hydrants but all built to code. He was concerned that developers can put two minor subdivisions in right next to each other, share internal roads and storm water infrastructure and submit two separate plans for review but essentially they look and act like one larger subdivision. Under the current circumstances this is allowing the developer a higher yield of lots with a well being installed on each individual lot instead of one centrally located well to serve the whole community. He discussed this with the Board of Supervisors at their last work session

and will continue discussions at the next work session on October 26th. He looked at our definition of a major subdivision which begins at twenty-one lots. Gloucester County begins a major subdivision at four lots, Hanover County starts at five lots and James City County defines a major subdivision as six or more lots.

The size requirement for cluster subdivisions was a concern to him as well and he reminded the Commissioners they approved the size to go up from ten to fifty acres back in the spring of 2015 and the Board of Supervisors approved a thirty-acre minimum subdivision size. Mr. Smolnik will take another look at the size requirement and the definition of a major subdivision and will present his information on this topic as a public hearing in November.

He also talked about wanting to review the private street provision in the family subdivision ordinance. He noted that if there are three or more homes on a street in a family subdivision the current ordinance requires the road serving those homes to be entered into the VDOT street maintenance system as a public road and brought to VDOT standards. He said he has learned over the years that not every single situation can be handled by the code and has received the green light from the Board of Supervisors to write a waiver provision in for the private road provisions of the family subdivision ordinance. He said it didn't always make sense to have a VDOT road paralleling another VDOT road just to serve a few lots. He will present this waiver provision to the Planning Commission as a public hearing in November as well.

IN RE: 8. CHAIRWOMANS REPORT

Chairwoman Townsend had nothing new to report.

IN RE: 9. RRPDC REPORT

Mr. Pollard reported on the Richmond Regional Planning District Commissions' meeting stating several localities voiced their concerns about issues in their communities. The City of Richmond was concerned about education, Chesterfield County brought up drugs in the schools, Hanover had concerns about public safety and noted that volunteerism was down significantly, Goochland expressed concerns about high tax rates, The Town of Ashland was looking at re-development issues, affordable housing and poverty, Charles City was concerned about growing the County, Mr. Hathaway talked about New Kent County's issues with managing roads and the high tax rate as well as wireless access to the community.

The RRPDC also approved a few changes to their by-laws.

IN RE: 10. COMMISSIONERS REPORT

Mr. Moyer brought up an article he read in the Planning Journal that dealt with pan-handling and how localities have been addressing that issue. He noted this presented some really tough situations and according to the article, most of the cases that had been tested have shown if a pan-handler is verbally

asking for money they can be removed however, if they were being docile and just holding up a sign then that was being viewed as expressing their “free speech” and can’t be removed for that. Some localities have begun putting rules on the books and some cases have been struck down by the courts as high up as the supreme court because of the right to freedom of speech. Mr. Moyer thought it was important for our locality to consider ways to deal with this issue since this activity was not going to go away.

Mr. Pollard thought the Commissioners should still consider getting together to discuss issues like these and others and give the citizens of New Kent ways to offer input on the issues that they are concerned about. The Chairwoman asked Mr. Pollard how he thought this could be achieved. Mr. Pollard suggested reaching out to the public since the community was growing and maybe we could have more work sessions after getting their input.

Chairwoman Townsend said in 2017, next year, the Virginia Cooperative Extension will be doing a public survey as part of their situation analysis. By doing this they gain insight as to the needs of the community such as dealing with childhood obesity, the need for day care and financial planning to name a few. She said each county will be doing that and the information will be compiled. She said she would be sure to share that information with the Planning Commissioners.

IN RE: 11. STAFF REPORTS

Ms. Le Duc stated Mr. Hathaway would be presenting the Capital Improvement Plan at the next meeting and Mr. Smolnik may be presenting his ordinance concerns that he was just talking about. She has not received any new re-zoning or conditional use permit applications at this time but Ms. Wood will be bringing two Agricultural and Forestal District withdrawal applications for consideration next month. These are the properties involved with the approved Solar Farm Conditional Use Permit.

IN RE: 12. MEETING SCHEDULE

The Planning Commission will tentatively hold their next regular meeting on Monday, November 21, 2016 at 6:30 PM in the Boardroom.

Chairwoman Townsend called a short recess at 6:50 PM.

At 7:00 PM Chairwoman Townsend called the meeting back to order and wanted to let the legal representative, Mr. Jeff Gore, go over some policies and standards under review.

IN RE: 13. PRESENTATION

Mr. Gore provided the Commissioners with a hand out regarding proffers which were currently under review as part of state code 15.2-2303.4. He stated the hand out was used at a recent VML conference and thought it would be a useful guide for the new proffer laws. The hand out included a legal background on zoning and now there are limitations on the type of facilities the localities can accept

proffers for. Now they are limited to roads, parks, public safety items and schools. The new laws also created the statutory definition of what an “unreasonable” proffer is. He said it was important to note that the county can no longer accept, suggest or discuss any proffer that meets the statutory definition of “unreasonable” or there could be sanctions by the court.

Proof will now have to be provided to justify the proffer through more detailed written analysis showing changes in capacity of the public infrastructure for example or changing impacts on schools or fire stations. A good example of this is a Traffic Impact Analysis (TIA).

These laws only apply to residential developments or the residential pieces of mixed use developments.

Mr. Gore asked everyone to remember to rely on the Comprehensive Plan and Capital Improvement Plan, look to the level of service code and to require applicants to undertake studies and provide analysis regarding impact of development and public facility needs to address impact.

They are not looking to pursue counter legislation at this time since things are still playing out but Hefty, Wiley & Gore are available for questions going forward.

Chairwoman Townsend wanted to know who our negotiator was and Mr. Gore said historically it would be the elected officials, the Board and the staff. With the new law, some counties and cities are designating limited key people to hold these discussions to minimize their risk of getting into that unreasonable area.

Chairwoman Townsend and Mr. Gore also discussed whether or not this legislation was going to lead to impact fees as opposed to proffers. The advantage to that would be that impact fees apply to both by-right and re-zoning and would give the county the ability to set a schedule and it would apply to all developments.

IN RE: 14. PUBLIC HEARINGS

At 7:10 PM Chairwoman Townsend called the meeting to order again and turned the floor over to Ms. Butler.

Ms. Butler reviewed the procedures for tonight’s public hearing and opened the public hearing of Application CUP-03-16, Antebellum.

- A. Application CUP-03-16, Antebellum, a request from Ms. Patti Parsley for a conditional use permit to construct an assembly hall venue for events.

Ms. Le Duc presented her staff report which was included in the meeting packet. She indicated Patti Parsley, Alex Johnson and Jesse Martin were the applicants here tonight to offer comments after her application overview. The subject properties totaled about 22 acres and were located almost directly

across from the fire station on North Courthouse Road just south of Marsh Road. The venue would market to weddings, corporate events, family reunions, birthday parties, etc. The main time of events, other than scheduled appointments with vendors and clients, will be on the weekends and Ms. Le Duc noted the business operational hours in her staff report. A conditional use permit is required for this use in the A-1 zoned property. She summarized the standards by which this application should be reviewed and noted two conditions which would assist in addressing, protecting, and promoting health, safety, and the general welfare of the County citizens. The first condition would require the applicant to provide a fifty-foot undisturbed vegetative buffer around the perimeter of the property except in the areas utilized for ingress/egress, utilities, or storm water management outfalls. The second condition would prohibit business related activities on the property between the hours of 12:00 AM and 8:00 AM all days of the week. This would also be subject to the site plan process. Staff recommended approval of CUP-03-16 with the proposed conditions and she then invited the applicant up to give their presentation.

Ms. Jesse Martin said they envisioned a southern style venue for indoor and outdoor large parties. The outside would look like a post war antebellum home and the inside would be a grand ball room with cater facilities, restrooms and changing rooms. They believed the location was ideal for both the Richmond and Williamsburg markets as well as drawing business from the local market here in New Kent County. Their facility would offer more than just a barn and would draw a more traditional type party event within a home like setting. They hoped to establish a long-term relationship with this area and serve the needs of the county residents with this venue as well and thanked everyone for their consideration.

Ms. Butler then opened the citizen's comment period of the public hearing.

Ms. Leta Kontny of 6011 Lakeside Drive, Quinton, stated she had thirty years' experience in the hotel industry, wished Antebellum much success but had some concerns to share. She stated the monies collected from wedding venues usually go toward rental fees and go straight to the bottom line plus food and beverage. She also stated a four thousand square foot ballroom is needed to host approximately two hundred and fifty people; that included food and beverage tables and chairs but did not include space for a dance floor, band stand or reception area which would all subtract from the dollar amount you could generate for that space. Looking at the specifications given by the applicants, she noticed the space was about three thousand square feet with bathrooms, a warming kitchen and office space which all take away from the ballroom space making it too small. Unless the outdoor space is tented and heated they are not too useful in the winter time. It has also been her experience to have indoor space available to accommodate for inclement weather during outdoor events. In her experience, she has found that corporations are not too fond of taking their executive on a bus to a venue outside a twenty-mile radius. That was a challenge for her in the past and she added there are not that many corporate events here in New Kent. She wished everyone well but wanted to share her experience with them.

Ms. Jill Watson of 9140 Mirror Lake Lane, Providence Forge, expressed her concerns about future expansion in the coming years and wanted more details about the type of expansion and a more detailed

time frame for their growth. She also stated she thought it was strange this business was going in so close to an existing business of the same type, Jasmine Plantation. She thought the size was suitable for the property and the location was good for the two markets but she was surprised that Jasmine Plantation was not here representing themselves and thought this might hurt their business.

Ms. Butler then closed the citizen's comment period and closed the public hearing of application CUP-03-16 for Antebellum and turned the floor back over to Chairwoman Townsend.

Ms. Townsend asked if the commissioners had any questions.

Mr. Pollard wanted to know if the building was going to look like the picture on the Antebellum flyer and the applicant, Ms. Patti Parsley, stated it was just a rendering. The forthcoming drawings will be of a white home with columns and a foyer with a low country feel.

They would only try to accommodate about one hundred and eighty people and eventually close in a back porch to be used as overflow space. They would include a foundation for that with their original plan submittal. She also noted that Jasmine Plantation had tented events with no bathroom facilities unless you rented the home itself and she and her daughters have found it difficult to find wedding venues with restroom facilities.

Mr. Moyer said it wasn't the Commissions place to determine if a business would hurt or help other businesses in the area.

Chairwoman Townsend said she had two upcoming weddings in her family and didn't realize it could take anywhere from a year to a year and a half to get wedding venues booked and she thought there was enough business to support this industry.

Mr. Pollard said New Kent didn't have anything like this in the county and also thought it would do well. Receptions are generally not held at churches and get booked at hotels with banquet facilities.

Mr. Moyer asked staff if this type of venue would help bring hotels to the area and Mr. Smolnik said he hoped so and this would help draw the hotel industry to the area.

Mrs. Williams made a motion to adopt resolution PC-26-16 to forward application CUP-03-16 to the New Kent County Board of Supervisors with a favorable recommendation.

The members were polled:

Ms. Katherine Butler	Aye
Mr. Jack Chalmers	Absent
Mr. Richard Kontny	Absent
Mrs. Charna Moss-Gregory	Aye

Mr. John Moyer	Aye
Mr. Edward Pollard	Aye
Ms. Laura Rose	Absent
Dr. Joanne Schmit	Aye
Mr. Clarence "Tommy" Tiller	Abstain
Mrs. Joyce Williams	Aye
Mrs. Patricia Townsend	Aye

The motion carried with a 7:0:1 roll call vote.

Chairwoman Townsend reminded members of the next scheduled meeting on November 21st and asked Kelli Le Duc if she had any other items to report.

Ms. Le Duc said the December 21st meeting could be a good time to come in at 5:30 and spend that extra half hour on any work session items anyone would be interested in discussing such as proffers and combining that into our holiday celebrations as well.

IN RE: 15. ADJOURNMENT

A motion to adjourn was made by Mr. Moyer and the members so moved. Meeting was adjourned at 7:28 PM.

Respectfully submitted by Sheri L. Wood, Recording Secretary



MEMORANDUM

DATE: November 21, 2016

TO: New Kent County Planning Commission

FROM: Matthew J. Smolnik, Director of Community Development

SUBJECT: Consideration of proposed amendments to Section 98-62 of the Zoning Ordinance

REQUEST:

Consider the proposed amendments to Section 98-62 regarding permitted and conditionally permitted uses for industrial, manufacturing, processing, and storage land uses within the County.

PUBLIC HEARINGS:

Planning Commission: November 21, 2016 at 7:00 p.m., County Boardroom
Board of Supervisors: Tentatively scheduled for December 12, 2016 at 7:00 p.m., County Boardroom

BACKGROUND:

Staff has evaluated the table of permissible land uses under the heading of Industrial, Manufacturing, Processing, and Storage within Section 98-62 and are proposing amendments to allow greater flexibility in the types of businesses that could locate within the County. If approved as submitted, distilleries would be allowed following the issuance of a Conditional Use Permit in the Business and Agricultural zoning districts. While a definition for *manufacturing* is provided in Section 98-2 of the Zoning Ordinance, this general land use is not currently permitted in any zoning district and the proposed amendments would add General Manufacturing to Section 98-62 and it would require a Conditional Use Permit in the Business and Economic Opportunity zoning districts and it would become a permitted land use in the Industrial zoning district. Lastly, staff is proposing to amend the land use type for Meat, Poultry, and Fish Processing with a distinction being made of whether or not the land use involves on-site slaughter. In instances where no on-site slaughter is involved, staff is proposing to

make this land use a permitted use in the Industrial Zoning District, while requiring a Conditional Use Permit in the Economic Opportunity zoning district. The use would remain a conditionally permitted use in the Industrial zoning district with the distinction of having on-site slaughter.

SUGGESTED MOTIONS

1. In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt Resolution No. PC-27-16 to forward the proposed amendments to Section 98-62 of the New Kent County Code to the Board of Supervisors with a favorable recommendation.

or

2. I move to forward the proposed amendments to Section 98-62 of the New Kent County Code to the New Kent County Board of Supervisors with an unfavorable recommendation for the following reasons:

a. _____

b. _____

c. _____

Attachment:

1. Resolution PC-27-16

PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA

PC-27-16

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the New Kent Administration Building in New Kent, Virginia, on the 21st day of November, 2016:

Present:

Katherine Butler
Jack Chalmers
Joanne Schmit
Laura Rose
Charna Moss - Gregory
Richard Kontny, Jr.
John Moyer
Edward Pollard
Tommy Tiller
Patricia Townsend
Joyce Williams

Vote:

Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF ORDINANCE
AMENDMENT OA-02-16, AMENDING CHAPTER 98,
SECTION 98-62 OF THE NEW KENT COUNTY CODE,
TABLE OF LAND USES**

WHEREAS, the Planning Commission has reviewed Section 98-62 of the New Kent County Code, entitled "Table of Land Uses" and the proposed amendments regarding permitted and conditionally permitted uses for industrial, manufacturing, processing, and storage land uses within the County; and

WHEREAS, pursuant to Virginia Code Section 15.2-4300 et. seq., the New Kent County Board of Supervisors has the authority to amend Chapter 98 of the County Code; and

WHEREAS, the Commission finds that proposed amendments to Section 98-62 of the New Kent County Code are to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County;

NOW THEREFORE, BE IT RESOLVED that the New Kent County Code be repealed, amended, restated, and readopted as follows:

Sec. 98-62. - Table of land uses.

	Business	Economic Opportunity	Industrial	Conservation C-1	Agricultural A-1	Single-Family Residential R-O, R-OA, R-1, R1A	General Residential R-2, R-2A	Multiple Family Residential R-3	Mobile Home Parks MHP
Agricultural, Forestal and Conservation									
Agriculture				P	P				
Agriculture, intensive					P				
Animal husbandry					P				
Farmers market	P	P		C	C				
Forestry	P	P	P	P	P				
Game preserve, conservation area				P	P				
Orchard & vineyard		P	C	P	P				
Portable sawmill				C	C				
Winery-farm				C	P				
Winery-commercial		P	P		C				
Residential									
Apartment		C						P	
Condominium		C						P	
Group care residential facility ≤ 8 residents					P	P	P	P	
Group care facility > 8 residents					C	C	C	P	
Mobile home parks									P
Senior housing	C	C					C	P	
Single-family conversion to two-family					C		C		
Single-family detached dwelling					P	P	P		
Single-family attached dwelling							P	P	
Transitional home					P	P	C	C	
Business, Commercial Service									
Agricultural equipment sales and service	P	P	P						
Amusement facility (indoor)	P	P							
Animal hospital (with outside runs)	P	P	P		C				
Animal hospital (without outside runs)	P	P	P		C				
Antique shop	P	P			C				
Automobile fueling stations	P	P	P						
Automobile sales and service	P	P							
Auto body and painting	C	P	P						
Auto retail parts sales-new & used	P	P							
Auto service stations, automobile repair services and garages	P	P	P						

Bank, Financial Institution	P	P	A						
Barber and beauty shop	P	P							
Bar, nightclub	P	A							
Bed and breakfast					P				
Bicycle sales and service	P	P							
Boat parts or accessories sales	P	P							
Boat sales and service	P	P							
Book, card shop	P	P							
Brew Pub	P	P							
Building Supply and Lumber Store ≤ 15,000 square feet (without exterior storage)	P	P							
Building Supply and Lumber Store ≤ 15,000 square feet (with exterior storage)	C	P							
Building Supply and Lumber Store 15,000 square feet (without exterior storage)	P	P	P						
Building Supply and Lumber Store > 15,000 square feet (with exterior storage)	C	P	P						
Car wash	P	P	A						
Childcare center, adult daycare center, day care center, preschool, nursery	P	P	P		C	C	C		
Clothing store, retail	P	P							
Commerce park	P	P	P						
Computer and data processing center and services	P	P	P						
Computer sales and service—retail (includes assembly using pre- manufactured parts)	P	P							
Conference center	P	P	P						
Contractor office or shop without outdoor storage	P	P	P		A				
Contractor office or shop with outdoor storage	C	P	P		C				
Mini supermarket, without gas pumps	P	P	A						
Copy center	P	P							
Drugstore	P	P							
Dry cleaning outlet	P	P							
Feed and seed store	P	P							
Florist shop	P	P							
Flour, feed mill		P	P		C				
Funeral home	P	P							
Gift, record and tobacco shop	P	P							

Group residential care facility	P	C			C		C		
and crafted goods, traditional crafts	P	P	P						
Hardware stores	P	P							
Home appliance sales and service	P	P							
Hotel, motel	P	P							
Household furniture/furnishings sales	P	P							
Industrial supply store	C	P	P						
Inn ≤ 10 rooms (includes tourist home)	P				C				
Inn >10 rooms (includes tourist home)	P	P			C				
Kennel, commercial	P	P			C				
Laundromat	P	P							
Machine sales and indoor service	P	P	P						
Mailing Services Center	P	P	P						
Manufactured Home Sales		P	P						
Micro-brewery	P	P	P						
Mini-storage warehouse	C	P	P						
Recreational Vehicle (RV) sales & service	P	P							
Nursing, convalescent, or rest home	P	C					P		
Personal service and hygiene establishment	P	P							
Photography, dance, music studio	P	P							
Plant nursery, garden center ≤ 15,000 square feet	P	P			C				
Plant nursery, garden center > 15,000 square feet	C	P	P						
Plumbing and electrical supply outlet	P	P	P						
Professional office	P	P	P						
Rental center	P	P	P						
Restaurant (sit-down)	P	P	P						
Restaurant (drive-thru)	P	P	C						
Restaurant (with drive-in window)	P	P							
Retail bakery	P	P							
Retail establishment ≤ 30,000 sq. ft.	P	P							
Retail establishment over 30,000 sq. ft.	C	P							
Shopping center 15,001—30,000 sq. ft.	P	P							
Shopping center over 30,000 sq. ft.	C	P							
Spa, day spa	P	P							
Studio	P	P							
Theater	P	P							

Truck Fueling Stations	C	P	P						
Upholstery shop	P	P	P						

Industrial, Manufacturing, Processing, and Storage

Asphalt mixing plant			C						
Boatbuilding, boat yard		P	P						
Brick manufacture			C						
Cabinet, furniture manufacture	C	P	P						
Cement, lime and gypsum manufacture			C						
Distillation of ethanol from grain			C		C				
Distillery	C	C	P		C				
Dry Cleaning Plant	C	C	P						
Electrical and electronic device manufacture and assembly		P	P						
Laboratory (testing, medical, scientific, pharmaceutical)		P	P						
Machine and welding shop	C	C	P						
General Manufacturing	C	C	P						
Meat, poultry, fish processing without on-site slaughter		C	P						
Meat, poultry, fish processing with on-site slaughter			C						
Monumental stone work			P		C				
Office/construction trailer storage yard		C	P		C				
Printing plant	C	P	P						
Recycling center/plant	C	P	P						
Resource extraction		C	C		C				
Salvage yard, automobile graveyard			P						
Sawmill		C	P		P				
Warehouse		P	P						
Wholesale business and distribution center		P	P						
Wood preserving operation			C						
Wood yard			P						

Public, Semipublic, Institutional, Recreational

Amusement park	C	C							
Animal shelter	C	C	P	C	C				
Amusement facility, outdoor	P	P			C				
Archery, firearms, paintball range—indoor	P	P	P		C				
Archery, firearms, paintball range—outdoor	C	C	P		C				
Assembly hall, club, lodge	P	P			C				

Campground		C		C	C				
Cemetery, columbarium	P	C	C		C	C	C	C	
Place of Worship	P	P	A		P	P	P	P	
Clinic or emergency care center	P	P	A						
Communications facility tower-radio, cellular ≤ 75 feet	P	P	P		P				
Communications facility tower-radio, cellular 75 ≥ 200 feet	C	C	P		C				
Communications facility tower-radio, cellular < 200 feet	C	C	C		C				
Community center	P	P			C	A	A	A	A
Construction debris landfill			C		C				
Correctional facility			C						
Educational institution, K-12 school	P	P			P	P	P	P	
Equestrian facility	P	P	C		C				
Golf course		P			P	C			
Government office	P	P	P		P		P		
Health and fitness center	P	P	A						
Higher education institution	P	P			C				
Horse racing track	C	P	C		C				
Hospital or medical center facility	P	P			P				
Hunt club				C	C				
Library	P	P			P		P	P	
Park,	P	P		C	P	P	P	P	P
School-trade, vocational	P	P	P						
Stable-commercial	C	C			C				
Steeplechase					C				
Theme park, amphitheater, stadium	C	C	C		C				
Timeshare Resort		C						C	
Turkey shoot					C				
Waste Transfer Station			C		C				
Wildlife preserve, conservation area				P	C				
Zoological garden		C		C	C				

Transportation

Airplane hanger—commercial			C						
Airplane hanger—private			C		C				
Airplane landing strip		C	C		C				
Airport			C						
Commercial Pier	C	P	P						
Individual pier	C	P	C	C	P				
Boat launch ramp	P	P	P	P	P				
Bus station/terminal		C	C						

Commuter parking	P	P	P		C				
Freight terminal			P						
Heliport		C	P		C				
Helipad	C	C	P						
Parking lot, public	P	P	P						
Marina, boatel commercial	C	P		C	P				
Marina, private				C	P				
Motor vehicle rental	P	P	P						
Trucking terminal			P						
Truck stop (includes fuel sales and prepared food)	C	C	C						
Utilities									
Public utilities/railroads, transmission lines, impoundment	C	C	C	C	C	C	C	C	C
Energy generation facility			C						

P = Permitted

C = Requires Conditional Use Permit

A = Permitted as an Accessory Use

- (1) The size limitations contained herein apply regardless of use; the specific use itself must be permitted within the district in which it is located.
- (2) The specific uses within a shopping center must be permitted within the district in which it is located.

(Ord. No. O-01-07, § C, 1-16-2007; Ord. No. O-15-08(R2), 1-12-2009; Ord. No. O-07-12, 7-9-2012, **Ord. No. O-XX-16, TBD**)

Attested:

Patricia Townsend, Chair
New Kent County Planning Commission



MEMORANDUM

DATE: November 21, 2016

TO: New Kent County Planning Commission

FROM: Matthew J. Smolnik, Director of Community Development

SUBJECT: **Consideration of proposed amendments to Section 91-27 and Section 91-127 of the Subdivision Ordinance**

REQUEST:

Consider the proposed amendments to Section 91-27 regarding the classification of minor and major subdivisions and to Section 91-127 regarding the provisions for open space or cluster subdivisions.

PUBLIC HEARINGS:

Planning Commission: November 21, 2016 at 7:00 p.m., County Boardroom
Board of Supervisors: Tentatively scheduled for December 12, 2016 at 7:00 p.m., County Boardroom

BACKGROUND:

Public hearings were held at the Planning Commission and the Board of Supervisors for the open space or cluster provision during the winter and spring months of 2015. On May 15, 2015 the Board of Supervisors changed the minimum area required for a cluster subdivision from 10 to 30 acres.

Over the past five years, a total of seven cluster subdivisions have been approved in the County and the majority of them are under construction and/or contain occupied dwellings. These cluster subdivisions account for a total of 268 new residential units, which will produce approximately 64 new school aged children.

Based on the number of open space or cluster subdivisions that have been approved over the recent years, staff has been in discussions with the Board of Supervisors and the New Kent County School Board and Superintendent regarding the increase in school-aged children

within the County and the anticipated impact of the already approved cluster subdivisions. After comparing New Kent County's regulations for minor/major subdivisions and open space or cluster subdivision with comparable communities within Virginia, staff is proposing a series of amendments which would modify how the County differentiates between a minor and a major subdivision. The proposed amendments would reduce to total number of lots within a subdivision needed to qualify as a major subdivision from 21 lots to 8 lots. Additionally, staff is proposing to increase the minimum gross area required for an open space or cluster subdivision from 30 acres to 75 acres.

SUGGESTED MOTIONS

1. In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt Resolution No. PC-28-16 to forward the proposed amendments to Section 91-27 and Section 91-127 of the New Kent County Code to the Board of Supervisors with a favorable recommendation.

or

2. I move to forward the proposed amendments to Section 91-27 and Section 91-127 of the New Kent County Code to the New Kent County Board of Supervisors with an unfavorable recommendation for the following reasons:

a. _____

b. _____

c. _____

Attachment:

1. Resolution PC-28-16

PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA

PC-28-16

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the New Kent Administration Building in New Kent, Virginia, on the 21st day of November, 2016:

Present:

Katherine Butler
Jack Chalmers
Joanne Schmit
Laura Rose
Charna Moss - Gregory
Richard Kontny, Jr.
John Moyer
Edward Pollard
Tommy Tiller
Patricia Townsend
Joyce Williams

Vote:

Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF ORDINANCE
AMENDMENT OA-03-16, AMENDING CHAPTER 91, SECTION 91-27
AND CHAPTER 91, SECTION 91-127 OF THE NEW KENT COUNTY CODE**

WHEREAS, the Planning Commission has reviewed Section 91-27 of the New Kent County Code regarding Classifications of Subdivisions, and Section 91-127 of the New Kent County Code regarding Open Space or Cluster Subdivisions and the amendments proposed to these Sections; and

WHEREAS, the Commonwealth of Virginia has enacted Virginia Code Section 15.2-2286.1 which requires New Kent County to have an open space or cluster subdivision ordinance; and

WHEREAS, pursuant to Virginia Code Section 15.2-4300 et. seq., the New Kent County Board of Supervisors has the authority to amend Chapter 91 of the County Code; and

WHEREAS, the Commission finds that proposed amendments to Section 91-27 and Section 91-127 of the New Kent County Code are to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County;

NOW THEREFORE, BE IT RESOLVED that the New Kent County Code be repealed, amended, restated, and readopted as follows:

Sec. 91-27. - Classification of subdivisions.

Subdivisions shall be classified as follows:

- (1) *Public service lots, rights-of-way.* When a lot is created for the sole purpose of developing a sewage or water facility or any other public facility, or for the sole purpose of widening or enlarging a road right-of-way, to be owned and operated or maintained by the Commonwealth of Virginia, County, other governmental or municipal entity, service authority, or sanitary district and title to such property passes at the same time as the plat is recorded, such lot shall be exempt from the requirements of this chapter except that the record plat shall adhere to the standards established in subsection 91-31(1) herein.
- (2) *Minor subdivision.* A minor subdivision shall be a division of property into 20 or fewer lots or where all lots are 15 acres or larger in size or where more than 20 lots are created, but which does not create a new street or an extension of an existing street, including family subdivisions as defined in this chapter. However, if any division of greater than 20 lots other than a family subdivision results in a lot or lots which, in the determination of the agent and based on the zoning classification of the property could be further subdivided, and such further subdivision would require the creation of a new street or the extension of an existing street, the division shall be defined and reviewed as a major subdivision. A preliminary plan shall not be required for minor subdivisions. Family subdivisions shall be reviewed in accordance with the special provisions contained in section 91-126.
- (3) *Multiplex/townhouse/condominium subdivision.* A multiplex, townhouse or condominium subdivision shall be a division of property into lots for multiplex, townhouse or condominium development in accordance with a site plan approved pursuant to the requirements contained in the zoning ordinance. Neither a preliminary plan nor a development plan shall be required for multiplex, townhouse or condominium subdivisions; however, a site plan must have been approved and still be valid in accordance with the zoning ordinance prior to submission of a final plat for approval. Section 91-129 contains special provisions for townhouse and condominium subdivisions.
- (4) *Commercial/industrial subdivision.* A commercial or industrial subdivision shall be a division of properly zoned property to create building sites or lots for commercial or industrial purposes. The process may be commenced with site plan approval followed by submission of a final plat or by the submission of a development plan. In either case, a preliminary plan is not required. Section 91-128 contains special provisions for commercial and industrial subdivisions.
- (5) *Planned development subdivision.* A planned development subdivision shall be a division of property in accordance with an overall development master plan approved by the board. A preliminary plan shall not be required for planned development subdivisions unless specifically required of a particular development in the ordinance or resolution approving the overall development master plan. Any requirements specifically imposed on a planned development by its approving ordinance shall be fully binding upon the subdivision. In the case of a project designed to provide affordable housing approved as a planned development, the approving ordinance may authorize provisions less restrictive than those set out in this chapter, if deemed appropriate by the board to achieve the objectives providing affordable housing.
- (6) *Boundary line adjustment.* A boundary line adjustment shall be a lot line realignment between two or more adjacent lots where
 - a. No additional lots are created;
 - b. The potential to create additional lots remains unaltered; and
 - c. Existing or platted streets, rights-of-way, public easements, and public improvements are unaffected by such action.

Further, no private easements or private rights-of-way shall be relocated or altered without the recordation of appropriate documents effecting such relocation or alteration. Typically, a boundary line adjustment is a minor realignment of the line or lines between two adjacent platted lots.

Neither a preliminary plan nor a development plan shall be required of boundary line adjustments provided, however, that nothing in this provision shall be interpreted to authorize the creation of a lot or lots which would otherwise be prohibited. Further, boundary line adjustments involving one or more legally nonconforming lots shall not be permitted where the result of such adjustment would increase

the degree of nonconformity. Where the agent determines that the proposal goes beyond the intended minor realignment, he shall notify the subdivider, in writing, of such finding and, in so doing may require the submission of more detailed plans for review.

- (7) *Lot consolidation.* A lot consolidation shall be a plat that removes one or more existing lot lines, the effect of which is to eliminate one or more lots by combining them into a single larger parcel. Neither a preliminary plan nor a development plan shall be required of lot consolidations.
- (8) *Major subdivision.* A major subdivision shall be any division of property of 24 **8** lots or more any of which are less than 15 acres and which creates a new street, or extends any existing street, or any division of property which is not covered under any of the above provisions. Section 91-127 contains special provisions for open space or cluster subdivisions.

(Ord. No. O-03-05(R), 3-14-2005, **O-XX-16, TBD**)

Sec. 91-127. - Special provisions for open space or cluster subdivisions.

- (a) The intent of the residential open space or cluster development technique is to provide design flexibility to make efficient use of topography and develop residential communities with significant permanent reservations of open space that preserve the look and feel of a rural area while exploiting economics of scale and compact design forms. This technique is only allowed in areas designated as rural lands by the Comprehensive Plan and is not allowed in the R-1 zoning district regardless.
- (b) The minimum gross area for an open space or cluster subdivision is **30 75** acres. Additions of less than **30 75** acres to existing open space developments may be approved if the agent finds that such an addition forms a logical extension.
- (c) Density calculations shall be based on total developable acreage (gross acreage less Chesapeake Bay Resource Protection Areas) divided by the minimum lot size of the zoning district in which located. Fractional units are rounded up to the next whole number. The result is the maximum lot yield for the development.
- (d) Lots created in open space or cluster subdivisions must access an internal road system. No lots may directly access existing public streets. Where lots abut an existing public street, a restricted access easement extending the entire distance shall be established and recorded contemporaneously with the record plat of the subdivision.
- (e) If the proposed subdivision is in a water or sewer service district as outlined by the department of utilities, public water and/or sewer must be utilized in the subdivision. The installation of all necessary facilities to connect to public water and/or sewer is the responsibility of the developer/builder/owner.
- (f) Yard, size and dimension requirements.
 - (1) There are no lot width or area requirements.
 - (2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development. Unless separated by an area of common open space that is not less than 75 feet in width, a lot shall be considered to be abutting.
 - (3) The rear and side yards may be reduced to zero provided that easements or covenants clearly establish the rights of the two abutting properties where principal buildings are to be constructed on or within ten feet of a property line.
 - (4) The minimum setback from external public streets shall be twice that which is prescribed in the underlying zoning district.
 - (5) The minimum setback from internal public streets shall be 20 feet; from internal private driveways, streets or alleys the setback shall be established on the plan of development.
 - (6) The minimum distance between any two buildings within the open space development shall be governed by the building code, provided, however, that the fire chief shall approve the fire protection measures for any development where principal buildings are separated by less than 20 feet.

- (7) There are no minimum house sizes or house footprint requirements.
 - (8) Where flag lots are utilized, the "staff" portion shall be 20 feet or greater in width. A single shared access for two abutting flag lots is required; the width of the "staff" portion shall be 30 feet or greater in width.
 - (9) In the case of shared access arrangements, an easement establishing the right-of-way and maintenance responsibilities shall be recorded at such time as the lots are created and the existence of such easement shall be noted on the face of the plat creating the lots.
- (g) Open space requirements.
- (1) No less than 50 percent of the gross area of an open space development shall be preserved as open space assuring its availability for agricultural, forestall, recreational, or open-space uses by establishment of a permanent open space conservation easement or deed restriction.
 - (2) All areas not included in lots or public street rights-of-way shall be incorporated into open space.
 - (3) The open space shall be arranged and designed so as to facilitate its use, ensure, continuity of design, and preserve all of the sensitive environmental features within the development. Failure to achieve these goals shall be sufficient reason for the agent to deny applications for open space development plan approval or to require modifications that may include loss of lots.
 - (4) With the approval of the board of supervisors, open space other than the required recreational space within an open space or cluster subdivision may be held by an owner when the open space is used for agriculture, forestry, historical preservation, or other similar uses. The board of supervisors may not approve any use of the open space not allowed under the terms of the conservation easement.
 - (5) Conservation easement and deed restriction requirements:
 - a. Designated open space in cluster subdivisions shall be protected from any future subdivision or development by the establishment of a permanent conservation easement or deed restriction that must be recorded at the time of final plat subdivision approval.
 - b. The easement shall comply with the requirements of the Virginia Conservation Easement Act, Code of Virginia Title 10, Ch. 10.1 or contain similar provisions.
 - c. The conservation easement or deed restriction shall be in a form approved by the county attorney and shall provide that the eased portion of an open space subdivision shall be maintained by the owner of the property and that the county shall bear no responsibility or liability for such maintenance.
 - d. The board of supervisors, in its sole discretion, may approve a suitable alternative plan for maintaining the open space.
- (h) Recreational space requirements.
- (1) Recreational space equivalent to at least five percent of the gross land area, but no less than one acre, shall be provided and shall be suitable, as determined by the agent, for recreation purposes and the development of recreational facilities that are appropriate to the size, scale, and market orientation of the development.
 - (2) Recreational areas shall not abut the exterior boundary of the open space development unless entirely adjacent to a publicly-owned facility or community recreation facility of an adjoining residential development.
 - (3) The agent may modify the requirement for recreational space in any manner deemed appropriate or necessary, other than reducing the area required to be set aside, for the purpose of ensuring that adequate recreation facilities are available to serve the development given its size, scale, and market orientation.
 - (4) Adequate pedestrian and bicycle facilities shall be provided which fully interconnect the development and its recreation areas both internally and with existing, planned or desirable external pedestrian and bicycle facilities.
- (i) Applications for open space developments shall be made in the same manner as prescribed for conventional subdivisions. In determining whether or not to grant approval, the applicant shall be required

to show how the proposed open space cluster development provides superior protection of rural views from existing public roadways to that which would be effected by conventional subdivision of the subject property.

- (j) Final plats recorded for an open space development utilizing the cluster technique and all deeds for lots within such development shall bear a statement indicating that the land is within an approved residential open space (cluster) subdivision and shall also bear a statement indicating the ownership status of the development's open space system and shall reference the covenants creating a property owners association which shall also be recorded at the time final plats were put to record.

(Ord. No. O-03-05, 3-14-2005; Ord. No. O-12-09, 7-13-2009; Ord. No. O-06-15, 5-18-2015, **O-XX-16, TBD**)

Attested:

Patricia Townsend, Chair
New Kent County Planning Commission



MEMORANDUM

DATE: November 21, 2016

TO: New Kent County Planning Commission

FROM: Matthew J. Smolnik, Director of Community Development

SUBJECT: **Consideration of proposed amendments to Section 91-126 of the Subdivision Ordinance**

REQUEST:

Consider the proposed amendments to Section 91-126 regarding roadway design standards for family subdivisions.

PUBLIC HEARINGS:

Planning Commission: November 21, 2016 at 7:00 p.m., County Boardroom
Board of Supervisors: Tentatively scheduled for December 12, 2016 at 7:00 p.m., County Boardroom

BACKGROUND:

Section 91-126 (a)(6) of the New Kent County Code requires that in the event the division creates three or more lots or parcels, a new permanent deeded 50-foot right-of-way serving those lots shall be provided. The new right-of way shall meet the Virginia Department of Transportation geometric requirements with respect to horizontal and vertical alignment. Within said right-of-way, a public road or a private roadway meeting the requirements of Section 91-103 shall be constructed. Building permits will not be issued on lots until the roadway is constructed and surfaced.

Staff has proposed an exception process to this requirement as it has come to staff's attention that this requirement may not be applicable in all situations across the County. Any exception requests to the road construction standards is intended to be a public process through the Planning Commission and Board of Supervisors.

SUGGESTED MOTIONS

1. In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt Resolution No. PC-29-16 to forward the proposed amendments to Section 91-126 of the New Kent County Code to the Board of Supervisors with a favorable recommendation.

or

2. I move to forward the proposed amendments to Section 91-126 of the New Kent County Code to the New Kent County Board of Supervisors with an unfavorable recommendation for the following reasons:

- a. _____
- b. _____
- c. _____

Attachment:

- 1. Resolution PC-29-16

PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA

PC-29-16

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the New Kent Administration Building in New Kent, Virginia, on the 21st day of November, 2016:

Present:

Katherine Butler
Jack Chalmers
Joanne Schmit
Laura Rose
Charna Moss - Gregory
Richard Kontny, Jr.
John Moyer
Edward Pollard
Tommy Tiller
Patricia Townsend
Joyce Williams

Vote:

Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF ORDINANCE
AMENDMENT OA-04-16, AMENDING CHAPTER 91, SECTION 91-126
OF THE NEW KENT COUNTY CODE**

WHEREAS, the Planning Commission has reviewed Section 91-126 of the New Kent County Code regarding roadway design standards for family subdivisions and the amendments proposed to this Section; and

WHEREAS, pursuant to Virginia Code Section 15.2-4300 et. seq., the New Kent County Board of Supervisors has the authority to amend Chapter 91 of the County Code; and

WHEREAS, the Commission finds that proposed amendments to Section 91-126 of the New Kent County Code are to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County;

NOW THEREFORE, BE IT RESOLVED that the New Kent County Code be repealed, amended, restated, and readopted as follows:

Sec. 91-126. - Special provisions for family subdivisions.

- (a) A single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, parent, sibling, grandchild or grandparent of the owner. Such subdivision shall be subject to the following provisions:

- (1) Only one such sale or gift shall be allowed per immediate family member and each lot created shall be for residential use. The gift or sale shall not, in the opinion of the agent, be for the purpose of circumventing the provisions of this chapter.
- (2) The provisions of this section shall apply only to those properties having a single-family detached residential or agricultural zoning district classification.
- (3) Area requirements:
 - a. The minimum lot size of any lot created or remaining under this section shall be 1.5 acre unless a greater size is necessary to provide adequate area for on-site water and septic systems.
 - b. No more than eight new lots may be created from the original parcel under the terms of this section.
 - c. The grantor may divide lots from the original parcel in accordance with the table below provided that all other requirements of this section are met:

Acreage in Original Parcel	Total Lots (new plus retained)
No less than 6.0 acres	2
7.5 acres	3
9.0 acres	4
10.5 acres	5
12.0 acres	6
13.5 acres	7
15.0 acres	8
16.5 acres and more	9

- d. All lots, including that retained by the grantor, must meet the dimensional standards and any other applicable zoning requirements established by chapter 98.
- (4) The grantor shall execute a family subdivision affidavit in the form provided by the agent as a part of the application submission. The affidavit shall stipulate that the proposed family subdivision is not for the purpose of circumventing the requirements of this ordinance and set forth the name, age, and relationship of all eligible grantees. A true copy of said family subdivision affidavit shall be recorded with the plat creating the subdivision.
- (5) Where the division creates only two lots or parcels, each lot or parcel of property shall front a public road or shall front upon a private driveway or road which is in a permanent easement of right-of-way not less than 20 feet in width. Such right-of-way shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches and a minimum width of 12 feet. The right-of-way shall be maintained by the adjacent property owners in a condition passable by emergency vehicles at all times. A notation to this effect shall be placed on the face of the final plat and this provision shall also be included in the deeds by which the subdivision is affected. Passable condition refers not only to the surface, but also to horizontal and vertical clearance.
- (6) In the event the division creates three or more lots or parcels, a new permanent deeded 50-foot right-of-way serving those lots shall be provided. The new right-of-way shall meet the Virginia Department of Transportation geometric requirements with respect to horizontal and vertical alignment. Within said

right-of-way, a public road or a private roadway meeting the requirements of section 91-103 shall be constructed. Building permits will not be issued on lots until the roadway is constructed and surfaced.

- (7) An erosion and sediment control plan prepared in accordance with the latest edition of the Virginia Erosion and sediment Control Handbook with appropriate surety shall be submitted for approval if the proposed right-of-way and driveway construction disturbs more than 2,500 square feet.
- (8) Access to the building site on each of the lots created shall be via a private driveway constructed with a permanent all-weather surface as defined in subsection(5) above no less than 12 feet in width properly drained and maintained in a condition passable by emergency vehicles at all times.
- (9) For property which fronts on an existing street or streets whose rights-of-way are, in accordance with section 91-93, deficient in width, one-half of the right-of-way width deficiency shall be dedicated by the subdivider at the time of plat recordation, or if right-of-way equivalent to one-half of the original deficiency has already been provided on the opposite side of the road the remaining deficiency shall be dedicated by the subdivider at the time of plat recordation.
- (10) If public water and public sewer facilities are available, as defined in this Code, to the property proposed to be subdivided then all proposed lots shall be served by such facilities in accordance with applicable provisions of the Code.
- (11) Prior to final approval of the subdivision:
 - a. Unless public water and sewer serve the lots created, the health department must approve on each lot of the proposed subdivision the location of:
 1. A potable water well;
 2. A primary septic drain field; and
 3. A 100-percent reserve septic drain field
 - b. If there are any extensions of or connections to public roads, the Virginia Department of Transportation must approve the proposed subdivision.
- (12) The corners of all lots created shall be marked with iron pipes as provided for in section 91-77.
- (13) No parcel created by family subdivision shall be further subdivided unless such division is in full compliance with all requirements of this chapter.
- (14) A final plat shall be submitted to the agent for approval as provided in section 91-30 of this chapter along with an affidavit describing the purposes of the subdivision and identifying the members of the immediate family receiving the lots created. Any plan submitted shall be subject to the fees set forth in section 91-13. All physical improvements, including, but not limited to, public water, public sewer, and all-weather access drives shall be incorporated into a subdivision agreement and appropriately guaranteed in accordance with article V of this Chapter.
- (15) The property to be divided under this section must have been held by the grantor for a period of three years prior to the division unless an exception is granted in accordance with the provisions of subsection 91-126(b).
- (16) The grantee of any such sale or gift must hold the property sold or given by the grantor under the provisions of this section for a period of two years before leasing, reselling or gifting it to another person unless the lot is subject to involuntary transfer through death, foreclosure, judicial sale, condemnation or similar circumstance or an exception is granted in accordance with the provisions of subsection 91-126(b).
- (17) No building permit shall be issued for a period of two years on any lot transferred or sold pursuant to this section to anyone other than the grantee unless the lot is subject to involuntary transfer through death, foreclosure, judicial sale, condemnation or similar circumstance or an exception is granted in accordance with the provisions of subsection 91-126(b).
- (18) The plat shall include the following owner's certificate and certificate of approval:

OWNER'S CERTIFICATE

THIS FAMILY SUBDIVISION AND PLAT ARE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNER(S). THE UNDERSIGNED OWNER(S) CERTIFIES THAT THIS SUBDIVISION IS A BONA FIDE DIVISION UNDER THE PROVISIONS OF SECTION 91-126 OF THE NEW KENT COUNTY CODE AND IS NOT SUBMITTED FOR THE PURPOSE OF CIRCUMVENTING THE SUBDIVISION ORDINANCE OF NEW KENT COUNTY.

ALL LOTS CREATED BY THIS SUBDIVISION MUST BE HELD BY AN ELIGIBLE GRANTEE FOR A PERIOD OF TWO (2) YEARS FROM DATE OF PLAT RECORDATION.

The signature of every owner of the property illustrated must be individually notarized below.

Notary's _____ seal _____ / _____ / _____ seal _____ / _____ / _____ seal

City/County of _____

Commonwealth/State of _____ / _____ / _____ ;

Notary Public

My commission expires _____ / _____ / _____.

Notary Public

My commission expires _____.

CERTIFICATE OF APPROVAL

PURSUANT TO § 91-63 OF THE NEW KENT COUNTY CODE. IF THIS PLAT IS NOT FILED FOR RECORDATION WITHIN SIX (6) MONTHS AFTER FINAL APPROVAL. THIS APPROVAL WILL BE WITHDRAWN BY OPERATION OF LAW AND THE PLAT SHALL BE VOID.

THE PRIVATE RIGHTS-OF-WAY SHOWN HEREON MUST MEET THE PRIVATE STREET STANDARDS OF THE NEW KENT COUNTY; HOWEVER, THEY ARE NOT DEDICATED FOR PUBLIC USE AND WILL NOT BE MAINTAINED AT PUBLIC EXPENSE.

GRANTEES MUST HOLD SUBDIVIDED PARCELS FOR AT LEAST TWO (2) YEARS FROM PLAT RECORDING DATE.

Subdivision Agent _____ Date _____ / _____ / _____

Director of Public Utilities _____ Date _____ / _____ / _____

Virginia Department of Transportation _____ Date _____ / _____ / _____

Health Department _____ Date _____ / _____ / _____

(b) Exceptions to holding periods.

- (1) Notwithstanding the requirements of subsection (a) above, a grantor or grantee of a family subdivision lot may request an exception to the holding periods by filing a written request with the agent setting forth therein the facts for the request, including what change in life circumstances that was unforeseen at the time of the division has occurred.
(2) The agent shall either grant or deny the request in writing. In approving a request the agent shall find that because of the change in life circumstances that was unforeseen at the time of the division, a

strict application of the holding period would produce a unique and undue hardship upon the grantor or grantee.

- (3) Appeals of unfavorable actions by the agent shall be made in writing to the planning commission within 30 days after the decision is rendered by the agent, or the agent's decision shall be final and unappealable. The decision of the commission will be final.

(c) **Exceptions to private roadway standards.**

- (1) Notwithstanding the requirements of subsection (a) above, a grantor or grantee of a family subdivision lot may request an exception to the private roadway standards by filing a written request with the agent setting forth therein the facts for the request.
- (2) Exceptions to the private roadway standards specified in this article may be granted by the Board of Supervisors following a recommendation by the Planning Commission in accordance with the procedures set out in this section. The applicant for such exception shall provide the Zoning Administrator a letter stating their justification for the exception. Upon receipt of all items deemed necessary by the Zoning Administrator, he shall prepare a staff report for the Planning Commission and Board of Supervisors for their review and consideration.

(Ord. No. O-03-05(R), 3-14-2005; Ord. No. O-17-07, 10-11-2007; **Ord. No. O-XX-16, TDB**)

Attested:

Patricia Townsend, Chair
New Kent County Planning Commission



DATE: November 21, 2016
TO: New Kent County Planning Commission
FROM: Sheri Wood, Community Development *slw*
RE: **AFD-019-16**, Withdrawal of land from the **Wahrani Swamp** AFD

REQUEST

The applicant, Mr. William B. Gilman of Gilman Land & Timber, LLC, has submitted an application to withdraw approximately 215 acres from his 307 acre parcel of land located in the **Wahrani Swamp** Agricultural and Forestal District (AFD). The **Wahrani Swamp** AFD currently consists of 18 parcels totaling approximately 1,338 acres and is not set to expire until August 31, 2019. This request comes as a result of the approved Conditional Use Permit Number CUP-02-16 which will allow construction of the Virginia Solar facility. Planning Commission resolution number PC-06-16 is included in your packet for reference.

PUBLIC HEARINGS

Agricultural and Forestal District Advisory Committee: October 6, 2016

The Agricultural and Forestal District Advisory Committee recommended approval of Application AFD-019-16 and sighted 'good and reasonable cause' to make way for the approved conditional use development. Attached please find the October 6th approval from the AFD Advisory Committee.

Planning Commission: November 21, 2016

Application AFD-019-16 is included in your packet for your consideration. All known adjacent property owners have been notified and the 'Mailing of Notices' affidavit is also attached for your review. No public comments have been received at this time.

Board of Supervisors (tentatively scheduled): December 12, 2016

PROPERTY INFORMATION

Tax Map Parcel:	37-50
GPIN #:	G29-2578-3576
Total Acreage:	307.78
Dwellings on Parcel:	None
Zoning:	A1
Future Land Use Designation:	RURAL LANDS
Current assessed value:	\$ 960,000.00
Public Utilities:	NONE

LAND USE

Acres Devoted to Pasture:	0
Acres Devoted to Marsh/Wetlands:	30
Acres Devoted to Tilled Cropland:	0
Acres Devoted to Timber:	277.78

PROPOSED LAND USE

Acres Proposed for Solar Site:

215

LOCATION

The Wahrani Swamp District is in the eastern portion of the County primarily along State Route 30 (New Kent Highway). It is roughly 5 miles West of the James City County line. The proposed withdrawal parcel, 37-50, is located off State Route 633 (Barham Road) in the vicinity south of State Route 639 (Mt. Nebo Road). The associated maps are included in the application packet.

COMPREHENSIVE PLAN

The property is designated as RURAL LANDS in the Comprehensive Plan. The project meets the desired goals of the Comprehensive Plan by preserving the County's existing rural character, protecting the natural environment, and promoting sustainable alternate energy sources which consider developing policies to allow for small-scale wind and solar energy projects as a matter of right subject to meeting reasonable performance standards.

STATE AND COUNTY CODE REGARDING AFD WITHDRAWALS

Section 62-44 of the Codified Ordinance of New Kent County, titled 'Withdrawal of land from a district; termination of a district', provides that any owner of land lying in such district may request in writing the withdrawal of all or part of his land from the district, which, under Section 15.2-4314 of the Code of Virginia of 1950, may be permitted 'for good and reasonable cause'. A copy of both of the New Kent County Code and Code of Virginia are included in your meeting packet for review.

RECOMMENDATION

By removing this piece of this land from the AFD program, administrative protocol will be fulfilled and a portion of the parcel could be developed into a Solar Site consisting of a 20 mega-watt solar photovoltaic electricity generating facility which will be designed in accordance with federal, state and local standards. A site plan has been submitted by the developer for planning review and indicates the development intensity of the parcel will remain low with the installation of solar panels and no additional housing.

The developer, Virginia Solar, LLC, intends to enter into an agreement with the landowner, William B. Gilman, to lease this land for such purpose and pay all associated roll-back taxes related to the early withdrawal.

The request appears to comply with the requirements of State and County codes regulating AFDs. The request also supports the process of allowing roll-back taxes to be collected by the Commissioner of Revenue in light of the approved Board resolution number R-14-16.

Staff finds the proposed development to be consistent with the County's Future Land Use Comprehensive Plan and offers a favorable recommendation for application **AFD-019-16** with no adverse effect to public safety or the remaining parcels within the special use district.

SUGGESTED MOTIONS

1. In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt resolution PC-24-16 to forward application AFD-019-16 to the New Kent County Board of Supervisors with a favorable recommendation.

OR

2. I move to forward application AFD-019-16 to the New Kent County Board of Supervisors with an unfavorable recommendation for the following reasons:

A. _____

B. _____

C. _____

Attachments:

1. Resolution PC-06-06
2. AFD Advisory Committee Recommendation
3. Application AFD-019-16
4. Mailing of Notices Affidavit
5. Code Ordinance Section 62-44
6. Code of Virginia Section 15.2-4314
7. Resolution PC-24-16

Cc: AFD file

PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA

PC-06-16

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 16th day of May, 2016:

<u>Present:</u>	<u>Vote:</u>
Katherine Butler	Aye
Jack Chalmers	Aye
Joanne Schmit	Aye
Laura Rose	Aye
Charna Moss - Gregory	Aye
Richard Kontny, Jr.	Aye
John Moyer	Aye
Edward Pollard	Aye
Tomny Tiller	Abstain
Patricia Townsend	Aye
Joyce Williams	Aye

Motion was made by Mr. Kontny, which carried 10:0:1, to adopt the following resolution:

A RESOLUTION TO RECOMMEND APPROVAL OF
CONDITIONAL USE PERMIT APPLICATION CUP-02-16,
VIRGINIA SOLAR
TO AUTHORIZE THE CONSTRUCTION OF A SOLAR FARM FACILITY
LOCATED ON TAX MAP 37-50 (GPIN #G29-2578-3576) AND
TAX MAP 37-57 (GPIN #G30-0217-4336)

WHEREAS, Gilman Land & Timber LLC and Hunt Walker Properties LLC (property owners) and Matthew Meares from Virginia Solar LLC (applicant), have submitted a "Conditional Use Permit Application" dated April 18, 2016; and

WHEREAS, said application requests a conditional use permit to construct, own, and operate a solar farm site (defined as a "public or private electrical generation facility" in the New Kent County Zoning Ordinance) on two parcels identified on the New Kent County digital map as GPIN #G29-2578-3576 (Tax Map and parcel 37-50) and GPIN #G30-0217-4336 (Tax Map and parcel 37-57); and

WHEREAS, subsequent to receiving a complete application and within the timeframes established by Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing, carefully considering the public comment received; and

WHEREAS, the Planning Commission has evaluated the application based on the current zoning of the parcels, which is A-1 Agricultural, the standards set forth in the Conditional Use Permit

Provisions of the Zoning Ordinance (Article XIX, § 98-741 et seq.), and the proposed conditions in the staff memo; and

WHEREAS, the Commission finds that CUP-02-16 is substantially in accord with the Comprehensive Plan; and

WHEREAS, the Commission finds that approval of CUP-02-16 with the conditions stated herein is appropriate to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County;

NOW THEREFORE, BE IT RESOLVED that on this, the 16th day of May, 2016, by the New Kent County Planning Commission, that Conditional Use Permit Application CUP-02-16 submitted by Gilman Land & Timber LLC and Hunt Walker Properties LLC (property owners) and Matthew Meares from Virginia Solar LLC (applicant), be forwarded to the New Kent County Board of Supervisors with a recommendation of approval with the following conditions:

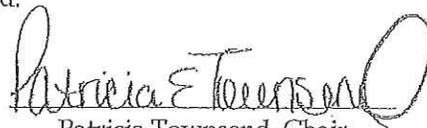
1. The following conditions shall apply to Tax Map & Parcel number 37-50 (GPIN G29-2578-3576) and Tax Map & Parcel number 37-57 (GPIN G30-0217-4336).
2. This Conditional Use Permit shall be binding on Virginia Solar LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy farm.
3. Virginia Solar LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy farm (the "Applicant") shall consent to annual administrative inspections by Community Development Department staff for compliance with the requirements of this Conditional Use Permit.
4. All federal, state, and local laws, regulations, permit requirements and ordinances will be adhered to including but not limited to:
 - a. All active solar systems shall meet all requirements of the National Electrical Code (NEC), National Electrical Safety Code (NESC), American Society of Civil Engineers (ASCE), American National Standards Institute (ANSI), Institute of Electrical and Electronics Engineers (IEEE), Underwriters Laboratories (UL), or International Electrotechnical Commission (IEC) as applicable and state building code and shall be inspected by a county building inspector throughout the building permit process.
 - b. An Erosion and Sediment Control plan must be submitted and approved prior to any land disturbance.
 - c. The site shall fully comply with all applicable provisions of Section 98-213 of the New Kent County Zoning Ordinance, to the extent not modified herein, throughout the life of this CUP.
5. The solar energy farm shall consist of one integrated power generation facility and shall be limited to no more than the 250 acres of the property identified as "Correctional - Virginia Solar," as shown on the Maximum Extents Plan prepared by Timmons Group dated April 18th, 2016.
6. All site activity required for the construction and operation of the solar energy farm shall be limited to the following:
 - a. All piling driving activity shall be limited to the hours of no earlier than 7:00 a.m. to no later than 7:00 p.m., Monday through Saturday.

- b. All other construction activity on site shall be permitted Monday through Sunday in accordance with the provisions of the County's Noise Ordinance.
7. A minimum one hundred and fifty (150) foot setback shall be maintained from solar equipment to any adjacent residential dwellings that exist at of the time of the CUP application approval by the Board of Supervisors. This requirement may be reduced or waived if agreed to, in writing, by the owner of the residence. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.
8. In order to comply with Section 98-875 (5), a minimum 50' foot setback from solar equipment to the property line shall be provided around the perimeter of the Project where it is adjacent to property not owned by the same property owner as covered in the CUP at the time of the approval by the Board of Supervisors. Within the buffer, in areas where there is not at least 15' of native timber remaining on the project parcel, a single row of evergreens will be planted within the 50 foot setback where there is an adjacent property with an existing residence. Such evergreens shall be planted on fifteen (15) foot centers and shall be a Meyers Spruce tree or other similar tree (which alternative tree shall be subject to the prior written approval of the Planning Department), and the evergreen installed shall have an anticipated five year height of six (6) to eight (8) feet after planting and an anticipated mature height of thirty (30) to forty (40) feet. This requirement may be reduced or waived if agreed to, in writing, by the owner of the residence. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.
9. In order to comply with Section 98-875 (5), a minimum 50' setback from any solar structure to any public right of way where the Project is adjacent to a public right of way shall be provided. Along public right of ways low growing evergreen vegetation with an anticipated five year height of three (3) to five (5) feet after planting and a mature height of no more than seven (7) to ten (10) feet shall be planted and/or/or in combination with a berm of sufficient height to block the view of the solar equipment, when standing at the edge of the public right of way at a height of 5', in accordance with a landscape plan approved by the zoning administrator per the requirement of Sec 98-875 (a)(12). This requirement may be reduced or waived if agreed to, in writing, by the zoning administrator. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.
10. The Applicant shall install a security fence around the solar energy farm that is a minimum six (6) feet in height.
11. All solar panels will use anti-reflective coatings to help prevent glare.
12. No aspect of the solar farm shall exceed 25 feet in height, as measured from grade at the base of the structure to its highest point. Such height restriction shall not apply to electrical distribution or transmission lines.
13. Construction lighting shall be minimized and shall be directed downward. Post- construction lighting shall be limited to security lighting only.
14. If the solar energy farm is inactive, completely or substantially discontinuing the delivery of electricity to an electrical grid for a continuous twenty-four (24) month period it shall be considered abandoned. The Applicant shall provide notice to County Staff immediately upon the

site becoming inactive and/or shutting down operation. The current owner of the Project ("Project Owner") shall remove the facilities ("decommissioning") within six (6) months of receipt of notice from the County ("County Notice"). If the facility is not removed within the specified time after the County Notice, the County may cause the removal of the solar energy farm with costs being borne by the Project Owner. Unless the solar energy farm is owned by a public utility in the Commonwealth of Virginia, the net costs of decommissioning shall be secured by an adequate surety in a form agreed to by the County Attorney, including but not limited to a letter of credit, cash, or a guarantee by an investment grade entity, posted within 30 days of the project receiving its occupancy permit or equivalent from the County. If the solar energy farm is sold to any entity that is not a public utility, the CUP shall not transfer to the purchaser until such time as the adequate surety is provided. If a surety is required, the cost estimates of the decommissioning shall be updated every five (5) years and provided to the County. At its option, the County may require the surety amount be increased based on the net cost of decommissioning.

15. The Applicant shall coordinate with the County's emergency services staff to provide materials, education, and/or training to the departments serving the solar energy farm in regard to how to safely respond to on-site emergencies.
16. Access roads are to be marked by the Applicant with identifying signage.
17. A Construction Traffic Management Plan and mitigation measures shall be developed by the Applicant and submitted to the Virginia Department of Transportation (VDOT) and the County of New Kent for review. The Plan shall address traffic control measures, a pre- and post-construction road evaluation, and any necessary repairs to the public road that are required as a result of damage from the Project. If a traffic issues arises during the construction of the Project, the Applicant shall develop with input from the County and VDOT appropriate measures to mitigate the issue.
18. A building permit shall be obtained within three years of CUP approval or this CUP shall be null and void.

Attested:



Patricia Townsend, Chair

New Kent County Planning Commission



DATE: October 6, 2016
 TO: Agricultural & Forestal District Advisory Committee
 FROM: Sheri Wood, Community Development
 RE: **AFD-019-16**, Withdrawal of land from the **Wahrani Swamp** AFD

REQUEST

The applicant, Mr. William B. Gilman of Gilman Land & Timber, LLC, has submitted an application to withdraw approximately 215 acres from his 307.78 acre parcel of land located in the **Wahrani Swamp** Agricultural and Forestal District (AFD). The **Wahrani Swamp** AFD currently consists of 17 parcels totaling approximately 1,311 acres and is not set to expire until August 31, 2019. The land is now subject to a recently approved Conditional Use Permit allowing the construction of a Solar Site consisting of a 20 mega-watt solar photovoltaic electricity generating facility. For relevant background information; a copy of the May 16, 2016 Memo regarding the Conditional Use Application Number CUP-02-16 and the application are included in your meeting packet.

PUBLIC HEARINGS (Tentative)

Planning Commission: November 21, 2016
 Board of Supervisors: December 12, 2016

PROPERTY INFORMATION

Tax Map Parcel: 37-50
 GPIN #: G29-2578-3576
 Total Acreage: 307.78
 Dwellings on Parcel: None
 Zoning: A1
 Future Land Use Designation: RURAL LANDS
 Current assessed value: \$ 960,000.00
 Public Utilities: NONE

LAND USE

Acres Devoted to Pasture: 0
 Acres Devoted to Marsh/Wetlands: 30
 Acres Devoted to Tilled Cropland: 0
 Acres Devoted to Timber: 277.78

PROPOSED LAND USE

Acres Proposed for Solar Site: 215

LOCATION

The Wahrani Swamp District is in the eastern portion of the County primarily along State Route 30 (New Kent Highway). It is roughly 5 miles West of the James City County line. The proposed withdrawal parcel, 37-50, is located off State Route 633 (Barham Road) in the vicinity south of State Route 639 (Mt. Nebo Road). The associated maps are included in the application packet.

COMPREHENSIVE PLAN

The property is designated as RURAL LANDS in the Comprehensive Plan. The project meets the desired goals of the Comprehensive Plan by preserving the County's existing rural character, protecting the natural environment, and promoting sustainable alternate energy sources which

consider developing policies to allow for small-scale wind and solar energy projects as a matter of right subject to meeting reasonable performance standards.

STATE AND COUNTY CODE REGARDING AFD WITHDRAWALS

Section 62-44 of the Codified Ordinance of New Kent County, titled 'Withdrawal of land from a district; termination of a district', provides that any owner of land lying in such district may request in writing the withdrawal of all or part of his land from the district, which, under Section 15.2-4314 of the Code of Virginia of 1950, may be permitted "for good and reasonable cause". A copy of both of the New Kent County Code and Code of Virginia are included in your meeting packet for review.

RECOMMENDATION

By removing this piece of this land from the AFD program, a portion of the parcel could be developed into a Solar Site consisting of a 20 mega-watt solar photovoltaic electricity generating facility which will be designed in accordance with federal, state and local standards. The development intensity of the parcel will remain low with the installation of solar panels and no additional housing.

The developer, Virginia Solar, LLC, intends to enter into an agreement with the landowner, William B. Gilman, to lease this land for such purpose and pay all associated roll-back taxes related to the early withdrawal. A conditional use permit number CUP-02-16 has been approved by the Board of Supervisors and a copy of resolution number R-14-16 is included in your meeting packet.

The request appears to comply with the requirements of State and County codes regulating AFDs. The request also supports the process of allowing roll-back taxes to be collected by the Commissioner of Revenue in light of the approved Board resolution number R-14-16.

Staff finds the proposed development to be consistent with the County's Future Land Use Comprehensive Plan and offers a favorable recommendation for application **AFD-019-16** with no adverse effect to public safety or the remaining parcels within the special use district.

SUGGESTED MOTIONS

I move to forward a favorable recommendation to the Planning Commission and Board of Supervisors to approve application **AFD-019-16**, a request by the applicant to withdraw approximately 2.15 acres from tax map parcel 37-50, GPIN G29-2578-3576 from the **WAHRANI SWAMP** AFD:

or

I move to send an unfavorable recommendation to the Planning Commission and Board of Supervisors for the approval of application **AFD-019-16** for the following reasons:

Charles E. Moss

Charles Moss, Chairman
AFD Advisory Committee

Oct 6 2016
Date

Attachments: Planning Commission Memo regarding CUP-02-16 dated 5/16/16
Application CUP-02-16 dated 4/18/16
Application AFD-019-16 dated 9/13/16 with maps
New Kent County Code Section 62-44
Code of Virginia Section 15.2-4314
Board of Supervisors Approved Resolution R-14-16



AGRICULTURAL AND FORESTAL
DISTRICT (AFD)
APPLICATION
PLANNING DIVISION
County of New Kent, Virginia
Web site: www.co.new-kent.va.us

OFFICE USE ONLY *DO NOT WRITE IN THIS BOX*	
Application #:	AFD- 019-16
Date Received:	9-13-16
Application Fee:	\$ 103.75
Effective date for tax	
Purposes:	

New Kent County ♦ Community Development Department-Planning ♦ PO Box 150 ♦ New Kent, VA 23124 ♦ Phone 804-966-8580 ♦ Fax 804-966-8531
Use PO Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY

PROCEDURES FOR CREATION WITHDRAWAL FROM AN AFD

1. The applicant shall prepare an application, including all required information. Applications will not be accepted if the application does not have the following.
 - a. Completed form, including tax parcel, g-pin number and proper signature(s).
 - b. Adjacent property owners list certified by the Commissioner of Revenue.
 - c. The required fee payment of \$50.00 per parcel plus \$0.25 per acre, up to a maximum of \$500.00; this must be remitted with your application.
 - d. The required maps.

When the fee is paid, the application will be accepted if complete.

Staff will review the application to verify its completeness. Any omission, incorrect, or incomplete information can delay the processing of an application, so the staff will notify the applicant if any items are so affected. A specific deadline for submittal or missing or incomplete information will be set. Applications will be deferred for processing if the requested information is not provided by the deadline specified.

Once the staff has completed its preliminary review of the application, the application is certified as being ready for Board of Supervisors review and is placed on the Board's agenda. The applicant is notified by letter of the date of the meeting.

2. Upon the receipt of an application, the Board of Supervisors shall refer it to the Planning Commission.
3. The Planning Commission shall post and publish the appropriate notices required under Section 15.2-4307 of the Code of Virginia.
4. After the initial thirty (30) day period has expired, the Planning Commission shall refer the matter to the AFD Advisory Committee for recommendations.
5. After receipt of recommendation of the AFD Advisory Committee, the Planning Commission shall hold a public hearing.
6. Within thirty (30) days of holding its public hearing, the Planning Commission shall forward its recommendation to the Board of Supervisors. The report will include, but not be limited to the potential effect of the district and proposed modifications upon the County's planning policies and objectives.
7. The Board will then hold a public hearing on the application.

A copy of this completed form and required maps shall be submitted by the applicant landowners of the local governing body.

TO BE COMPLETED BY PROPERTY OWNER

PROPERTY OWNER(S)

Name(s): Gilman Land & Timber, LLC
Address: 13423 Farrington Road
City: Ashland State: Virginia Zip: 23005
Phone: 804 798-7812 Fax: 804-798-7813
Email: GILMANLOGGING@VERIZON.NET

PROPERTY INFORMATION

Name of District being Withdrawn from: Wahrani Swamp - (expires 8-31-19)
Reason for Request of Withdrawal: land use change - remove 215 acres
Tax Assessor's Map and Parcel No.(s): PID#639 & TMD 37-50 Acreage(s): 307.78
GPIN(s): 629-2578-3576
Deed Book/Plat Book Reference No.(s): 462/956
Number of Dwellings on Parcel(s): zero; vacant land
No. and Types of Other Buildings/Improvements on Parcel(s): zero; vacant land

Acres Devoted to Pasture: 0
Acres Devoted to Marsh/Wetlands: 30
Acres Devoted to Tilled Cropland: 0
Acres Devoted to Timber: 277.78
Current Assessed Value: \$ 960,000.00
Current Zoning: A-1

(Above information is available from the Commissioner of Revenue)

Comprehensive Plan Designation: Suburban Housing Detached Rural Lands
(Available from the Planning Department)

William B. Gilman
Signature of Property Owner

9/13/16
Date

William B. Gilman
Printed Name of Property Owner

Signature of Property Owner

Date

Printed Name of Property Owner

ADJACENT PROPERTY OWNERS

Applicant's Statement:

I hereby certify that the names and addresses below are those of the adjacent property owners listed in the current tax records of the Commissioner of Revenue of New Kent County and surrounding municipalities. Adjacent property includes all property across roadways (public and private), watercourses, railroads, and/or municipal boundaries.



Signature

9/13/16

Date

Signature

Date

	Tax Map & Parcel Number		Name	Address (include City, State & Zip)
1.	37-83	3624	Treasure R. Johnson	PO Box 793 West Point, VA 23181
2.	37-84	347	Sarah H + R.T. Armistead	207 W Duke of Gloucester St Williamsburg 23188
3.	37-41	* 5292	NK Abbott LLC Beverly L Heath, Sr and Ronald Blackburn	11835 Fishing Point Dr #101 Newport News 23606
4.	37-49	3150	Thomas Lee Heacox	PO Box 111 Barhamsville, 23011
5.	37-56	1193	Gloria M. Miles	611 Cicero Dr. Ruther Glen 22546
6.	37-56A	103482	Robin My + Melvin N Allen	PO Box 226 Barhamsville 23011
7.	37-57	6771	Hunt Walker Properties, LLC	10809 Branberry Ln Henrico, 23233
8.	37-54	3086	Mathew Starr	119 W Williamsburg Rd Sandston 23150
9.	37-52	888	Proclaiming Grace Outreach	20051 Tabernacle Rd Barhamsville 23011
10.	37-51	6412	Ethel Taylor	18076 New Kent Hwy Barhamsville 23011
11.	37-62	4251	Alan Gerard Manning	PO Box 172 Barhamsville 23011
12.	37-62A	3815	Sherril L. Workman	PO Box 13 Barhamsville 23011
13.	37-62B	4249	Wendy Grygier	18168 New Kent Hwy Barhamsville 23011
14.	37-1-2	2525	Dorothy Boroughs Fomica	906 Yardarm Ln Annapolis, MD 21401
15.	37-1-3	676	Russell T. Norton	4701 Barham Rd Barhamsville 23011
16.	37-69	5597	Carolyn B. Richardson	130 Spring Place Way Annapolis, MD 21401-7866
17.	37-66	4627	Grace R Owen	46 W Village Rd Newark, DE 19713-3844
18.	37-70	* 7222	Baker Heating + Air Conditioning Inc	2301 Wakema Rd West Point 23181
19.	37-70A	4196	Melissa R Burnett III	Anthony Wayne Rd Williamsburg 23185
20.	37-70B	6225	Robert C Starr	PO Box 141 Wachapreague, VA 23480
21.	37-71	* 722D	Baker Heating + Air Conditioning Inc	2301 Wakema Rd West Point 23181
22.	37-72	* 1289	Richard F Abbott Investments LC + Ronald D Blackburn	11835 Fishing Point Dr #101 Newport News VA 23606
23.	37-73	653	Anthony W Cuffey + Sarah Bracions	18235 Spiritwood Ln Barhamsville 23011
24.	37-74	9089	Jesse Gene Moseley	18225 Spiritwood Ln Barhamsville 23011
25.	37-75	* 892	Ronald D Blackburn	PO Box 147 Barhamsville VA 23011

See attached . . .

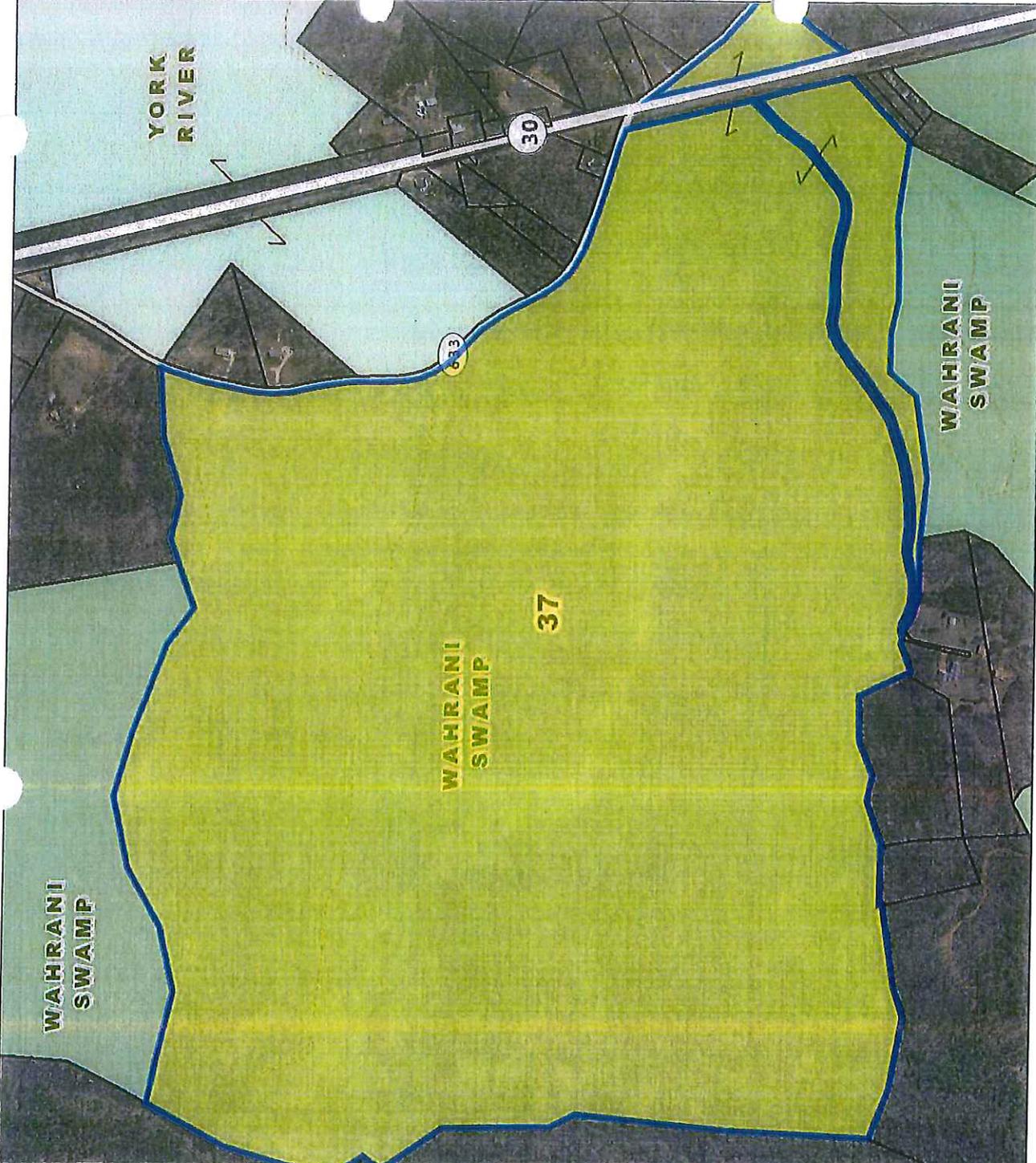
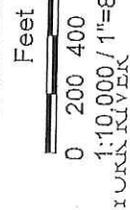
Adjacent Property Owners Continued from Page 3.

26. 37-76 * 6228 Ronald D Blackburn PO Box 147 Barhamsville 23011
27. 46-14 7360 Mary J Potts Trustee + James L Selsor Trustee
838 W Stevens Rd
Palm Springs, CA 92262

New Kent County, Virginia

Legend

- Area County Boundaries
- Parcels
- Parcel Labels 1:2400
- Hooks
- Subdivisions
- Tax Map 600 Scale Grid
- Routes
- INTERSTATE
- US HIGHWAY
- VA PRIMARY
- VA SECONDARY
- PRIVATE
- PAPER
- INSTITUTIONAL PROPERTY
- ISFR
- RAMP
- CROSSOVER
- Ancillary Roads
- Railroads
- AFD Parcels
- <Null>
- ALLENS RUN
- BIG SWAMP
- BLACK CREEK
- CATTAIL SWAMP
- COOKS MILL
- CRUMPS SWAMP
- DIASCUND CREEK
- HIGGINS SWAMP
- HOLTS CREEK
- LOWER CHICKAHOMINY
- MILL CREEK
- PAMUNKEY RIVER
- PELHAM SWAMP
- PUTNEY CREEK
- YORK RIVER



Title: Wahrani Swamp AFD, TM#: 37-50

Date: 9/8/2016

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and New Kent is not responsible for its accuracy or how current it may be.

BARHAM RD

Location BARHAM RD

Map# 37 / / 50 / /

Acct# 37 50

Owner GILMAN LAND & TIMBER LLC

Assessment \$960,000

PID 639

Subdivision DILLARDS

AFD AFD

Description 307.78 AC PB 20/95

Legal LOT A=305; LOT B=2.78

Area N

Class 6

AFD Name WAHRANI SWAMP

AFD Expiration 8/31/2019

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2016	\$0	\$960,000	\$960,000

Owner of Record

Owner GILMAN LAND & TIMBER LLC
Co-Owner
Address 13423 FARRINGTON RD
 ASHLAND, VA 23005

Sale Price \$0
Book & Page 462/956
Sale Date 02/17/2006

Ownership History

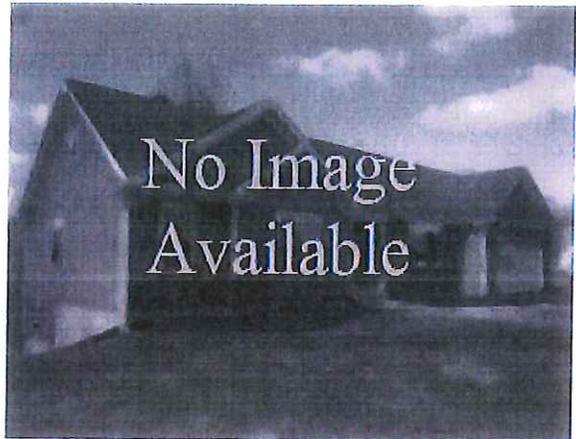
Ownership History			
Owner	Sale Price	Book & Page	Sale Date
GILMAN LAND & TIMBER LLC		462/956	02/17/2006
GILMAN WILLIAM B & FRANCES R	\$586,000	250/387	10/02/1997
UNKNOWN	\$586,000	1/1	10/02/1997
BLAND ROBERT POINTER	\$0	1/1	

Building Information

Building 1 : Section 1

Year Built:
 Living Area: 0
 Building Percent
 Good:
 Replacement Cost
 Less Depreciation: \$0

Building Photo



(http://images.vgsi.com/photos2/NewkentcountyVAPhotos//default.jpg)

Building Attributes	
Field	Description
Style	Vacant Land
Model	
Grade:	
Exterior Wall 1:	
Exterior Wall 2:	
Roof Structure:	
Roof Cover:	
Interior Wall 1:	
Interior Wall 2:	
Interior Flr 1:	
Interior Flr 2:	
Heat Fuel:	
Heat Type:	
AC Type:	
Total Bedrooms:	
Total Bathrooms:	
Total Half Baths:	
Extra Kitchens:	
Extra Heat Pump:	
Total Fireplaces:	
Fireplace Type:	
Neighborhood:	
Utilities:	

Building Layout

Building Layout

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Parcel Information

Use Code 1061
 Description SITE ND FO
 Deeded Acres 307.78

Land

Land Use

Use Code 1061
 Description SITE ND FO
 Zone A1
 Neighborhood EASTERN
 Category

Land Line Valuation

Size (Acres) 307.78
 Assessed Value \$960,000

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2016	\$0	\$960,000	\$960,000
2015	\$0	\$996,300	\$996,300
2013	\$0	\$918,200	\$918,200

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NEW KENT COUNTY
Mailing of Notices

Applicants Name: Gilman Land & Timber, LLC
Application Number: AFD-019-16

STATE OF VIRGINIA
COUNTY OF NEW KENT, to wit

(I) Sheri L. Wood, Administrative Assistant of the New Kent County Department of Community Development, do make oath that notices as required by Section 15.2-4307 of the Code of Virginia, 1950, as amended, were mailed on the 7th day of October, 2016, by first class mail, postage prepaid, to the persons whose names and addresses appear below.

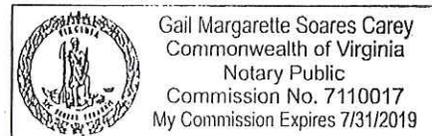
Sheri L. Wood

Signed

Subscribed and sworn to before me this 7th day of October, 2016.

Gail M. S. Carey
Notary Public

My commission expires: July 31, 2019



TM #'s	Name	Address	City, State, Zip Code
	See attached list		

§ 15.2-4307. Review of application; notice; hearing.

Upon the receipt of an application for a district or for an addition to an existing district, the program administrator shall refer such application to the advisory committee.

The advisory committee shall review and make recommendations concerning the application or modification thereof to the local planning commission, which shall:

1. Notify, by first-class mail, adjacent property owners, as shown on the maps of the locality used for tax assessment purposes, and where applicable, any political subdivision whose territory encompasses or is part of the district, of the application. The notice shall contain (i) a statement that an application for a district has been filed with the program administrator pursuant to this chapter; (ii) a statement that the application will be on file open to public inspection in the office of the clerk of the local governing body; (iii) where applicable a statement that any political subdivision whose territory encompasses or is part of the district may propose a modification which must be filed with the local planning commission within thirty days of the date of the notice; (iv) a statement that any owner of additional qualifying land may join the application within thirty days from the date of the notice or, with the consent of the local governing body, at any time before the public hearing the local governing body must hold on the application; (v) a statement that any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the local governing body, at any time before the local governing body acts pursuant to § 15.2-4309; and (vi) a statement that additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter;

2. Hold a public hearing as prescribed by law; and

3. Report its recommendations to the local governing body including but not limited to the potential effect of the district and proposed modifications upon the locality's planning policies and objectives.

(1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.)

Treasure R. Johnson
P. O. Box 793
West Point, VA 23181

Sarah H. & R. T. Armistead
207 W. Duke of Gloucester Street
Williamsburg, VA 23188

NK Abbitt, LLC
Beverly L. Heath, Sr. and
Ronald Blackburn
11835 Fishing Point Drive, #101
Newport News, VA 23606

Thomas Lee Heacox
P. O. Box 111
Barhamsville, VA 23011

Gloria M. Miles
611 Cicero Drive
Ruther Glen, VA 22546

Robin M. & Melvin N. Allen
P. O. Box 228
Barhamsville, VA 23011

Hunt Walker Properties, LLC
10809 Branberry Lane
Henrico, VA 23233

Mathew Starr
119 W. Williamsburg Road
Sandston, VA 23150

Proclaiming Grace Outreach
20051 Tabernacle Road
Barhamsville, VA 23011

Ethel Taylor
18076 New Kent Highway
Barhamsville, VA 23011

Alan Gerard Manning
P. O. Box 172
Barhamsville, VA 23011

Sherri L. Workman
P. O. Box 13
Barhamsville, VA 23011

Wendy Grygier
18168 New Kent Highway
Barhamsville, VA 23011

Dorothy Boroughs Fomica
906 Yardarm Lane
Annapolis, Maryland 21401

Russell T. Norton
4701 Barham Road
Barhamsville, VA 23011

Polyn B. Richardson
130 Spring Place Way
Annapolis, Maryland 21401-7866

Grace R. Owen
46 West Village Road
Newark, Delaware 19713-3844

Baker Heating & Air Conditioning, Inc.
2301 Wakema Road
West Pont, VA 23181

Melissa R. Burnett
111 Anthony Wayne Road
Williamsburg, VA 23185

Robert C. Starr
P. O. Box 141
Wachapreague, VA 23480

Anthony W. Cuffe
Sarah Brocious
18235 Spiritwood Lane
Barhamsville, VA 23011

Jesse Gene Moseley
18225 Spiritwood Lane
Barhamsville, VA 23011

Ronald D. Blackburn
P. O. Box 147
Barhamsville, VA 23011

Mary J. Potts Trustee &
James L. Selsor Trustee
838 W. Stevens Road
Palm Springs, California 92262

Adjacent Propeerty Owners to
Tax map 37-50
Gilman Land & Timber, LLC
Application AFD-019-16
S. Wood



Department of Community Development
Environmental Division
12007 Courthouse Circle
Post Office Box 150
New Kent, Virginia 23124-0050

October 7, 2016

Public Hearing Notice from the New Kent County Planning Commission

Re: AFD Application #AFD-019-16, a request by Gilman Land & Timber, LLC to withdraw land from the Wahrani Swamp Agricultural and Forestal District, tax map parcel # 37-50

Dear Property Owner,

As an adjacent property owner to Gilman Land & Timber, LLC of tax map parcel 37-50 located on Barham Road, we hereby notify you of an upcoming Planning Commission meeting.

Enclosed is a copy of the public notice for your information.

If you have any questions or comments, please feel free to contact this office at (804) 966-9690.

Sincerely,

A handwritten signature in black ink that reads "Sheri L. Wood". The signature is written in a cursive style.

Sheri L. Wood
Administrative Assistant

Cc: Application File AFD-019-16

(1) enclosure

Public Notice dated Friday, October 7, 2016

The New Kent County Planning Commission will hold a public hearing on Monday, November 21, 2016 at 6:30PM with public hearings beginning at 7:00PM at the New Kent County Administration Building Boardroom located at 12007 Courthouse Circle, New Kent, VA 23124 to hear two application to withdraw Agricultural and Forestal land from the AFD Program.

An application AFD-019-16, request by Gilman Land & Timber; LLC to withdraw tax map parcel # 37-50 from the Wahrani Swamp Agricultural & Forestal District

And

An application AFD-020-16, request by Hunt Walker Properties, LLC to withdraw tax map parcel # 37-57 from the York River Agricultural & Forestal District

1. Applications for the districts have been filed with the program administrator pursuant to section 15.2-4307 of the Code of Virginia.
2. The applications will be on file open to public inspection in the office of the clerk of the local governing body.
3. Any political subdivision whose territory encompasses or is part of the district may propose a modification which must be filed with the local planning commission within thirty (30) days of the date of this notice.
4. Any owner of additional qualifying land may join the application within thirty (30) days from the date of this notice or, with the consent of the local governing body, at any time before the public hearing the local governing body must hold on the applications.
5. Any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the local governing body, at any time before the local governing body acts pursuant to section 15.2-4309.
6. Additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter.

For more information please contact Sheri L. Wood, Administrative Assistant to Community Development at (804) 966-9690.

Thank you.

Sec. 62-44. - Withdrawal of land from a district; termination of a district.

- (a) At any time after the creation of a district within the county, any owner of land lying in such district may file with the program administrator a written request to withdraw all or part of his land from the district for good and reasonable cause.
- (b) The program administrator shall refer the request to the advisory committee for its recommendation. The advisory committee shall make recommendations concerning the request to withdraw to the local planning commission, which shall hold a public hearing and make recommendations to the board of supervisors. Land proposed to be withdrawn may be reevaluated through the Virginia or local land evaluation and site assessment (LESA) system. The landowner seeking to withdraw land from a district, if denied favorable action by the governing body, shall have an immediate right of appeal de novo to the circuit court serving the territory wherein the district is located. This section shall in no way affect the ability of an owner to withdraw an application for a proposed district or withdraw from a district pursuant to clause (v) of subdivision 1 of 15.2-4307 or 15.2-4311 of the Code of Virginia.
- (c) Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this article, land that is no longer part of a district shall be subject to roll-back taxes as are provided in Code of Virginia, § 58.1-3237. Sale or gift of a portion of land in a district to a member of the immediate family as defined in Code of Virginia, § 15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.
- (d) Upon termination of a district or upon withdrawal or removal of any land from a district, land that is no longer part of a district shall be subject to those local laws and ordinances prohibited by the provisions of Code of Virginia, § 15.2-4312(B).
- (e) Upon the death of a property owner, any heir at law, devisee, surviving, cotenant or personal representative of a sole owner of any fee simple interest in land lying within a district shall, as a matter of right, be entitled to withdraw such land from such district upon the inheritance or descent of such land, provided that such heir at law, devisee, surviving cotenant or personal representative files written notice of withdrawal with the board of supervisors and the commissioner of the revenue within two years of the date of death of the owner.
- (f) Upon termination or modification of a district, or upon withdrawal or removal of any parcel of land from a district, the board of supervisors shall submit a copy of the ordinance or notice of withdrawal to the commissioner of the revenue, the state forester and the state commissioner of agriculture and consumer services for information purposes. The commissioner of the revenue shall delete the identification of such parcel from the land book and the tax map, and the board of supervisors shall delete the identification of such parcel from the zoning map,

where applicable.

- (g) The withdrawal or removal of any parcel of land from a lawfully constituted district shall not in itself serve to terminate the existence of the district. The district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to Code of Virginia, § 15.2-4311.

(Ord. No. O-26-04, 12-13-2004; Ord. No. O-05-15, 4-13-2015)

§ 15.2-4314. Withdrawal of land from a district; termination of a district.

A. At any time after the creation of a district within any locality, any owner of land lying in such district may file with the program administrator a written request to withdraw all or part of his land from the district for good and reasonable cause. The program administrator shall refer the request to the advisory committee for its recommendation. The advisory committee shall make recommendations concerning the request to withdraw to the local planning commission, which shall hold a public hearing and make recommendations to the local governing body. Land proposed to be withdrawn may be reevaluated through the Virginia or local Land Evaluation and Site Assessment (LESA) System. The landowner seeking to withdraw land from a district, if denied favorable action by the governing body, shall have an immediate right of appeal de novo to the circuit court serving the territory wherein the district is located. This section shall in no way affect the ability of an owner to withdraw an application for a proposed district or withdraw from a district pursuant to clause (v) of subdivision 1 of § 15.2-4307 or § 15.2-4311.

B. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to and liable for roll-back taxes as are provided in § 58.1-3237. Sale or gift of a portion of land in a district to a member of the immediate family as defined in § 15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.

C. Upon termination of a district or upon withdrawal or removal of any land from a district, land that is no longer part of a district shall be subject to those local laws and ordinances prohibited by the provisions of subsection B of § 15.2-4312.

D. Upon the death of a property owner, any heir at law, devisee, surviving cotenant or personal representative of a sole owner of any fee simple interest in land lying within a district shall, as a matter of right, be entitled to withdraw such land from such district upon the inheritance or descent of such land provided that such heir at law, devisee, surviving cotenant or personal representative files written notice of withdrawal with the local governing body and the local commissioner of the revenue within two years of the date of death of the owner.

E. Upon termination or modification of a district, or upon withdrawal or removal of any parcel of land from a district, the local governing body shall submit a copy of the ordinance or notice of withdrawal to the local commissioner of revenue, the State Forester and the State Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of revenue shall delete the identification of such parcel from the land book and the tax map, and the local governing body shall delete the identification of such parcel from the zoning map, where applicable.

F. The withdrawal or removal of any parcel of land from a lawfully constituted district shall not in itself serve to terminate the existence of the district. The district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to §

15.2-4311 of this chapter.

PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA

PC-24-16

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 21st day of November, 2016:

<u>Present:</u>	<u>Vote:</u>
Katherine Butler	
Jack Chalmers	
Joanne Schmit	
Laura Rose	
Charna Moss - Gregory	
Richard Kontny, Jr.	
John Moyer	
Edward Pollard	
Tommy Tiller	
Joyce Williams	
Patricia Townsend	

Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF
THE WITHDRAWAL OF LAND FROM
TAX MAP PARCEL #37-50, GPIN #G29-2578-3576
FROM THE WAHRANI SWAMP AGRICULTURAL AND FORESTAL DISTRICT,
APPLICATION AFD-019-16**

WHEREAS, William B. Gilman of Gilman Land & Timber, LLC has applied to withdraw approximately 215 acres of land from the Wahrani Swamp Agricultural and Forestal District known as tax map parcel #37-50, GPIN #G29-2578-3576; and

WHEREAS, granting this request will decrease the acreage of the Wahrani Swamp Agricultural and Forestal District to approximately 1,123 acres; and

WHEREAS, this request is in accordance with state and local laws governing Agricultural and Forestal Districts; and

WHEREAS, the Wahrani Swamp Agricultural and Forestal District term expires on August 31, 2019; and

WHEREAS, this application was thoroughly considered by the Agricultural and Forestal District Advisory Committee; and

WHEREAS, after conducting a duly advertised public meeting on the 6th day of October, 2016, the Agricultural and Forestal District Advisory Committee voted 5:0:1 to forward a favorable recommendation to the Planning Commission; and

WHEREAS, the Planning Commission scheduled and conducted a formal and duly advertised public hearing in accordance with the applicable requirements of the Code of Virginia, carefully considering the public comment received; and

WHEREAS, the Commission has also carefully reviewed the application and recommendation of the AFD Advisory Committee and considered the goals and objectives of the County's Comprehensive Plan.

NOW THEREFORE, BE IT RESOLVED that on this, the 21st day of November, 2016, by the New Kent County Planning Commission, that a favorable recommendation be forwarded to the New Kent County Board of Supervisors for the withdrawal of 215 acres of land from tax map parcel 37-50 (GPIN # G29-2578-3576) in the Wahrani Swamp Agricultural and Forestal District.

Attested:

Patricia Townsend
Chairwoman, New Kent County Planning Commission



DATE: November 21, 2016
 TO: New Kent County Planning Commission
 FROM: Sheri Wood, Community Development *slw*
 RE: **AFD-020-16**, Withdrawal of land from the **York River** AFD

REQUEST

The applicant, Mr. Baker Martin Walker of Hunt Walker Properties, LLC, has submitted an application to withdraw approximately 130 acres from his 176 acre parcel of land located in the **York River** Agricultural and Forestal District (AFD). The **York River** AFD currently consists of 56 parcels totaling approximately 3,110 acres and is not set to expire until August 31, 2020. This request comes as a result of the approved Conditional Use Permit Number CUP-02-16 which will allow construction of the Virginia Solar facility. Planning Commission resolution number PC-06-16 is included in your packet for reference.

PUBLIC HEARINGS

Agricultural and Forestal District Advisory Committee: October 6, 2016

The Agricultural and Forestal District Advisory Committee recommended approval of Application AFD-020-16 and sighted 'good and reasonable cause' to make way for the approved conditional use development. Attached please find the October 6th approval from the AFD Advisory Committee.

Planning Commission: November 21, 2016

Application AFD-020-16 is included in your packet for your consideration. All known adjacent property owners have been notified and the 'Mailing of Notices' affidavit is also attached for your review. No public comments have been received at this time.

Board of Supervisors (tentatively scheduled): December 12, 2016

PROPERTY INFORMATION

Tax Map Parcel:	37-57
GPIN #:	G30-0217-4336
Total Acreage:	176.87
Dwellings on Parcel:	None
Zoning:	A1
Future Land Use Designation:	RURAL LANDS
Current assessed value:	\$ 632,600.00
Public Utilities:	NONE

LAND USE

Acres Devoted to Pasture:	0
Acres Devoted to Marsh/Wetlands:	0
Acres Devoted to Tilled Cropland:	0
Acres Devoted to Timber:	176.87

PROPOSED LAND USE

Acres Proposed for Solar Site: 130

LOCATION

The York River District is in the far Northeastern corner of the County. James City County borders it to the east and the York River to the north. Stat route 639 (Mt. Nebo Road) lies to the north of the proposed withdrawal parcel, 37-57. State route 30 (New Kent Highway) intersects the parcel on the eastern side. The associated maps are included in the application packet.

COMPREHENSIVE PLAN

The property is designated as RURAL LANDS in the Comprehensive Plan. The project meets the desired goals of the Comprehensive Plan by preserving the County's existing rural character, protecting the natural environment, and promoting sustainable alternate energy sources which consider developing policies to allow for small-scale wind and solar energy projects as a matter of right subject to meeting reasonable performance standards.

STATE AND COUNTY CODE REGARDING AFD WITHDRAWALS

Section 62-44 of the Codified Ordinance of New Kent County, titled 'Withdrawal of land from a district; termination of a district', provides that any owner of land lying in such district may request in writing the withdrawal of all or part of his land from the district, which, under Section 15.2-4314 of the Code of Virginia of 1950, may be permitted 'for good and reasonable cause'. A copy of both of the New Kent County Code and Code of Virginia are included in your meeting packet for review.

RECOMMENDATION

By removing this piece of this land from the AFD program, administrative protocol will be fulfilled and a portion of the parcel could be developed into a Solar Site consisting of a 20 mega-watt solar photovoltaic electricity generating facility which will be designed in accordance with federal, state and local standards. A site plan has been submitted by the developer for planning review and indicates the development intensity of the parcel will remain low with the installation of solar panels and no additional housing.

The developer, Virginia Solar, LLC, intends to enter into an agreement with the landowner, Bkaer Martin Walker, to lease this land for such purpose and pay all associated roll-back taxes related to the early withdrawal.

The request appears to comply with the requirements of State and County codes regulating AFDs. The request also supports the process of allowing roll-back taxes to be collected by the Commissioner of Revenue in light of the approved Board resolution number R-14-16.

Staff finds the proposed development to be consistent with the County's Future Land Use Comprehensive Plan and offers a favorable recommendation for application **AFD-020-16** with no adverse effect to public safety or the remaining parcels within the special use district.

SUGGESTED MOTIONS

1. In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt resolution PC-25-16 to forward application AFD-020-16 to the New Kent County Board of Supervisors with a favorable recommendation.

OR

2. I move to forward application AFD-020-16 to the New Kent County Board of Supervisors with an unfavorable recommendation for the following reasons:

A. _____

B. _____

C. _____

Attachments:

1. Resolution PC-06-06
2. AFD Advisory Committee Recommendation
3. Application AFD-020-16
4. Mailing of Notices Affidavit
5. Code Ordinance Section 62-44
6. Code of Virginia Section 15.2-4314
7. Resolution PC-25-16

Cc: AFD file

PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA

PC-06-16

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 16th day of May, 2016:

<u>Present:</u>	<u>Vote:</u>
Katherine Butler	Aye
Jack Chalmers	Aye
Joanne Schmit	Aye
Laura Rose	Aye
Charna Moss - Gregory	Aye
Richard Kontny, Jr.	Aye
John Moyer	Aye
Edward Pollard	Aye
Tommy Tiller	Abstain
Patricia Townsend	Aye
Joyce Williams	Aye

Motion was made by Mr. Kontny, which carried 10:0:1, to adopt the following resolution:

A RESOLUTION TO RECOMMEND APPROVAL OF
CONDITIONAL USE PERMIT APPLICATION CUP-02-16,
VIRGINIA SOLAR
TO AUTHORIZE THE CONSTRUCTION OF A SOLAR FARM FACILITY
LOCATED ON TAX MAP 37-50 (GPIN #G29-2578-3576) AND
TAX MAP 37-57 (GPIN #G30-0217-4336)

WHEREAS, Gilman Land & Timber LLC and Hunt Walker Properties LLC (property owners) and Matthew Meares from Virginia Solar LLC (applicant), have submitted a "Conditional Use Permit Application" dated April 18, 2016; and

WHEREAS, said application requests a conditional use permit to construct, own, and operate a solar farm site (defined as a "public or private electrical generation facility" in the New Kent County Zoning Ordinance) on two parcels identified on the New Kent County digital map as GPIN #G29-2578-3576 (Tax Map and parcel 37-50) and GPIN #G30-0217-4336 (Tax Map and parcel 37-57); and

WHEREAS, subsequent to receiving a complete application and within the timeframes established by Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing, carefully considering the public comment received; and

WHEREAS, the Planning Commission has evaluated the application based on the current zoning of the parcels, which is A-1 Agricultural, the standards set forth in the Conditional Use Permit

Provisions of the Zoning Ordinance (Article XIX, § 98-741 et seq.), and the proposed conditions in the staff memo; and

WHEREAS, the Commission finds that CUP-02-16 is substantially in accord with the Comprehensive Plan; and

WHEREAS, the Commission finds that approval of CUP-02-16 with the conditions stated herein is appropriate to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County;

NOW THEREFORE, BE IT RESOLVED that on this, the 16th day of May, 2016, by the New Kent County Planning Commission, that Conditional Use Permit Application CUP-02-16 submitted by Gilman Land & Timber LLC and Hunt Walker Properties LLC (property owners) and Matthew Meares from Virginia Solar LLC (applicant), be forwarded to the New Kent County Board of Supervisors with a recommendation of approval with the following conditions:

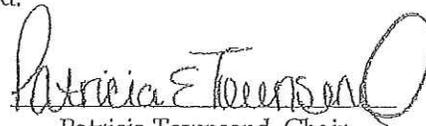
1. The following conditions shall apply to Tax Map & Parcel number 37-50 (GPIN G29-2578-3576) and Tax Map & Parcel number 37-57 (GPIN G30-0217-4336).
2. This Conditional Use Permit shall be binding on Virginia Solar LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy farm.
3. Virginia Solar LLC or any successors, assignees, current or future lessee, sub-lessee, or owner of the solar energy farm (the "Applicant") shall consent to annual administrative inspections by Community Development Department staff for compliance with the requirements of this Conditional Use Permit.
4. All federal, state, and local laws, regulations, permit requirements and ordinances will be adhered to including but not limited to:
 - a. All active solar systems shall meet all requirements of the National Electrical Code (NEC), National Electrical Safety Code (NESC), American Society of Civil Engineers (ASCE), American National Standards Institute (ANSI), Institute of Electrical and Electronics Engineers (IEEE), Underwriters Laboratories (UL), or International Electrotechnical Commission (IEC) as applicable and state building code and shall be inspected by a county building inspector throughout the building permit process.
 - b. An Erosion and Sediment Control plan must be submitted and approved prior to any land disturbance.
 - c. The site shall fully comply with all applicable provisions of Section 98-213 of the New Kent County Zoning Ordinance, to the extent not modified herein, throughout the life of this CUP.
5. The solar energy farm shall consist of one integrated power generation facility and shall be limited to no more than the 250 acres of the property identified as "Correctional - Virginia Solar," as shown on the Maximum Extents Plan prepared by Timmons Group dated April 18th, 2016.
6. All site activity required for the construction and operation of the solar energy farm shall be limited to the following:
 - a. All piling driving activity shall be limited to the hours of no earlier than 7:00 a.m. to no later than 7:00 p.m., Monday through Saturday.

- b. All other construction activity on site shall be permitted Monday through Sunday in accordance with the provisions of the County's Noise Ordinance.
7. A minimum one hundred and fifty (150) foot setback shall be maintained from solar equipment to any adjacent residential dwellings that exist at the time of the CUP application approval by the Board of Supervisors. This requirement may be reduced or waived if agreed to, in writing, by the owner of the residence. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.
8. In order to comply with Section 98-875 (5), a minimum 50' foot setback from solar equipment to the property line shall be provided around the perimeter of the Project where it is adjacent to property not owned by the same property owner as covered in the CUP at the time of the approval by the Board of Supervisors. Within the buffer, in areas where there is not at least 15' of native timber remaining on the project parcel, a single row of evergreens will be planted within the 50 foot setback where there is an adjacent property with an existing residence. Such evergreens shall be planted on fifteen (15) foot centers and shall be a Meyers Spruce tree or other similar tree (which alternative tree shall be subject to the prior written approval of the Planning Department), and the evergreen installed shall have an anticipated five year height of six (6) to eight (8) feet after planting and an anticipated mature height of thirty (30) to forty (40) feet. This requirement may be reduced or waived if agreed to, in writing, by the owner of the residence. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.
9. In order to comply with Section 98-875 (5), a minimum 50' setback from any solar structure to any public right of way where the Project is adjacent to a public right of way shall be provided. Along public right of ways low growing evergreen vegetation with an anticipated five year height of three (3) to five (5) feet after planting and a mature height of no more than seven (7) to ten (10) feet shall be planted and/or/or in combination with a berm of sufficient height to block the view of the solar equipment, when standing at the edge of the public right of way at a height of 5', in accordance with a landscape plan approved by the zoning administrator per the requirement of Sec 98-875 (a)(12). This requirement may be reduced or waived if agreed to, in writing, by the zoning administrator. The security fence and project roads may be located within the setbacks. During construction the setback may be used for the staging of materials and parking.
10. The Applicant shall install a security fence around the solar energy farm that is a minimum six (6) feet in height.
11. All solar panels will use anti-reflective coatings to help prevent glare.
12. No aspect of the solar farm shall exceed 25 feet in height, as measured from grade at the base of the structure to its highest point. Such height restriction shall not apply to electrical distribution or transmission lines.
13. Construction lighting shall be minimized and shall be directed downward. Post-construction lighting shall be limited to security lighting only.
14. If the solar energy farm is inactive, completely or substantially discontinuing the delivery of electricity to an electrical grid for a continuous twenty-four (24) month period it shall be considered abandoned. The Applicant shall provide notice to County Staff immediately upon the

site becoming inactive and/or shutting down operation. The current owner of the Project ("Project Owner") shall remove the facilities ("decommissioning") within six (6) months of receipt of notice from the County ("County Notice"). If the facility is not removed within the specified time after the County Notice, the County may cause the removal of the solar energy farm with costs being borne by the Project Owner. Unless the solar energy farm is owned by a public utility in the Commonwealth of Virginia, the net costs of decommissioning shall be secured by an adequate surety in a form agreed to by the County Attorney, including but not limited to a letter of credit, cash, or a guarantee by an investment grade entity, posted within 30 days of the project receiving its occupancy permit or equivalent from the County. If the solar energy farm is sold to any entity that is not a public utility, the CUP shall not transfer to the purchaser until such time as the adequate surety is provided. If a surety is required, the cost estimates of the decommissioning shall be updated every five (5) years and provided to the County. At its option, the County may require the surety amount be increased based on the net cost of decommissioning.

15. The Applicant shall coordinate with the County's emergency services staff to provide materials, education, and/or training to the departments serving the solar energy farm in regard to how to safely respond to on-site emergencies.
16. Access roads are to be marked by the Applicant with identifying signage.
17. A Construction Traffic Management Plan and mitigation measures shall be developed by the Applicant and submitted to the Virginia Department of Transportation (VDOT) and the County of New Kent for review. The Plan shall address traffic control measures, a pre- and post-construction road evaluation, and any necessary repairs to the public road that are required as a result of damage from the Project. If a traffic issues arises during the construction of the Project, the Applicant shall develop with input from the County and VDOT appropriate measures to mitigate the issue.
18. A building permit shall be obtained within three years of CUP approval or this CUP shall be null and void.

Attested:



Patricia Townsend, Chair
New Kent County Planning Commission



DATE: October 6, 2016
 TO: Agricultural & Forestal District Advisory Committee
 FROM: Sheri Wood, Community Development
 RE: **AFD-020-16**, Withdrawal of land from the **York River** AFD

REQUEST

The applicant, Mr. Baker Martin Walker of Hunt Walker Properties, LLC has submitted an application to withdraw approximately 130 acres from his 176.87 acre parcel of land located in the **York River** Agricultural and Forestal District (AFD). The **York River** AFD currently consists of 55 parcels totaling approximately 3,063 acres and is not set to expire until August 31, 2020. The land is now subject to a recently approved Conditional Use Permit allowing the construction of a Solar Site consisting of a 20 mega-watt solar photovoltaic electricity generating facility. For relevant background information; a copy of the May 16, 2016 Memo regarding the Conditional Use Application Number CUP-02-16 and the application are included in your meeting packet.

PUBLIC HEARINGS (Tentative)

Planning Commission: November 21, 2016
 Board of Supervisors: December 12, 2016

PROPERTY INFORMATION

Tax Map Parcel: 37-57
 GPIN #: G30-0217-4336
 Total Acreage: 176.87
 Dwellings on Parcel: None
 Zoning: A1
 Future Land Use Designation: RURAL LANDS
 Current assessed value: \$ 632,600.00
 Public Utilities: NONE

LAND USE

Acres Devoted to Pasture: 0
 Acres Devoted to Marsh/Wetlands: 0
 Acres Devoted to Tilled Cropland: 0
 Acres Devoted to Timber: 176.87

PROPOSED LAND USE

Acres Proposed for Solar Site: 130

LOCATION

The York River District is in far the Northeastern corner of the County. James City County borders it to the East and the York River to the North. State Route 639 (Mt. Nebo Road) lies to the north of the proposed withdrawal parcel, 37-57. State Route 30 (New Kent Highway) intersects the parcel on the eastern side. The associated maps are included in the application packet.

COMPREHENSIVE PLAN

The property is designated as RURAL LANDS in the Comprehensive Plan. The project meets the desired goals of the Comprehensive Plan by preserving the County's existing rural character, protecting the natural environment, and promoting sustainable alternate energy sources which

consider developing policies to allow for small-scale wind and solar energy projects as a matter of right subject to meeting reasonable performance standards.

STATE AND COUNTY CODE REGARDING AFD WITHDRAWALS

Section 62-44 of the Codified Ordinance of New Kent County, titled 'Withdrawal of land from a district; termination of a district', provides that any owner of land lying in such district may request in writing the withdrawal of all or part of his land from the district, which, under Section 15.2-4314 of the Code of Virginia of 1950, may be permitted "for good and reasonable cause". A copy of both of the New Kent County Code and Code of Virginia are included in your meeting packet for review.

RECOMMENDATION

By removing this piece of this land from the AFD program, a portion of the parcel could be developed into a Solar Site consisting of a 20 mega-watt solar photovoltaic electricity generating facility which will be designed in accordance with federal, state and local standards. The development intensity of the parcel will remain low with the installation of solar panels and no additional housing.

The developer, Virginia Solar, LLC, intends to enter into an agreement with the landowner, Baker Martin Walker, to lease this land for such purpose and pay all associated roll-back taxes related to the early withdrawal. A conditional use permit number CUP-02-16 has been approved by the Board of Supervisors and a copy of resolution number R-14-16 is included in your meeting packet.

The request appears to comply with the requirements of State and County codes regulating AFDs. The request also supports the process of allowing roll-back taxes to be collected by the Commissioner of Revenue in light of the approved Board resolution number R-14-16.

Staff finds the proposed development to be consistent with the County's Future Land Use Comprehensive Plan and offers a favorable recommendation for application **AFD-020-16** with no adverse effect to public safety or the remaining parcels within the special use district.

SUGGESTED MOTIONS

I move to forward a favorable recommendation to the Planning Commission and Board of Supervisors to approve application **AFD-020-16**, a request by the applicant to withdraw approximately 1.30 acres from tax map parcel 37-57, GPIN G30-0217-4336 from the **York River** AFD:

or

I move to send an unfavorable recommendation to the Planning Commission and Board of Supervisors for the approval of application **AFD-020-16** for the following reasons:

Charles S. Moss

Charles Moss, Chairman
AFD Advisory Committee

OCT 6 2016

Date

Attachments: Planning Commission Memo regarding CUP-02-16 dated 5/16/16
Application CUP-02-16 dated 4/18/16
Application AFD-020-16 dated 9/13/16 with maps
New Kent County Code Section 62-44
Code of Virginia Section 15.2-4314
Board of Supervisors Approved Resolution R-14-16



AGRICULTURAL AND FORESTAL
DISTRICT (AFD)
APPLICATION
PLANNING DIVISION
County of New Kent, Virginia
Web site: www.co.new-kent.va.us

OFFICE USE ONLY	
DO NOT WRITE IN THIS BOX	
Application #:	AFD-020-16
Date Received:	9-13-16
Application Fee:	\$ 82.50
Effective date for tax	
Purposes:	

New Kent County ♦ Community Development Department-Planning ♦ PO Box 150 ♦ New Kent, VA 23124 ♦ Phone 804-966-8580 ♦ Fax 804-966-8531
 Use PO Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY

PROCEDURES FOR CREATION WITHDRAWAL FROM AN AFD

1. The applicant shall prepare an application, including all required information. Applications will not be accepted if the application does not have the following.
 - a. Completed form, including tax parcel, g-pin number and proper signature(s).
 - b. Adjacent property owners list certified by the Commissioner of Revenue.
 - c. The required fee payment of \$50.00 per parcel plus \$0.25 per acre, up to a maximum of \$500.00; this must be remitted with your application.
 - d. The required maps.

When the fee is paid, the application will be accepted if complete.

Staff will review the application to verify its completeness. Any omission, incorrect, or incomplete information can delay the processing of an application, so the staff will notify the applicant if any items are so affected. A specific deadline for submittal or missing or incomplete information will be set. Applications will be deferred for processing if the requested information is not provided by the deadline specified.

Once the staff has completed its preliminary review of the application, the application is certified as being ready for Board of Supervisors review and is placed on the Board's agenda. The applicant is notified by letter of the date of the meeting.

2. Upon the receipt of an application, the Board of Supervisors shall refer it to the Planning Commission.
3. The Planning Commission shall post and publish the appropriate notices required under Section 15.2-4307 of the Code of Virginia.
4. After the initial thirty (30) day period has expired, the Planning Commission shall refer the matter to the AFD Advisory Committee for recommendations.
5. After receipt of recommendation of the AFD Advisory Committee, the Planning Commission shall hold a public hearing.
6. Within thirty (30) days of holding its public hearing, the Planning Commission shall forward its recommendation to the Board of Supervisors. The report will include, but not be limited to the potential effect of the district and proposed modifications upon the County's planning policies and objectives.
7. The Board will then hold a public hearing on the application.

A copy of this completed form and required maps shall be submitted by the applicant landowners of the local governing body.

TO BE COMPLETED BY PROPERTY OWNER

PROPERTY OWNER(S)

Name(s): Hunt Walker Properties LLC
Address: 10809 Branberry Lane
City: Henrico State: Virginia Zip: 23233
Phone: 804-270-1314 Fax: _____
Email: walk10809@gmail.com

PROPERTY INFORMATION

Name of District being Withdrawn from: York River - (expires 8-31-20)
Reason for Request of Withdrawal: land use change - remove 130 Acres
Tax Assessor's Map and Parcel No.(s): PID# 6771 and TM# 37-57 Acreage(s): 176.87
GPIN(s): G30-0217-4336
Deed Book/Plat Book Reference No.(s): 645/1987
Number of Dwellings on Parcel(s): Zero; vacant land
No. and Types of Other Buildings/Improvements on Parcel(s): Zero; vacant land

Acres Devoted to Pasture: 0
Acres Devoted to Marsh/Wetlands: 0
Acres Devoted to Tilled Cropland: 0
Acres Devoted to Timber: 176.87
Current Assessed Value: \$ 632,600.00
Current Zoning: A-1

(Above information is available from the Commissioner of Revenue)

Comprehensive Plan Designation: Suburban Housing Detached
(Available from the Planning Department)

Baker Martin Walker, Managing Member

Hunt Walker Properties LLC
Signature of Property Owner

9/13/16
Date

BAKER MARTIN WALKER
Printed Name of Property Owner

Signature of Property Owner

Date

Printed Name of Property Owner

ADJACENT PROPERTY OWNERS

Applicant's Statement:

I hereby certify that the names and addresses below are those of the adjacent property owners listed in the current tax records of the Commissioner of Revenue of New Kent County and surrounding municipalities. Adjacent property includes all property across roadways (public and private), watercourses, railroads, and/or municipal boundaries.

Baker Media Walker, Managing Member
Baker Walker Properties LLC 9/13/16
 Signature: _____ Date _____

Signature _____

Date _____

	Tax Map & Parcel Number		Name	Address (include City, State & Zip)
1.	37-35	638	James D. Jenkins	5525 Mt. Nebo Rd Barhamsville 23011
2.	37-34	1295	Beverly + Robert A. Green, Sr.	5750 Laurel Acres Ln Barhamsville 23011
3.	37-33	10971	Natalie + Samuel E. Hyde, Jr.	5550 Laurel Acres Ln Barhamsville 23011
4.	38-42	1910	Ada Isabel White	PO Box 31 Barhamsville 23011
5.	37-60	6773	Gauthier Vineyard, LLC	19665 High Bluff Ln Barhamsville 23011
6.	37-61	664	DL Boroughs + Robert A. Boroughs	4920 Farmers Dr. Barhamsville 23011
7.	37-59	349	Carrie Christine Davis	19631 Tabernacle Rd Barhamsville 23011
8.	37-58	5774	Frederick V Scherberger	18068 New Kent Hwy Barhamsville 23011
9.	37-53	889	Viola B. Cowles	145 Bushsprings Rd Toano 23168
10.	37-55	2210	Albert L. + Charles O. Elliot	18103 New Kent Hwy Barhamsville 23011
11.	37-50	639	Gilman Land + Timber, LLC	13423 Farrington Rd. Ashland, VA 23005
12.	37-56A	103482	Robin M + Melvin N. Allen	PO Box 228 Barhamsville 23011
13.	37-56	1193	Gloriam Miles	611 Clero Dr Ruther Glen VA 22546
14.	37-49	3150	Thomas Lee Heacox	PO Box 11 Barhamsville 23011
15.	37-57A	4118	Charles James Lipscomb	5341 Barham Rd Barhamsville 23011
16.	37-48	3989	Ileathia S Pierce	5330 Barham Rd Barhamsville 23011
17.	37-48A	6485	Thomas L Heacox + Brian D Waniewski	PO Box 111 Barhamsville 23011
18.	37-47A	3645	Ruby + Calvin Jones	18005 New Kent Hwy Barhamsville 23011
19.	37-47	3680	Joe Jones Est. c/o Evelyn J Anderson	4030 Holly Fork Rd Barhamsville 23011
20.	37-45	2206	Catherine A. Bartlett + Wesley John Morman III	5500 Mt Nebo Rd Barhamsville 23011
21.	37-41D	3652	Jenny Lee + Clifford Jones	5502 Mt Nebo Rd Barhamsville 23011
22.	37-41B	489	Clarence L Bassett SR	1475 Sand Bay Dr #W Apt 1104 Atlanta, GA 30331
23.	37-35C	103520	Karen S + Jack D Jenkins	5609 Mt Nebo Rd Barhamsville 23011
24.	37-44	3646	Clifford Lee Jones etals	5502 Mt Nebo Rd Barhamsville 23011
25.	37-42	488	Bassett Bolding Estate + c/o Clifford Lee Jones	5502 Mt. Nebo Rd Barhamsville 23011

New Kent County, Virginia

Legend

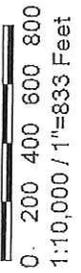
- Area County Boundaries
- Parcels
- Parcel Labels 1:18,000
- Hooks
- Subdivisions
- Tax Map 600 Scale Grid
- Routes
- INTERSTATE
- US HIGHWAY
- VA PRIMARY
- VA SECONDARY
- PRIVATE
- PAPER
- INSTITUTIONAL PROPERTY
- ISFR
- RAMP
- CROSSOVER
- Ancillary Roads
- Railroads



Title: TM#: 37-57, Hunt Walker Properties, LLC

Date: 9/8/2016

Feet

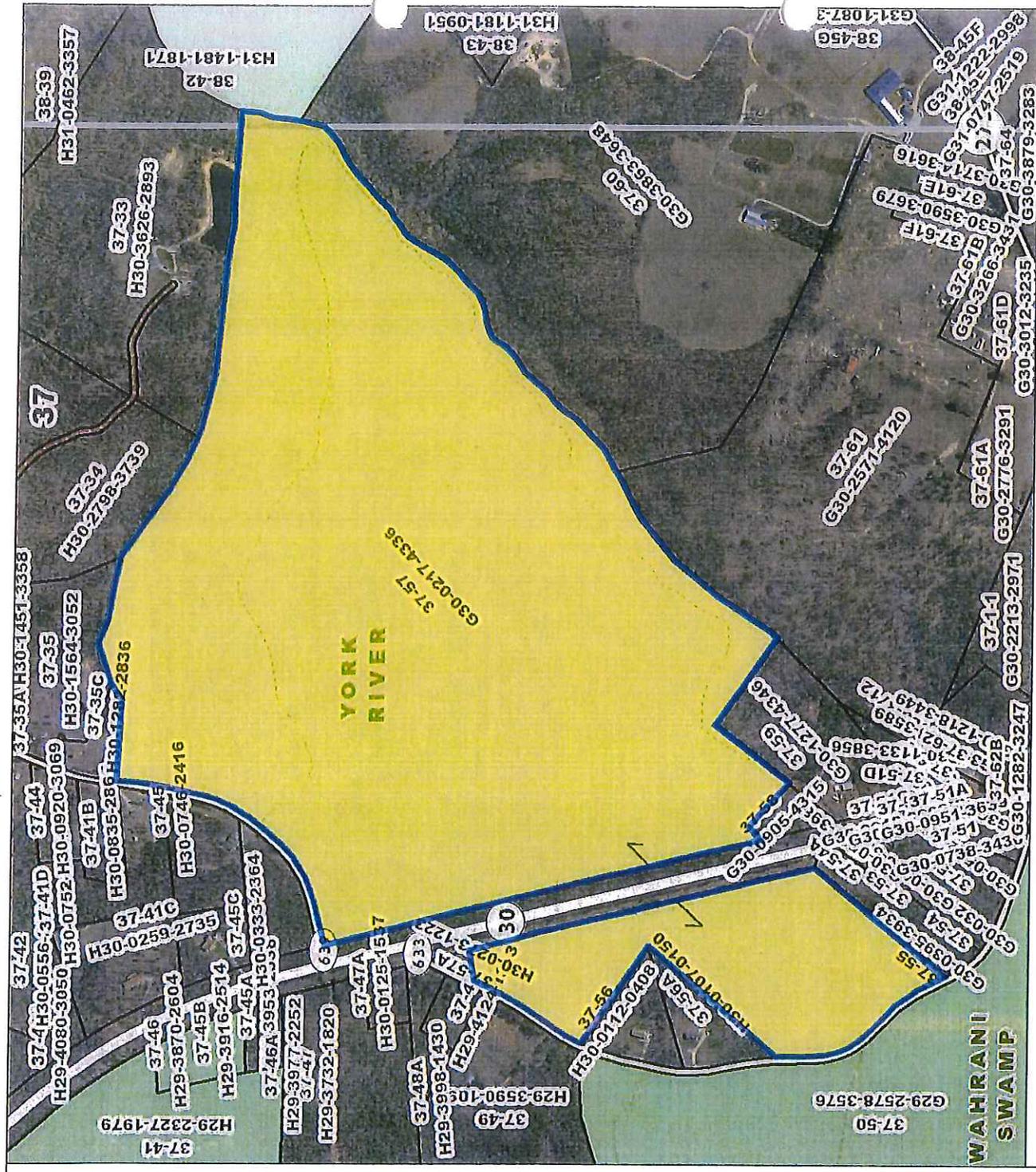
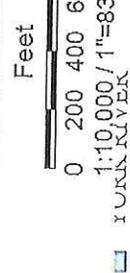


DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and New Kent is not responsible for its accuracy or how current it may be.

New Kent County, Virginia

Legend

- Area County Boundaries
- Parcels
- Parcel Labels 1:18,000
- Hooks
- Subdivisions
- Tax Map 600 Scale Grid
- Routes
- INTERSTATE
- US HIGHWAY
- VA PRIMARY
- VA SECONDARY
- PRIVATE
- PAPER
- INSTITUTIONAL PROPERTY
- ISFR
- RAMP
- CROSSOVER
- Ancillary Roads
- Railroads
- AFD Parcels
- <Null>
- ALLENS RUN
- BIG SWAMP
- BLACK CREEK
- CATTAIL SWAMP
- COOKS MILL
- CRUMPS SWAMP
- DIASCUND CREEK
- HIGGINS SWAMP
- HOLTS CREEK
- LOWER CHICKAHOMINY
- MILL CREEK
- PAMUNKEY RIVER
- PELHAM SWAMP
- POTNEY CREEK



Title: Wahrani Swamp AFD, TM#: 37-57

Date: 9/8/2016

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and New Kent is not responsible for its accuracy or how current it may be.

NEW KENT HW

Location NEW KENT HW

Map# 37 / 57 /

Acct# 37 57

Owner HUNT WALKER PROPERTIES LLC

Assessment \$632,600

PID 6771

Subdivision BRANDTS

AFD AFD

Description 176.87 AC

Legal

Area N

Class 6

AFD Name YORK RIVER

AFD Expiration 8/31/2020

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2016	\$0	\$632,600	\$632,600

Owner of Record

Owner HUNT WALKER PROPERTIES LLC
Co-Owner
Address 10809 BRANBERRY LN
 HENRICO, VA 23233

Sale Price \$0
Book & Page 645/1987
Sale Date 09/09/2015

Ownership History

Ownership History			
Owner	Sale Price	Book & Page	Sale Date
HUNT WALKER PROPERTIES LLC	\$0	645/1987	09/09/2015
WALKER NATIALY A ETAL	\$0	247/482	08/05/1997
WALKER LAND TRUST	\$0	1/1	

Building Information

Building 1 : Section 1

Year Built:
 Living Area: 0
 Building Percent Good:
 Replacement Cost
 Less Depreciation: \$0

Building Photo



(<http://images.vgsi.com/photos2/NewkentcountyVAPhotos//default.jpg>)

Building Attributes	
Field	Description
Style	Vacant Land
Model	
Grade:	
Exterior Wall 1:	
Exterior Wall 2:	
Roof Structure:	
Roof Cover:	
Interior Wall 1:	
Interior Wall 2:	
Interior Flr 1:	
Interior Flr 2:	
Heat Fuel:	
Heat Type:	
AC Type:	
Total Bedrooms:	
Total Bathrooms:	
Total Half Baths:	
Extra Kitchens:	
Extra Heat Pump:	
Total Fireplaces:	
Fireplace Type:	
Neighborhood:	
Utilities:	

Building Layout

Building Layout

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Parcel Information

Use Code 1061
 Description SITE ND FO
 Deeded Acres 176.87

Land

Land Use

Use Code 1061
 Description SITE ND FO
 Zone A1
 Neighborhood EASTERN
 Category

Land Line Valuation

Size (Acres) 176.87
 Assessed Value \$632,600

Outbuildings

Outbuildings	<u>Legend</u>
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2016	\$0	\$632,600	\$632,600
2015	\$0	\$567,200	\$567,200
2013	\$0	\$597,400	\$597,400

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**NEW KENT COUNTY
Mailing of Notices**

Applicants Name: Hunt Walker Properties, LLC
Application Number: AFD-020-16

**STATE OF VIRGINIA
COUNTY OF NEW KENT, to wit**

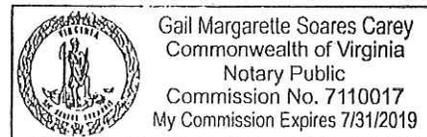
(I) Sheri L. Wood, Administrative Assistant of the New Kent County Department of Community Development, do make oath that notices as required by Section 15.2-4307 of the Code of Virginia, 1950, as amended, were mailed on the 7th day of October, 2016, by first class mail, postage prepaid, to the persons whose names and addresses appear below.

Sheri L. Wood
Signed

Subscribed and sworn to before me this 7th day of October, 2016.

Gail M. S. Carey
Notary Public

My commission expires: July 31, 2019



TM #'s	Name	Address	City, State, Zip Code
	See attached list		

§ 15.2-4307. Review of application; notice; hearing.

Upon the receipt of an application for a district or for an addition to an existing district, the program administrator shall refer such application to the advisory committee.

The advisory committee shall review and make recommendations concerning the application or modification thereof to the local planning commission, which shall:

1. Notify, by first-class mail, adjacent property owners, as shown on the maps of the locality used for tax assessment purposes, and where applicable, any political subdivision whose territory encompasses or is part of the district, of the application. The notice shall contain (i) a statement that an application for a district has been filed with the program administrator pursuant to this chapter; (ii) a statement that the application will be on file open to public inspection in the office of the clerk of the local governing body; (iii) where applicable a statement that any political subdivision whose territory encompasses or is part of the district may propose a modification which must be filed with the local planning commission within thirty days of the date of the notice; (iv) a statement that any owner of additional qualifying land may join the application within thirty days from the date of the notice or, with the consent of the local governing body, at any time before the public hearing the local governing body must hold on the application; (v) a statement that any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the local governing body, at any time before the local governing body acts pursuant to § 15.2-4309; and (vi) a statement that additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter;

2. Hold a public hearing as prescribed by law; and

3. Report its recommendations to the local governing body including but not limited to the potential effect of the district and proposed modifications upon the locality's planning policies and objectives.

(1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.)

James D. Jenkins
5525 Mt. Nebo Road
Barhamsville, VA 23011

Beverly & Robert A Green
5750 Laurel Acres Lane
Barhamsville, VA 23011

Natalie & Samuel E. Hyde, Jr.
5550 Laurel Acres Lane
Barhamsville, VA 23011

Ada Isabel White
P. O. Box 31
Barhamsville, VA 23011

Gauthier Vineyard, LLC
19665 High Bluff Lane
Barhamsville, VA 23011

D. L. & Robert A. Boroughs
4920 Farmers Drive
Barhamsville, VA 23011

Carrie Christine Davis
19631 Tabernacle Road
Barhamsville, VA 23011

Frederick V. Scherberger
18068 New Kent Highway
Barhamsville, VA 23011

Viola B. Cowles
145 Bushsprings Road
Toano, VA 23168

Alberta L. & Charles O. Elliot
18103 New Kent Highway
Barhamsville, VA 23011

Gilman Land & Timber, LLC
13423 Farrington Road
Ashland, VA 23005

Robin M. & Melvin N. Allen
P. O. Box 228
Barhamsville, VA 23011

Gloria M. Miles
611 Cicero Drive
Ruther Glen, VA 22546

Thomas Lee Heacox
P. O. Box 11
Barhamsville, VA 23011

Charles James Lipscomb
5341 Barham Road
Barhamsville, VA 23011

Ileathia S. Pierce
5330 Barham Road
Barhamsville, VA 23011

Thomas L. Heacox
Brian D. Waniewski
P. O. Box 111
Barhamsville, VA 23011

Ruby & Calvin Jones
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Joe Jones Estate
c/o Evelyn J. Anderson
4030 Holly Fork Road
Barhamsville, VA 23011

Catherine A. Bartlett
Wesley John Morman, III
5500 Mt. Nebo Road
Barhamsville, VA 23011

Jenny Lee & Clifford Jones
5502 Mt. Nebo Road
Barhamsville, VA 23011

Clarence L. Bassett, Sr.
1475 Sand Bay Drive SW
Apt. # 1104
Atlanta, GA 30331

Karen S. & Jack D. Jenkins
5609 Mt. Nebo Road
Barhamsville, VA 23011

Clifford Lee Jones et al
5502 Mt. Nebo Road
Barhamsville, VA 23011

Bassett Bolding Estate
c/o Clifford Lee Jones
5502 Mt. Mebo Road
Barhamsville, VA 23011

Adjacent Property Owners to
Tax map parcel 37-57
Hunt Walker Properties, LLC
Application AFD-020-16
S. Wood



Department of Community Development
Environmental Division
12007 Courthouse Circle
Post Office Box 150
New Kent, Virginia 23124-0050

October 7, 2016

Public Hearing Notice from the New Kent County Planning Commission

Re: AFD Application #AFD-020-16, a request by Hunt Walker Properties, LLC to withdraw land from the York River Agricultural and Forestal District, tax map parcel # 37-57

Dear Property Owner,

As an adjacent property owner to Hunt Walker Properties, LLC of tax map parcel 37-57 located on New Kent Highway, we hereby notify you of an upcoming Planning Commission meeting.

Enclosed is a copy of the public notice for your information.

If you have any questions or comments, please feel free to contact this office at (804) 966-9690.

Sincerely,

A handwritten signature in black ink that reads "Sheri L. Wood". The signature is written in a cursive, slightly slanted style.

Sheri L. Wood
Administrative Assistant

Cc: Application File AFD-020-16

(1) enclosure

Public Notice dated Friday, October 7, 2016

The New Kent County Planning Commission will hold a public hearing on Monday, November 21, 2016 at 6:30PM with public hearings beginning at 7:00PM at the New Kent County Administration Building Boardroom located at 12007 Courthouse Circle, New Kent, VA 23124 to hear two application to withdraw Agricultural and Forestal land from the AFD Program.

An application AFD-019-16, request by Gilman Land & Timber, LLC to withdraw tax map parcel # 37-50 from the Wahrani Swamp Agricultural & Forestal District

And

An application AFD-020-16, request by Hunt Walker Properties, LLC to withdraw tax map parcel # 37-57 from the York River Agricultural & Forestal District

1. Applications for the districts have been filed with the program administrator pursuant to section 15.2-4307 of the Code of Virginia.
2. The applications will be on file open to public inspection in the office of the clerk of the local governing body.
3. Any political subdivision whose territory encompasses or is part of the district may propose a modification which must be filed with the local planning commission within thirty (30) days of the date of this notice.
4. Any owner of additional qualifying land may join the application within thirty (30) days from the date of this notice or, with the consent of the local governing body, at any time before the public hearing the local governing body must hold on the applications.
5. Any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the local governing body, at any time before the local governing body acts pursuant to section 15.2-4309.
6. Additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter.

For more information please contact Sheri L. Wood, Administrative Assistant to Community Development at (804) 966-9690.

Thank you.

Sec. 62-44. - Withdrawal of land from a district; termination of a district.

- (a) At any time after the creation of a district within the county, any owner of land lying in such district may file with the program administrator a written request to withdraw all or part of his land from the district for good and reasonable cause.
- (b) The program administrator shall refer the request to the advisory committee for its recommendation. The advisory committee shall make recommendations concerning the request to withdraw to the local planning commission, which shall hold a public hearing and make recommendations to the board of supervisors. Land proposed to be withdrawn may be reevaluated through the Virginia or local land evaluation and site assessment (LESA) system. The landowner seeking to withdraw land from a district, if denied favorable action by the governing body, shall have an immediate right of appeal de novo to the circuit court serving the territory wherein the district is located. This section shall in no way affect the ability of an owner to withdraw an application for a proposed district or withdraw from a district pursuant to clause (v) of subdivision 1 of 15.2-4307 or 15.2-4311 of the Code of Virginia.
- (c) Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this article, land that is no longer part of a district shall be subject to roll-back taxes as are provided in Code of Virginia, § 58.1-3237. Sale or gift of a portion of land in a district to a member of the immediate family as defined in Code of Virginia, § 15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.
- (d) Upon termination of a district or upon withdrawal or removal of any land from a district, land that is no longer part of a district shall be subject to those local laws and ordinances prohibited by the provisions of Code of Virginia, § 15.2-4312(B).
- (e) Upon the death of a property owner, any heir at law, devisee, surviving, cotenant or personal representative of a sole owner of any fee simple interest in land lying within a district shall, as a matter of right, be entitled to withdraw such land from such district upon the inheritance or descent of such land, provided that such heir at law, devisee, surviving cotenant or personal representative files written notice of withdrawal with the board of supervisors and the commissioner of the revenue within two years of the date of death of the owner.
- (f) Upon termination or modification of a district, or upon withdrawal or removal of any parcel of land from a district, the board of supervisors shall submit a copy of the ordinance or notice of withdrawal to the commissioner of the revenue, the state forester and the state commissioner of agriculture and consumer services for information purposes. The commissioner of the revenue shall delete the identification of such parcel from the land book and the tax map, and the board of supervisors shall delete the identification of such parcel from the zoning map,

where applicable.

- (g) The withdrawal or removal of any parcel of land from a lawfully constituted district shall not in itself serve to terminate the existence of the district. The district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to Code of Virginia, § 15.2-4311.

(Ord. No. O-26-04, 12-13-2004; Ord. No. O-05-15, 4-13-2015)

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 43. Agricultural and Forestal Districts Act

§ 15.2-4314. Withdrawal of land from a district; termination of a district.

A. At any time after the creation of a district within any locality, any owner of land lying in such district may file with the program administrator a written request to withdraw all or part of his land from the district for good and reasonable cause. The program administrator shall refer the request to the advisory committee for its recommendation. The advisory committee shall make recommendations concerning the request to withdraw to the local planning commission, which shall hold a public hearing and make recommendations to the local governing body. Land proposed to be withdrawn may be reevaluated through the Virginia or local Land Evaluation and Site Assessment (LESA) System. The landowner seeking to withdraw land from a district, if denied favorable action by the governing body, shall have an immediate right of appeal de novo to the circuit court serving the territory wherein the district is located. This section shall in no way affect the ability of an owner to withdraw an application for a proposed district or withdraw from a district pursuant to clause (v) of subdivision 1 of § 15.2-4307 or § 15.2-4311.

B. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to and liable for roll-back taxes as are provided in § 58.1-3237. Sale or gift of a portion of land in a district to a member of the immediate family as defined in § 15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.

C. Upon termination of a district or upon withdrawal or removal of any land from a district, land that is no longer part of a district shall be subject to those local laws and ordinances prohibited by the provisions of subsection B of § 15.2-4312.

D. Upon the death of a property owner, any heir at law, devisee, surviving cotenant or personal representative of a sole owner of any fee simple interest in land lying within a district shall, as a matter of right, be entitled to withdraw such land from such district upon the inheritance or descent of such land provided that such heir at law, devisee, surviving cotenant or personal representative files written notice of withdrawal with the local governing body and the local commissioner of the revenue within two years of the date of death of the owner.

E. Upon termination or modification of a district, or upon withdrawal or removal of any parcel of land from a district, the local governing body shall submit a copy of the ordinance or notice of withdrawal to the local commissioner of revenue, the State Forester and the State Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of revenue shall delete the identification of such parcel from the land book and the tax map, and the local governing body shall delete the identification of such parcel from the zoning map, where applicable.

F. The withdrawal or removal of any parcel of land from a lawfully constituted district shall not in itself serve to terminate the existence of the district. The district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to §

15.2-4311 of this chapter.

1977, c. 681, § 15.1-1513; 1979, c. 377; 1985, c. 13; 1987, c. 552; 1997, c. 587; 2000, c. 521; 2011, cc. 344, 355.

PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA

PC-25-16

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 21st day of November, 2016:

Present:

Katherine Butler
Jack Chalmers
Joanne Schmit
Laura Rose
Charna Moss - Gregory
Richard Kontny, Jr.
John Moyer
Edward Pollard
Tommy Tiller
Joyce Williams
Patricia Townsend

Vote:

Motion was made by _____, which carried _____, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF
THE WITHDRAWAL OF LAND FROM
TAX MAP PARCEL #37-57, GPIN #G30-0217-4336
FROM THE YORK RIVER AGRICULTURAL AND FORESTAL DISTRICT,
APPLICATION AFD-020-16**

WHEREAS, Baker Martin Walker of Hunt Walker Properties, LLC has applied to withdraw approximately 130 acres of land from the York River Agricultural and Forestal District known as tax map parcel #37-57, GPIN #G30-0217-4336; and

WHEREAS, granting this request will decrease the acreage of the York River Agricultural and Forestal District to approximately 2,980 acres; and

WHEREAS, this request is in accordance with state and local laws governing Agricultural and Forestal Districts; and

WHEREAS, the York River Agricultural and Forestal District term expires on August 31, 2020; and

WHEREAS, this application was thoroughly considered by the Agricultural and Forestal District Advisory Committee; and

WHEREAS, after conducting a duly advertised public meeting on the 6th day of October, 2016, the Agricultural and Forestal District Advisory Committee voted 5:0:1 to forward a favorable recommendation to the Planning Commission; and

WHEREAS, the Planning Commission scheduled and conducted a formal and duly advertised public hearing in accordance with the applicable requirements of the Code of Virginia, carefully considering the public comment received; and

WHEREAS, the Commission has also carefully reviewed the application and recommendation of the AFD Advisory Committee and considered the goals and objectives of the County's Comprehensive Plan.

NOW THEREFORE, BE IT RESOLVED that on this, the 21st day of November, 2016, by the New Kent County Planning Commission, that a favorable recommendation be forwarded to the New Kent County Board of Supervisors for the withdrawal of 130 acres of land from tax map parcel 37-57 (GPIN # G30-0217-4336) in the York River Agricultural and Forestal District.

Attested:

Patricia Townsend
Chairwoman, New Kent County Planning Commission