1. Call to Order
   a. Quorum
2. Pledge of Allegiance and Invocation
3. Public Comment
4. Approval of Minutes
   a. July 16, 2020
5. Community Planning Liaison Officer, Naval Support Activity South Potomac, Dahlgren
6. Plan Review
7. Public Hearings:
   a. Hopyard Farm Subdivision Preliminary Plat (revised), Tax Map 23 (3) Parcel A4 and Tax Map 23 Parcel 77A
8. Old Business
9. New Business
   a. Case Number 20-08-Z02: Amendment, renaming, and recodification of Chapter 16, Wetlands Zoning Ordinance, of the King George County Code to comply with the Code of Virginia and to move the Wetlands Zoning Ordinance to the Zoning Ordinance. Amendment to add Article 15 to the Zoning Ordinance.
10. Director’s Report
11. Other Business
12. Adjournment
THE KING GEORGE COUNTY PLANNING COMMISION
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The regular meeting of the King George County Planning Commission (KGCPC) was called to order at 7:03 PM by Chairman Kristofer Parker in the Auditorium of King George High School, located at 10100 Foxes Way, King George, VA 22485.¹

Staff Present: Heather Hall, Zoning Administrator
Bradley Hudson, Director of Community Development
Louis Pancotti, Planner
Jaci Fish, Recording Secretary

Members Present: Chairman, Kristofer Parker
Vice Chairman, Ross Devries
Josh Colwell
Joseph DaCorta
Joseph Gaborow
Gary Kendrick
Kevin Myers
Donald Watkins Jr.
Jason Williams

Members Remotely Participating: Tara Patteson ²

KGC Attorney Present: Matt Britton

Quorum:
Chairman Parker called the meeting to order at 7:03 PM and noted there was a quorum.
Following the pledge of allegiance, Mr. Williams led an invocation.
Chairman Parker invoked the rules and procedures previously adopted by the KGCPC and the KGCBOS allowing for electronic participation by some members, with a quorum physical present. This action is taken as a result of the COVID-19 Pandemic and the Governor’s orders regarding limiting of gatherings and staying in place during a disaster. Chairman Parker stated electronic participation is encouraged and pursuant to the Governor’s emergency orders masks and social distancing will be required, for those physically present. Chairman Parker stated if you choose to be physically present, you will be screened by the authorized staff for signs and symptoms of illness. Based on the Results of that screening and/or the number of members & staff, certain physical attendees may be denied entry. Chairman Parker stated the following members, Ms. Tara Patteson, are participating through electronic and remote means after notifying the chair that temporary disability’s and/or other medical conditions exist that prevents the members physical attendance. Chairman Parker directed the Recording Secretary to include

¹ The entirety of the July 16, 2020 KGCPC Meeting can be viewed via Internet, on the King George County Official Content, You Tube channel, retrieved at: https://youtu.be/OvSnr-Sc_x8
² Due to technical difficulties of remote & electronic participation, KGCPC Board Member, Ms. Tara Patteson, was unable to participate.

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this statement and the statement of remotely participating Board Members to be memorialized in the meeting minutes.

Approval of Minutes:

Approval of King George County Planning Commission meeting minutes included: March 10, 2020.3
- Mr. Colwell inquired, in reference to Page 2, last bullet, if further details were provided from DEQ (Department of Environmental Quality) in reference to redevelopment of water dependent facilities.
  - Mr. Louis Pancotti, Planner with King George Department of Community Development (KGDCD) stated KGDCD was provided the definition from DEQ and the meaning is “something already built inside the RPA (Resource Protection Areas).”

After review, Chairman Parker called for a motion. A motion from Mr. Gaborow to approve the March 10, 2020 KGPC meeting minutes was made. Seconded by Vice Chairman Devries, and carried by a vote of 8-0-1. Each member voting as follows: Chairman Parker, Aye; Vice Chairman Devries, Aye; Mr. Colwell, Aye; Mr. Dacorta, Aye; Mr. Gaborow, Aye; Mr. Kendrick, Aye; Mr. Myers, Aye; Mr. Watkins, Aye, and Mr. Williams, Abstain.

Public Comment: Chairman Parker opened the floor for the public forum. Chairman Parker called for the public to comment and stated if anyone in the public wishes to address the Commission please come forward and state your name. Please limit comments to 3 minutes to afford everyone an opportunity to speak. This public comment period is not for the public hearing on the agenda tonight. No public comments noted.

Report of the Community Planning Liaison Officer, Naval Support Activity South Potomac, Dahlgren: No news to report.

Plan Review:
- **Hopyard Section 16, Tax Map 23-77A, Final Plat.**
  Payne Street LLC is requesting approval of Hopyard Farm Section 16 final plat to create 63 single family lots and 2 common area parcels located on a portion of Tax Map 23-77A.
- Mrs. Heather Hall, Zoning Administrator with KGDCD presented.
  - Mrs. Hall reviewed Hopyard Farm Section 16 plat as seen in Figure 1 – 3 below:

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3 March 10, 2020 KGPC Meeting Minutes can be reviewed via Internet, on the King George County Government Webpage, retrieved at: [https://www.kinggeorgecountyva.gov/AgendaCenter/Planning-Commission-5](https://www.kinggeorgecountyva.gov/AgendaCenter/Planning-Commission-5)
• Mrs. Hall stated Zoning is R-3 Multifamily Dwelling District.
  o Proposed to be developed in accordance with Residential Cluster provisions in Article 11
    of the Zoning Ordinance.
• Mrs. Hall reviewed Land Use – Residential – 63 Proposed Single-Family Dwelling Lots in
  Section 16.

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- Mrs. Hall reviewed Acreage – Proposed plat contains 29.6443 acres. Subdivision will create 63 new lots and contains 26.7873 acres. The plat will dedicate 2.7420 acres of right-of-way. The plat also proposes common open space as parcels “LL” (3.2330 acres) and “KK” (8.8948 acres) to total 12.1278 acres.
- Mrs. Hall reviewed minimum Area Requirements – for cluster provision in R-3, the minimum lot area is 6500 square feet, with a minimum lot width of 60 feet and a minimum open space requirement of 45%. Project is compliant.
- Mrs. Hall reviewed Open Space.
  - Mrs. Hall stated By Proffer, 602.65 acres of open space required (exceeds 45% requirement);
  - Section 16 common open space = 12.1278 acres;
  - 473.84 acres dedicated to date;
  - Per preliminary plat, total proposed open space is 652+/- acres.
- Mrs. Hall reviewed Erosion and Sediment Control.
  - Mrs. Hall stated proposed improvements were reviews & approved with Section 8 construction plans and will provide erosions & sediment control per Chapter 6 of the King George Code.
- Mrs. Hall reviewed Stormwater Management.
  - Mrs. Hall stated the Stormwater Management Best Management Practices (BMP) have not been revised with this plan revision and will remain as previously approved. Previously approved, preserved open space and extended detention pond will be utilized to provide BMP for stormwater quality control. The extended detention pond will also provide quality control by reducing the peak discharge rate to the downstream natural channel.
- Mrs. Hall reviewed Construction of Roads.
  - Mrs. Hall stated access to the site is provided by Port Conway Road (State Road 607). Proposed improvements will construct public roads per Article 8 of the KG Subdivision Ordinance and VDOT standards. Stub-outs to Tax Map 31 Parcel 2a (should this parcel be developed in the future) have been provided. VDOT has reviewed and approved this plat.
- Mrs. Hall reviewed Utilities.
  - Mrs. Hall stated Proposed lots will be served by public sewer and water. This plat has been approved by the Service Authority/County Engineer.
- Mrs. Hall reviewed Wetlands/RPA.
  - The proposed subdivision does contain wetlands and RPAs. Wetlands and RPA have been delineated. There is no wetlands disturbance in Section 16.
- Mrs. Hall stated the final plat meets all administrative requirements.
  - Final Plat is in general conformance with the preliminary plat/plan.
  - VDOT approved the final plat.
  - Service Authority approved the final plat.

Mrs. Hall stated it is the recommendation of the KGCDCD that the KGCPD approve the Plat of Subdivision for Hoptyard Farm Section 16, located on a 26.7873-acre portion of Tax Map 23-77A.

Chairman Parker opened the floor for Board Comments.
- Vice Chairman Derives inquired if KGCPD approved the site plan for the proposal.
  - Mrs. Hall stated the construction plan has been approved by the KGCPD.

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Vice Chairman Devries inquired, on Sheet 7, was there a temporary turnaround on Emerald Drive. Is there a temporary turnaround proposed near the stub?
  o Mrs. Hall stated it is stubbed out to the property next door. Mrs. Hall stated on Sheet 4, the temporary turnaround is acknowledged.
• Mr. Myers inquired if there are any new proffers.
  o Mrs. Hall stated there are no new proffers.
• Mr. Kendrick stated the proposal is a continuation of Hopyard Farm and the KGCPC have reviewed each section, approved each section and the overall plan. Mr. Kendrick stated the proposal should be approved.
  o Mr. Myers concurred with Mr. Kendrick.

After review of Payne Street LLC requesting approval of Hopyard Farm Section 16 final plat to create 63 single family lots and 2 common area parcels located on a portion of Tax Map 23-77A. Chairman Parker called for a motion. Vice Chairman Devries motioned to approve request, seconded by Mr. Myers and motion carried by a unanimous vote of 9-0-0. Each member voting as follows: Chairman Parker, Aye; Vice Chairman Devries, Aye; Mr. Colwell, Aye; Mr. Dacorta, Aye; Mr. Gaborow, Aye; Mr. Kendrick, Aye; Mr. Myers, Aye; Mr. Watkins, Aye, and Mr. Williams, Aye.

Public Hearings:
1. Case Number 19-08-Z03: Request by PR Farm LLC to rezone, with proffers, Tax Map 9, Parcel 5 from Limited Agricultural District (A-1) to Resort Community District (RC). Total project area 332.32 acres. Master Development Plan proposes a resort community with temporary lodging for 900 occupants (including tent platforms), staff cottages for 18 occupants, a chapel, an amphitheater, and other uses including special events for up to 440 people. The property is currently zoned Limited Agricultural (A-1); the minimum lot size in the Agricultural Zoning District is ten (10) acres. The requested zoning is Resort Community (RC). Per the King George County Comprehensive Plan (2019), the property is located in the Potomac River/North Rural Development Area.
   Mr. Louis Pancotti, Planner with King George Department of Community Development (KGCDD) presented
   • Mr. Pancotti stated Case Number 19-08-Z03 is a request by PR Farm LLC to rezone, with proffers, Tax Map 9, Parcel 5 from Limited Agricultural District (A-1) to Resort Community District (RC). Total project area 332.32 acres. Master Development Plan proposes a resort community with temporary lodging for 900 occupants (including tent platforms), staff cottages for 18 occupants, a chapel, an amphitheater, and other uses including special events for up to 440 people. The property is currently zoned Limited Agricultural (A-1); the minimum lot size in the Agricultural Zoning District is ten (10) acres. The requested zoning is Resort Community (RC). Per the King George County Comprehensive Plan (2019), the property is located in the Potomac River/North Rural Development Area.
   • Mr. Pancotti stated the lot is currently owned by PR Farm, LLC and proposed rezoning is to RC (Resort Community). Mr. Pancotti stated the location is on Route 625 (Mathias Point Road) and the size of the lot is 332.32 Acres. Per the 2019 KGC Comp Plan, the property is...
located in the Potomac River North Rural Development Area as seen in Figure 4, KGC GIS Map of Proposed Area below:

- Mr. Pancotti reviewed Resort Community District:
  - The resort community district provides for resorts occupying relatively small both residential and rural neighborhoods and will, thereto very extensive grounds or tracts of land and proving withing the establishment related guest service facilities. Resort districts may be close to fore, provide regulations and site plan controls to protect the quality of these neighborhoods. Development within the resort district will be designed in a manner that will protect and preserve the natural resources, trees, watershed, contours and topographic features of the land, and protect and enhance the natural scenic beauty of the property.
  - Mr. Pancotti reviewed King George County Zoning Ordinances – Section 2.13.4 Master Development Plan, 2.13.4.1 Content of the Master Development (Sections 1. Development Site Information, A – J and 2. Development Design Information, A – F), and Section 2.13.5, A – E.
- Mr. Pancotti reviewed Existing Conditions, Master Plan, and Proposed Structures as seen in Figures 5 – 7 below:
Mr. Pancotti reviewed Proposed Uses.

- The Master Development Plan (MDP) includes the following buildings: amphitheater, art studio, boathouse, chapel, dining hall (x2), gym, general store, infirmary, laundry, lodge (3), pool, pool house, bunk house (x8), cabins (x15), guest lodging (x4), staff cottages (x3), maintenance barn, bath house, service building, guard house, play fields, tent platforms (x11), and a pump station. Activities to included corporate retreats, day camps, food trucks, festivals, restaurant, ropes course, wedding ceremonies, and receptions, archery, basketball courts, climbing wall, hiking trails, horseback riding, recreational facility, volleyball, softball, tennis courts, water sports.

- MDP proposed 240.46 total acres of unimproved open space (72.38% of site), 23.40 acres of recreational open space (7.04% of site), 68.37 acres of improved open space (20.58% of site), 5.11 acres of which is building area (1.5% of site).

Mr. Pancotti reviewed Parking:

- Pursuant to section 3.12.10, the Applicant has requested that the amount of its parking be determined by the Zoning Administrator based on the expected number of vehicles visiting the Property during peak periods. As provided in section 3.12.5, the Applicant, in conjunction with each site plan submittal, will provide information on the extent to which parking facilities will be used more than two days per week and seek a paving waiver for parking spaces in excess of that number, allowing such spaces to be gravel. Additionally, Applicant will provide field parking for up to 24 events per year whose requirements exceed the paved and graveled spaces. The Applicant shall not schedule simultaneous events which would reasonably generate parking in excess of that provided or which would cause the field parking to be used more than 24 times in a calendar year. The numbers approved pursuant to the plan are minimums and the Applicant may build
more. Even though the Applicant may have the right to provide gravel or field parking, the Applicant may choose to increase the quality of parking. After Phase 1B, parking is provided so that a Youth Retreat and largest event could overlap.

- Mr. Pancotti reviewed Development Phases 1A, 1B, 1C, 2A, 2B, and 2C.4
- Mr. Pancotti reviewed Event Phases 1A, 1B, 1C, 2A, 2B, and 2C.
- Mr. Pancotti reviewed Buffer.
  - The Applicant will preserve a 100-foot buffer around the Property. Along the river the buffer will be managed in accordance with the Chesapeake Bay Protection Act. Along the sides of the Property, the buffer will be undisturbed and allowed to continue as, or return to, forest except where it continues to be farmed. The Applicant may put in trails and farm fences and will continue the existing powerline easement. Along Mathias Road, the buffer will be allowed to return to forest, subject to continuing existing farming activities. When the Applicant begins using the parking area for parking other than field parking for infrequent events, such parking will be screened with a berm or natural or added vegetation meeting a buffer standard. The entrance road, paths, and utilities will go through this area as may fences. Mailboxes and one monument sign will be located in this area.

![Figure 8 Proposed Buffer in Green](image)

- Mr. Pancotti reviewed Utilities:
  - Utilities for this site (water and sanitary sewer) are proposed to extend from the intersection of Chatham Dr. and Owens Dr., onto Mathias Point Rd., and onto the site. Utility lines are intended to run along the main road and laterals shall extend out from there. Costs of water and sewer extension to the site are estimated to be $1,000,000. The MDP includes new pump station to serve the site.
  - After reviewing the flow demand updates and phasing of this project, the Service Authority approves of the rezoning application and confirms capacity to serve this project. However, it shall be noted that being outside of the primary settlement area, the project would need to be approved by both the Service Authority Board of Directors and the King George County Board of Supervisors.

4 All proposed phases can be found on the KGC Government Webpage, retrieved at: [https://www.kinggeorgecountyva.gov/AgendaCenter/ViewFile/Agenda_/07162020-544](https://www.kinggeorgecountyva.gov/AgendaCenter/ViewFile/Agenda_/07162020-544)
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Dominion Energy Virginia will provide electrical service for the above referenced property in accordance with the applicable Terms and Conditions on file with, and approved by, the State Corporation Commission of Virginia.

Mr. Pancotti reviewed Substantial Accord:
- **Summary**: Service Authority water and sanitary sewer are proposed to extend and serve the development. The site is located outside of a primary settlement area which are the areas selected to be served by public water and sewer. Chapter V of the 2019 King George Comprehensive Plan (Comp Plan) lists policies and implementation strategies that include not extending or establishing water treatment or distribution systems or wastewater treatment systems without a formal determination by the Planning Commission and Board of Supervisors that such utility proposals are in conformance with the Comprehensive Plan, in conjunction with the procedures set forth in the Code of Virginia, Section 15.2-2232.

- Section 15.2-2232 of the Code of Virginia states that "unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than a railroad facility or an underground natural gas or underground electric distribution facility of a public utility as defined in subdivision (b) of § 56-265.1 within its certificated service territory, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof."

- **Location**: The property is approximately 1,125 feet from the Dahlgren Settlement Area. Currently public utilities do extend beyond this settlement area to serve the Chatham Village Subdivision and the Westbury Subdivision. The proposal is to extend utilities from the intersection of Chatham Dr. and Owens Dr. onto the site.

- **Character**: The Development Plan includes buffers, conservation, few residences and little commercial activity helping to retain the rural character the area.

- **Extent**: The applicant is proposing 91,800 gallons a day of average daily water demand and 78,030 gallons a day of average daily wastewater demand.
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o The applicant has submitted a traffic impact analysis (TIA) to the county and to the Virginia Department of Transportation (VDOT). VDOT has determined that the TIA is in accordance with the minimum standards and has no objection to the approval of the application. However, the analysis showed that a right turn lane is warranted at the intersection of Routes 614 and 624 in the future, and the county may wish to consider this item for future publicly funded projects.

• Mr. Pancotti reviewed all Proffer Statement & Acknowledgement of Laws.
  o Mr. Pancotti stated the following land use profiers are provided in support of the application. The actions proffered to improve the project could not otherwise be required and Staff recommends that, if the rezoning is approved, all land use proffer be accepted.
  o Mr. Pancotti reviewed Proffers 1 – 145.
    • Mr. Pancotti stated in addition to the above stated voluntary proffers, the applicant understands and agree that Applicant must be and remain in compliance with state and local law including the Ordinances of King George County, including, but not limited to the following provisions: 1 – 8.

• Mr. Pancotti reviewed the 2019 KGC Comprehensive Plan:
  o Potomac River/North (Rural Development Area);
  o This Rural Development Area includes all of the land in King George County located north of Route 3 with the exception of the Courthouse, Dahlgren, Cleydael, Fairview Beach, Route 3, and the Oakland Park Primary Settlement Areas.
  o The Area contains 53 percent of the County’s population and approximately 4,793 housing units. While the Area contains the greatest percentage of the County total population, overall, the Area remains rural in character with a historical pattern of low-density residential development. While there are pockets of agricultural land within this district, especially along Route 605, Route 624 and east along Route 218, the majority of open space has been in forest land (Map 13, Existing Land Cover). Forestland dominates the open space due to the rugged topography contained within this Area.

• Mr. Pancotti reviewed Key Policies/Implementation Strategies for Future Development and Preservation:
  o 1. Encourage very low-density rural residential growth and discourage higher density residential and commercial development. Residential densities should be in range of 1 dwelling unit per 2 to 10 or more acres, unless clustering development techniques are employed with large blocks of open space being preserved.
  o 2. Encourage agricultural and forest preservation through the maintenance of land use taxation, and careful review of rezoning request.
  o 3. Implement and encourage large lot and/or sliding scale zoning in the areas currently zoned agricultural to promote the preservation of agricultural land.
  o 4. Encourage new residential development occurs only at very low densities, with large blocks of agricultural and forestlands permanently preserved in conjunction with the clustered development.

5 All proposed Proffers and KGC Ordinances can be found on the KGC Government Webpage, retrieved at: https://www.kinggeorgecountyva.gov/AgendaCenter/ViewFile/Agenda/07162020-544
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5. Adopt in the County’s land use ordinances “performance standards” for development on steep slopes.

6. Enhance limited public access to the Potomac; allow limited, small scale, carefully designed and accessed public boat ramps along the river.

7. Work through the Local Wetlands Board to encourage the protection of the Potomac River shoreline by carefully reviewing permit applications for shoreline stabilization. Permit only the minimum impacts to wetlands and other natural features for shoreline stabilization projects. Encourage to the extent possible vegetative practices along with any structural stabilization practices.

8. Using Virginia Marine Resource Guidelines, seek one additional site to provide public waterfront access to the Potomac River.

9. Encourage through zoning and subdivision requirements the continued creation of community access to the waterfront in subdivisions developed along the Potomac River.

10. Encourage protection of the Potomac River through implementation of the Chesapeake Bay Preservation Area Overlay Zoning District and the Potomac River Tributary Strategies Plan.

11. Development plans should be designed to minimize the amount of impervious areas, maximize preservation of native vegetation, ensure maintenance of best management practices, compliance with erosion and sediment regulations, coordinate with the Virginia Department Health and manage non-point source pollution runoff loads for new and redevelopment projects.

- Mr. Pancotti reviewed the Applicant Response to Comp. Plan (including but not limited to):
  - General: The property adjoins the Potomac River within the Potomac River North Rural Development Area. The project, as proffered, is consistent with the recommendations and policies of the King George County Comprehensive Plan (the “Comprehensive Plan”).
  - The Project: Hope Church currently operates its main church campus in Goochland, Virginia. The Church proposes to use the property for Hope Retreat, a religious camp and retreat addressing the spiritual development needs of its own faith community, as well as the broader faith community in the Mid-Atlantic region. The campus, planned for a ten to twenty-year buildout, is designed for adult and student gatherings and will provide for a wide range of activities, including summer camps, weddings, family gatherings, corporate, couples and spiritual retreats, and day-long or overnight gatherings. The plans call for on-site residences for around three full time employees and their families, if any. The project has proffered substantial regulations to assure its consistency with the zoning ordinance intent and the recommendations and policies of the Comprehensive Plan.

  - The project is consistent with the Comprehensive Plan’s implementation strategy of encouraging very low-density rural residential growth and discouraging higher density residential and commercial development. The resort will have only three permanent residential dwellings and little commercial activity. The plan to impose a conservation easement on the property in advance of zoning and the general design of the project will meet the Plan’s goal of encouraging forest preservation and the protection of the Chesapeake Bay water quality as well as that of the Potomac. The project also helps the
County achieve another of its major goals: promoting a healthy, diversified economy, by bringing in economic activity by those visiting the events at the resort as well as the jobs associated with the resort. The project anticipates creating approximately three full time jobs, three part time jobs and a substantial number of seasonal jobs, as well as generating work for numerous local vendors, service providers and contractors. Moreover, the project operations will promote tourism to facilitate economic growth.

- Design of the project will maintain the current designation of appropriate areas as Resource Protection Areas. It will promote lighting design which minimizes light pollution, enhances the environment, deters undesirable activities, increases safety, and minimizes glare, power consumption, cost, visual impacts (day and night), and unwanted truant light onto private property. The project will utilize standards to protect the dark sky of King George County as one of its many natural, scenic, scientific and cultural resources, for the benefit of residents, and visitors, now and in the future. The project will preserve native vegetation and natural stormwater management.

- The project will utilize buffers and setbacks to enhance and retain the rural setting of the area, while still allowing reasonable development of the site. The project design allows continued agricultural use of significant portions of the site, consistent with the Plan. In a portion of the county with substantial nearby development, the project will have substantial open space and a general character consistent with the surrounding rural uses.

- The project will utilize buses for many events reducing traffic impacts in general. Additionally, events at the property will typically be timed so that the traffic associated with such events will occur other than peak traffic times on surrounding roads. Cars coming to the project will be centrally parked and internal transportation will be by foot, bike or cart. This should reduce impulse travel from the site. The site will have only one entrance to the public road which will protect the capacity and safety of the network.

- Conclusion: The project, as proffered, is consistent with the recommendations and policies of the Comprehensive Plan.

- Mr. Pancotti reviewed Approvals.
  - VDOT: 5-13-2020:
    - This office has reviewed the referenced documents in accordance with the minimum standards as received via email on May 11, 2020. The Department has no objection to the approval of this application. However, please note the following as this project moves forward:
      - The analysis shows a right turn lane warrants at the intersection of Rtes. 614/624 in the future, and the County may wish to consider this item for future publicly funded projects.
      - Intersection sight distance for the site entrance shall be based on Table 2-5 of the VDOT Road Design Manual, Appendix F, which may vary from the AASHTO Greenbook.

- Service Authority: 6-4-2020:
  - Based on the submittal from Christian Hampson of Stantec, the total daily water demand is 91,800gpd and the total daily sewer demand is 78,030gpd after for build out. Also, the phasing memo shows that the project is expected to be phased over a
total of 25 years. The owner is responsible for the cost of all utility line extensions and any upgrades to existing utility infrastructure that is needed to serve this project; such as water booster station or upgrade of a pump station. After reviewing the flow demand updates and phasing of this project, the Service Authority approves of the rezoning application and confirms that there is sufficient capacity to serve this project at this time. However, it shall be noted that being outside of the primary settlement area, the project would need to be approved by both the Service Authority Board of Directors and the King George County Board of Supervisors. The Service Authority gives priority to primary settlement areas and areas within the comprehensive plan.

- **Fire & Rescue:**
  - Summary: after reviewing the conceptual site layout and proposed buildings it was reported to me that the building heights would not exceed three (stories) high. Additionally, the site would have county (Service Authority) water mains that would support hydrants and building fire suppression sprinkler systems throughout the development. It was understood that the Fire & Rescue Department would conduct further review of these systems, fire lanes, and hydrant locations on a future site plan. Additionally, each occupied building should have an assigned 911 address.
  - At this time, it is not feasible to determine an exact impact of Fire & Rescue emergency calls that would be generated by this proposed development due to not knowing how many retreats or event would be generated by this proposed development and not knowing the exact occupancy of those events.

- **NSF Dahlgren:**
  - “The only comments we have are traffic impacts to Owens Drive and Route 301. Noise could impact the development from Naval Support Facility Dahlgren. The development should disclose this information to occupants since they are adjacent to a military base resulting in noise impacts during training exercises.”

Mr. Pancotti stated The Department of Community Development Staff recommends that the King George County Planning Commission:

1. Determine if the request to extend public facilities outside of a Primary Settlement Area is substantially in accord with the Comprehensive Plan.
2. Forward Case Number 19-08-Z03: Request by PR Farm LLC to rezone, with proffers, Tax Map 9, Parcel 5 from Limited Agricultural District (A-1) to Resort Community District (RC). Total project area 332.37 acres. Master Development Plan proposes a resort community with temporary lodging for 900 occupants (including tent platforms), staff cottages for 18 occupants, a chapel, an amphitheater, and other uses including special events for up to 440 people. The property is currently zoned Limited Agricultural (A-1); the minimum lot size in the Agricultural Zoning District is ten (10) acres. The requested zoning is Resort Community (RC). Per the King George County Comprehensive Plan (2019), the property is located in the Potomac River/North Rural Development Area to the King George County Board of Supervisors with a recommendation to approve the rezoning request and accept the proffers.

**Chairman Parker opened the floor for the Applicant.**
Mr. Dan Slone with Vertical Vision presented on behalf of the Applicant.

Mr. Slone stated this evening's presentation is about exploring the church's vision. If the zoning is approved, the property will be gifted to HOPE Church. If not, the property owner will decide a path forward.

Mr. Slone stated HOPE Church discussed with their committees what would be best for the church's vision.
- Mr. Slone reviewed Figures 5, 6, 7, & 8.
- Mr. Slone stated HOPE Church has heard the public's concerns about patrons leaving the property grounds.
  - Mr. Slone stated HOPE Church added a proffer to address this concern.
    - The church will mark the boundaries of the property. The church will add a statement of orientation in its materials that no one is allowed to leave the property and will provide a contact number online if there are any complaints.
- Mr. Slone stated when viewing the property, one will only see: one road in & out, guard house, and a sign. The proposed development will have natural forest surroundings.
  - Mr. Slone reviewed materials used to build the sign. Mr. Slone stated the sign would be 12 feet and that would be under the 25 feet KGC Sign Ordinance requirement. As seen in Figure 10, below:

![Figure 10 Proposed Sign Materials and Dimensions](image)

Mr. Slone reviewed the proposed structures & layout of the proposed development as seen in Figure 7. Which included but not limited to:
- MDP:
  - The Master Development Plan (MDP) includes the following buildings: amphitheater, art studio, boathouse, chapel, dining hall (x2), gym, general store, infirmary, laundry, lodge (3), pool, pool house, bunk house (x8), cabins (x15), guest lodging (x4), staff cottages (x3), maintenance barn, bath house, service building, guard house, play fields, tent platforms (x11), and a pump station. Activities included corporate retreats, day camps, food trucks, festivals, restaurant, ropes course, wedding ceremonies, and receptions, archery, basketball courts, climbing wall, hiking trails, horseback riding, recreational facility, volleyball, softball, tennis courts, water sports.
  - MDP proposed 240.46 total acres of unimproved open space (72.38% of site), 23.40 acres of recreational open space (7.04% of site), 68.37 acres of improved open space (20.58% of site), 5.11 acres of which is building area (1.5% of site).
- Parking:
  - Mr. Slone stated parking would be regulated parking by the guard house. Mr. Slone reviewed location, drop off zones, and ADA Parking.
- Location and Size of the Buildings:
Mr. Slone stated 1.45% will be under roof which means 98.5% will be open space.
Mr. Slone reviewed proposed location, design, and comparable materials of the buildings, including the chapel, as seen in Figures 11-14, below:
o Shoreline:
  - Mr. Slone stated Hope Church plans to leave the vast majority shoreline untouched, leaving a 100-foot buffer, and comply with the Chesapeake Bay Act. Building one access point and pier that would use canoes, kayaks, and small sail boats. As seen in Figure 13.
  - Mr. Slone stated Hope Church added a Proffer that would prohibit the recreational use of motorized boating equipment and watercraft. This would address neighbors’ concerns. Hope Church would also instruct patrons to only use the designated path.
  - The shoreline will not change by not having: multiple docks & access points, jet skis, and motorized boating equipment.

o Mr. Slone stated the amphitheater will only hold 400 guests & staff. The amphitheater will be located near the slope of the property as seen in Figure below and the sound will be absorbed by surrounding mass. Amplified sound would stop at 10:00 PM and comply with the KGC Noise Ordinance.

- Mr. Slone reviewed phasing.
  - Mr. Slone stated phasing will be in rounds as the church raises money & capital funds. Potentially taking 25 years.

- Mr. Slone reviewed:
  - Traffic:
    - Mr. Slone stated the Traffic Impact Analysis concludes that for the first three phases of the project, projected to take about 15 years to achieve, the intersections at the site entrance and Owens and Mathias Point Road operate at an acceptable level of service and no road improvements are necessary to support the project.
    - VDOT agreed with the analysis but noted that the background traffic would warrant a right turn lane in the future at the Rt. 614/624 intersection, without regard to the Project.
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- **Proffers:**
  - Mr. Slone stated unless a light has been installed at the entrance, whenever there’s an event with more than 50 cars leaving within an hour, the Church will furnish someone to supervise and manage the exit of vehicles.
  - When the Church wants to start Phase 2B, whether that’s in 15 years or 5, it has to complete a traffic study for the remainder of the phases and provide any entrance design or control that VDOT determines to be necessary.
  - Prior to site plan approval for Phase 1C, the Church will pay $250,000 to the County to be applied to County costs ancillary to the project or the improvement of the intersection.
  - For perspective, by-right development does not have to do a TIA, though it may still be subject to entrance design requirements.

- The traffic projected for Hope Retreat is expected to be as follows:
  - Most visitors come in groups and have multi-day stays.
  - Internal circulation is by foot, bike or car-alternative, with most cars kept toward the front of the property, reducing likelihood of offsite trips.
    - Group arrivals and departures will be scheduled in advance, avoiding peak traffic hours.
  - Arrival and departure are typically over two hours.
  - The size of most events is expected to be significantly less than the maximum capacity of the buildings, like most buildings.
  - Many events, such as youth retreats don’t involve cars at all, but buses and vans.
  - For perspective, VDOT assumes about 10 car trips per day for non-urban residence, so when somebody says they don’t want this project because of traffic, they are saying they’d prefer 300 trips per day, between 30 and 90 of those happening at each peak traffic period.

- **Fiscal Impact:**
  - State code 58.1-3606 exempts only church property exclusively occupied or used for religious worship, the residence of the minister and adjacent land reasonably necessary for the convenient use of the dominant purpose of religious worship use.
  - Counties interpret this according to their individual practice and precedents, so we asked King George what the taxes would be on this use on this property. This was the county’s assessment, subject obviously to further detail and analysis.
  - Hope will pay between $65,460-$136,88 for connection fees.
  - Hope will pay the real estate taxes on the open land not used for buildings, which means the majority of the real estate taxes being paid now, will continue to be paid.
  - Hope will pay taxes of 9% on meals and occupancy, roughly $225,000 per year.
  - Hope will directly employ individuals in the county, with about $1,100,000 going into the economy.
  - Hope will have about $50 M in construction by build-out and a $2.5 M annual operating budget.
  - Hope will have numerous other local benefits from its operating purchases and the taxes paid by visitors as they stop in local restaurants, gas stations and shops.

- **Comprehensive Plan:**
  - Hope Retreat is consistent with the King George Comprehensive Plan
  - Preserves the Rural Characteristics with substantial open spaces, forested buffers

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- Promote a diversified economy by introducing an employer and a consumer of local goods and services
- Encourage protection of critical environmental resources and maintain renewable natural resources
- Protects streams, wetlands (final delineations before site plan approval), the riverfront and RPAs
- Uses sanitary sewer instead of septic
- Uses native plantings, except for agricultural; prohibits planting invasive
- Uses dark sky techniques and fixtures to protect the night sky and wildlife passages
- More consistent than the by-right residential development
- Plan discourages, but does not prohibit, extension of utility service areas beyond the Settlement Areas
- Extension would not expose significant property to development
- Would not be used to expand residential development, but to reduce it
- Would avoid clearing for septic systems
- Would protect ground and surface water
- Uses:
  - Limit the types of use and the purpose.
- Types of use:
  - Buildings may be used for the type of use they are labeled with – dining hall, chapel etc.
  - They and their immediate surroundings can be used for adult, youth and small group retreats, concerts and weddings and overnight camping, day camps, corporate retreats, meetings, food trucks, festivals, fundraising events, ropes course, wedding ceremonies and receptions
  - The recreational open space can be used for sports, hiking, horseback riding, the things you’d expect
  - Then normally the property would be able to do anything else that was allowed in the zoning unless you disclaimed it. We had disclaimed some things in the proffers, trying to keep other things that were consistent with our specified uses. We’ve revised this part of the proffers to disclaim all uses unless they are described in the application or specified in the proffers.
- Now the proffers only list this narrow band of uses, which are consistent with those in the application:
  - Lodges for retreat purposes;
  - Health/fitness spa facilities used in connection with retreats;
  - Riding stables, horse show areas, and equestrian facilities;
  - Tennis and handball courts and associated clubhouse, both indoor and outdoor;
  - Docks or piers with boat houses, swimming pools, general water recreational uses, and their associated clubhouses;
  - Restaurants and similar eating and drinking establishments only as a dining hall for the lodge and snack bars for pools, the gym, or other buildings as accessory uses or as temporary kiosks in connection with events;
  - Conference center, meeting rooms and banquet facilities;
  - Art fair, kiosks or other similar small scale, temporary retail establishments allowed by law and an art gallery, subject to the following conditions:

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- No individual establishment shall contain more than 3,500 square feet, and
- The sum of the floor areas of all such establishments shall not exceed five percent of the total floor area of the resort.

- Temporary day care facility in association with retreats or events on the Property, and accessory uses and structures incidental to permitted uses.

- The other constraint on uses is purpose:
  - Only in connection with the goals of addressing the spiritual and life needs and development of individuals and organizations (whether for fees or not) and not for general commercial use.
  - You cannot call and book a room at the lodge, that’s general commercial.
  - If you are a local church or school or the Rotarians, you can call and use facilities, though there may be a fee.
  - You can have equestrian facilities to use for camp and programs for disabled or traumatized kids or adults, but you can’t have a stable for just boarding horses or riding lessons.
  - You cannot rent for a commercial concert, but you can have a church concert even if you sell tickets.

At, 8:20 PM, it was the general consensus of the KGCP to hold a ten (10) minute recess, the KGCP re-adjourned at 8:33 PM.

Chairman Parker opened the floor for public comments. 6

Including but not limited to:
1. David Thompson, KGCR Resident & previous KGCSB (School Board) Board Member, stated he had two concerns. First, the health & safety of existing & future Bald Eagles on proposed property.
   - The noise and the impact of 900 + patrons will deter the Bald Eagles from nesting and hunting.
   
   Secondly, is the Aquifer System, specifically hydrogeology of the Virginia Coast Plain. Mr. Thompson referenced professional paper 1772 from the U.S. Geological Survey by E. Randolph McFarland. This survey references Aquifers in KG and surrounding areas. There are significant chloride concentrations, that are in-fluxing, emplacement of Seawater and depletion of the “cone” of useable potable water. Although the proposal discusses using KGC Water & Sewer, there will be a need for a well on or near the property, which would have to be over 700 feet, and could potentially pull from his residence well. Also, the probability for well contamination of the landowners on Mathias Point will increase if the change in zoning is granted.

2. Steve Hock, KGCR Resident, stated he has lived on Mathias Point area for over 22 years. Mr. Hock’s concerns are: Comprehensive Plan conflicts, Public Safety concerns, quality of life issues, and the lack of benefit to KGC and residents.
   - Mr. Hock quoted various sections of the 2019 KGC Comprehensive Plan addressing utilities, specifically waste water and sewage, and stated the Planning Commission should

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6 July 16, 2020 KGCP Meeting, Public Comment, can be viewed via Internet, on the King George County Official Content, You Tube channel, retrieved at: https://youtu.be/OvSmr-Sc_xs
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be consistent in not approving proposals that have significant deviations from the 2019 KGC Comprehensive Plan.

○ Mr. Hock stated the proposal calls for 25+/- years of construction, ultimately providing lodging and parking for over 900 people.
  - Mr. Hock stated the only way to get to this property is using Owens Dr. and Mathias Point Rd. The intersection of Dahlgren Rd. and Owens Dr. is arguably the most dangerous intersection in the County. Dahlgren commuters use Owens Dr. as a by-pass from Dahlgren Rd to Route 301. There is consistent traffic congestion. 25 years of construction and daily to/from traveling patrons & construction workers of the resort will endanger drivers.
  - Mr. Hock stated West Peterson from New Hope Church stated no more than 5% of land would be under roof, which equates 800,000 sq. ft. under roof or 15 football fields.
  ○ Mr. Hock stated 2 inches of rain would result in 1,000,000 gallons of run off.
  ○ The plan also includes a parking lot for 220 cars, buses, etc.….running off of Mathias Point Rd.
  - The proposed buffer would take decades to hide proposed buses, cars, trucks, etc.
  ○ Mr. Hock stated existing wildlife & habitats would be disturbed by construction.
  ○ Mr. Hock is concerned about preserving the rural characteristics of KGC which is stated in the Comp Plan.
  ○ Mr. Hock stated $50 M (million) of construction will not be taxed. Mr. Hock stated construction materials would be purchased outside of KGC. Once the resort is open, delivery trucks will be a constant occurrence. Patrons would stay at the resort not contributing to KGC economy. There is no benefit to KGC and the proposed plan should not be approved.

3. Kelly Kulka, KGC Resident, yielded her time for Mr. Steve Hock to continue public comment.

4. David Kulka, KGC Resident, stated he saw hotel/motel brought up in the presentation and is concerned about having that type of dwelling on the property. Mr. Kulka is concerned about the proposed property having concerts and buses constantly coming to and from on Mathias Point Rd., as this is the worst road in the county. Mr. Kulka stated residents will have to deal with traffic, construction, etc.….Mr. Kulka stated patrons, specifically, children will not stay on the property during events. Mr. Kulka stated this plan should not be considered at this time.

5. John Jenkins Jr., KGC Resident and previous KGCBOS Board Member, stated when considering rezoning the basic question to ask is, how this proposed resort will benefit the county. The proposed resort will be considered a church property and potential revenue will not be taxed & there will be no revenue to KGC. This would not be beneficial to the county. Mr. Jenkins stated after speaking with KGC Administration, they were not sure if the resort would be running under a commercial business or a church.
  ○ Mr. Jenkins stated, essentially, the proposed resort is a commercial business and does not meet the 2019 KGC Comp Plan, as it is not in a primary settlement area (PSA). Mr. Jenkins reviewed what a PSA is and where PSAs should be located within the county.
  ○ Mr. Jenkins stated the facility of this nature will impact the surrounding roads. Mathias Road is not capable of handling the proposed. Mathias Point Rd. would cost millions of dollars to widened which the county is unable to do.
Mr. Jenkins stated he reached out to the KGCSB about the proposed and they referenced concerns about safety of school buses and proposed buses to bring patrons to/from the location, using Mathias Point Rd. and surrounding roads. Bus traffic is an issue.

- Mr. Jenkins stated the proposed $250,000 will not be enough money to help current road conditions.
- Mr. Jenkins stated there will be more than +400 patrons.
- Mr. Jenkins stated, currently, there is a high volume of traffic and if there is a large event, it will continue to impact traffic.
- Mr. Jenkins stated there will not be a great relationship with the surrounding residents, even though it was promoted by Hope Church.
- Mr. Jenkins stated the KGPC should be concerned about what KGC residents want and not companies from out of town.

6. Diane Kerr, KGC Resident, stated she is located adjacent to the proposed site/resort. Ms. Kerr stated their property is only 25 feet from the proposed site; therefore, any type of construction will affect her property. Ms. Kerr stated her concern is about the return to natural state and how long it would actually take. Ms. Kerr stated the proposal is a dramatic change for KGC. Ms. Kerr stated the surrounding area are family homes and would be a fundamental change to the neighbors and county. Ms. Kerr stated she is concerned about event venues being proposed, full time in the summer and part time for the rest of the year. Somewhere to 500-1000 patrons at a time. Mr. Kerr stated the KGPC has to be careful when compare and contrast is done between the proposed development and the development of 30 homes. Even if 30 homes were developed on the property site, the river would not be developed as the proposed resort would like to develop the river.

7. Peggy Cook, KGC Resident, stated she agrees and supports the church’s mission but is not in favor of the proposed. Ms. Cook stated the development is too large. Ms. Cook stated she does not want a neighbor that has 400-900 guests daily, ongoing music from 9:00 am to 10:00 pm. Ms. Cook stated it took eight years to subdivide the current property and have eight more years before they sell it. Ms. Cook stated they do not want to sell their land as they enjoy the qualities of KGC. Ms. Cook stated she would like to be able to enjoy those positive qualities. The extent of the master plan proposed will not be peaceful. Ms. Cook stated there will be no benefit to KGC or its residents.

8. Ron Mason, KGC Resident, yielded his time for public comment to Mr. John Jenkins Jr.

9. Debbie Sanders, KGC Resident, stated there will be a traffic impact to the surrounding roads. Ms. Sanders stated the road is a 25 MPH road and no one obeys the speed limit. Ms. Sanders stated local residents’ concerns located near the property should be taken into consideration. Ms. Sanders stated her concern is also about the wildlife and the impact to the wildlife.

10. Nancy Hester, KGC Resident, relinquished her time for public comment as points of concern were addressed.

11. West Hester, KGC Resident, relinquished his time for public comment as points of concern were addressed.

12. James Lund, KGC Resident, relinquished his time for public comment as points of concern were addressed.

13. James Carter, Elder and Trustee for Hope Church, stated Hope Church representatives were present to answer KGPC questions and address concerns. Mr. Carter stated he is appreciative of the partnership there is with the property’s neighbors. Mr. Carter stated they have worked hard to build a Master Plan. Mr. Carter stated Hope Church exists to build...
relationships, and experiences where people can find life. Mr. Carter stated the owner of the property contacted Hope Church which provided excitement and momentum for the proposal. Hope Church plan is to adhere to the 2019 KGC Comp Plan, to protect the rural nature of the property while accomplishing unique and incredible things. Mr. Carter stated the goals are: to create an asset for the County that the County would be proud of and to do good work while accomplishing a mission. Ultimately, something one would be proud to be neighbors with.

After several verbal interruptions to the July 16, 2020 KGCPAC Meeting, Chairman Parker called for a motion to remove a King George County Citizen from the July 16, 2020 KGCPAC Meeting at 9:00 PM. Mr. Colwell motioned to remove KGC Citizen from the Auditorium of the King George High School, seconded by Mr. Kendrick and carried by a unanimous vote of 9-0-0. Each member voting as follows: Chairman Parker, Aye; Vice Chairman Devries, Aye; Mr. Colwell, Aye; Mr. Dacorta, Aye; Mr. Gaborow, Aye; Mr. Kendrick, Aye; Mr. Myers, Aye; Mr. Watkins, Aye, and Mr. Williams, Aye.

14. Tim Penz, KGC Resident, stated as a young child he attended camps and honors what Hope Church is trying to accomplish. Mr. Penz stated his concern is what the proposed does for KGC, how does it improve the County, how does it help the County. Mr. Penz stated from a Service Authority perspective the County is not there. From a tax revenue perspective, there is ambiguity whether there will be tax revenue or not. Mr. Penz stated there is ambiguity in relation to sign size. Mr. Penz stated he lives on Mathias Point Road and does not want a 25-foot sign. Mr. Penz requested the KGCPAC to review ultimately how the development will help KGC.

15. Lewis Ashton, KGC Resident, stated his brother and himself own the adjacent farm. Mr. Ashton stated he is encouraged and looks at the proposal from a Christian standpoint. Any type of environment that will promote young people to know Christ is important. Mr. Ashton stated the proposal will allow other KGC churches to use the facility. Mr. Ashton stated the church he attends, youth are sent off to camp 200-300 miles away from KGC which costs $300+ to send a youth so it would be a great thing to have in KGC. Mr. Ashton stated another item for KGCPAC to review is the cost of adding & having 33 single family homes to KGC. Mr. Ashton stated as a neighbor, he is in support of having the proposed.

16. Howard Nelson, KGC Resident, stated he has lived on River Road for 23 years. Mr. Nelson stated on a daily basis his family uses Owens Dr and Mathias Point Rd. These are narrow two-way lanes usually blocked by accidents, traffic, flooding, down trees, etc.... Meeting school buses is a challenge. Mr. Nelson stated he does not accept the proposed as it would change the rural character of the neighborhood by large proposed facilities and accommodating over 900+ people. Mr. Nelson stated the KGC infrastructure cannot support the proposed, i.e. the road system, law enforcement, EMS, Fire and Rescue, trash, water and sewage system, etc... KGC has only one Aquifer which would be depleted and not able to regenerate. As KGC tax payers, they support and see these assets as necessary expenses. The proposed would not support KGC services, only using them. Mr. Nelson requests the KGCPAC to deny the zoning request.

17. Alfredo Sanchez, KGC Resident, stated there is ambiguity in relation to the proposed. Mr. Sanchez stated Hope church stated they did not have the finance present, the land was supposed to be a grant, though Hope Church is saying it is a feasible project and should be
re-zoned. Mr. Sanchez stated other KGC services have been discussed but not Broadband and how 900+ residents will affect that service. Mr. Sanchez stated KGC does not have the best Broadband coverage. Mr. Sanchez stated other constraints are usage of the property for food truck festivals as it is not consistent with the proposed. Mr. Sanchez stated the land is zoned agricultural, not zoned for the proposed. Mr. Sanchez stated in comparison to the proposed having single family home residents that would be less than 900+ residents. Mr. Sanchez stated KGPC should listen to KGC residents and approve proposals that will benefit KGC residents.

18. Michael Frank, KCC Resident, stated his concern is access of first responders to the location if something happens. Mr. Frank stated another concern is traffic and the traffic congestion the development would bring. Mr. Frank stated he is not against progress or the type of facility but why here and why now. Mr. Frank stated he does not want the rural integrity of KGC to change because of the proposed.

19. Tom Crook, KGC Resident, stated he has resided in KGC for 21 years. Mr. Crook stated he has been on many retreats and the proposed would enhance the community. Mr. Crook stated he supports the proposed.

20. Mike Ryan, KGC Resident, stated he has resided in KGC for 3 years. Mr. Ryan stated his concerns are traffic impact and congestion. The roads are extremely narrow. The influx of people on the roads can be a detriment to cyclist, vehicles, etc... Mr. Ryan stated most of his concerns were addressed by fellow Public Speakers.

21. Mike Phir, KGC Resident, stated his concerns are phased events and how many events will be held. Mr. Phir stated local KGC churches that are welcome to the use the facilities will be charged for same. Mr. Phir stated his concern is traffic congestion. Mr. Phir stated his children are late to Potomac Elementary everyday because of current traffic congestion and NSWCDD Base traffic. Mr. Phir stated the proposed states facilities will not be used during peak times and hours; however, Mr. Phir stated local roads and even the Harry W Nice Memorial Bridge are backed up on weekends.

22. Dave Powell, KGC Resident, stated he notes the concerns of having construction and construction over 25+ years; however, Mr. Powell stated being a neighbor and property line owner, he would rather have a planned community, like the proposed, having one interest than having 33+ single family homes that have their own interests. Mr. Powell stated the proposed will bring something positive to the community.

**Electronic and/or Remote Public Comment:**

23. (Read by Administration) Yvonne Richard, KGC Resident, stated she would like to express her opposition to the Hope retreat rezoning. Ms. Richard stated the project does not bring anything positive to KGC. It will bring added traffic on roads that are already too busy. It will not bring any real estate taxes because of the church status. Additionally, it will bring 25 years of construction and heavy equipment on Owens Drive. Moreover, it will add stress to the water and sewage facility without any proffers offered.

24. Betty Grigg, KGC Resident, stated she will read her sons comments. Ms. Grigg stated the proposed has not displayed a respect for the KGC community or its protected or irreplaceable wildlife. Ms. Grigg stated there is little to no benefit to the county. Ms. Grigg stated the chief goal of the Comp Plan is to preserve the rural character of KGC which the proposed does not meet, seeing the property of the county as a resort not residing residents’ home. Ms. Grigg stated her personal statement of concerns are: existing conditions of the roads, traffic congestion, weather influences, danger of intersections, concerns of security, safety hazards,
the inability for EMS and F&R to enter Mathias Point—whether for the resort or current residents, the peace of KGC community, the size of proposed facilities, the vision is a good one but other places could be used for the proposed.

25. Daniel Grigg, KGC Resident, stated his concerns are: the proposed has benefits to Hope Church and does not benefit KGC. Mr. Grigg stated the top priority of the county is preservation of the rural character and it is crucial to preserve the irreplaceable wildlife of the county. Mr. Grigg stated Hope Church is not extending the same respect to the property or the neighbors of the property. Mr. Grigg stated KGC is a rural county and not a playground. Mr. Grigg requests the KGPC to vote no to the proposal.

26. Michelle Gill, KGC Resident, stated she echoes all concerns brough forward. Ms. Gill stated by the church’s omission they do not have the financing or a complete plan. Ms. Gill would like to see an implementation strategy plan, risk management plan, business case analysis report and should have been completed by the church first before discussing rezoning. Mr. Gill stated the plan is too large for KGC and does not meet the Comp Plan. Ms. Gill stated the plan is ambiguous and KGPC should take all concerns into consideration.

27. Jason Thompson, KGC Resident, stated they live across from the proposed property. Mr. Thompson stated his concerns are: large project, zoning request, and how this will affect the future of KGC residents if the grant is approved. In the future, if Hope Church decides to sell the property the property will be zoned resort/commercial and any developer could come in and build a different type of resort. Mr. Thompson concern is the use of the property and what is listed unde: their proffers. Mr. Thompson concern is if the facilities are used to help addicts, bringing addicts, criminals, or felons to the resort and the area. Mr. Thompson concern is who is coming to and from the area.

28. Theresa Lunsford, KGC Resident, stated their family would like to build near the property and her concern is her family’s safety. Ms. Lunsford stated she is concerned if the resort brings in addicts like Mr. Thompson stated. Ms. Lunsford is concerned about the wildlife and rural nature of the area. Ms. Lunsford stated she is concerned the proposed will take away from the area. Ms. Lunsford is requesting the KGPC to deny the request.

29. Charles Gleason, KGC Resident, stated he has listened to the Hope Church presentation twice. Mr. Gleason stated as a former developer, he understands the growing pains KGC is facing. Mr. Gleason stated when developing the developer has to develop the property to its best use. Mr. Gleason stated the tax base around developing 30+ houses in a rural county is the property’s best use and encouraged. Mr. Gleason stated he has had to replace five mailboxes and has seen flipped vehicles on Mathias Point Road due to conditions of the road. Adding more traffic to this area will only cause further accidents and traffic. Mr. Gleason stated he is concerned about resort patrons leaving the area. Mr. Gleason stated insurance premiums may rise because of the resort location. Mr. Gleason stated he would like for the KGPC to turn down the motion.

30. John Day, KGC Resident, stated as a KGC bus driver and KGC Bus Coordinator, 900+ people will place a burden on current school transportation, adding further complications of transporting children to school.

Chairman Parker closed the floor for public comments.

Chairman Parker opened the floor for Board Comments.
Including but not limited to:
• Mr. Kendrick stated as he has reviewed and listened to the presentation and his concerns are it is outside the development area and goes against the master plan. Mr. Kendrick stated the
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project would require an extension of the water and sewage system. Mr. Kendrick stated his concern is the debt service fees would increase in the County (around $1 M). Mr. Kendrick is concerned that the development would be close to current residents. Mr. Kendrick stated the conditions of the roads and the increase of traffic are concerns. Mr. Kendrick stated he is concerned about the amount of people that will be using the proposed. Adding a burden to the KGC F&R and EMS. Mr. Kendrick stated having the proposed located close to the NSWCDD is a concern. Mr. Kendrick stated there is no financial incentive or benefit to the residents of the County. Mr. Kendrick stated he recommends forwarding the proposed to the KGCBOS with motion of denial.

- Mr. Williams stated he wanted to clarify what Mt. Bethel is (from a public comment inquiry). Mr. Williams stated it is a historical African American Christian center not a resort. Mr. Williams stated it is composed of African American churches who united so there was somewhere African Americans could go to celebrate, enjoy the beaches, etc....when segregation was in place. Mr. Williams stated today it is an area of where churches gather as an African American community.
  o Mr. Williams inquired if the resort would be open to hosting other religious denominations, i.e. Muslim.
    ▪ Hope Church representative stated it is clear that Hope Church is an evangelical Presbyterian Christian church. The church is based on the premise that Christ is God’s son and this guides the purpose and vision. Any denomination can inquire to use the churches facilities and the church would review if the request aligns with their mission and convictions. The development would be open to the community and other areas to use the facilities.
  o Mr. Williams inquired if the Hope Church has reached out to local churches to discuss what the development would bring to the area.
    ▪ The Hope Church has not, because steps had to be completed before they could outreach, i.e. rezoning, etc....

- Mr. Slone stated the church will pay for the water and sewage extension and pump station upgrade; it is in the Proffers.

- Vice Chairman Devries stated the water and sewage cost would be absorbed by the applicant but he did not hear a commitment that it would be exclusive to public sewer and water.
  o Mr. Slone stated there is a Proffer that specifically states the church would use only the water & sewage system.
  o Mr. Slone stated after discussion, it would be better for the Aquifer.

- Vice Chairman (VC) Devries inquired if KGC Fire and Rescue (F &R) had any further concerns.
  o Mr. Pancotti stated all information received was listed in the letter.
  o VC Devries stated a concern is the lack of water and rescue staff and equipment as stated prior by KGC F & R.
  o Does the applicant have any further information on safety?
    ▪ Mr. Slone stated the Proffers state no recreational usage of water craft.

- Mr. DaCorta stated he wanted to confirm there would be no structures higher than 3 stories.
  o Mr. Slone stated there are not.
  o Mr. Slone stated there was a discussion about F & R equipment with KGC F & R.
  o Mr. Slone stated the ability to go over three stories (above ground) would hold the applicant to purchase any necessary F & R equipment needed to respond to a three story
Mr. DaCorta inquired about the development’s benefits to KGC.
  o Mr. Slone stated the organizations in the County would be welcome to use the facilities with a facility charge.
  o Mr. Slone stated protecting wildlife is their priority. Currently, the property is hunted and will not be hunted.
  o Protection of the property site, RPAs, and the condition of the River are their priorities.
  o Mr. Slone stated lodging and food would be taxed and benefit KGC.
  o Mr. Slone stated details would be provided as development occurs.
  o Mr. DaCorta inquired about access to the site.
    ▪ Mr. Slone stated it will be a controlled access to/from and on/off the site.
  o Mr. DaCorta inquired about the sizes of the buildings.
    ▪ Mr. Slone stated there is a limitation of retail establishment exceeding 3500 sq. ft.

Mr. Watkins stated he appreciates the mission behind the proposed but his biggest concern is, it is in the wrong area of the County. The road conditions are currently in no condition for further development or usage of tour busses. Mr. Watkins stated Owens Dr is currently dangerous to use by pedestrians. Mr. Watkins concern is children leaving the site. Mr. Watkins stated there may be another place in the County for the proposed.

Mr. Gaborow stated he has no further questions or comments and is in concurrence with Mr. Kendrick comments & concerns.

Mr. Colwell stated he heard the public comment that KGPC material is not online, KGPC material is online and available for the Public to review.

Mr. Colwell stated it is unfortunate the member of the audience had to be ejected but the audience member was disrupting county business.

Mr. Colwell stated in reference to the project, it is a large project and the essence of the project does not meet the Comp Plan.
  o Mr. Colwell stated the Comp Plan states not to extend or establish water distribution treatment systems.
  o Mr. Colwell stated he does not see a benefit to the County.
  o Mr. Colwell stated the conditions of the roads are not currently suitable, i.e. narrowing roads, etc.…
  o Mr. Colwell stated in reference to rezoning, he would like the property owner to apply for rezoning in the future, not the developer.

Mr. Myers stated the size and the scope of the project is large.
  o Mr. Myers inquired the maximum stay at the resort.
    ▪ Mr. Slone stated the majority of the usage is for summer camps for children. So, there is no maximum stay, children would attend camps for weeks at a time in rotations. They would all be lodging occupants.
  o Mr. Myers inquired about wedding event parking.
    ▪ Mr. Slone stated there will be parking closer to the river near the facilities and ADA parking. The bulk of the parking is closer to the entrance. Electric golf carts would also be utilized.
  o Mr. Myers inquired if it is a commercial development.
    ▪ Mr. Slone stated this is not a commercial development and cannot be proffered as a commercial property.
Vice Chairman Devries stated the proposed is too intense for the size of the property in that area.
  o VC Devries is concerned about extending public facilities outside the PSA.
  o VC Devries stated it is higher density development.
• Mr. Williams stated questions that need to be answered are: does the proposed fit within the
  Comp Plan and does the proposed benefit the county. Once those questions are answered,
  then the KGCP has their answer.
• Mr. Kendrick stated his concern is there was mention of numerous wedding events, concerts,
  and corporate meetings & retreats.
  o Mr. Kendrick stated if the proposed is approved the concern is the size and magnitude of
    the project. Also, the upkeep of the facilities if funding is not already in place.
• Mr. Williams stated, for due diligence, it would be beneficial for all parties to table the
  decision until the next scheduled KGCP meeting. Mr. Williams stated he would like to
  hear from Mr. Weekly, General Manager of the Service Authority.
  o Mr. Kendrick concurred with Mr. Williams in discussing the application with Mr.
    Weekly.
• Mrs. Hall stated if the proposed changes from using facilities internally to eternally
  commercial that would change the scope of the proposed application as it would not be in
  alignment with the current application. Therefore, the applicant would have to amend their
  application, i.e. rezoning and proffers.
• Mrs. Hall stated in reference to the water and sewage inquiry, it depends on what needs to be
  placed on the property. For an existing home on a drain field, one would not be forced to
  connect to a water and sewage line. If one is a new property owner, and the available hook up
  is within 250 feet the property, the owner would be required to connect as long as there is
  availability.

After review of Case Number 19-08-Z03: Request by PR Farm LLC to rezone, with proffers,
Tax Map 9, Parcel 5 from Limited Agricultural District (A-1) to Resort Community District
(RC). Total project area 332.32 acres. Master Development Plan proposes a resort community
with temporary lodging for 900 occupants (including tent platforms), staff cottages for 18
occupants, a chapel, an amphitheater, and other uses including special events for up to 440
people. The property is currently zoned Limited Agricultural (A-1); the minimum lot size in the
Agricultural Zoning District is ten (10) acres. The requested zoning is Resort Community (RC).
Per the King George County Comprehensive Plan (2019), the property is located in the Potomac
River/North Rural Development Area. Chairman Parker called for a motion. Mr. Myers
motioned to defer Case Number 19-12-S0 until the next scheduled, August 11, 2020 KGCP
Meeting requiring King George County Service Authority and VDOT, to attend, seconded by
Mr. Williams and carried by a unanimous vote of 9-0-0. Each member voting as follows:
Chairman Parker, Aye; Vice Chairman Devries, Aye; Mr. Colwell, Aye; Mr. Dacorta, Aye; Mr.
Gaborow, Aye; Mr. Kendrick, Aye; Mr. Myers, Aye; Mr. Watkins, Aye, and Mr. Williams, Aye

Old Business: No Old Business.

New Business: No New Business.
THE KING GEORGE COUNTY PLANNING COMMISSION
July 16, 2020

Director’s Report: Mrs. Heather Hall, Zoning Administrator with KGCDCA reported.

- Mrs. Hall stated on June 16, 2020 the KGCBOS reviewed Case Number 19-03-Z02: Request by Darrell Hertenstein, Hertenstein Investment Group, on behalf of Beverley C. Coates, David F. Clare and Alyce Jeter Jones (Villages at King George Crossroads) to rezone with proffers Tax Map 13 Parcels 74 and Tax Map 13 Parcels 78 & 79 from Rural Agricultural (A-2) to General Trade (C-2 Total 17.65 acres) and Multifamily dwelling District (R-3 Total 92.67 acres). Total project area of 110.32 acres. General Development plan, which is subject to modification, proposes to construct a maximum of 450 dwelling units with a proffer of no more than 450 units (a minimum of 100 units being age restricted) noted as “Landbay C” with 92.67 acres proposed to be zoned Multifamily Dwelling District (R-3), “West Village Landbay A”, 8.45 acres of C-2, proposing Medical Office (14,300 sq. ft. pad), “West Village Landbay B” proposing 6.31 acres of C-2, 7,500 sq. ft. pad, 2,500 sq. ft. pad and a 2,500 sq. ft. pad. The property is currently zoned Rural Agricultural (A-2); the minimum lot size in the Agricultural Zoning District is two (2) acres. The requested zoning is Multifamily dwelling (R-3) and General Trade (C-2). The minimum lot size in R-3 with both public water and public sewer is 15,000 square feet and townhomes 1,500 square foot minimum. The minimum lot size in C-2, with both public water and public sewer is 5,000 square feet. Per the King George Comprehensive Plan (2013), the property is located in the Courthouse Primary Settlement Area.
  - The KGCBOS voted 4-0-1 to remand the application back to the Planning Commission.
  - Mr. Matt Britten, King George County Attorney, stated the Case was remanded back to the KGPC because the proffer stated there was a contract to construct and build a medical facility, and that proffer did not exist. Under the law, the KGPC approved the application based on the belief that rezoning was based on proffers enforceable because an impossibility of fact. The KGPC did not know that. Apparently, it was material subject based on the tapes and comments made whether there would be a substantial medical facility of 14,300 sq. ft. and it stated there was a contract with Mary Washington to construct and there was not. The KGPC will have to determine if it is a material change that could alter the public comments or KGPC vote if there was no such proffer. The Applicant can amend their application or write a different contract that may or may not be acceptable by majority vote.
  - Mr. Britton stated the applicant did file a land transfer agreement to Mary Washington Hospital, transferring the land and $500,000 dollars to Mary Washington Hospital. If MWH accepted the land of a study period then they own it, if the MWH did not accept the land, the land and $500,000 would go to KGC. The issue is if MWH accepted the land and money and never built. Therefore, the applicant amended it to, MWH has five (5) years to build or it would revert.
    - The KGCBOS stated there was not a contract stating MWH had to build a medical facility of 14,300 sq. ft. The KGCBOS denied to approve the application due to a land transfer agreement would not suffice. Therefore, the KGCBOS remanded the application back to KGPC to determine if it would alter the public comments or KGPC vote.

- Mrs. Hall reviewed previously scheduled KGCBOS Public Hearings:
  - **July 14, 2020:**
    - **(Adopted) Case Number 20-01-Z01:** Amendments to the King George County Zoning Ordinance to revise the Sign Regulations. Amendments to Section 3.11

The King George County Planning Commission Meeting Minutes
July 16, 2020

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THE KING GEORGE COUNTY PLANNING COMMISION  
July 16, 2020

• **(Adopted) Case Number 19-12-S01:** Amendment to the KGC Subdivision Ordinance (KGCSO) to comply with the Chesapeake Bay Preservation Act (CBPA) as recommended by the Department of Environmental Quality (DEQ). Amendment to Sections 1.4, 3.9, 6.2, and 7.1.
• Mrs. Hall reviewed scheduled KGCBOS Public Hearings:
  o **August 04, 2020:**
    • **Case #19-08-SA0:** Appeal to the Notice of Violation of Subdivision Section 3.8.7 Maintenance of Roads and Section 2.7 Violations and Penalties. Appeal by Robert S. Gollahon, developer of Sedgewick Crossing Subdivision, Tax Map 12 (5) Parcels 28 (Now lots 1 through 35).
  • Mrs. Hall stated the KGCDCD has been audited by the Department of Environmental Quality (DEQ) regarding the Chesapeake Bay Preservation Act (CBPA) program.
  o All KGCDCD plans were reviewed and found compliant.
  • Mrs. Hall stated there is an internal promotion of Mr. Michael Newchok now an Environmental Specialist and DEQ certified. Mr. Newchok will review all KGCDCD stormwater reviews.
  • Mrs. Hall welcomed Mr. Matt Britton, the new KGC Attorney.

**Other Business:**
• Effective November 01, 2020 Mr. J. Bradley Hudson will retire as the KGCDCD, Director of Community Development.
• Mrs. Hall stated there are two special exceptions applications for wedding venues that are tentatively scheduled as a joint meeting with the KGCBOS and KG CPC for August 17 or 19, 2020 at 6:00 PM.
  o Mrs. Hall stated the wedding venues applications are straightforward.
  o Mr. Britton stated the Code of Virginia allows for joint meetings. There is no negative precedence so: from a legal perspective.
  o It was the general consensus of the KG CPC that Wednesday, July 19, 2020 at 6:00 PM was the best time to hold the joint meeting.

**Adjournment:**
Having completed their agenda, Chairman Parker called for a motion to adjourn. Mr. Myers motioned to adjourn, seconded by Mr. Colwell, and carried by a unanimous vote of 9-0-0. Each member voting as follows: Chairman Parker, Aye; Vice Chairman Devries, Aye; Mr. Colwell, Aye; Mr. Dacorta, Aye; Mr. Gaborow, Aye; Mr. Kendrick, Aye; Mr. Myers, Aye; Mr. Watkins, Aye, and Mr. Williams, Aye. The King George Planning Commission adjourned their meeting at 10:53 PM.

Chairman Parker stated the July 16, 2020 KG CPC meeting is hereby adjourned to the next regularly scheduled meeting on August 11, 2020 at 7:00 PM. That meeting may be held by electronic means and remote participation only and may be closed to the public being physically present. All Citizens are encouraged to participate in advance or during the meeting by electronic means as provided by the county.

The King George County Planning Commission Meeting Minutes  
July 16, 2020
Subject: Hopyard Farm Subdivision Preliminary Plat (revised), Tax Map 23 (3) Parcel A4 and Tax Map 23 Parcel 77A

Action Requested: The Department of Community Development Staff recommend that the King George County Board of Planning Commission.

1. Forward the Hopyard Farm Subdivision Preliminary Plat (revised) to the King George County Board of Supervisors with a recommendation for approval.

Summary of Information: Hopyard Farm Subdivision Preliminary Plat was approved by the King George County Board of Supervisors on February 1, 2005 and last revised on December 15, 2015. As development of the subdivision has progressed, the applicant has deemed it desirable to modify the subdivision layout.

The proposed revisions are highlighted between sheets 2A (approved) and 2B (proposed modification).

Per Section 3.7.2, Technical changes to approved Preliminary Plat, King George County Subdivision Ordinance, the Subdivision Agent may only approve technical changes to a preliminary plat. The proposed changes to the preliminary involve removing Sections 17 and 18 (68 lots) from the Northeast side of Port Conway Road. These same 68 lots are now proposed to be included in Sections 9, 10, 11 & 13 and new Section 17. A new Section 17 is proposed next to Sections 10 and 11 on the Southwest side of Port Conway Road. Section 9 now requests fifty-nine, 60' width lots and 2 open space parcels. Section 10 now requests fifty-three 60' parcels and 3 open space parcels. Section 11 now request thirty-five 60' width lots and 1 open space parcel. Section 13 now requests twenty-nine 60’ parcels and 2 open space parcels. New Section 17 requests fifty-three, 60' lots and 2 open space parcels. Total lots in Hopyard Farm Subdivision will remain the approved 898 lots.

The King George County Service Authority and the Virginia Department of Transportation have reviewed and provided approval letters for the preliminary plat.

Reasons for the Request:

1. The remaining lots have been consolidated on the south side of Port Conway Road for ease of construction and provides a more efficient planned community.

2. Two stream crossing have been eliminated along the previous Bagpipe Lane extension. This will reduce the wetland disturbance and DEQ permit requirements. A wetland permit to disturb the streams has already been obtained, but the final design and approval can be an extensive process.

3. Previous Sections 17 & 18 was an inefficient design. The Bagpipe Lane extension was 980 feet long, did not contain any lot frontage, and included the stream crossings mentioned above.

Legal Review: Complete

Attachments: Yes

N/A

No
DESCRIPTION OF PLAT

A description of the plat is provided below.

Property Identification. The property is Tax Map 23 (3) Parcel A4 and Tax Map 23 Parcel 77A.

Location. The property is located on Route 3 and Route 607. The primary points of access will be off Route 607.

Area Table. An Area Table for the project is provided below:

<table>
<thead>
<tr>
<th>Land Use</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Lots</td>
<td>898 Residential</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 Commercial *</td>
<td></td>
</tr>
<tr>
<td>Area in Residential Lots:</td>
<td>Approved 284.09 Acres: Revised 200.66</td>
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</tr>
<tr>
<td>Area in Commercial Lot</td>
<td>31.1 Acres</td>
<td></td>
</tr>
<tr>
<td>Area in Open Space:</td>
<td>635.97 Acres (602.65 Acres Minimum Required by Proffer)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(298 Acres Minimum Required by Zoning Ordinance)</td>
<td></td>
</tr>
<tr>
<td>Area in WWTP</td>
<td>21.00 Acres</td>
<td></td>
</tr>
<tr>
<td>Area in County Land</td>
<td>Approved 16.00 Acres: Revised 17.48 Acres (includes well lots)</td>
<td></td>
</tr>
<tr>
<td>Area in Right-of-Way Dedication</td>
<td>Approved 12.38 Acres: Revised 12.08 Acres</td>
<td></td>
</tr>
<tr>
<td>Right-of-Way</td>
<td>Approved 98.07 Acres: Revised 60.30 Acres</td>
<td></td>
</tr>
<tr>
<td>Total Area</td>
<td>990.15 Acres</td>
<td></td>
</tr>
</tbody>
</table>

*Commercial property to be subdivided in the future. Future divisions shall conform to the requirements of the King George County Subdivision Ordinance.

LOT BALANCE TABLE

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PREVIOUSLY APPROVED AMOUNT</th>
<th>UNCHANGED WITH THIS PLAT</th>
<th>REVISED WITH THIS PLAT</th>
<th>TOTAL PROPOSED AMOUNT</th>
<th>PROFFERED AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td># OF LOTS</td>
<td>898</td>
<td>669</td>
<td>229</td>
<td>898</td>
<td>898</td>
</tr>
<tr>
<td>OPEN SPACE (ACRES)</td>
<td>678.63</td>
<td>484.76</td>
<td>143.98</td>
<td>628.74</td>
<td>602.65</td>
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### HOPYARD FARM LOT MIX TABLE

<table>
<thead>
<tr>
<th>SECTION</th>
<th>RESIDENTIAL LOTS</th>
<th>OPEN SPACE PARCELS</th>
<th>AREA (ACRES)</th>
<th>OPEN SPACE (PUBLIC USE)</th>
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<tbody>
<tr>
<td></td>
<td>TOTAL 80' LOTS</td>
<td>60' LOTS</td>
<td>TOTAL</td>
<td>RES. LOTS</td>
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<tr>
<td>SECTION 1</td>
<td>130</td>
<td>50</td>
<td>120.37</td>
<td>31.70</td>
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<tr>
<td>SECTION 2</td>
<td>53</td>
<td>12</td>
<td>16.16</td>
<td>19.52</td>
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<tr>
<td>SECTION 3</td>
<td>60</td>
<td>0</td>
<td>108.97</td>
<td>18.50</td>
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<tr>
<td>SECTION 4</td>
<td>26</td>
<td>0</td>
<td>31.95</td>
<td>5.96</td>
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<tr>
<td>SECTION 5</td>
<td>25</td>
<td>0</td>
<td>42.54</td>
<td>4.80</td>
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<tr>
<td>SECTION 6</td>
<td>57</td>
<td>0</td>
<td>20.23</td>
<td>11.49</td>
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<tr>
<td>SECTION 7</td>
<td>68</td>
<td>0</td>
<td>122.06</td>
<td>14.79</td>
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<tr>
<td>SECTION 8</td>
<td>48</td>
<td>2</td>
<td>20.64</td>
<td>9.19</td>
</tr>
<tr>
<td>SECTION 9</td>
<td>59</td>
<td>0</td>
<td>26.80</td>
<td>9.48</td>
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<tr>
<td>SECTION 10</td>
<td>63</td>
<td>0</td>
<td>26.67</td>
<td>8.36</td>
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<td>SECTION 11</td>
<td>35</td>
<td>0</td>
<td>12.32</td>
<td>6.01</td>
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<tr>
<td>SECTION 12</td>
<td>51</td>
<td>0</td>
<td>22.63</td>
<td>9.94</td>
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<td>SECTION 13</td>
<td>20</td>
<td>0</td>
<td>22.44</td>
<td>5.06</td>
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<td>SECTION 14</td>
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<td>27.31</td>
<td>6.53</td>
</tr>
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<td>SECTION 15</td>
<td>44</td>
<td>0</td>
<td>31.98</td>
<td>6.86</td>
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<td>SECTION 16</td>
<td>63</td>
<td>0</td>
<td>26.79</td>
<td>11.02</td>
</tr>
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<td>SECTION 17</td>
<td>53</td>
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<td>46.45</td>
<td>8.89</td>
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<td>PARCEL 5S</td>
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<td>51.60</td>
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<tr>
<td>PARCEL 5T</td>
<td>1</td>
<td></td>
<td>6.97</td>
<td></td>
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<tr>
<td>REMAINDER (T.M. #23-77A)</td>
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<td>65.49</td>
<td>7.04</td>
<td>7.04</td>
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<td>CLUBHOUSE LOT 134</td>
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<td>31.10</td>
<td>7.04</td>
<td>7.04</td>
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<td>COMMERCIAL</td>
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<td>0.23</td>
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<tr>
<td>WELL SITE &quot;A&quot;</td>
<td>1</td>
<td>0.23</td>
<td>0.23</td>
<td></td>
</tr>
<tr>
<td>WELL SITE &quot;A&quot;</td>
<td>1</td>
<td>0.23</td>
<td>0.23</td>
<td></td>
</tr>
<tr>
<td>WELL SITE &quot;B&quot;</td>
<td>1</td>
<td>0.23</td>
<td>0.23</td>
<td></td>
</tr>
<tr>
<td>NATATORIUM &quot;A&quot;</td>
<td>1</td>
<td>0.50</td>
<td>0.50</td>
<td></td>
</tr>
<tr>
<td>FIREPLUG &quot;A&quot;</td>
<td>1</td>
<td>0.50</td>
<td>0.50</td>
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</tr>
<tr>
<td>WATER STORAGE &quot;A1&quot;</td>
<td>1</td>
<td>0.79</td>
<td>0.79</td>
<td></td>
</tr>
<tr>
<td>WWTP &quot;A&quot;</td>
<td>1</td>
<td>21.00</td>
<td>21.00</td>
<td></td>
</tr>
<tr>
<td>PUBLIC BOAT RAMPS &quot;A&quot;</td>
<td>1</td>
<td>4.73</td>
<td>4.73</td>
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<tr>
<td>ADVERSE POSSESSION</td>
<td>12.45</td>
<td>22.08</td>
<td>12.08</td>
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</tr>
<tr>
<td>RT. 607 ROW DED.</td>
<td>12.45</td>
<td>22.08</td>
<td>12.08</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td>658</td>
<td>162</td>
<td>746</td>
<td>64</td>
</tr>
</tbody>
</table>

**LEGEND**

- **UNCHANGED**
- **REVISED**

### Construction of Roads

Section 8.3, King George County Subdivision Ordinance requires that the lots front on a public road with one entrance to an existing primary or secondary road. All of the proposed roads within the Subdivision are designed as public roads. Approximately 95 feet of additional right-of-way along Route 607 is being dedicated to serve the project. The Virginia Department of Transportation (VDOT) has reviewed the preliminary entrance location and design and found it to be conformance with VDOT Standards (letter attached).

This revision does not warrant a traffic study. The full VDOT turn lane requirements for left and right turn lanes are already being provided at the Port Conway Road (Rt. 607) intersection with Angora Drive and Emerald Drive. This includes left and right 200' turn lanes and 200' tapers, for both sides of the road. The design was approved with the Hopyard Farm Public Improvement Plan, Port Conway Road – Route 607 and is under construction.

### Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan will be required for the construction of the road. Note 6 under “General Notes” on Sheet 1 of 18, provides that the project development will conform to the applicable erosion and sediment control requirements.
Minimum Area Requirements. The parcel is zoned, with proffers, Multi-Family Dwelling District (R-3). The Subdivision is being platted as a “Residential Cluster” and meets the standards set forth in Article 11, Residential Cluster Provisions, King George County Zoning Ordinance. All of the proposed lots are for single-family detached structures. The standards set forth by the Zoning Ordinance for land development within the R-3 Zoning District per the Cluster Subdivision standards are provided below and the Proffer Statement is attached.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>R-3:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>S-F Duplex</td>
<td>2.9 du./1.0 ac.</td>
<td>30%</td>
<td>6,500 sq.ft.</td>
<td>60</td>
<td>15</td>
<td>6</td>
<td>20</td>
</tr>
<tr>
<td>Townhouse</td>
<td>2.9 du./1.0 ac.</td>
<td></td>
<td>4,000 sq.ft.</td>
<td>50</td>
<td>15</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>public water and sewer required</td>
<td>8.0 du./1.0 ac.</td>
<td></td>
<td>1,200 sq.ft.</td>
<td>18</td>
<td>10</td>
<td>end unit 10</td>
<td>20</td>
</tr>
</tbody>
</table>

Chesapeake Bay Preservation Areas (CBPA). The proposed subdivision does contain Resource Protection Areas (RPA) under the County CBPA Ordinance. RPA’s will only be impacted by the subdivision roads. The owner proffered as part of the Rezoning Application accepted by the Board of Supervisors that storm water management facilities will be provided to serve the developed areas. In addition, the owner proffered that the RPA boundary along the Rappahannock River will be increased from 100 to 150 feet.

Wetlands. The Wetlands Delineation for the project has been prepared by Angler Environmental which has been confirmed by the Corps of Engineers. A permit for the projects impacts on Wetlands has been issued by the Corps of Engineers. **Removing the current sections 17 and 18 eliminates a wetland crossing.**

Utilities. The proposed subdivision is be served by public water and sewer system which have been constructed and approved by the King George County Service Authority and the Virginia Department of Health.

Easements. All easements that affect the property have been identified and the plat indicates that there are no easements that will affect the development of the property. A title report is available for review.

Proffers. The Proffer Statement, dated October 20, 2003, accepted by the Board of Supervisors with the property rezoning is attached. **This Proffer statement will remain unchanged.** Proffer analysis is provided below.

Proffer Statement 1. The Proffers shall run with the land and be binding on the property owners.
Proffer Statement 2. The Plat and HOA documents contain language noting that the property is subject to the Proffers (HOA Doc., Section 1.1.28, Page 8). HOA Documents have been accepted by the County. HOA covenants apply to all new sections.
Proffer Statement 3. Statement that no person or entity of any kind shall be allowed to file for rezoning is included within the HOA Document (HOA Doc., Section 8.6.b, Page 29).

Proffer Statement 4. A minimum 602.65 of Open Space is required. Open Space dedicated to date: Total Open Space Dedicated 473.84 Acres (as of Hopyard Section 16 Final Plat approval July 16, 2020).

Proffer Statement 5. The property is being developed in accordance with the Preliminary Master Plan.

Proffer Statement 6. Maximum number of dwelling units, per Proffer Statement 6, is 898. To date Section 669 lots have been constructed in the Hopyard Farm Subdivision. To date all lots recorded support a "single" single-family dwelling.

Proffer Statement 7. This Proffer describes the Recreational Amenities as follows.

a. $2,200,000.00 towards a Natatorium with $200,000.00 being paid within 180 days (provided) and $2,000,000.00 no later than 4 years (2007) or the 400th permit.

b. Trail along Route 607 with 10 parking spaces – 200th permit. Plans for the trail have been approved and the trail has been completed from Nellie Lane to Weems Drive.

C. Public Boat Ramp with 30 parking spaces – 100th permit. Boat Ramp is completed and the County deed the ramp to Virginia Fish and Wildlife.

Proffer Statement 8. Dedication of property to County as follows:

a. 20 acres for Wastewater Treatment Plan – dedication complete.

b. 9.5 acres for Natatorium – dedication complete.

c. 6 acres for public building – dedication complete.

Proffer Statement 9. Timing of completion and/or dedication of Recreational Amenities addressed above in Proffer Statement 7 description.

Proffer Statement 10. This proffer deals with roads and the HOA as follows:

a. All roads shall be constructed to VDOT Standards. VDOT has approved road plans for construction improvements and road design in Section 6. VDOT will continue to review all subsequent Plat Sections.

b. Hopyard Farm Home Owners Association is required to maintain open space and community facility.

c. Construction of potable water supply and dedication to King George Service Authority (KGSA). Water pumping and storage facility have been constructed. Water system construction plans for Section 6 have been approved by KGSA.

d. Construction of Waste Water Treatment Plant and service lines. Waste Water Treatment Plant is constructed. Section 6 sewer service line construction plans have been approved by KGSA.

e. Open Space protected by restrictive covenants and managed by HOA.

f. Proffer Statement 11. Commercial sites along Route 3 are to be buffered from Route 3 by a 100 foot wide, bermed planting buffer. To be completed with first commercial development – not pertinent at this time.

Proffer Statement 12. A new traffic impact analysis (TIA) to be completed by developer with required improvements implemented at the time of development. TIA completed and endorsed by VDOT with improvements currently under way to Route 607 including signalization of Route 607 and Route 3 intersection. Additional improvements will be designed with the development of the commercial area.

Proffer Statement 13. Improvement to old Steamboat Wharf. Not underway and time table for this improvement required by the Proffers. – Completed Boat Ramp and turned over to Department of Game and Inland Fisheries. (Now Virginia Department of Wildlife Resources)

Proffer Statement 14. Phase I Archaeological Survey must be completed. Phase I and Phase II completed. All areas identified as being significant have been avoided.

Proffer Statement 15. Restrictive Covenants require:

a. All lot owners to be a member of the HOA – Section HOA By-Laws attached.

b. Marketing material is required to promote the community as being developed in a manner intended to protect the Rappahannock River and the environment. The marketing material provided to the Department is attached.

Proffer Statement 17. Does not exist.

Proffer Statement 18. Provides conditions to protect and enhance the Rappahannock River and the environment. Provides for the following:
   a. A 160 foot setback from mean high water for any structure. Enforcement of this condition is being applied to the construction plans and building permit applications and note on plat.
   b. Site Plans and Subdivision Plats will provide storm water management. Enforcement of this condition is being applied to the construction plans and building permit applications.
   c. Requires establishment of a standing committee to administer the “Backyard Wildlife Management Program”. This committee is to be established by HOA, see Section 7.1.c., HOA By-Laws.
   d. Requires runoff from commercial areas to be treated by oil/water separators. This requirement will be enforced on all commercial site plans. Storm water wet ponds are to include wetland vegetation. This requirement is enforced in plan review. To date, wet ponds have not been utilized as storm water management features.

Proffer Statement 19. Requires that a 50 foot wooded buffer around property located on the east side of 607 and a 200 foot buffer & trail (Proffer Statement 7.b) on the property located on the west side and adjacent to Route 607. Requirement will be enforced on record plats.

Proffer Statement 20. Requires lighting to reduce and minimize visual impacts to the night sky and adjacent property. To be enforced wherever lighting is provided by the developer through site plan review.

Proffer Statement 21. Severance clause, if the Proffer Statement is challenged and found invalid, remaining Proffers continue in full effect and force.

Proffer Statement 22. Regards a legal dispute over wetland acreage on the northwest corner of the property and the appellant has prevailed in this case and a revised plat with revised acreages has been recorded.

Proffer Statement 23. In the event the rezoning or plan approval is challenged, the time frames set forth by the Proffers are extended for 30 days. To date no legal challenge of the rezoning or plan approvals has occurred.
<table>
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<tr>
<th>USE</th>
<th>ACREAGE PROFFERED</th>
<th>ACREAGE PROPOSED</th>
<th>OPEN SPACE PUBLIC USE</th>
<th>TOTAL ACREAGE</th>
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<td>2. COMMERCIAL</td>
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<td>3. FIRE/LIBRARY</td>
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<td>21.00</td>
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<td>5. UTILITIES – WELL SITES AND POTABLE WATER FAC.</td>
<td>APPROX. 15.00</td>
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<td>6. PROFFERED AREAWAY, OPEN SPACE AND CONSERVATION AREAS, PLUS, PROGRAMMED PUBLIC/PRIVATE RECREATION AREAS AND ANY NON-PROFIT SITES.</td>
<td>602.65</td>
<td>629.74 (SUM OF ALL APPLICABLE OPEN SPACE)</td>
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<td><strong>990.15</strong></td>
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</table>

1.) THE AREA DESIGNATED FOR POTABLE WATER FACILITIES IS SUBJECT TO AMENDMENT AS A RESULT OF CONSTRUCTION ENGINEERING AND GOVERNMENTAL REVIEW AND APPROVAL.

2.) 12.45 ACRES OF LAND HAS BEEN REMOVED FROM THE PROJECT BY ADVERSE POSSESSION, CASE NO. CH02-11, SIGNED SEPTEMBER 27, 2003, RECORDED AMONG THE LAND RECORDS OF KING GEORGE COUNTY.

Attachments

a. Letter from the Virginia Department of Transportation.
b. Letters from the King George County Service Authority.
c. Hopyard Proffer Statement – October 20, 2003
d. Hopyard Farm Overall Construction map (To date) - Joyce Lupia, Engineering Groupe
April 7, 2020

King George County
Department of Community Development
10459 Courthouse Drive, Suite 104
King George, VA 22485
Attn: Ms. Heather Hall

Re: Hopyard Farm Overall Preliminary Plat
   2nd Plat Review (2020)
   King George County, Rt. 607

Dear Ms. Hall:

This office has reviewed the referenced plat in accordance with the minimum standards as received on April 3, 2020, and we have noted that all items appear to be satisfactory. Therefore, the plat is hereby found acceptable on this date of April 7, 2020. Should you have any questions concerning this review, you may contact me at (804) 286-3124, or Mr. Chad Brooks at 804.761.2148 or via email at Ronald.Brooks@VDOT.Virginia.gov.

Sincerely,

[Signature]

Scott Gannon, P.E.
Assistant Resident Engineer-Land Use
Fredericksburg District

Cc: Engineering Groupe, Mr. William Flynn, P.E.
    VDOT, Mr. David Beale, P.E.
MEMORANDUM

DATE: April 13, 2020

TO: Heather Hall, CZO, Zoning Administrator
    Jonathon Weakley, KGCSA General Manager

FROM: A. Travis Quesenberry, P.E., County Engineer A.T.Q.

SUBJECT: Plan Review Comments – Hopyard Farms Revised Preliminary Plat, 3rd Revision – 2nd Review

I have no comments regarding the above referenced plan prepared by The Engineering Groupe and stamped by William Flynn on December 20, 2019. There is no change in the density of the project. Detailed water and wastewater system drawings will be required as plans for future sections are submitted. I do agree with the statement made in the Hopyard Farm Preliminary Plat Revision Narrative dated March 26, 2020 that Pump Station Number 4 should have adequate capacity to handle the wastewater flow for the additional lots that will now flow to that pump station.
Proffer Statement

REFERENCE: Zoning Map Amendment No. 03-05-Z04
Tax Map 23, Parcels 77, 77A ("Property")

APPLICANT: Hopyard Associates, LLC ("Owner")

DATE: October 20, 2003

Pursuant to Va. Code Section 15.2-2298, et seq., Hopyard Associates, LLC ("Owner") and its successors in title to the land and subject to Zoning Map Amendment No. 03-05-Z04 ("Property") do hereby proffer the following conditions contingent upon the approval by the Board of Supervisors of King George County ("Board") of this Proffer Statement and Rezoning Application. As used in this Proffer Statement, Hopyard Associates, LLC, and/or "Owner" shall include all entities formed that may own any of the Property within the Preliminary Master Plan.

1. This Proffer Statement shall include:
   b. Preliminary Master Plan (May 2, 2003), EXHIBIT B, attached.

2. These proffers shall run with the land and shall be binding upon the Owner, its heirs, assigns, agents, successors, employees, subsidiaries, parent entities, any other person, party or entities, that shall hereafter own, occupy, or use Hopyard Farm Development, ("HOPYARD FARM") or its amenities, including the Hopyard Farm Owners Association(s), ("HOA"), and the property, which is the subject of this application ("Property").

3. No person or entity of any kind, as listed in this Proffer Statement, or otherwise, shall be allowed to file any application for rezoning, or otherwise seek rezoning, at anytime, for any reason, with respect to or in any way relating to the Property nor shall such application be reviewed or granted. If the relocation of land use from the areas shown on the Preliminary Master Plan is required as a result of federal, state, or local laws, ordinances or regulations relating to environmental, archaeological, wildlife protection, soils, and/or transportation issues related to Virginia Department of Transportation approval, ONLY, such land use relocation may be obtained by amendment and approval of a Preliminary Master Plan through review and approval of subdivision and/or site plan approvals.

4. In no circumstance of any kind shall the open space area requirement fall below 602.65 acres, ever.

5. The Property will be developed in general accordance to the Preliminary Master Plan, EXHIBIT B and these proffers.

Hopyard Farm Proffer Statement
6. The maximum number of dwelling units, as defined by the King George County Zoning Ordinance, shall be 898.

7. The development shall include the following public recreational amenities:

   a. Owner shall provide $2,200,000.00 to King George County to be restricted for construction and use of a Natatorium (to be designed and built by King George County) and located on a nine and one-half (9.5) acre site that shall be conveyed in fee simple by Hopyard Associates, LLC, to King George County, without cost to the County of any kind. In the event the Board of Supervisors of King George County does not commence construction of the Natatorium within 7 years from the date of approval of this rezoning, then, and in that event, the property dedicated by this proffer and the $2,200,000.00 received by King George County shall be used for recreational purposes to serve the entire County.

   b. Owner shall construct a trail parallel to Route 607 running the length of the Property to include ten (10) parking spaces on the Natatorium Site and all within the County’s 200 foot buffer on the west side of Route 607. The trail shall be a minimum of eight feet (8’) wide and shall be constructed of an all weather material. Except where in conflict with other uses (e.g. the natatorium), said trail will not be located immediately adjacent to Route 607. Further, the trail will be designed in a manner that incorporates a winding route and landscaping so as to provide a rural ambience to pedestrians and bicyclists. The trail shall be at all times open for public use.

   c. Owner shall construct and convey to King George County a public boat ramp with a minimum of thirty (30) parking spaces all as generally shown as to location on the Preliminary Master Plan, without cost of any kind to the County.

8. The property identified on Exhibit A as items 3, 6, & 9 shall be conveyed in fee simple to King George County, restricted to the uses shown, within 120 days of the approval of the rezoning by the Board without cost of any kind to the County. In the event that the property referred to in items 3 and 6 are not used for the purposes indicated, then, and in that event, the property dedicated by this proffer, except item 9 which is referred to in Proffer 3.a., shall be used for governmental uses compatible with the community built on the Property and the surrounding community as determined by the Board.

9. With the exception of paragraph 7.a., the timing of the construction start of each of the above amenities will correspond to the receipt of a specified total of residential building permits, as follows:

   a. Owner shall provide $200,000.00 of the $2,200,000.00 Natatorium donation to the County within 180 days after final, non-appealable approval of this rezoning.
request, to be used exclusively for architecture and engineering services for the Natatorium.

b. 100th permit – King George County public boat ramp with a minimum of thirty (30) parking spaces.

c. 200th permit – Route 607 trail, with parking lot. The trail and parking lot shall be conveyed in fee simple to the County with no cost of any kind to the County upon completion of construction and acceptance by the County.

d. 400th permit – the remaining $2,000,000.00 donation to the County for a Natatorium; provided, however, said $2,000,000.00 donation shall be made no later than four (4) years after final approval of this rezoning request, whichever is sooner.

10. The development shall be served by the following:

a. All roads and roadside drainage systems shall be designed to Virginia Department of Transportation (VDOT) standards and shall be dedicated to the State. The HOA shall be responsible for owning, maintaining, insuring and being liable for all private roads and parking areas. Local law enforcement and Virginia State Police shall have the right and responsibility for law enforcement on all private roads and parking areas. In the event that the Zoning and Subdivision Ordinances of King George County, at the time of the commencement of development of the areas showing private streets, are not amended to allow such private streets, then such streets shall be designed to VDOT standards, shall be dedicated for public use, and these new designs shall be deemed to be in substantial accordance with the Preliminary Master Plan.

b. All Hopyard Farm property owners shall be a member of the HOA established by Owner to regulate use and provide standards for the construction, architecture, landscape, maintenance and use of all the land within the planned community. Nothing herein shall be construed to supersede or conflict with County, State or Federal regulations. The HOA shall assume complete responsibility for grass cutting and lawn maintenance of all common areas, snow removal and maintenance and repair on all private streets and parking areas, garbage collection, and maintenance and operation of all recreational buildings and areas owned by the HOA. The HOA shall assume complete responsibility for the maintenance of all storm water management ponds constructed on Hopyard Farm and all trails and sidewalks not dedicated to the County or VDOT. Owner shall prepare all the necessary documentation to form the HOA which shall eventually be controlled by all owners of buildings and land within Hopyard Farm. Prior to approval of the first record plat or first site plan, whichever is first in time, of any development lot in Hopyard Farm, Owner shall submit the documents establishing the HOA for
such lot to the County for review and approval. The HOA shall be established prior to approval of the first record plat for development lots within Hopyard Farm.

c. Owner shall develop and construct in accordance with the King George County Service Authority ("Authority") regulations a central potable water system to include fire protection and water storage, through deep wells ("Water System") to serve Hopyard Farm. The Water System, together with ingress and egress to such sites, by easements, shall be conveyed to the Authority in accordance with the Authority's regulations, without costs of any kind to the County or to the Authority.

d. Owner shall develop and construct in accordance with the Authority regulations a central sewer system including a waste water treatment plant ("WWTP") with a treatment capacity of three hundred seventy-five thousand (375,000) gallons per day, which capacity is sufficient to serve Hopyard Farm's needs at the location identified on the Preliminary Master Plan to discharge into the Rappahannock River. Owner agrees to install influent and effluent pipes sized to allow flow to and from the WWTP of one million (1,000,000) gallons per day ("MGPD"). The WWTP shall be designed to allow for the potential expansion by the Authority to a capacity of 1 MGPD. The WWTP, together with ingress and egress, by easements, shall be conveyed to the Authority in accordance with the Authority's regulations without costs of any kind to the County or to the Authority.

e. Open space, Conservation Areas, Wildlife Preserves, and Parks designated on the Preliminary Master Plan shall be protected by restrictive covenants administered through the HOA. Open space, Conservation Areas, Wildlife Preserves, and Parks shall be preserved in perpetuity within their intended use under the Preliminary Master Plan, and the HOA shall be prohibited from filing any rezoning application or any other development proposal, and all record plats shall include a note to such effect.

11. Commercial sites are to be buffered from Route 3 by a 100 foot wide, bermed planting buffer. The planting buffer shall be consistent with the requirements of Article 10 Highway Overlay Corridor District, King George County Zoning Ordinance.

12. A new traffic impact analysis will be conducted by Owner based on the Preliminary Master Plan and road improvements to Route 3 or Route 607 and will be incorporated into the site plans and subdivision plans to be approved by King George County and VDOT at the time the elements included in the plans generate a need for improvements.

a. Owner will pay for any traffic signalization required on Route 3 or Route 607 within the boundaries of Hopyard Farm, including intersections of Routes 3 and 607, and the Property and Route 3.
b. If the median break entrance on Route 3 to Hopyard Farm’s retail component shall be determined in the future to need a signal, then Owner shall agree to close the median break to avoid a signal.

c. Route 607 will be a multi-lane facility and issues of access points, turn lanes, and medians will be determined at the time of site plan approval.

d. Entrances on Route 607 shall be no less than 500 feet apart.

e. Any other requirements by VDOT as related to the development of Hopyard Farm as described in this Proffer Statement.

13. Hopyard Steamboat Wharf is to be rebuilt conditioned upon obtaining all necessary approvals.

14. A Phase I Archaeological Survey must be completed prior to a submittal of any final Site Plan or Subdivision Plan.

15. Restrictive covenants will be recorded to provide:

   a. All residential property owners shall be a member of the HOA established by Owner to regulate and provide standards for the architecture and use of all the land and various structures within the residential communities.

   b. Marketing material shall promote the fact that the community is being developed in a manner intended to protect and enhance the Rappahannock River and the environment.

18. In order to protect and enhance the Rappahannock River and the environment, the following conditions shall apply to the development of the Property:

   a. The Chesapeake Bay Preservation Act shall prevail but in no event shall any structure be constructed closer than 160 feet from the mean high water mark of the Rappahannock River, other than trails, shoreline access features, the Hopyard Steamboat Wharf, and other docks constructed in compliance with the King George County Zoning and Subdivision Ordinances and other applicable state and federal regulations.

   b. Site Plans and Subdivision Plans will provide that storm water management will exceed Chesapeake Bay Preservation Act (CBPA) standards. Post development loading of Phosphorus will be at least 40% less than pre-development loading. The goal of this program will be to reduce post-development storm water quantity by the use of storm water management features.
c. In addition to the requirements described in Paragraph 10.e, above, which conserve major wildlife habitats and corridors, individual homeowners will be given a package on Backyard Wildlife Management, and the HOA, which will be established by the Restrictive Covenants, will provide for a standing committee to administer an on-going Backyard Wildlife Management Program.

d. Run off from the retail and office parking areas will be routed through Oil/Water Separating Devices.

e. Storm Water Detention Facilities which utilize wet basins will include wetland vegetation species planted in a perimeter bench.

19. A 50 foot wooded buffer will remain around the portion of the Property that is located on the east side of Route 607; and a 200 foot buffer will be maintained along the west side of Rt. 607 within the Property. Uses within the 200 foot buffer shall be limited to public amenities (e.g. the proffered trail referenced at paragraph 7.b.), County-owned facilities (e.g. parks, water wells, pumps and storage tanks referenced, etc.), and, where roadways or streets within the Property intersect with Route 3 or Route 607, project entry features of wood, stone or brick to be constructed by Owner.

20. All lighting will be of a design so as to reduce and minimize visual impacts to the night sky and adjoining property.

21. In the event any of the individual proffers included within this statement are determined to be invalid or unenforceable for any reason, the remainder of this statement and the zoning of the subject property shall not be affected and shall remain in effect.

22. This Proffer Statement is subject to a suit challenging the ownership of a small section of the subject property (approximately 6-12 acres within the Lamb’s Creek watershed) in the Circuit Court for King George County, Chancery No. 2000111. In the event the Plaintiff prevails in such suit, the acreage will be adjusted and the proffered density will remain. Further, the Preliminary Master Plan will be deemed to delete such property in such event.

23. In the event this rezoning application approval or site plan approval is challenged by litigation, all time frames set forth herein shall be extended until thirty (30) days after the litigation and appeals have expired.
HOPYARD ASSOCIATES, LLC

By:  

Richard J. Westerlund, Manager

Given under my hand this 20th day of October 2003.

COMMONWEALTH OF VIRGINIA;
COUNTY OF KING GEORGE, TO WIT:

I, the undersigned, a Notary Public in and for the State and County aforesaid, do hereby certify that Richard J. Westerlund in his capacity as Manager of Hopyard Associates, LLC whose name is signed to the foregoing bearing the date of October 20, 2003, has this day personally appeared before me in my State and County aforesaid and acknowledged the same.

Notary Public

My Commission Expires: 10-31-06

Hopyard Farm Poffet Statement
HOPYARD FARM PRELIMINARY PLAT REVISION NARRATIVE

Date: March 26, 2020

SPECIFIC PLAN REVISIONS:

The following revisions are requested for the Hopyard Farm Preliminary Plat, last approved December 15, 2015:

• To date, 669 lots have been constructed or approved for construction in the Hopyard Farm subdivision. The remaining sections that have not been submitted as Construction Plans for County approval have been revised with this submission. This includes previous sections 9, 10, 11, 13, 17 and 18 for a total of 229 lots. The location of 68 lots in previous Sections 17 & 18 has been consolidated on the south side of Port Conway Road and incorporated into Sections 9, 10, 11, 13, and new Section 17. (Shown on sheets 2B, 2C, 4, 6, and 12 through 17.) The “Cumulative Hopyard Farm Lot Mix Table” and “Hopyard Farm Proffered Land Use Table” on sheet 1 have been updated accordingly. A “Lot Balance Table” has been added for reference.

• This revision does not warrant a traffic study. The full VDOT turn lane requirements for left and right turn lanes are already being provided at the Port Conway Road (Rt. 607) intersection with Angora Drive and Emerald Drive. This includes left and right 200' turn lanes and 200’ tapers, for both sides of the road. The design was approved with the Hopyard Farm Public Improvement Plan, Port Conway Road – Route 607 and is under construction. See attached VDOT Road Design Manual, Appendix F, Figure 3.1. Furthermore, VDOT approved this preliminary plat revision on 1/20/20.

• The same number of lots and open space required by proffer have been maintained. All the remaining lots will be the minimum allowed width of 60 feet. (See sheets 1 and 2.) The previously approved plat had a mix of 80’ and 60’ wide lots. This was not by proffer, just the applicant’s preference. The preference is now to just to provide the minimum 60’ lot width. A total of 898 lots are proposed, per proffer #6. The open space area provided is still above 602.65 acres, per proffer #4. See attached Proffer Statement.

• None of the proffers are being amended with this request.

• The changes made to the alignment of Rundle Crossing in Section 8 due to the addition of a Resource Protection Area (RPA) has been incorporated into this revision. For simplicity and since that section is approved and under construction, the update has not been noted as a revised area.

• The Technical Change approved on January 24, 2020 for Hopyard Farm Section 12 has been incorporated into this revision. Those changes included:
  o The section lines between 12 and 13 were changed. Six (6) lots were removed from Sec. 13 and incorporated into Sec. 12.
  o Labels for Parcels “R”, “G”, “GG”, “NN” had been corrected.
  o Unapproved road names were replaced or corrected as follows:
    - Brassica Court changed to Brassica Lane,
    - Leedstown Lane changed to Leedstown Road,
    - Old Wharf Lane changed to Old Wharf Road,
    - Spinnaker changed to Spinnaker
    - Ithaca changed to Ithaca,
    - Hunter Road was replaced with Broadhead Road
    - Hawser Drive mislabel was corrected
    - Fullers Lane label was added
    - Summer Lane was replaced with Dairy Lane
    - Brooklings Lane was replaced with Pronghorn Lane
- The Garland Lane and Pointer Lane road names have been relocated south of Port Conway Road. Street lengths for Bagpipe Lane, Bobcat Lane, Rundle Crossing, Hawkeye Drive, Dairy Lane, Garland Lane and Pointer Lane have changed (see sheet 2). These roads meet the design standards in Subdivision Ordinance 8.3.5a. as required.
- The applicant is working with the KGCSA to lower the typical sewer demand quantity so that Pump Station #4, which was recently constructed with Section 8, will not have to be upgraded due to the increase in proposed lots serviced by that station. The current required demand of 350 gallons per day (gpd), which was used for the design of all the pump stations in Hopyard, is much higher than the average quantity of 135 gpd measured during seven months in 2019 at the treatment plant. Note #22 on the cover sheet has been revised accordingly. The pump station was designed to service 261 lots and will now serve 329.
- Sheets changed with this revision include sheets 1, 2, 2A, 2B, 2C, 4, 6, and 12 through 17. The areas that have not changed have been shaded.

REASONS FOR THE REQUEST:

- The remaining lots have been consolidated on the south side of Port Conway Road for ease of construction and provides a more efficient planned community.
- Two stream crossing have been eliminated along the previous Bagpipe Lane extension. This will reduce the wetland disturbance and DEQ permit requirements. A wetland permit to disturb the streams has already been obtained, but the final design and approval can be an extensive process.
- Previous Sections 17 & 18 was an inefficient design. The Bagpipe Lane extension was 980 feet long, did not contain any lot frontage, and included the stream crossings mentioned above.
**Subject:** Case Number 20-08-Z02: Amendment, renaming, and recodification of Chapter 16, Wetlands Zoning Ordinance, of the King George County Code to comply with the Code of Virginia and to move the Wetlands Zoning Ordinance to the Zoning Ordinance. Amendment to add Article 15 to the Zoning Ordinance.

**Recommended Action:** Schedule a public hearing for Case Number 20-08-Z02: Amendment, renaming, and recodification of Chapter 16, Wetlands Zoning Ordinance, of the King George County Code to comply with the Code of Virginia and to move the Wetlands Zoning Ordinance to the Zoning Ordinance. Amendment to add Article 15 to the Zoning Ordinance.

**Summary of Information:** Senate Bill 776 (SB776) passed during the 2020 Legislative Session and amended §§ 28.2-104.1, 28.2-1301, 28.2-1302, and 28.2-1308 of the Code of Virginia, relating to wetlands protection and living shorelines. The provisions of this bill became effective July 1, 2020.

Wetland Zoning Ordinance must be amended to include the modifications in §28.2-1302 of the Code of Virginia resulting from SB776. The wetland zoning ordinance provided in §28.2-1302 “shall serve as the only wetlands zoning ordinance under which any wetlands board is authorized to operate.”

This amendment will also move the Wetlands Zoning Ordinance to the Zoning Ordinance from the County Code. It will now be Article 15 of the Zoning Ordinance.

---

**Legal Review**  
_____ Complete  
_____ N/A

**Attachments**  
X Yes  
_____ No

Attachments:
- Proposed Wetlands Ordinance.
- Chapter 16, *Wetlands Zoning Ordinance.*
- Marine Resources Commission Memo.
ARTICLE 15
WETLANDS

Section 15.1. Purpose.

The governing body of King George County, Virginia, acting pursuant to Chapter 13 (§28.2-1300 et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of wetlands.

Section 15.2. Definition of Terms.

As used in this ordinance, unless the context requires a different meaning:

"Back Bay and its tributaries" means the following as shown on the U. S. Geological Survey Quadrangle Sheets for Virginia Beach, North Bay, and Knotts Island: Back Bay north of the Virginia-North Carolina State line; Capsies Creek north of the Virginia-North Carolina State line; Deal Creek; Devil Creek; Nawney Creek; Redhead Bay, Sand Bay, Shippys Bay, North Bay, and the waters connecting them; Beggars Bridge Creek; Muddy Creek; Ashville Bridge Creek; Hells Point Creek; Black Gut; and all coves, ponds, and natural waterways adjacent to or connecting to or connecting with the above-named bodies of water.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Governmental activity" means any of the services provided by King George County to its citizens for the purpose of maintaining this County, and shall include but shall not be limited to such services as constructing, repairing and maintaining roads; providing sewage facilities and street lights; supplying and treating water; and constructing public buildings.

"Nonvegetated wetlands" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, including those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.

"North Landing River and its tributaries" means the following as shown on the U.S. Geological Survey Quadrangle Sheets for Pleasant Ridge, Creeds, and Fentress: The North Landing River from the Virginia-North Carolina line to Virginia Highway 165 at North landing Bridge; the Chesapeake and Albemarle Canal from Virginia Highway 165 at North Landing Bridge to the locks at Great Bridge; and all named as unnamed streams, creeks, and rivers flowing into the North Landing River and the Chesapeake and Albemarle Canal except West Neck Creek north of Indian River Road; Pocacy River west of Blackwater Road; Blackwater River west of its forks located at a point approximately 6400 feet due west of the point where Blackwater Road crosses the Blackwater River at the village of Blackwater; and Millbank Creek west of Blackwater Road.
"Person" means any individual, corporation, partnership, association, company, business trust, joint venture or other legal entity.

"Vegetated wetlands" means lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in King George County, and upon which is growing any of the following species: salt-marsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), saltgrass (Distichlis spicata), black needlerush (Juncus roemerianus), saltwort (Salicornia spp.), Sea lavender (Limonium spp.), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), sea oxeye (Borreria frutescens), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), sea rocket (Cakile edentula), southern wildrice (Zizaniopsis miliacea), cattail (Typha sp.), three-squares (Scirpus sp.), buttonbush (Cephalanthus occidentalis), bald cypress (Taxodium distichum), black gum (Nyssa sylvatica), tupelo (Nyssa aquatica), dock (Rumex spp.), yellow pond lily (Nuphar sp.) marsh fleabane (Pluchea purpureascens), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), smartweed (Polygonum sp.), arrowhead (Sagittaria sp.), sweet flag (Acorus calamus), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), and switch grass (Panicum virgatum).

"Vegetated wetlands of Back Bay and its tributaries" or "vegetated wetlands of the North Landing River and its tributaries" means all marshes subject to flooding by normal and wind tides but not hurricane or tropical storm tides, and upon which is growing any of the following species: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), black needlerush (Juncus roemerianus), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), cattail (Typha sp.), three square (Scirpus sp.), dock (Rumex sp.), smartweed (Polygonum sp.) yellow pond lily (Nuphar sp.), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), arrowhead (Sagittaria sp.), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

"Wetlands" means both vegetated and nonvegetated wetlands.

"Wetlands board" or "board" means a board created pursuant to § 28.2-1303 of the Code of Virginia.
The following uses of and activities in wetlands are authorized if otherwise permitted by law:

1. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duck blinds, wildlife management shelters, footbridges, observation decks and shelters and other similar structures; provided that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands;

2. The cultivation and harvesting of shellfish, and worms for bait;

3. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, skeet and trap shooting, and shooting on shooting preserves, provided that no structure shall be constructed except as permitted in subdivision 1 of this section;

4. Other outdoor recreational activities, provided they do not impair the natural functions or alter the natural contour of the wetlands;

5. Grazing, haying, and cultivating and harvesting agricultural, forestry or horticultural products;

6. Conservation, repletion and research activities of the Commission, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries, and other conservation-related agencies;

7. The construction or maintenance of aids to navigation which are authorized by governmental authority;

8. Emergency measures decreed by any duly appointed health officer of a governmental subdivision acting to protect the public health;

9. The normal maintenance and repair of, or addition to, presently existing roads, highways, railroad beds, or facilities abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered;

10. Governmental activity in wetlands owned or leased by the Commonwealth of Virginia, or a political subdivision thereof;

11. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered. This subdivision does not authorize the construction of any drainage ditch; and

12. The construction of living shoreline projects authorized pursuant to a general permit.
developed under subsection B of § 28.2-104.1.

Section 15.4. Application Requirements.

A. Any person who desires to use or develop any wetland within King George County other than for the purpose of conducting the activities specified in Section 15.3 of this ordinance, shall first file an application for a permit directly with the wetlands board or with the Commission.

B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activities; a map, drawn to an appropriate and uniform scale, showing the area of wetlands directly affected, the location of the proposed work thereon, the area of existing and proposed fill and excavation, the location, width, depth and length of any proposed channel and disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; a statement indicating whether use of a living shoreline as defined in § 28.2-104.1 for a shoreline management practice is not suitable, including reasons for the determination; a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects: the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed work, project, or structure and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense involved.

Section 15.5. Review of Applications.

All applications, maps and documents submitted shall be open for public inspection at the office designated by the applicable governing body and specified in the advertisement for public hearing required under Section 15.6 of this ordinance.

Section 15.6. Public Hearing Requirements.

Not later than sixty days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries, the Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The board shall mail these notices not less than twenty days prior to the date set for the hearing. The
wetlands board shall also cause notice of such hearing to be published at least once a week for two weeks prior to such hearing in a newspaper having a general circulation in King George County. The published notice shall specify the place or places within King George County where copies of the application may be examined. The costs of publication shall be paid by the applicant.

Section 15.7. Public Hearing Procedures

A. Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.

B. The chairman of the board, or in their absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may testify at the public hearing. Each witness at the hearing may submit a concise written statement of their testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision.

C. The board shall make its determination within thirty days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within forty-eight hours of its determination, the board shall notify the applicant and the Commissioner of such determination. If the board fails to make a determination within the thirty-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved. For purposes of this section, "act" means taking a vote on the application. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.

D. If the board’s decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the same office as was designated under Section 15.5 of this ordinance.

Section 15.8. Bonding or Letter of Credit

The board may require a reasonable bond or letter of credit in an amount and with such terms and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

Section 15.9. Basis for Board Decision

In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary

King George Zoning Ordinance - Article 15, Wetlands
economic development in a manner consistent with wetlands preservation and any standards set by the Commonwealth in addition to those identified in § 28.2-1308 to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines and minimum standards promulgated by the Commission pursuant to § 28.2-1301 of the Code of Virginia.

Section 15.10. Criteria for Board Decision.

A. In deciding whether to grant, grant in modified form or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;
2. The impact of the proposed development on the public health, safety, and welfare and;

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceed its anticipated public and private detriment.
2. The proposed development conforms with the standards prescribed in §28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to §28.2-1301 of the Code of Virginia.
3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 13 (§28.2-1300 et. seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

Section 15.11. Permit Granted.

The permit shall be in writing, signed by the chairman of the board, or their authorized representative, and notarized. A copy of the permit shall be transmitted to the Commissioner.

Section 15.12. Permit Expiration.

No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

Section 15.13. Compliance with Zoning.

King George Zoning Ordinance - Article 15, Wetlands
No permit granted by a wetlands board shall in any way affect the applicable zoning and land use ordinances of King George County or the right of any person to seek compensation for any injury in fact incurred by him because of the proposed activity.

DATE OF ADOPTION: ________________.
WETLANDS ZONING ORDINANCE

of

King George County, Virginia

Adoption/Amendments

Adopted - Emergency Legislation 7/28/83
Adopted - After public hearing 8/18/83
Revised - May 16, 1995
Reprinted - March 17, 1997
WETLANDS ZONING ORDINANCE
OF
KING GEORGE COUNTY, VIRGINIA

1. The governing body of King George County, Virginia, acting pursuant of Chapter 2.1 of Title 62.1 of the Code of Virginia, for purposes of fulfilling the policy standards set forth in such chapter, adopts this ordinance regulating the use and development of wetlands.

2. As used in this ordinance, unless the context requires a different meaning:

"Back Bay and its tributaries" means the following as shown on the U. S. Geological Survey Quadrangle Sheets for Virginia Beach, North Bay, and Knotts Island: Back Bay north of the Virginia-North Carolina State line; Capsies Creek north of the Virginia-North Carolina State line; Deal Creek; Devil Creek; Nawney Creek; Redhead Bay, Sand Bay, Shipps Bay, North Bay, and the waters connecting them; Beggars Bridge Creek; Muddy Creek; Ashville Bridge Creek; Hells Point Creek; Black Gut; and all coves, ponds, and natural waterways adjacent to or connecting to or connecting with the above named bodies of water.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Governmental activity" means any or all of the services provided by King George County to its citizens for the purpose of maintaining this County, and shall include but shall not be limited to such services as constructing, repairing and maintaining roads, sewage facilities, supplying and treating water, street lights and construction of public buildings.

"Nonvegetated wetlands" means all that land lying contiguous to mean low water and which land is between mean low water and mean high water not otherwise included in the term "vegetated wetlands" as defined herein and also includes those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to following by tides including wind tides but not including hurricane or tropical storm tides.

"North Landing River and its tributaries" means the following as based on the U. S. Geological Survey Quadrangle Sheets for Pleasant Ridge, Creeds, and Fentress: The North Landing River from the Virginia-North Carolina line to Virginia Highway 165 at North Landing Bridge; the Chesapeake and Albemarle Canal from Virginia Highway 165 at North Landing Bridge to the locks at Great Bridge; all named as unnamed streams, creeks, and rivers flowing into the North Landing River and the Chesapeake and Albemarle Canal except the following: West Neck Creek north of Indian River Road; Pocatyr River west of Blackwater Road; Blackwater River west of its forks located at a point approximately 6400 feet due west of the point where the Blackwater Road crosses the Blackwater River at the village of Blackwater; Millbank Creek west of Blackwater Road.
"Person" means any corporation, association or partnership, one or more individuals, or any unit of government or agency thereof.

"Vegetated wetlands" means all that land lying between and contiguous to mean low water and an elevation above mean low water equal to the factor 1.5 times the mean tide range at the site of the proposed project in this County; and upon which is growing on the effective date of this act or grown thereon subsequent thereto, any one or more of the following: salt-marsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), saltgrass (Distichlis spicata), black needle rush (Juncus roemerianus), saltwort (Salicornia sp.), Sea lavender (Limonium sp.), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), sea oxeye (Borrichia frutescens), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wild rice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), sea rocket (Cakile edentula), southern wildrice (Zizaniopsis miliacea), cattail (Typha spp.), three-squares (Scirpus spp.), buttonbush (Cephalanthus occidentalis), bald cypress (Taxodium distichum), black gum (Hyssa sylvestica), tupelo (Nyssa aquatica), dock (Rumex sp.), yellow pond lily (Nuphar sp.) marsh fleabane (Ptilocha purpurascens), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), smartweed (Polygonum sp.), arrowhead (Sagittaria sp.), sweet flag (Acorus calamus), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), and switch grass (Panicum virgatum).

"Vegetated wetlands of the North Landing River and its tributaries" or "vegetated wetlands of the North Landing River and its tributaries" means all marshes subject to flooding by tides, including wind tides, provided this shall not include hurricane or tropical storm tides, and upon which one or more of the following vegetation species are growing or grows thereon subsequent to the passage of this amendment: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), black needle rush (Juncus roemerianus), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wild rice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), cattails (Typha spp.), three squares (Scirpus spp.), dock (Rumex sp.), smartweed (Polygonum sp.) yellow pond lily (Nuphar sp.), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), arrowhead (Sagittaria sp.), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), and switch grass (Panicum virgatum).

"Wetlands" means both vegetated and nonvegetated wetlands.

"Wetlands board" or "board" means a board created pursuant to 28.2-1303 of the Code of Virginia.
3. The following uses of and activities on wetlands are permitted, if otherwise permitted by law:

1. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks and shelters and other similar structures; provided that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands;

2. The cultivation and harvesting of shellfish, and worms for bait;

3. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, and skeet and trap shooting, and shooting preserves; provided that no structure shall be constructed except as permitted in subdivision 1 of this section;

4. Outdoor recreational activities, provided they do not impair the natural functions or alter the natural contour of the wetlands;

5. Grazing, haying, and cultivating and harvesting agricultural, forestry or horticultural products;

6. Conservation, repletion and research activities of the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, Commission of Game and Inland Fisheries, and other related conservation agencies;

7. The construction or maintenance of aids to navigation which are authorized by governmental authority;

8. Emergency decrees of any duly appointed health officer of a governmental subdivision acting to protect the public health;

9. The normal maintenance, repair or addition to presently existing roads, highways, railroad beds, or the facilities of any person, firm, corporation, utility, federal, State, county, city or town abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered;

10. Governmental activity on wetlands owned or leased by the Commonwealth of Virginia, or a political subdivision thereof; and,

11. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered; and provided further, that this paragraph shall not be deemed to authorize construction of any drainage ditch.
4. A. Any person who desires to use or develop any wetland within King George County other than for those activities specified in 3 of this ordinance, shall first file an application for a permit directly with wetlands board or with the Commission.

B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activity and a map, drawn to an appropriate and uniform scale, showing the area of wetland directly affected, with the location of the proposed work thereon, indicating the area of existing and proposed fill and excavation, the location, width, depth and length of any proposed channel and the disposal area, all existing and proposed structures; sewage collection and treatment facilities, utility installation, roadways, and other related appurtenances or facilities, including those on adjacent uplands, and the type of equipment to be used and the means of equipment access to the activity site; the name and addresses of owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; and estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; and public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offside effects; and completion date of the proposed work, project, or structure and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense involved.

5. All applications, maps and documents submitted shall be open for public inspection at the office designated by the applicable governing body and specified in the advertisement for public hearing required under 6 of this ordinance.

6. Not later than sixty days after receipt of such application, the wetlands board shall hold a public hearing on such application. The applicant, the local governing body, the Commissioner, the owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries, Water Control Board, the Department of Highways and Transportation and governmental agencies expressing an interest therein shall be notified by the board of the hearing by mail not less than twenty days prior to the date set for the hearing. The wetlands board shall also cause notice of such hearing to be published at least once a week for two weeks prior to such hearing in the newspaper having a general circulation in King George County. The costs of such publication shall be paid by the applicant.
7.  
A. Approval of a permit application shall require the affirmation vote of three members of a five-member board or four members of a seven-member board.

B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may testify at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statement of all witnesses, the findings and decision of the board, and the rationale for the decision.

C. The Board shall make its determination within thirty days of the hearing. If the board fails to act within such time, the application shall be deemed approved. Within forty eight hours of its determination, the board shall notify the applicant and the Commissioner of such determination. If the board fails to make a determination within the thirty-day period, if shall promptly notify the applicant and the Commission that the application is deemed approved. For purposes of this section "act" means taking a vote on the application. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.

D. If the application is reviewed or appealed, then the board shall transmit the record of it hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the office as was designated under 5 of this ordinance.

8. The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after hearing as provided herein, suspend or revoke a permit if the board finds that the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The board after hearing may suspend a permit if the applicant fails to comply with there terms and conditions set forth in the application.

9. In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation.

10.  
A. In deciding whether to grant, grant in modified form or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;
2. The impact of the proposed development on the public health, safety, and welfare; and


B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceed its anticipated public and private detriment.

2. The proposed development conforms with the standards prescribed in 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to 28.2-1301 of the Code of Virginia.

3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 13 (28.2-1300 et. seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

11. The permit shall be in writing, signed by the chairman of the board and notarized. A copy of the permit shall be transmitted to the Commissioner.

12. No permit shall be granted without the expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

13. No permit granted by a wetlands board shall in any way affect the applicable zoning and land use ordinances of King George County or the right of any person to seek compensation for any injury in fact incurred by him because of the proposed activity.

THAT THE PROVISIONS OF THIS ORDINANCE SHALL BE IN EFFECT AT 12:01 A.M., ON

______________________________
ATTEST:

County Administrator               Date

Wetlands Zoning Ordinance Page 7
May 12, 2020

MEMORANDUM

TO: Local Wetlands Boards

FROM: Tony Watkinson
Chief, Habitat Management Division

SUBJECT: Senate Bill 776

The purpose of this memorandum is to summarize the requirements of Senate Bill 776 (SB776) passed during the 2020 Legislative Session. The bill is attached and as you can see, it amends §§ 28.2-104.1, 28.2-1301, 28.2-1302, and 28.2-1308 of the Code of Virginia, relating to wetlands protection and living shorelines. The provisions of this bill involve both the Virginia Marine Resources Commission (VMRC) and Local Wetlands Boards, and become effective July 1, 2020. These changes (in italics) direct that “the Commission shall permit only living shoreline approaches to shoreline management unless the best available science shows that such approaches are not suitable. If the best available science shows that a living shoreline approach is not suitable, the Commission shall require the applicant to incorporate, to the maximum extent possible, elements of living shoreline approaches into permitted projects.” In addition, the Commission must promulgate “minimum standards for protection and conservation of wetlands” as part of the Wetlands Guidelines. Furthermore, the wetlands zoning ordinance is amended to require that an application for use or development of any wetlands include a “statement indicating whether use of a living shoreline as defined in §28.2-104.1 for a shoreline management practice is not suitable, including reasons for the determination.” To fulfill their responsibilities under the ordinance, SB776 directs that the
Memorandum
May 12, 2020
Page Two

Wetlands Boards and Commission shall preserve and prevent the despoliation and destruction of wetlands while accommodating necessary economic development in a manner consistent with wetlands preservation and any standards set by the Commonwealth in addition to those identified in §28.2-1308 to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines, and minimum standards promulgated by the Commission pursuant to §28.2-1301 of the Code of Virginia.

After July 1, 2020, each locality should, at their earliest convenience, update their wetland zoning ordinance to include the modifications in §28.2-1302 of the Code of Virginia resulting from SB776. You are reminded that the wetlands zoning ordinance provided in §28.2-1302 “shall serve as the only wetlands zoning ordinance under which any wetlands board is authorized to operate.”

In addition to the promulgation of minimum standards for protection and conservation of wetlands, §28.2-104.1 of the Code of Virginia also directs the VMRC to develop integrated guidance for the management of tidal shorelines which shall:

1. Communicate to stakeholders and regulatory authorities that it is the policy of the Commonwealth to support living shorelines as the preferred alternative for stabilizing tidal shorelines;
2. Identify preferred shoreline management approaches for the shoreline types found in the Commonwealth;
3. Explain the risks and benefits of protection provided by various shoreline system elements associated with each management option;
4. Recommend procedures to achieve efficiency and effectiveness by the various regulatory entities exercising authority over a shoreline management project.

VMRC will coordinate with the Department of Conservation and Recreation, Department of Environmental Quality and the Virginia Institute of Marine Science (VIMS) to begin drafting a comprehensive update to the Commission’s Wetlands Guidelines including minimum standards for protection and conservation of wetlands. As a part of this update, we will also coordinate our efforts with Wetlands Boards. During this process, VMRC will gather comments and informational needs from the public, localities and other interested parties to guide us in developing our guidance for the management of tidal shorelines. As such, we would welcome any comments you may have regarding additional guidance or standards that may be of benefit to your board. Please provide any comments you wish to make via email to wetlandsguidelines@mrc.virginia.gov. Mrs. Rachael Peabody of our staff will be the Habitat Management Division lead for this effort.
Memorandum
May 12, 2020
Page Three

VMRC has received several inquiries from local Wetlands Boards asking how the wetlands review process should be modified, after July 1, 2020, to adhere to SB776. Until the new guidelines and standards are developed and adopted, localities are again reminded that the wetlands zoning ordinance shall serve as the only wetlands zoning ordinance under which any wetlands board is authorized to operate. Localities are reminded that the VIMS Office of Research and Advisory Services and the Department of Conservation’s Shoreline Erosion and Advisory Service are available for site-specific advice. Additional online tools include the VIMS Shoreline Studies Program tools and information and the Center for Coastal Resource Management (CCRM) Locality Portals, GIS tools and Decision Tree.

Localities may also utilize the existing Shoreline Management Handbook and VMRC Wetlands Guidelines. The requirement for a statement indicating whether use of a living shoreline is not suitable, including reasons for the determination, should be a significant factor for any permit decision to use or develop wetlands.

Because the obvious intent of the wetlands zoning ordinance is that the tidal wetlands program be ultimately administered at the local level, Wetlands Boards are the key element of this management program. The wetlands zoning ordinance was first made available for local adoption in 1972 and efforts by all Wetlands Boards have served the Commonwealth well for nearly 50 years. The public hearing process provided by the ordinance allows each applicant the opportunity to present their facts to the board for consideration and for the board to evaluate any public comment. These are essential elements of any permit decision along with the requirements of the ordinance, as well as any guidelines or standards that are provided. This citizen-based administration of the program effectively balances wetlands preservation with protection and use of private property. Legislative amendments to the ordinance and changes to administrative procedures have been made for over almost half a century. With each change, the localities and the boards have met every challenge. I am confident this effort will be met with no less success.

Should you have any questions regarding our planned efforts outlined here, please contact me, Mrs. Peabody or the Environmental Engineer assigned to your locality. As usual, the Environmental Engineer assigned to your locality remains available to assist you in the ongoing administration of the wetlands zoning ordinance and permit application review for projects involving tidal wetlands.

TW/RDO:blh
HM
Attachment
VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 809

An Act to amend and reenact §§ 28.2-104.1, 28.2-1301, 28.2-1302, and 28.2-1308 of the Code of Virginia, relating to wetlands protection; living shorelines.

Approved April 7, 2020

[S 776]

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-104.1, 28.2-1301, 28.2-1302, and 28.2-1308 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-104.1. Living shorelines; development of general permit; guidance.

A. As used in this section, unless the context requires a different meaning:

"Living shoreline" means a shoreline management practice that provides erosion control and water quality benefits; protects, restores or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials.

B. The Commission, in cooperation with the Department of Conservation and Recreation, the Department of Environmental Quality, and local wetlands boards, and with technical assistance from the Virginia Institute of Marine Science, shall establish and implement a general permit regulation that authorizes and encourages the use of living shorelines as the preferred alternative for stabilizing tidal shorelines in the Commonwealth. The regulation shall provide for an expedited permit review process for qualifying living shoreline projects requiring authorization under Chapters 12 (§ 28.2-1200 et seq.), 13 (§ 28.2-1300 et seq.), and 14 (§ 28.2-1400 et seq.). In developing the general permit, the Commission shall consult with the U.S. Army Corps of Engineers to ensure the minimization of conflicts with federal law and regulation.

C. The Commission, in cooperation with the Department of Conservation and Recreation and with technical assistance from the Virginia Institute of Marine Science, shall develop integrated guidance for the management of tidal shoreline systems to provide a technical basis for the coordination of permit decisions required by any regulatory entity exercising authority over a shoreline management project. The guidance shall:

1. Communicate to stakeholders and regulatory authorities that it is the policy of the Commonwealth to support living shorelines as the preferred alternative for stabilizing tidal shorelines;

2. Identify preferred shoreline management approaches for the shoreline types found in the Commonwealth;

3. Explain the risks and benefits of protection provided by various shoreline system elements associated with each management option; and

4. Recommend procedures to achieve efficiency and effectiveness by the various regulatory entities exercising authority over a shoreline management project.

D. The Commission shall permit only living shoreline approaches to shoreline management unless the best available science shows that such approaches are not suitable. If the best available science shows that a living shoreline approach is not suitable, the Commission shall require the applicant to incorporate, to the maximum extent possible, elements of living shoreline approaches into permitted projects.


A. The Commission may receive gifts, grants, bequests, and devises of wetlands and money which shall be held for the uses prescribed by the donor, grantor, or testator and in accordance with the provisions of this chapter. The Commission shall manage any wetlands it receives so as to maximize their ecological value as provided in Article 2 (§ 28.2-1503 et seq.) of Chapter 15 of this title.

B. The Commission shall preserve and prevent the despoliation and destruction of wetlands while accommodating necessary economic development in a manner consistent with wetlands preservation and any standards set by the Commonwealth in addition to those identified in § 28.2-1308 to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including guidelines and minimum standards promulgated by the Commission pursuant to subsection C.

C. In order to perform its duties under this section and to assist counties, cities, and towns in regulating wetlands, the Commission shall promulgate and periodically update (i) guidelines which shall scientifically evaluate vegetated and nonvegetated wetlands by type and describe the consequences of use of these wetlands types and (ii) minimum standards for protection and conservation of wetlands. The Virginia Institute of Marine Science shall provide advice and assistance to the Commission in developing these guidelines and minimum standards by evaluating wetlands by type and continuously maintaining and updating an inventory of vegetated wetlands.

D. In developing guidelines, standards, or regulations under this chapter the Commission shall
consult with all affected state agencies. Consistent with other legal rights, consideration shall be given to the unique character of the Commonwealth's tidal wetlands which are essential for the production of marine and inland wildlife, waterfowl, finfish, shellfish and flora; serve as a valuable protective barrier against floods, tidal storms and the erosion of the Commonwealth's shores and soil; are important for the absorption of silt and pollutants; and are important for recreational and aesthetic enjoyment of the people and for the promotion of tourism, navigation and commerce.

§ 28.2-1302. Adoption of wetlands zoning ordinance; terms of ordinance.

Any county, city or town may adopt the following ordinance, which, after October 1, 1992, shall serve as the only wetlands zoning ordinance under which any wetlands board is authorized to operate. Any county, city, or town which has adopted the ordinance prior to October 1, 1992, shall amend the ordinance to conform it to the ordinance contained herein by October 1, 1992.

Wetlands Zoning Ordinance

§ 1. The governing body of , acting pursuant to Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of wetlands.

"Back Bay and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Virginia Beach, North Bay, and Knotts Island: Back Bay north of the Virginia-North Carolina state line; Capsies Creek north of the Virginia-North Carolina state line; Deal Creek; Devil Creek; Newnemy Creek; Redhead Bay, Sand Bay, Shippys Bay, North Bay, and the waters connecting them; Beggars Bridge Creek; Muddy Creek; Ashville Bridge Creek; Hells Point Creek; Black Gut; and all coves, ponds and natural waterways adjacent to or connecting with the above-named bodies of water.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Governmental activity" means any of the services provided by this (county, city, or town) to its citizens for the purpose of maintaining this (county, city, or town), including but not limited to such services as constructing, repairing and maintaining roads; providing sewage facilities and street lights; supplying and treating water; and constructing public buildings.

"Nonvegetated wetlands" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, including those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.

"North Landing River and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Pleasant Ridge, Creeds, and Fentress: the North Landing River from the Virginia-North Carolina line to Virginia Highway 165 at North Landing Bridge; the Chesapeake and Albemarle Canal from Virginia Highway 165 at North Landing Bridge to the locks at Great Bridge; and all named and unnamed streams, creeks and rivers flowing into the North Landing River and the Chesapeake and Albemarle Canal except West Neck Creek north of Indian River Road, Pocat River west of Blackwater Road, Blackwater River west of its forks located at a point approximately 6400 feet due west of the point where Blackwater River crosses the Blackwater River at the village of Blackwater, and Millbank Creek west of Blackwater Road.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Vegetated wetlands" means lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), saltgrass (Distichlis spicata), black needlerush (Juncus roemerianus), saltwort (Salicornia spp.), sea lavender (Limonium spp.), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), sea cyme (Borrichia frutescens), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina cynosuroides), rice cutgrass (Leersia oryzoides), wild rice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), sea rocket (Cakile edentula), southern wildrice (Zizaniopsis miliacea), cattail (Typha spp.), three-square (Scirpus spp.), buttonbush (Cephalanthus occidentalis), bald cypress (Taxodium distichum), black gum (Nyssa sylvatica), tupelo (Nyssa aquatica), dock (Rumex spp.), yellow pond lily (Nuphar sp.), marsh fleabane (Pluchea purpurascens), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens frondosa), smartweed (Polygonum sp.), arrowhead (Sagittaria spp.), sweet flag (Acorus calamus), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

"Vegetated wetlands of Back Bay and its tributaries" or "vegetated wetlands of the North Landing River and its tributaries" means all marshes subject to flooding by normal and wind tides but not hurricane or tropical storm tides, and upon which is growing any of the following species: saltmarsh cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), black needlerush (Juncus roemerianus), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica sp.), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina
cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus), spikerush (Eleocharis sp.), cattail (Typha spp.), three-square (Scirpus spp.), dock (Rumex sp.), smartweed (Polygonum sp.), yellow pond lily (Nuphar sp.), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens sp.), arrowhead (Sagittaria sp.), water hemp (Amaranthus cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

"Wetlands" means both vegetated and nonvegetated wetlands.

"Wetlands board" or "board" means a board created pursuant to § 28.2-1303 of the Code of Virginia.

§ 3. The following uses of and activities in wetlands are authorized if otherwise permitted by law:
1. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks and shelters and other similar structures, provided that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands;
2. The cultivation and harvesting of shellfish, and worms for bait;
3. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, skeet and trap shooting, and shooting on shooting preserves, provided that no structure shall be constructed except as permitted in subdivision 1 of this section;
4. Other outdoor recreational activities, provided they do not impair the natural functions or alter the natural contour of the wetlands;
5. Grazing, haying, and cultivating and harvesting agricultural, forestry or horticultural products;
6. Conservation, repletion and research activities of the Commission, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries and other conservation-related agencies;
7. The construction or maintenance of aids to navigation which are authorized by governmental authority;
8. Emergency measures decreed by any duly appointed health officer of a governmental subdivision acting to protect the public health;
9. The normal maintenance and repair of, or addition to, presently existing roads, highways, railroads, or facilities abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered;
10. Government activity in wetlands owned or leased by the Commonwealth or a political subdivision thereof;
11. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered. This subdivision does not authorize the construction of any drainage ditch; and
12. The construction of living shoreline projects authorized pursuant to a general permit developed under subsection B of § 28.2-104.1.

§ 4. A. Any person who desires to use or develop any wetland within this _______ (county, city, or town), other than for the purpose of conducting the activities specified in § 3 of this ordinance, shall first file an application for a permit directly with the wetlands board or with the Commission.

B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activities; a map, drawn to an appropriate and uniform scale, showing the area of wetlands directly affected, the location of the proposed work thereon, the area of existing and proposed fill and excavation, the location, width, depth and length of any proposed channel and disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; a statement indicating whether use of a living shoreline as defined in § 28.2-104.1 for a shoreline management practice is not suitable, including reasons for the determination; a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed work, project, or structure; and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator’s expense involved.

§ 5. All applications, maps, and documents submitted shall be open for public inspection at the office designated by the applicable governing body and specified in the advertisement for public hearing required under § 6 of this ordinance.

§ 6. Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries, the Water Control Board, the Department of Transportation, and any governmental agency
expressing an interest in the application shall be notified of the hearing. The board shall mail these notices not less than 20 days prior to the date set for the hearing. The wetlands board shall also cause notice of the hearing to be published at least once a week for two weeks prior to such hearing in a newspaper of general circulation in this ________ (county, city, or town). The published notice shall specify the place or places within this ________ (county, city, or town) where copies of the application may be examined. The costs of publication shall be paid by the applicant.

§ 7. A. Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.

B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may testify at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision.

C. The board shall make its determination within 30 days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within 48 hours of its determination, the board shall notify the applicant and the Commissioner of its determination. If the board fails to make a determination within the 30-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved. For purposes of this section, "act" means taking a vote on the application. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.

D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the same office as was designated under § 5 of this ordinance.

§ 8. The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

§ 9. In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation and any standards set by the Commonwealth in addition to those identified in § 28.2-1308 to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines and minimum standards promulgated by the Commission pursuant to § 28.2-1301 of the Code of Virginia.

§ 10. A. In deciding whether to grant, grant in modified form or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;
2. The impact of the proposed development on the public health, safety, and welfare; and

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.
2. The proposed development conforms with the standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.
3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 13 (§§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

§ 11. The permit shall be in writing, signed by the chairman of the board or his authorized representative, and notarized. A copy of the permit shall be transmitted to the Commissioner.

§ 12. No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

§ 13. No permit granted by a wetlands board shall in any way affect the applicable zoning and land use ordinances of this ________ (county, city, or town) or the right of any person to seek compensation for any injury in fact incurred by him because of the proposed activity.

§ 28.2-1308. Standards for use and development of wetlands; utilization of guidelines.

A. The following standards shall apply to the use and development of wetlands and shall be considered in the determination of whether any permit required by this chapter should be granted or
denied:

1. Wetlands of primary ecological significance shall not be altered so that the ecological systems in the wetlands are unreasonably disturbed; and

2. Development in Tidewater Virginia, to the maximum extent practical, shall be concentrated in wetlands of lesser ecological significance, in vegetated wetlands which have been irreversibly disturbed before July 1, 1972, in nonvegetated wetlands which have been irreversibly disturbed prior to January 1, 1983, and in areas of Tidewater Virginia outside of wetlands.

B. The provisions of guidelines and minimum standards promulgated by the Commission pursuant to § 28.2-1301 shall be considered in applying the standards listed in subsection A of this section.

C. When any activity authorized by a permit issued pursuant to this chapter is conditioned upon compensatory mitigation for adverse impacts to wetlands, the applicant may be permitted to satisfy all or part of such mitigation requirements by the purchase or use of credits from any wetlands mitigation bank, including any banks owned by the permit applicant, that has been approved and is operating in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks as long as (i) the bank is in the same fourth order subbasin, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset or by the hydrologic unit system or dataset utilized and depicted or described in the bank's approved mitigation banking instrument, as the impacted site, or in an adjacent subbasin within the same river watershed, as the impacted site, or it meets all the conditions found in clauses (a) through (d) and either clause (e) or (f) of this subsection; (ii) the bank is ecologically preferable to practicable on-site and off-site individual mitigation options, as defined by federal wetland regulations; and (iii) the banking instrument, if approved after July 1, 1996, has been approved by a process that included public review and comment. When the bank is located in the same subbasin or adjacent subbasin within the same river watershed as the impacted site, the purchase or use of credits shall not be allowed unless the applicant demonstrates to the satisfaction of the Commission that (a) the impacts will occur as a result of a Virginia Department of Transportation linear project or as the result of a locality project for a locality whose jurisdiction encompasses multiple river watersheds; (b) there is no practical same river watershed mitigation alternative; (c) the impacts are less than one acre in a single and complete project within a subbasin; (d) there is no significant harm to water quality or fish and wildlife resources within the river watershed of the impacted site; and either (e) impacts within the Chesapeake Bay watershed are mitigated within the Chesapeake Bay watershed as close as possible to the impacted site or (f) impacts within subbasins 02080108, 02080208, and 03010205, as defined by the National Watershed Boundary Dataset, are mitigated in-kind within those subbasins as close as possible to the impacted site. After July 1, 2002, the provisions of clause (f) shall apply only to impacts within subdivisions of the listed subbasins where overlapping watersheds exist, as determined by the Department of Environmental Quality, provided the Department has made such a determination by that date. For purposes of this subsection, the hydrologic unit boundaries of the National Watershed Boundary Dataset or other hydrologic unit system may be adjusted by the Department of Environmental Quality to reflect site-specific geographic or hydrologic information provided by the bank sponsor.

D. Where an agreed-upon permit condition requires the contribution of in-lieu fees to offset permitted wetland losses, the wetlands board shall credit the applicant for any in-lieu fee payments made to the Virginia Aquatic Resources Trust Fund or another dedicated wetlands restoration fund with reference to the same activity.

Subject: Director’s Report.

Board of Supervisors Action: The following items from the Planning Commission were submitted to the King George County Board of Supervisors: N/A

Case Number 19-08-Z03: Request by PR Farm LLC to rezone, with proffers, Tax Map 9, Parcel 5 from Limited Agricultural District (A-1) to Resort Community District (RC). Total project area 332.32 acres. Master Development Plan proposes a resort community with temporary lodging for 900 occupants (including tent platforms), staff cottages for 18 occupants, a chapel, an amphitheater, and other uses including special events for up to 440 people. The property is currently zoned Limited Agricultural (A-1); the minimum lot size in the Agricultural Zoning District is ten (10) acres. The requested zoning is Resort Community (RC). Per the King George County Comprehensive Plan (2019), the property is located in the Potomac River/North Rural Development Area. Withdrawn by applicant.

Information Items: The following informational items are provided:
- Zoning Practice – Source Water Protection
Overlay Zoning for Source Water Protection

By Matthew T. Allen

Land-use professionals and academics alike are keenly aware of the importance of water resources as a critical, foundational element of both the natural and built environments. As these spheres have become increasingly interwoven since the turn of the 20th century, water resources have come to be understood as part of a coupled natural-human system. This understanding has been predicated on the undeniable observation that humans and the natural environment influence each other at all scales—local, regional, and global (Konar et al 2019).

While water resources are impacted by human activity in many direct and indirect ways, land use and land cover changes—which is to say changes in the character of the landscape brought on by human activity and development—are especially notable. Deforestation and increases in impervious surfaces are known to greatly alter local hydrology. Affected water sheds suffer from flash floods throwing erosion and sedimentation regimes out of balance, resulting in habitat loss and limitations of water quantity and availability. Further, point and nonpoint source pollution from the built environment stand to contaminate watersheds, undermining their ability to support nature and humans. Local impacts have been observed to combine and ramp up in scale as the edges of developed areas meet one another; in this way, large embayments, estuaries, and other coastal resources such as the Long Island Sound, Chesapeake Bay, and the Gulf of Mexico have experienced large die-offs of marine life due to hypoxia caused by anthropogenic contaminants (Rabalais 2017). The environmental, social, and economic costs of the degradation of water resources are monumental and untenable.

As air and water pollution came under increasing public and governmental attention in the middle of the 20th century, culminating in the ratification of the Clean Air and Clean Water Acts as well as the creation of the Environmental Protection Agency in the 1970s, point source pollution of water resources has debatably come under control (Russell 2004). However, nonpoint source pollution—an aggregate of many diffuse sources of contamination—has continued. Land-use professionals occupy a critical position; they can design and implement land-use regulations at the local level, where the benefits of amelioration can ramp up in scale just as the impacts of degradation have. Effective local land-use regulations broadly implemented can protect the hydrologic cycle, specifically the stage where water crosses landscapes as surface water or groundwater and is used by people and nature.

This edition of Zoning Practice will ask and answer a series of questions toward the goal of advancing an understanding of how land-use regulation—particularly zoning—can and should be used toward source water protection.

WHAT IS SOURCE WATER?
The hydrologic cycle is a continuous global physical process of water moving under the power of the sun’s energy as well as gravity from the atmosphere, to the landscape, to the oceans, back to the atmosphere, and on again. When water precipitates out of the atmosphere and onto the landscape, about 70 percent returns directly to the atmosphere through evaporation and transpiration. The

![Diagram of the water cycle](image-url)
30 percent that remains comprises surface water and groundwater; it is this relatively small portion of the hydrologic cycle that is used as "source water" by humans (Washington State Department of Ecology 2005).

While some source water resources are enormous—the Lake Mead reservoir and the Ogallala Aquifer are the largest surface water and groundwater resources in the United States, with maximum volumes of more than 32 billion cubic meters and four trillion cubic meters respectively (Maukin et al 2014)—most are relatively small and used at the local level. In the northeastern United States, most communities depend on local surface water and groundwater as source water, and the level of treatment required to make those sources potable and safe depends greatly on the level to which the resource is affected.

Many private residences depend on on-site wells. Although homeowners typically must meet certain criteria for initial permitting, monitoring beyond installation is generally not required by law and is up to the homeowner. In contrast, the Connecticut State Department of Health, like agencies in other states, requires operator certifications and ongoing reporting for public water systems (PWS) that range from small servicing restaurants, schools, and churches to large reservoirs servicing cities with many thousands of users. According to the Connecticut Department of Public Health, regulated PWS fall into three categories: Community Water Systems, which serve at least 25 residents throughout the year; Nontransient, Noncommunity Systems, which serve at least 25 users six months of the year (schools, office buildings); and Transient, Noncommunity Systems, which service the public but do not meet the definition of the previous two categories (restaurants, parks). In Connecticut, 2,438 PWS serve about three million people (more than 80 percent of the state's population) through almost 800,000 connections. While the vast majority of PWS in Connecticut are sourced by groundwater (2,349 of 2,438 systems, or more than 96 percent), they serve far fewer people than the systems served by surface water. In fact, the 89 PWS in Connecticut served by surface water serve in total almost 2.5 million people, or about 70 percent of the state's population.

These trends generally mirror national ones; according to the U.S. Geological Survey, about 60 percent of the public water supply of the United States is sourced by surface water while about 40 percent is sourced by groundwater (Dieter et al. 2018). This is important to note because surface water is generally more susceptible to land-use impacts than groundwater, though land use can also significantly impact groundwater.

**Why Does Source Water Need Protection?**

Since 1900 the population of the United States has increased more than 300 percent, from about 76 million to 330 million. Population density in the contiguous United States has increased as well, from about 10/km² to 40/km². Additionally, developments in transportation and changes in federal, state, and local policy have led to counterurbanization, where populations are dispersed from cities (Mitchell 2004). This has led to suburbanization and sprawl—low-density development that leads to inefficiencies in land use, including rampant deforestation of watersheds and increased impervious surfaces that greatly exacerbate nonpoint source pollution and alter landscape hydrology (Harbor et al. 2000).

Myriad environmental, social, and economic impacts due to degradation of source water resources have been observed throughout the United States. According to the U.S. Environmental Protection Agency, source water contaminants from nonpoint source pollution include fertilizers (nutrients), insecticides, and herbicides from agricultural and residential sources; oil, grease, heavy metals, and other toxic chemicals from motor vehicles; and viruses, bacteria, protozoans, parasites, and nutrients from livestock and failing septic systems. These contaminants can cause disease and death in humans—especially expectant mothers and their babies, the elderly, and the infirm—in many direct and indirect ways. Additionally, water from source water resources costs more to monitor and treat; such economic challenges can exacerbate concerns or crises of public health and environment for communities.

Source water resources are vital for humans and nature. Impacts to the physical and chemical integrity of water resources can destroy habitat by altering local hydrology and geomorphology and introducing contaminants that directly harm native flora and fauna. In these ways local ecosystems can be thrown severely out of balance, sometimes irrevocably. Affected watersheds often become barren or overrun with invasive, nonnative species, making them dangerous and inappropriate for use as a source water resource as well as other uses (Harbor et al. 2000).

As natural resources continue to be encroached upon and overtaxed, it is imperative that land use be regulated and development reined in where it stands to impact source water the most. Further, to protect source water resources, public health, and the environment, it is also...
imperative to inform and engage community stakeholders. Collective stewardship made up of people from different parts of a community is needed to realize sale, sustainable source water resources.

HOW CAN SOURCE WATER BE PROTECTED?
From the interdisciplinary field of sociology, which seeks to combine physical and social sciences toward a holistic understanding of water resources, has emerged a concept known as Integrated Water Resources Management (Kowar et al 2019). Integrated Water Resources Management is defined as a process that promotes the coordinated development and management of water, land, and related resources in order to maximize the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems. It has further been emphasized that water should be managed in a watershed context under the principles of good governance and public participation (Rahaman & Varis 2005). The framework has been developed on an international scale, but it can be used just as well at the local level where zoning regulations are administered. Municipal or county government is especially conducive to the kind of integration prescribed by Integrated Water Resources Management.

Although the outright prohibition of development and all nonpassive land use within a source water resource's watershed would be most effective toward source water protection, in most developed areas water companies do not own their source water resource's watershed; as a result, there are limited if any authority over development and land use there. Typically, land-use regulation is delegated by states to local governments; accordingly, it is they who have authority over the watersheds of source water resources when it comes to regulation of development and land use. However, conventional zoning— which divides a jurisdiction into zoning districts and establishes uses and dimensional regulations for each— can actually contribute to the problem of nonpoint pollution by ignoring the impacts of nearby development. For example, if a lot has a stream running through the rear yard or encompasses part of an aquifer recharge area, a large minimum front setback required per dimensional regulations for the zoning district might force development toward that stream, resulting in possible degradation to its water quality (Russell 2004). However, such limitations of conventional zoning's ability to protect source water resources may be overcome with the implementation of overlay zones.

An overlay zone is a zoning district that is applied over previously established zoning districts, imposing further standards and criteria in addition to those of the underlying zoning district. Regarding source water protection, an overlay zone can be defined spatially not only by watershed boundaries but also by riparian corridors and/or aquifer recharge zones establishing protections exactly where they are needed.

One reason overlay zoning is a valuable tool for the protection of source water resources is that watersheds are defined by topography, and thus already delineated and defined (Russell 2004). The Continental Divide is a familiar example; the Rocky Mountains in the western United States serve as a hydrological dividing range where, in general, water that falls on the eastern side of the highest ridges ultimately flows to the Gulf of Mexico and Atlantic Ocean while that which falls to the west flows to the Pacific. All watersheds, no matter their size, have naturally defined physical boundaries that determine water flow. Although boundaries of riparian zones for specific stream channels and aquifer recharge areas are not so readily defined by topography as those of watersheds are, they too may be defined by less obvious but long-established standards. The delineation of aquifer recharge areas, for example, requires inferences based upon the results of well tests, mapping of surface watersheds, and studies of soils and geology (Russell 2004); fortunately, such information is typically available from state or federal agencies. The boundaries of watersheds and aquifers that serve as source water resources may then be married to the special zoning district, the designated overlay zone.

Most communities adopt a comprehensive plan or master plan that ideally articulates a clear vision, reflects community consensus on all aspects of growth, and serves to guide future development. Many states require municipalities to have a comprehensive plan that must be periodically updated. Most include some mention of natural resources, conservation, and/or environmental protection. However, while in many cases such sections of a comprehensive plan might offer some mapping, survey, or description of source water resources within the subject jurisdiction and call for their general protection, they often fall short of prescribing specific regulatory measures. Overlay zoning for source water protection can help to fill that void and achieve congruence with the spirit of a proclaimed general consensus that source water resources are vital and ought to be protected, while offering an effective regulatory tool beyond what can be achieved through conventional zoning.

OVERLAY ZONING FOR SOURCE WATER PROTECTION IN GROTON, CONNECTICUT
Many communities have instituted overlay zoning to protect source water resources, though these schemes vary significantly in application and practice. This variation is a testament to the appropriateness of such regulation being done at the local level, where it can be tailor-made to adhere to the unique values and characteristics of a community. As opposed to rules handed down from a state capital that may be many miles away, community governance allows for more customization, stakeholder engagement, and transparency.

Groton, Connecticut, is a municipality of about 40,000 located on the state's southeastern shoreline. Like many communities of its size, zoning regulations were adopted in the middle of the 20th century and have been revised and updated over the years since. Within the town, Groton Utilities operates a treatment plant and distributes potable water to more than 30,000 people through more than 5,000 connections. The source water resource comprises five surface water reservoirs with a total watershed area
of 40.4 square kilometers—only 28 percent of which is owned by the water company (Groton Utilities 2019). Toward the protection of this and other existing and potential source water resources in Groton, a Water Resource Protection District was instituted as an overlay zoning district defined as all land over and upgradient of the current and future water supply resources as defined by watershed drainage boundaries (Town of Groton 2020). The intent of these regulations is offered in Section 6.4-1 of Groton’s zoning regulations as follows:

Creation of this district is essential to protect drinking water supply sources in the Town. As ground waters and surface waters have been shown to be easily, and in many cases, irrevocably contaminated by many common land uses, it is imperative that all reasonable controls over land use, waste disposal, and material storage be exercised within this district. This district is designed to protect existing and future water supply resources including extensive untraced drain agers, surface water reservoirs, and areas of future water supply. (Town of Groton 2020)

The Water Resource Protection District requires all development, redevelopment, or expansion of permitted uses in the district to meet as a condition of approval prescribed general performance standards for erosion and sediment control, stormwater management, site design (including limits on impervious surfaces), and hazardous materials.

Further, many land uses that pose an elevated threat to source water resources are prohibited. Prohibited uses and activities include:

- Any industrial, commercial, or other enterprise in which the manufacture, use, storage, transport, process, or disposal of hazardous material is a principal activity
- Any discharge to the ground, watercourse, or wetlands of nonsanitary or significantly heated wastewater including industrial and commercial process wastewater
- Sewer plants, septic processing, and other waste treatment lagoons
- The application of sodium chloride for the removal of snow or ice on roads, parking areas, sidewalks, or any other surface
- Outdoor stockpiling of sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for the removal of snow or ice on roads
- Stockpiling or disposal of snow or ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads which has been removed from highways and streets located outside of the District
- Heavy industrial, power plants
- Use of furniture strippers and chlorinated solvents
- Outside storage of hazardous materials as defined by the EPA
- Cemeteries
- Pest control services
- Airports; truck, bus, and heavy machinery storage; major vehicle service and repair; used car dealerships

Beyond prohibited uses and activities, many other agricultural, industrial, and transportation uses are conditionally permitted; for example, commercial agricultural uses are permitted with the condition that a 100-foot nondisturbance area buffering all surface waters and wetlands be maintained, and gas stations are permitted with the condition that a host of best management practices are incorporated (Town of Groton).
A potential problem for overlay zoning for source water protection (and zoning in general) is the question of preexisting non-conformities—uses that do not conform to zoning regulations but were legally established before their adoption. Typically, state enabling acts for zoning expressly exempt existing uses of property and stipulate that preexisting nonconforming status is forfeited only when abandoned. Additionally, relevant case law in many areas has raised the bar for abandonment to a point where neither change of ownership, suspension of use, nor anything less than an outright declaration of abandonment passes muster. Groton’s Water Resource Protection District regulations allow some dispensation for preexisting nonconforming uses where such may be expanded, relocated, or altered under certain conditions, for example, Section 6.4.10.A allows for expansion of preexisting nonconforming uses with the conditions that 50 percent of the existing developed area is not exceeded, it is demonstrated that the proposed expansion does not pose more of a threat to the existing or future water supply source than does the existing nonconforming use, and others. Notwithstanding, preexisting nonconforming uses are more or less an issue for different communities heavily dependent upon the local context and development history of a given watershed.

WHAT RESOURCES ARE AVAILABLE TO BUILD CAPACITY?

A barrier for many communities that wish to institute zoning for source water protection is the lack of expertise and the financial resources to acquire and capitalize on that expertise. In addition to resources that may be available through state agencies or nonprofit organizations, the federal government, through the U.S. Department of Agriculture’s Farm Service Agency, has provided funding and support for a national Source Water Protection Program. Administered through the National Rural Water Association—a nongovernmental water and wastewater utility organization based in Duncan, Oklahoma, with affiliates in all 50 states—the Source Water Protection Program is designed to provide communities with support toward the protection and sustainability of their source water resources.

The Source Water Protection Program is staffed by experienced water resource and land-use professionals who are available to communities in need at no cost. Each program year, professionals work with their colleagues from the Natural Resources Conservation Service, Farm Service Agency, and state environmental and public health officials to identify areas where source water protection is most needed. Once areas are identified, program professionals work with communities to create local teams made up of citizens, landowners, local government officials, and other stakeholders. These teams collaborate to create a source water protection plan to promote healthy watersheds and clean source water. Source water protection plans may supplement comprehensive plans as aforementioned and prescribe specific measures appropriate for the subject jurisdiction. Often, especially for communities located within more developed areas of the country, overlay zoning for source water protection is a central precept.

Of the numerous communities the Source Water Protection Program has assisted, a recent successful example is in the Town of Tiverton, Rhode Island. Nonquit Pond, a reservoir located within Tiverton but serving as a source water resource for the nearby larger community of Newport, was found to have elevated levels of nutrients and total organic carbon. The poor water quality in Nonquit Pond was a result of land-use impacts and necessitated costly intensive treatment in order to continue to be used as a source water resource. These impacts also undermined the ecology of Nonquit Pond, which is also a critical spawning habitat for anadromous fish. As a result of its hampered ability to support source water as well as ecological uses, Nonquit Pond was designated an “impaired water body” by the Rhode Island Department of Environmental Management.

A source water protection specialist was brought in to establish the Source Water Protection Program and assist the local government to create, adopt, and implement a source water protection plan for Nonquit Pond. The plan included a zoning overlay district bounded by the Nonquit Pond watershed that would bar certain land uses, require best management practices, and establish buffers around the pond and its main tributaries. Further, through cooperation with the Rhode Island Department of Environmental Management, the plan was tailored to help landowners and the local government qualify for other assistance programs from the Farm Service Agency, Environmental Protection Agency, and others. The Nonquit Pond Source Water Protection Plan will not only lead to an improvement in water quality for the source water resource but also help to restore local ecological function and be an impetus for other environmental improvements in the community.

CONCLUSION

Water resources in the United States have been severely impacted by unchecked development and unsustainable land-use practices. Public health at the community level has suffered due to these practices. Humans have always depended directly on water resources, but in modern times populations have exploded out across the landscape. Demand for larger and larger quantities of high-quality water as well as demand for the development of water ways have combined to create water crises in communities across the country and the world.

Looking at this problem at the 2003 World Water Forum in the Netherlands, the Global Water Partnership—an international intergovernmental organization created to foster an integrated approach to water resources management and provide practical advice for sustainably managing water resources—observed that water crises are often crises of governance. The partnership identified as one of its highest priorities for local action the importance of developing a stronger culture around water governance. The notion of governance for water includes the ability to design public policies and institutional frameworks that are socially accepted.
and mobilize social resources in support of them (Rogers and Hall 2003). Since the World Water Forum, both the peril to water resources and the need for active management at all levels to sustain current and future populations has only grown. These sentiments have been echoed repeatedly by many, including the United Nations, the World Summit on Sustainable Development, and countless water advocacy organizations across the world (Rogers and Hall 2003).

While the extent of the problem and associated challenges has been illuminated by those occupying lofty positions of international influence, it is important to see that the way forward hinges on local grassroots efforts. This goes to show that communities taking control of and responsibility for the natural resources on which they so greatly depend, through something as conceptually simple as overlay zoning, is in fact a powerful and hopeful pursuit.

REFERENCES


ABOUT THE AUTHOR

Matt Allen is source water protection specialist for the Atlantic States Rural Water & Wastewater Association, where he administers the U.S. Department of Agriculture’s Source Water Program for Connecticut and Rhode Island. Allen’s professional background is in environmental science and planning, having previously worked as a municipal planner and zoning official as well as a research technician for federal and state environmental agencies.

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