

**COMPREHENSIVE PLAN AMENDMENTS; CONDITIONAL REZONING
 APPLICATION CASE NUMBER Z-2023-00099; PROFFER AMENDMENT
 APPLICATION CASE NUMBER Z-2023-00101; SPECIAL EXCEPTION
 PERMIT CASE NUMBER Z-2023-00100**

This Staff Report is prepared by the King George County Department of Community Development Staff, and 3TP Ventures, Inc. as the County’s contracted third-party reviewer, to provide information to the Planning Commission and Board of Supervisors to assist them in evaluating the application. It may be useful to the general public interested in this application. This staff report makes use of relevant research and analysis performed by King George County Department of Community Development Staff and The Berkley Group during the review of a prior application in 2022.

PUBLIC HEARINGS

Planning Commission: July 18, 2023
 Board of Supervisors: August 15, 2023

SUMMARY FACTS

Applicant:	Birchwood Power Partners, L.P.
Representative:	M. Ann Neil Cosby, Wire Gill LLP Charles W. Payne, Jr., Hirschler Law
Landowners:	Various; see attached Application
Proposed Use:	Data center(s) and associated accessory uses
Location:	Various; vicinity of Route 3, Route 603, and Route 665
Tax Map, Parcel	Tax Map Parcels 21-25, 21-33, 21-35, 21-43, 21-44, 21-47, 21-48, 21-48D, and 21-50
Existing Zoning:	Limited Agricultural (A-1), Rural Agricultural (A-2), and Industrial District (I)
Proposed Zoning:	Industrial District (I)

Comprehensive Plan: Route 3/West Primary Settlement Area; Rappahannock River/South Rural Development Area; Potomac River/North Rural Development Area

Surrounding Zoning: Limited Agricultural (A-1), Rural Agricultural (A-2) and Industrial District (I)

Staff Contact: Louis Pancotti
Interim Director and Zoning Administrator
Department of Community Development

Summary: The Applicant, Birchwood Power Partners, L.P., is seeking to: conditionally rezone Tax Map 21 Parcels 25, 33, 35, 43, 44, 47, 48, 48D, and a portion of Tax Map 21 Parcel 50, totaling approximately 675 acres from the A-1 and A-2 zoning districts, to the Industrial (I) zoning district; to amend the proffers associated with Rezoning 91-03-Z01 for Tax Map 21 Parcel 50; and to amend the previously issued special exception permit applicable to a portion of Tax Map 21 Parcel 50 and Tax Map 29 Parcel 4 (easement). The parcels subject to the Application have a total area of approximately 869 acres. In support of the requested rezonings, the Applicant is seeking to amend the Comprehensive Plan to redefine the boundaries of the Route 3/West Primary Settlement Area, Rappahannock River/South Rural Development Area and Potomac River/North Rural Development Area. The Applicant has provided a Generalized Development Plan, along with voluntary proffers which would limit the use of the subject parcels to data centers as the primary use with a list of allowable accessory uses. Proffers propose to limit the developed floor area of buildings on each of a number of defined future development areas. The total buildable floor area of the development is to be limited to a total of 7,500,000 square feet.

BACKGROUND

Portions of the properties subject to the requests comprise the site of the former Birchwood Power Plant. While the power plant has been decommissioned, legacy infrastructure components remain on a portion of Tax Map 21 Parcel 50, including a rail spur and Dominion substation. Additionally, the former Power Plant property is served by a water intake from the Rappahannock River, the piping for which is located in an easement crossing properties to the southeast, and Kings Highway/Route 3, terminating at the pump/intake facility at the Rappahannock River (the easement and facility being located within the boundaries of Tax Map Parcel 29-4).

Other subject properties are either undeveloped or under agricultural use, while dwelling units are located on two of the properties.

The use of Tax Map 21 Parcel 50 was subject to a previously issued special exception permit, Case Number 91-03-E02, issued August 6, 1991, which limited the use of the property to the construction and operation of a "220 Megawatt Coal Fired Electrical Generating Facility," along with related conditions. Additionally, this parcel was subject to proffers from a rezoning that coincided with the special exception permit, which limited the property to, among other things, a power production facility, a power switching facility, and a manufacturing aggregate facility. As part of this Application, the Applicant is seeking to amend the effective special exception permit and the proffer statement.

PARCEL CHARACTERISTICS

The following is a description of the Tax Map Parcels subject to the Application and requests. In total, the properties subject to the Application and requests have an area of approximately 869 acres:

- Tax Map 21 Parcel 25; Birchwood (purchased by subsidiary of Applicant in 2022; formerly Butzner property)

Acreage: 119.34 acres

Property Location: East side of Fletchers Chapel Road; adjacent to the west of the former Birchwood Power Facility.

Access: The property directly abuts Fletchers Chapel Road.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: Streams are located on the property, towards both the southern and eastern boundaries of the property.

Existing Zoning: The property is currently zoned Rural Agricultural (A-2).

Requested Zoning: The requested conditional zoning is Industrial District (I) with proffers.

Existing Land Use: The current use of the property is undeveloped.

- Tax Map 21 Parcel 33; Thai Huong Thi

Acreage: 12.71 acres

Property Location: 1305 Kings Highway; north side of Kings Highway/Route 3, approximately 500' west of the intersection with Birchwood Creek Road/Route 665.

Access: Access to the property is provided by Kings Highway/Route 3.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: There are no known resources located on the property.

Existing Zoning: The property is currently zoned Rural Agricultural (A-2).

Requested Zoning: The requested conditional zoning is Industrial District (I) with proffers.

Existing Land Use: The current use of the property is agriculture and residential.

- Tax Map 21 Parcel 35; Thai Huong Thi

Acreage: 38.09 acres

Property Location: Abutting to the west of 1305 Kings Highway; north side of Kings Highway/Route 3, approximately 860' west of the intersection with Birchwood Creek Road/Route 665.

Access: Access to the property is provided by Kings Highway/Route 3.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: A stream is located along the western property line.

Existing Zoning: The property is currently zoned Rural Agricultural (A-2).

Requested Zoning: The requested conditional zoning is Industrial District (I) with proffers.

Existing Land Use: The current use of the property is agriculture.

- Tax Map 21 Parcel 43; Birchwood Power Partners, L.P. (purchased by Applicant in 2023; formerly Morie Company, L.P. property)

Acreage: 268.83 acres

Property Location: 12134 Dissington Lane; south side of Kings Highway/Route 3 at Dissington Lane, abutting the Rappahannock River.

Access: Access to the property is provided by Kings Highway/Route 3 and Dissington Lane.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: The property directly abuts the Rappahannock River to the south and there is a stream leading to the Rappahannock River located along the western boundary of the property. Additionally, a pond is located on the property. The submitted Generalized Development Plan shows a 200' RPA buffer and indicates that the existing pond would remain on the property.

Existing Zoning: The property is currently zoned Limited Agricultural (A-1).

Requested Zoning: The requested conditional zoning is Industrial District (I) with proffers.

Existing Land Use: The current use of the property is agriculture.

- Tax Map 21 Parcel 44; Haney Joan Earline

Acreage: 39.95 acres (GIS map) 28.95 (Haney Survey)

Property Location: Abutting to the west of 1517 Kings Highway and 11365 Al Saba Lane; north side of Kings Highway/Route 3, approximately 815' east of the intersection with Birchwood Creek Road/Route 665.

Access: Access to the property is provided by Kings Highway/Route 3 and Birchwood Creek Road/Route 665.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: There is a small wetland area to the northeast of the parcel to be preserved as open space as identified on the Generalized Development Plan.

Existing Zoning: The property is currently zoned Rural Agricultural (A-2).

Requested Zoning: The requested conditional zoning is Industrial District (I) with proffers.

Existing Land Use: The current use of the property is agriculture.

- Tax Map 21 Parcel 47; Reed William W

Acreage: 151.12 acres (GIS map) 20.5 acres (Reed Survey)

Property Location: 1438 Kings Highway.

Access: Access to the property is provided by Kings Highway/Route 3 and Birchwood Creek Road/Route 665.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: Existing wetlands to be preserved as open space as identified on Generalized Development Plan.

Existing Zoning: The property is currently zoned Limited Agricultural (A-1).

Requested Zoning: The requested conditional zoning is Industrial District (I) with proffers.

Existing Land Use: The current use of the property is agriculture.

- Tax Map 21 Parcel 48; Reed William W

Acreage: 81.39 acres (GIS map) 83.36 (Reed Survey)

Property Location: Surrounding parcel 21-48D; north side of Kings Highway/Route 3, approximately one-half mile east of the intersection with Birchwood Creek Road/Route 665.

Access: Access to the property is provided by Kings Highway/Route 3 and Birchwood Creek Road/Route 665.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: Existing wetlands to be preserved as open space as identified on Generalized Development Plan.

Existing Zoning: The property is currently zoned Limited Agricultural (A-1).

Requested Zoning: The requested conditional zoning is Industrial District (I) with proffers.

Existing Land Use: The current use of the property is agriculture.

- Tax Map 21 Parcel 48D; Reed William W

Acreage: 0.44 acres

Property Location: 2103 Kings Highway.

Access: No direct access; road only to house.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: No wetland flags were observed during the survey.

Existing Zoning: The property is currently zoned Limited Agricultural (A-1).

Requested Zoning: The requested conditional zoning is Industrial District (I) with proffers.

Existing Land Use: The current use of the property is agriculture/residential.

- Tax Map 21 Parcel 50; Birchwood Power Partners, L.P.

Acreage: 316.70 acres

Property Location: 10900 Birchwood Drive; west side of Birchwood Creek Road/Route 665.

Access: Access to the property is provided by Birchwood Creek Road/Route 665.

Utilities: Water and sewer services from the King George County Service Authority are available but limited; please refer to more detailed information under the Generalized Development Plan section of this Report.

Wetlands Impacts: For the southern portion of the property, there are streams located along the southwest boundary of the property, as well as through the eastern side of the property; for the northern portion of the property, a stream bisects the property.

Existing Zoning: The southern portion of the property, between Birchwood Creek Road/Route 665 and the existing CSX railway line, is zoned Industrial District (I) (Rezoning Case Number 91-03-Z01), totaling 211.114 acres; the northern portion of the property, north of the existing railway line and immediately south of the King George County Landfill, is zoned Limited Agricultural (A-1), totaling 105.591 acres.

Requested Zoning/Action: The entire property is subject to a request to amend the proffers associated with Rezoning 91-03-Z01. The northern portion of the property is requested to be rezoned, with proffers, from Limited Agricultural (A-1) to Industrial (I). In addition, the Application seeks to amend a previously issued Special Exception Permit for the property and an easement associated with the property

(Case Number 91-03-E02) to terminate existing uses allowed under the permit and to continue the allowed pumping station and associated water intake facility uses.

Existing Land Use: The property was formerly developed and used as a power plant; however, that use has recently been decommissioned. Former supporting infrastructure remains onsite.

GENERALIZED DEVELOPMENT PLAN

Based upon the Application narrative, Generalized Development Plan, and volunteered proffers, the Applicant intends to develop the property as follows. It is important to note that the narrative is not referenced in the proffer statement and would not therefore be binding.

General

The proposed proffer statements indicate that development of the properties "will be in general conformance with the [Generalized Development Plan,]" and that "Notwithstanding anything to the contrary under these Proffers...all parcel lines, parcel and lot sizes, building envelopes, building or unit sizes, public road locations, private driveway and travel-way locations, waste facilities, interparcel connections, parking areas, utility locations, storm water management facilities, amenities, dimensions of undeveloped areas and all other areas shown on the GDP may be adjusted for purposes of final engineering of site or subdivision plans (via multiple phases) and to further allow full compliance with the requirements of state and federal agency regulations including, but not limited to, Virginia Department of Historical Resources ("DHR"), Virginia Department of Transportation ("VDOT"), Virginia Department of Environmental Quality ("DEQ"), Virginia Department of Conservation and Recreation ("DCR"), U.S. Army Corps of Engineers, and the County's Code, Subdivision Ordinance, and design standards. Notwithstanding the foregoing, any material adjustments to the GDP will be subject to the approval by the County's Zoning Administrator, and in no event will approved adjustments to the GDP relieve the Applicant from providing any of the Proffers."

Construction and Phasing

Submitted proffers indicate that "prior to final site plan approval for each phase of development... a construction mitigation plan will be...submitted to the County's Zoning Administrator for review." Proffers note that the construction mitigation plan will address construction traffic control measures, including any mitigation measures to be implemented during weekday AM and PM peak travel hours and school bus travel times. Proposed phasing of development is limited as stated in the proffers to the submission of phasing plans to be provided with each site plan submission.

Proposed Uses

Through limitations to use proposed in the “global” proffers, the proposed use of the properties would be data center and accessory uses. Amended proffers for Tax Map 21 Parcel 50 propose to allow only data centers and accessory uses as well, in addition to allowing the following improvements to remain on the property to support principal and/or accessory uses authorized under the proffers: water treatment facility and related supporting facilities; fuel tanks; building housing the cooling tower and fire pump house (and related electrical); mechanical/equipment storage facility (also known as the tractor garage); Dominion substation and related facilities; ponds and pump structures; concrete drainage structures; rail spur; former transformer yard facilities; water tank; and concrete pads.

With respect to permitted accessory uses, the proffers indicate that the following accessory uses in support of the identified permitted uses are authorized: “all electric generation (generators only), distribution, transmission and substation facilities (including but not limited to transmission lines); enclosed battery and fuel storage facilities; office, general office and storage; logistics and maintenance facilities water and sewer facilities; communication, broadband, fiber optic utilities; service stations; fleet vehicle maintenance and repair facilities; water treatment facilities; guard house; rooftop energy solar systems²; resiliency pond; and other private utilities, all public utilities, and other accessories [sic] uses that relate to and support the permitted use described herein.”

The Applicant has stated they will not be developing a centralized fuel storage system or a grid-scale Energy Storage System in Development Area 3 across Fletchers Chapel Road/Route 603 from the school. Nevertheless, it should be noted that while the proffers limit battery and fuel storage to “enclosed” facilities as noted above, this would not preclude freestanding facilities which would also not be limited by the square footage maximums for data center buildings detailed in the following section.

Building Floor Area and Height

The Applicant’s proffers propose to limit the developed buildable area of each of the parcels (identified as Development Areas as numbered on the Generalized Development Plan) by establishing a maximum buildable floor area square footage for industrial buildings and all accessory uses, as detailed below. The Floor Area Ratios are specific to “data center buildings” (excluding accessory uses), except that Development Areas #4, #5, and #6 specify accessory uses only, with total maximum square footage as listed below.

² Proffers indicate that solar farms are not permitted to be developed on the property.

Limitations for Development Areas #1, #2, and #3

- Development Area #1 (Tax Map 21 Parcel 43): no greater than 1,250,000 square feet;
- Development Area #2 (Tax Map 21 Parcel 50): no greater than 4,000,000 square feet; and
- Development Area #3 (Tax Map 21 Parcel 25): no greater than 2,000,000 square feet.

Limitations for Development Areas #4, #5, and #6:

- Development Area #4 (Tax Map 21 Parcel 35): no greater than 150,000 square feet;
- Development Area #5 (Tax Map 21 Parcel 33): no greater than 50,000 square feet; and
- Development Area #6 (Tax Map 21 Parcels 44, 47, 48, and 48D): no greater than 50,000 square feet.

The total maximum potential floor area for industrial buildings and accessory uses would be 7,500,000 square feet.

In terms of building height, proffers commit to the following:

- For Development Areas #1, #4, #5, and #6 (Tax Map 21 Parcel 43; Tax Map 21 Parcel 35; Tax Map 21 Parcel 33; and Tax Map 21 Parcels 44, 47, 48, and 48D, respectively), building height would be limited to a maximum of 50', not including equipment located on top of any buildings nor any utility infrastructure, including without limitation electric transmission, distribution and substation facilities;
- For Development Area #2 (Tax Map 21 Parcel 50), building height would be limited to 120' for any building constructed on the property, not including equipment located on top of any buildings nor any utility infrastructure, including without limitation electric transmission, distribution and substation facilities; and
- For Development Area #3 (Tax Map 21 Parcel 25), building height, not to include utility facilities, would be limited to a maximum of 80', not including equipment located on top of any buildings nor any utility infrastructure, including without limitation electric transmission, distribution and substation facilities.

Setbacks, Buffers, and Open Space

With respect to setbacks, proffers propose the following:

- No building will encroach within 300 feet of Route 3 (Kings Highway).
- No building will encroach within 100 feet of Fletcher's Chapel Road to include a naturalized site buffer of variable width.

- No building will encroach within 150 feet of Birchwood Creek Road to include a naturalized site buffer of variable width.
- Buildings or utility structures located on the northern boundary of Tax Map 21 Parcel 50 that fronts the railroad track will be a minimum of 50 feet from the subject property boundary.
- Buildings will be set back at least 100 feet and include a naturalized site buffer from side or rear property lines where the subject property currently abuts a residential or agricultural zoning district or use.
- Notwithstanding anything to the contrary, private and public utility infrastructure may be located within the setback areas.
- Setbacks, screening, and buffers will not be required between adjoining parcels that are owned or leased by the Applicant, interior lot lines within the developed area, and any new lots created solely for utility purposes.
- For Development Area #1 (Tax Map 21 Parcel 43), no building will encroach within 500 feet of the Rappahannock River as measured from the riverbank.

With respect to the Applicant's proposed exception for the setback from adjacent property lines owned or leased by the applicant, minimum side and rear yards for properties in the Industrial District are required to be a minimum of 20' for main structures; there is no provision allowing for a reduction or elimination of these minimum setbacks based upon the common ownership or lease of adjoining parcels, nor for interior lot lines or for newly created lot lines solely for utility purposes.

With respect to buffers, proffers indicate that a minimum 100-foot-wide buffer will be provided along side or rear property lines abutting a residential or agricultural zoning district or use. A minimum 100-foot setback with a naturalized site buffer of variable width will be provided adjacent to any public right-of-way, except that a minimum 150-foot setback with naturalized site buffer of variable width will be provided adjacent to Birchwood Creek Road and a minimum 300-foot setback with vegetated buffer adjacent to Route 3/Kings Highway.

Similar to side and rear setbacks, proffers indicate "buffers will not be required between adjoining parcels that are owned or leased by the Applicant, interior lot lines within the developed area, and any new lots created solely for utility purposes." It is important to note the County's Zoning Ordinance requires a minimum 30-foot-wide buffer along a side or rear property line where the site abuts a residential or agricultural zoning district or use; there is no provision allowing for a reduction or elimination of these minimum buffers based upon the common ownership or lease of adjoining parcels, nor for interior lot lines or for newly created lot lines solely for utility purposes.

In terms of open space, the rezoning narrative indicates that "approximately 80 acres on Tax Map 21 Parcel 43 and 75 acres on Tax Map 21 Parcel 50" will be preserved "all as generally shown on the GDP".

The "global" proffers indicate that the Applicant "will preserve and not develop two areas of land as depicted on the Generalized Development Plan labeled 'Preservation Area (75 acres)' and 'Preservation Area (80 acres)', except the Applicant may utilize said preservation areas for purposes of installing and extending public and private utilities, locating and installing stormwater management facilities, and access to and from all of the aforesaid for purposes of supporting the development of the Property."

Referencing the same open space areas mentioned above as being included in the total open space, the "global" proffers indicate that approximately 40% (351 acres +/-) of the Property will include open space.

In addition to the above, the "global" proffers propose the dedication of a minim of eight acres of land to the County as part of Development Area #1 (Parcel 21-43), also reflected on the Generalized Development Plan, for purposes of allowing public access to the Rappahannock River. However, the Proffers lack specifics regarding said access, such as whether or not the access will be paved and the hours that it will be open. The Applicant has noted that the access road will conform with the King George County and/or VDOT standards for typical roadway widths and entrance configurations as per the Parks and Recreation comment response letter dated July 6, 2023. Proffers further note that the County will be provided with necessary easements to allow access to this dedicated land, and that buffers described in the proffers would not apply to this area upon the County's acceptance of a deed of conveyance for the area. The Applicant would continue to control and maintain the access to and from the River Dedication Area and will work with the County to address access to the Rappahannock River. Moreover, under Virginia law, they would not be able to unilaterally terminate the aforementioned easement once it is granted, nor would they be able to use the easement in a way that is not reasonably consistent with the uses contemplated by the grant of the easement.

The pond adjacent to the River Access Dedication area will not be fenced off as a part of Development Area #1. However, at this time, the pond is not proposed as part of the River Access Dedication area mentioned above.

Access

With respect to vehicular access, the Generalized Development Plan indicates two access points on the southside of Kings Highway/Route 3 to access Parcel 21-43, with the westernmost access

point in the same approximate location as Dissington Lane used for secondary and emergency access.³ The northern parcels are shown to be accessed from Kings Highway/Route 3 through Tax Map 21 Parcel 35 (approximately 1,800' west of Birchwood Creek Road/Route 665), and through two access points from Birchwood Creek Road/Route 665 along the frontage of Tax Map 21 Parcel 50. Both proffer statements indicate that "Principal and internal access points will be provided in the approximate locations as depicted on the GDP, with the final locations and design subject to approval by the Virginia Department of Transportation ("VDOT") during its site plan review and approval process for each phase of development." Proffers also indicate that "emergency access will also be provided as further shown on the GDP, subject to County and VDOT approval during the aforesaid site plan review process."

Water/Sewer

The proffers state that "all water necessary for rendering operational service to the data center and all other accessory or authorized uses on the Property will be provided via the surface water intake permit and related facilities approved by Virginia Department of Environmental Quality ("DEQ") pursuant to VWP 17-0702." The emergency supply and potable water service will "utilize Birchwood's Ground Water Permit...and will not be provided by KGCSA until public potable water services become available to the site in the future." The proffers also indicate that when "KGCSA...is able to provide a separate public water source, Applicant will connect to the KGCSA system as agreed by the parties, permitted and/or required by the County."

At the time of the preparation of this staff report, the Applicant and KGCSA were pursuing cooperation to increase the potable water to this area. At present, KGCSA has noted that there is limited availability of potable water to service the project.

With respect to sewer services, sewer is currently routed to Oakland Park, with plans to reroute to the Hopyard System; however, the re-routing has not been funded. Therefore, sewer availability to serve the proposed development is limited.

Finally, additional information regarding the eventual types and sizes of uses will be necessary before KGCSA can more accurately determine potential water and sewer demands and availability of service.

Electrical Service

The Code of Virginia § 15.2-2232 specifies review procedures relating to the location of utilities and other public services. The purpose of this "2232 review" is to make known the expansion,

³ Please note, the County's Highway Corridor Overlay District requires additional/special approval for two or more access points to a property.

location and alignment of public utilities infrastructure and facilities that must occur as a function of new development where the location of that infrastructure is not already identified in the Comprehensive Plan. It is the responsibility of the local government to ensure that proposed facilities are “substantially in accord with the adopted comprehensive plan” and must take formal action to this effect after considering the location of required facilities.

The uses proposed in this application will require new electrical distribution lines to be constructed to serve the planned facilities and King George County identified the need to complete the 2232 for this type of infrastructure. In the course of reviewing this application, King George County coordinated and held meetings including Dominion Energy and the Applicant’s representatives. The Applicant has been working with Dominion Energy on the service delivery and site requirements for the energy required for the planned facilities. Dominion Energy has been working to determine the location of distribution lines and has an alignment determined.

In response to the need to complete the 2232 review and make public information available, the Applicant has shown the electrical distribution lines that will be required in the area of the site in the Generalized Development Plan on a utility plan and distribution line plan. Dominion Energy has provided information to King George County about what will be required to distribute electricity to the site. This includes bringing new overhead, mainline utility lines to the site. Detailed information about the new distribution lines that would be required to serve the planned development is being provided for review at a joint meeting of the Board of Supervisors and Planning Commission on the evening of July 11, 2023. A summary of this information will be provided during the public hearing process for this group of applications. Formal action will be taken during that process regarding the required utilities and their being substantially in accord with the adopted Comprehensive Plan.

ENVIRONMENTAL AND RESOURCE IMPACTS

As noted above under Parcel Characteristics, based upon County GIS and submitted surveys, there are streams and other water bodies located within or immediately adjacent to all of the subject parcels, with the exception of Tax Map 21 Parcel 33. Most notably, this includes the Rappahannock River and Muddy Creek with respect to Tax Map 21 Parcel 43, and Birchwood Run/Creek with respect to Tax Map 21 Parcel 25 and 50, all of which have associated FEMA Special Flood Hazard Areas (“SFHA”; Zones A or AE). The Generalized Development Plan as well as proffers indicate a proposed 500’ buffer from the Rappahannock River, while a 200’ RPA buffer is reflected for Muddy Creek, impacting Tax Map 21 Parcel 43, and a naturalized site buffer of variable width for a portion of Birchwood Run/Creek, impacting Tax Map 21 Parcel 50.

With respect to potential lighting impacts associated with proposed uses, proffers commit to limiting pole-mounted exterior lights to a height of 18 feet, and requiring that fixtures be “fully shielded.” Further, footcandles associated with exterior lights are proposed to be limited to a maximum of 0.5 at property lines. Proffers do exempt “temporary lighting and lighting provided for emergency or safety purposes as required by: the Building Code, Electrical Code, or otherwise within the County Code” from these standards. Proffers also indicate that signage will not be illuminated, while “entrance gates will include a minimum illumination of 3 footcandles...to support safe and secure operation of the gate area.”

With regard to potential sound/noise impacts associated with proposed uses, proffers commit to noise levels emanating from uses “whether one data center or multiple located on a subject parcel” to be limited to 60 decibels between 6am and 10pm and to 55 decibels between 10pm and 6am, to be measured at property lines; and to prohibit operational loading/unloading activities from being located or allowed within 200’ of an existing single-family residence. For reference, 60 decibels is equivalent to a normal conversation level. This is consistent with King George County’s noise ordinance which lists a maximum of 75 dBA between 6am and 10pm and 65 dBA between 10pm and 6am. It is also consistent with the limits proposed in King George County’s draft noise ordinance of 60 dBA during daytime hours and 55 dBA overnight. The Applicant has also proposed to provide a Sound Analysis prior to the County’s approval of each final site plan and the issuance of the “final certificate of occupancy permit for each data center building”. These analyses would measure normal operations during daytime and nighttime hours over a 24-hour period. Following these initial sound analyses, the Applicant has proffered to perform annual sound testing “on the anniversary date of the County’s issuance of the final Certificate of Occupancy permit as applicable for each building” to confirm compliance with the standards outlined in the proffers. The proffers also indicate that all sound produced by the repair, restoration, maintenance, testing, replacement, and/or alteration of data centers, public facilities/utilities, and related accessory uses; the lawful operation of public facilities/utilities and electrical power generation and transmission facilities; and electrical power generators during electrical power utility outages on the Property will all be exempt from the proposed sound requirements.

Finally, with respect to potential historic or cultural resources, the “global” proffers indicate that Phase I cultural resources surveys will be commissioned prior to the submission of a site plan for each phase of development, and that Phase II archaeological investigation reports would be performed if recommended by Phase I surveys. The Applicant has further committed to the donation of any historical artifacts removed to the County’s museum (or appropriate recipient), as well as the payment of a cash proffer in the amount of \$150,000 “for the benefit of the King George History Society Museum and/or other related historical priorities of the County” upon the issuance of the final certificate of occupancy for the first data center building constructed.

TRAFFIC IMPACT ANALYSIS

A complete traffic impact analysis (TIA) has not been performed. The Applicant has noted, in the Application narrative and the proffer statement, that a TIA will be performed “prior to the first site plan approval for a data center use”, that the Applicant will construct and/or contribute its pro rata share of costs for all transportation improvements identified as being warranted due to the impact of the project within the study area, and that they will dedicate necessary right-of-way for warranted and future transportation improvements as identified under the TIA. The TIA will include a scoping agreement among the County, Applicant, and VDOT and will analyze the total anticipated traffic impacts of the project, to include all permitted and accessory uses. It will also recommend mitigation measures to help lessen any potential impacts. The proffers further note that “principal and internal access points will be provided in the approximate locations depicted on the Generalized Development Plan, with the final locations and design subject to approval by VDOT during its site plan review and approval process for each phase of development”, and that emergency access will also be provided as shown on the GDP, also subject to County and VDOT approval.

In response to VDOT and County comments, the Applicant has provided estimated uses and square footages, along with ITE trip generation calculations. In addition to approximately 4,000,000 square feet of primary data center use, the development will contain approximately 30,000 square feet of office and storage space, 30,000 square feet of logistics and maintenance facilities, an approximately 4,000 square foot guardhouse, and other non-traffic generating accessory uses. Based on these uses, the potential weekday trip generation from the proposed development is approximately 5,600 total daily trips for the average weekday. The greatest impact would be the weekday AM peak with an estimated 676 trips, while weekday PM peak hour would result in approximately 225 trips. As shown in the Applicant’s Trip Generation Assessment dated June 8, 2023, the proposed development is expected to generate only an additional 1,144 daily trips over that of the uses allowed under the existing zoning designations, and thus a VDOT Chapter 527 TIA is not warranted. Per VDOT’s comment letter dated July 20, 2023, they have no objections to the proposed rezoning.

In terms of construction related traffic, as previously referenced, proffers indicate that a construction mitigation plan will be submitted to the County for review prior to final site plan approval for each phase of development, and these plans would address, at a minimum, construction traffic control measures, including any mitigation measures to be implemented during weekday AM and PM peak travel hours and school bus travel times along shared construction truck routes to/from the various properties.

PUBLIC SAFETY

With respect to public safety, proposed proffers commit to the submission of an Emergency Action Plan (EAP) at the time of each site plan and the payment of \$1,000,000 to the County "to mitigate potential public safety impacts generated by the development of the Property after the final inspection and upon the issuance of a final Certificate of Occupancy for data center facilities exceeding 250,000 square feet." The EAP will "address, at minimum, emergency access, emergency response planning, support for necessary department training requirements and any specific Fire, Rescue and/or EMS impacts associated with any use(s) on the property."

Based upon a review of the Application, Chief Moody, King George County Fire and Rescue, issued a comment letter dated July 7, 2023, outlining the following potential impacts and recommendations:

- With regard to an Emergency Action Plan, training, and fire protection systems, Chief Moody indicates that the Application with proffers meets the intent and provides a clear outline, but notes that additional information will be needed if the rezoning is approved with regard to fire protection systems within buildings and site accessibility. The proffers indicate that "the Emergency Action Plan will include requirements for fire suppression (including sprinklers, hydrants and standpipes, where appropriate) where any building or structure on the site plan exceeds the department's ability to adequately provide the same as determined by the Fire Chief."
- Chief Moody notes that during the Hazard Mitigation Analysis meeting held June 7, 2023, it was determined that the proposed buildings would contain equipment that would utilize lithium-ion batteries. He recommends that, due to the unique hazards posed by lithium-ion battery fires; the current limitations of Fire and Rescue personnel; and the close proximity to Sealston Elementary School, industrial and commercial businesses, and residential units, additional fire protective measures be incorporated into the buildings' safety systems. If approved, he advises that any data center buildings containing lithium-ion batteries have "automatic sprinkler systems with an integrated proportioning system of an approved Encapsulating Agent that is designed and approved for use on fires containing lithium-ion batteries." The Applicant has stated that the encapsulating-type agents referenced by Chief Moody "fall under the NFPA 18A standard on Water Additives for Fire Control and Vapor Mitigation, which is not a permissible type of fire suppression system to be utilized on energy storage systems per IFC Section 1207.5S". They have further remarked that "a thermal runaway event involving these lithium-ion battery energy storage systems will self-extinguish without propagation...without any supplemental aid from a fire suppression system". Therefore, the Applicant has concluded that the use of water-

based automatic sprinkler systems is recommended for “the protection of areas that utilize lithium-ion battery energy storage systems”.

- Chief Moody notes that the proposed development “will most likely require specialized firefighting and rescue apparatus and equipment,” stating further that the Fire and Rescue Department does not currently have the ability to adequately provide services to the development. Chief Moody indicates that an aerial ladder truck (with an estimated cost of \$2,000,000 and order time of 3 years) would most likely be needed to provide service to the development.
- With respect to the proposed cash proffer, Chief Moody questions whether the Applicant is proposing payment only after completion of the final data center building, and, if so, if said payment would thus be made “at the end of the build-out phase in the distant future.” The current iteration of the global proffer statement states that payment will be made “after the final inspection and upon the County’s issuance of a final Certificate of Occupancy for data center facilities that exceed 250,000 square feet (excluding accessory uses).”
- Related to distance from existing resources, Chief Moody noted that additional calls would be expected given the size and scope of the project, and that the site is approximately 6.5-7.5 miles from the closest fire station, further noting that buildings greater than 5 road miles from the closest fire station would be classified by the ISO as “not meeting the criteria for a Fire Department response,” resulting in a Class 10 (or 10W) within the Public Protection Classification rating for community fire protection. Based on this, Chief Moody recommended that a dedicated site location for a future new fire station within close proximity of the proposed development would be needed due to the potential for increased calls, hazards and risk, and to reduce response time and thereby the ISO - PPC rating. The Applicant has proffered to dedicate a total of fifteen to twenty acres from Tax Map 21 Parcels 47, 48, and/or 48D to the County for use by the County’s Sheriff’s Office and Fire Department.
- In terms of staffing, Chief Moody indicates that “current daily on-duty personnel levels would not provide the necessary support for adequate Fire and Rescue services to this development as proposed, in the event of a large-scale commercial structure fire and/or peak volume emergency medical (EMS) calls,” recommending that the Department will need to hire an additional 3-6 personnel to properly service the development, with current annual costs estimated at \$210,000 to \$420,000 in salaries and benefits; start-up costs

ranging from \$18,000 to \$36,000 in Personal Protective Equipment; and medical physicals ranging from \$2,400 to \$4,800.

- Finally, Chief Moody suggested that hydrant locations and fire flow calculations should be coordinated with the Department, and strongly recommended that fire hydrants be incorporated within the development, since without these, the "Department would not have the sufficient capability to perform a rural water drafting operation for large-scale commercial structure fire in the development." As mentioned above, the proffers indicate that the Emergency Action Plan will include requirements for fire suppression, to include sprinklers, hydrants, and standpipes, where any building or structure exceeds the Department's ability to adequately provide the same as determined by the Fire Chief.

PROFFER STATEMENT

The Applicant has submitted two (2) proffer statements: the first are the amended proffers applicable to Tax Map 21 Parcel 50, the former active Birchwood Power Facility site; and the second, a "global" proffer statement applying to the remaining parcels and currently zoned A-1 portion of Tax Map 21 Parcel 50, altogether identified in the proffer statement as totaling "approximately 869 acres." Development standards and commitments consistent to these proffer statements have been referenced herein. Additional commitments relate to emergency action planning and training, security fencing, demolition of existing structures, and utilities. (See *Attachments E and F*)

It is important to note that the zoning narrative is not referenced in either proffer statement, and would not therefore be binding.

COMPREHENSIVE PLAN

Presently, properties subject to the Application are included within the Route 3/West Primary Settlement Area, Rappahannock River/South Rural Development Area, and Potomac River/North Rural Development Area. Specifically, Tax Map 21 Parcels 44, 47, 48, 48D, and 50 are included in the Route 3/West Primary Settlement Area; Tax Map 21 Parcels 25, 33, and 35 are included in the Potomac River/North Rural Development Area; and Tax Map 21 Parcel 43 is included in the Rappahannock River/South Rural Development Area.

As stated in the Comprehensive Plan, Planning Areas are established "in order to provide the most effective framework for defining the priority area for future growth and conservation," and that "Primary Settlement Areas are areas where public water and/or sewer are provided by the King George County Service Authority" and further, that "a mixed-use compact development, with public utilities and new community facilities will be encouraged." With respect to Rural

Development Areas, the Comprehensive Plan notes that these areas “include most of the agricultural and environmentally sensitive areas as well as areas that are not appropriate for public utility service in the long term,” and that “utilities in these areas and development will not be encouraged.”

With respect to the subject Settlement and Rural Development Areas, and as applicable to the subject requests, the Comprehensive Plan defines and establishes *Key Policies/Implementation Strategies for Future Development and Preservation*, as follows:

Route 3/West Primary Settlement Area

- Defined as “The Area is created to serve as the industrial hub with the County,” and that with the development of other industrial uses in the area, that “this area is the focal point of industrial development in the County,” and further, with existing and potential supporting infrastructure, the area “is poised to accept additional industrial development.”
- *Key Policies* include:
 - Encouraging “compatible light and heavy industrial development and limit further residential development. Industrial development should be limited to the triangle created by Route 3, Route 665 and Route 605. Industrial development should provide site design to enhance the rural view sheds along Route 3 and Route 605 with densities between 3 to 10 acres per lot in an Industrial Park setting.”
 - “Permit limited sewer or water systems to serve specific economic development projects that require such service. Any such systems should be strictly limited in terms of capacity and service area so that they serve only the specific non-residential development they are designed and approved to serve.”

Rappahannock River/South Rural Development Area

- Defined as having key features including “the sand and gravel industry with the County, the former White Packing Facility (pork processing facility), the Rappahannock River shoreline, and most of the County’s prime agricultural land,” further noting that the area is “very rural in nature,” and that the “primary development objective for this Area is to encourage the continued rural nature of this Area.”

- Key Policies include:
 - Precluding “higher density residential development and commercial development. This area is inappropriate for rezoning to higher densities or non-residential districts.”
 - That “further approvals, extensions or expansions of central sewer or water utility plants or lines, except where such actions result in large blocks of agricultural and forest lands being permanently preserved,” should be carefully reviewed.

Potomac River/North Rural Development Area

- Defined as having as a key land use feature “a number of subdivisions in which each lot is ten (10) acres or more [in] size which are served exclusively by private roads,” and that while the area contains a majority of the County’s population, “the Area remains rural in character with a historical pattern of low-density residential development.”
- Key Policies include:
 - Encouraging “very low-density rural residential growth and discourage higher density residential development and commercial development.”
 - Encouraging “agricultural and forest preservation through the maintenance of land use taxation, and careful review of rezoning request.”

As part of the Application, the Applicant is seeking amendments to the Comprehensive Plan, as follows (see Attachment D, Zoning Narrative, Part IV, Current Land Use & Comprehensive Plan, pgs. 6 thru 14, with amendments specified starting on pg. 12) - language to be inserted is shown in **underline**, language to be deleted is shown in **~~bold strikethrough~~**:

1. To amend the first sentence of Chapter I, *Background of the Comprehensive Plan, D., Summary of Land Use Concepts and Concerns, Planning Areas, 4., Route 3/West (Primary Settlement Area) (Map 6), a., Definition of Area*, and to add a second sentence as follows:

*Route 3/West Area boundaries begin at Route 3 and ~~665 603~~ extends east along Route to 605, and then north along Route 605 to 665 and includes the King George County Landfill and the Mirant Birchwood Power Facility properties. **The Area also includes limited areas south of Route 3 on either side of Dissington Lane.***

2. To amend Chapter I, *Background of the Comprehensive Plan, D., Summary of Land Use Concepts and Concerns, Planning Areas, 4., Route 3/West (Primary Settlement Area) (Map 6), b.,*

Key Policies/Implementation Strategies for Future Development and Preservation, 1., to either strike the following sentence or amend the sentence, as follows:

~~Industrial development should be limited to the triangle create by Route 3, Route 665 and Route 605.~~

or

Targeted Industrial development should be limited to the ~~triangle create~~ **area encompassed** by Route 3, ~~Route 655~~ **Route 603** and Route 605, **and those parcels south of Route 3 identified on Map 6.**

3. To amend the first sentence of Chapter I, *Background of the Comprehensive Plan, D., Summary of Land Use Concepts and Concerns, Planning Areas, 9., Rappahannock River/South (Rural Development Area) (Map 11), a., Definition of Area*, as follows:

This Rural Development **Area zone** includes all of the land in King George County located south of Route 3 with the exception of a portion of the Courthouse West, Route 3/Route 301, **Route 3 West** and the Hopyard Primary Settlement Areas.

4. To amend the respective Maps 6, 11, and 12 associated with the Route 3/West Settlement Area, Rappahannock River/South Rural Development Area, and Potomac River Rural Development Area consistent with the above text amendments to the Plan. (maps are included as an attachment to Attachment D, Zoning Narrative)

Based upon these proposed amendments, four subject parcels not currently included within the Route 3/West Settlement Area will be added into this Settlement Area, along with 14 additional properties, increasing the area of the Route 3/West Settlement Area by approximately 590 acres.

In addition to the above, the following policies relevant to the consideration of the Application and subject proposals are included within the Comprehensive Plan:

- General goals of the Comprehensive Plan include:
 - Preserve the Rural Characteristics of King George County.
 - Encourage land use patterns that sustain and enhance the health, safety, morals, order, convenience, prosperity and general welfare of the residents of King George County.
 - Promote a healthy, diversified economy in the County.

- Encourage protection of critical environmental resources and maintain renewable natural resources for future generations.
 - Encourage a balance of residential zoning classifications to meet the need of all county residents while concentrating and guiding growth in and around service districts as designated in this Plan.
 - Seek to manage the through-traffic flow on principal roads in such a manner as to minimize the impact on local-traffic flow.
 - Protect water supplies and assure an adequate quality and quantity of water.
 - Encourage the construction and control of central sewage facilities in designated areas.
- Goals related to population and the economy within the County include:
 - Promote a diverse, healthy and sustainable economy.
 - Preserve extant agricultural uses by policy and consider loss of agriculturally productive soils and farmland in development review.
 - Strategize to develop more commercial activities and options, to promote a more robust, diverse and sustainable local business base.
 - Target industrial growth that fits the long-term strategy of the County by pursuing Public Private Partnerships, developing and refining business incentive packages, and maintaining attractive business/property taxes.
 - Foster commercial growth by promoting a more business-friendly environment that is helpful and responsive and decreases the barriers to entry.
 - Encourage the development of special incentive zones and assessment districts to encourage industrial, commercial and recreational business growth within the Primary Settlement Areas.
- Policies related to population and the economy within the County include:
 - Focus new development into the defined Primary Settlement Areas.
 - Limit new development in the defined Rural Development Areas.
 - Concentrate new development around Primary Settlement Areas as designated in this plan, with enough land allocated for development to accommodate the moderate rate of planned growth that the County expects to experience during the coming two decades. Discourage major development projects from locating outside of these areas.
 - Support the use of financial incentives, including state and federal tax incentives, to direct and better manage growth, including use value taxation and conservation easements.

- Promote the protection of agriculture land, forest land, open space and conservation areas of the County through public education provided by the Virginia Extension Agent, Tri-County Soil and Water Conservation District, maintenance of land use taxation and careful review of rezoning requests.
 - Encourage existing and new business expansion in the local area.
 - Encourage an environment to attract business and employees for the public and private sectors.
 - Plan for and encourage a balance of commercial and industrial development to sustain adequate economic growth.
 - Create a “business-friendly environment” to make King George County an attractive location for commerce and industry that is compatible with and supportive of the rural nature of the County through the use of incentives.
 - Encourage industrial development within the King George County Industrial Park.
 - Strategically locate industrial development areas so as not to detract from the rural nature of the County while encouraging a healthy and diversified economy.
 - Channel future heavy industrial growth toward designated industrial areas, including the King George County Industrial Park which is located near the King George County Landfill and the Birchwood Power Facility in the Route 3 West Primary Settlement Area.
- Goals related to land use, cultural and natural resources within the County include:
 - Develop and support land use patterns that sustain and enhance the quality of life for the residents of King George County.
 - Preserve, encourage and sustain the Rural Characteristics of King George County.
 - Support the preservation of historic sites and landmarks in King George County.
 - Continue emphasis on the Primary Settlement Area concept and the preservation of the rural characteristics in areas outside of the Primary Settlement Areas.
 - Protect critical environmental resources and maintain renewable natural resources for future generations.
 - Promote economic development which will result in a net local tax benefit, create needed job opportunities and support the other goals of this plan.
 - Encourage vegetative enhancement of Resource Protection Areas.
 - Policies related to land use, cultural and natural resources within the County include:
 - Coordinate private development, transportation, utilities and public facilities planning and investments in a manner to achieve overall objectives of the Comprehensive Plan.
 - Focus new development into the defined Primary Settlement Areas.

- Limit new development in the defined Rural Development Areas.
- Concentrate development in clustered settlement patterns with pedestrian-friendly streets and coordinated access onto major roads.
- Preserve sensitive environmental areas and resources, including Chesapeake Bay Preservation Areas, through concentrated development in designated areas and limited, clustered development in defined rural areas.
- Implement the Plan for coordinated development and expansion of public utilities in the designated Primary Settlement Areas; do not approve expansion of public utilities in the defined Rural Development Areas unless development within the Rural Development Areas is approved by the Board of Supervisors and the expansion of utilities is approved by the Service Authority Board of Directors. The ability to expand facilities would also be based on existing capacity or a utility plan covering the upgrade of capacity to cover any new development (i.e., drilling new wells, construction of storage tanks, etc.).
- 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.
- Protect the dark sky of King George County as one of our many natural, scenic, scientific and cultural resources, for the benefit of residents, and visitors, now and in the future.
- Concentrate new development within Primary Settlement Areas as designated in this plan. Discourage major development projects outside of these areas.
- Require sufficient documentation in land use applications to determine water quality impacts of development and redevelopment as part of applications for zoning permits, subdivision, site plans, rezoning and conditional use permits.
- Support land use and infrastructure decisions that are consistent with the growth management framework established by the Settlement Areas designated in this Plan.
- In designated areas for growth and infill, where there will be new uses and redevelopment, the following general development guidelines should be utilized; 1) minimize amounts of land disturbed; 2) maximize preservation of native vegetation; 3) ensure maintenance of best management practices; 4) minimize impervious cover; 5) ensure compliance with erosion and sediment control regulations; 6) coordinate the Chesapeake Bay Preservation Act septic pump out and reserve disposal sites with the Virginia Department of Health and 7) reduce non-point source pollution runoff loads for new and redevelopment projects consistent with Chesapeake Preservation Act objects.

- In designated areas for growth and infill where there will be new uses and redevelopment, identify existing or potential sources of surface and ground water pollution and take action to prevent or control the effect of the sources. Continue to enforce all existing regulations to ensure the protection of all water resources and adopt additional protective measures as necessary.
- In areas adjacent to shorelines and in areas which otherwise contain significant amounts of highly erodible soils or are otherwise subject to significant amounts of highly erodible soils or are otherwise subject to significant soil erosion, review all new land disturbances and development proposals to support the establishment of adequate permanent vegetative buffer areas and the protection from excessive land disturbance. Encourage the use of best management practices to minimize soil erosion by: promoting public awareness of the benefits of best management practices; assisting in the establishment of conservation plans for all farms and forestry operations; and requiring soil identification and erosion mitigation plans prior to approval of land disturbance or development activities.
- Create a "business-friendly environment" to make King George County an attractive location for commerce and industry that is compatible with and supportive of the rural nature of the County through the use of incentives.
- In coordination with the Economic Development Authority, encourage industrial development within the King George County Industrial Park.
- Strategically locate industrial development areas so as not to detract from the rural nature of the County while encouraging a healthy and diversified economy.
- Channel future heavy industrial growth toward designated industrial areas, including the King George County Industrial Park which is located near the King George County Landfill and the Birchwood Power Facility in the Route 3 West Primary Settlement Area.
- Ensure that all new industrial uses provide adequate protection of adjacent existing land uses through techniques such as setbacks, landscaping, screening, noise and lighting controls, access control, etc.
- Encourage implementation of General Land Use Policies, especially those directed at maintaining and improving water quality, through lessening and mitigation of adverse effects of storm water runoff.
- Ensure that adequate buffers and setbacks be provided from shorelines and areas with significant amounts of highly erodible soils during the planning and construction of all industrial development.

- Policies related to natural and historic resources within the County include:
 - Actively discourage development in environmentally sensitive areas such as those that are predominantly characterized by steep slopes and highly erosive soils, flood plains, wetlands and critical habitat for ecologically or economically important plant and animal species.
 - Incorporate and promote meaningful and effective provisions for buffering, impact mitigation and long-term reclamation by natural resource-based activities.
 - Identify and designate historically significant sites and structures and support their protection when reviewing applications for change in land use decisions.

- Goals for transportation within the County include:
 - Encourage access management to protect through-traffic flow on principal roads.
 - Establish access-management policies for development adjacent to all major roadways. Or Encourage enforcement of VDOT access-management policies for development adjacent to all major roadways.

- Policies for transportation within the County include:
 - Implement VDOT access-management standards along the major corridors, particularly Routes 3, 301, 206, 205, and 218. The access-management measures should focus on the ability of a roadway to safely move traffic, reduce the dependency on traffic lights, and maintain visually aesthetic transportation corridors.
 - Require in Site Plan Development visual vegetative buffers along major transportation corridors to further promote the rural character of the County.
 - Require improvements at major intersections to create safer and more efficient traffic flow.
 - Encourage property owners to maintain existing vegetative buffers along collector and arterial roads during the site planning and development process.
 - Require right-of-way dedication and on-site roadway improvements in design and development of new land use related projects.
 - Implement VDOT access-management regulations for development adjacent to all major roadways, especially Routes 3, 301, 205, 206 and 218. The purpose of the regulations is to protect the long-term peak-period capacity use of roadways, enhancement of safety and to facilitate through-traffic flow on these principal roads.
 - Maintain and improve the safety and capacity of the major road corridors in the County by working closely with landowners and developers to promote effective

access-management policies, including recommendation of appropriate land uses along the major roadways.

- Limit entrances to public roads to protect the capacity and safety of the network.
 - Encourage the consolidation and assemblage of existing small parcels along all major arterial and collector roadways in order to achieve coordinated development with fewer entrances and greater setbacks.
 - Encourage adequate landscaping and setbacks to protect the view from the public road and to maintain safe access; balance this policy with the desire to promote comfortable pedestrian access within the Primary Settlement Area Boundaries.
- Goals for utilities within the County include:
 - Develop adequate water and sewer infrastructure to advance all economic development initiatives.
 - Support the location and expansion of utilities in an economic and sustainable way. Ensure quality service is available at cost-effective rates. Make certain the location and expansion of utilities do not adversely impact personal property.
 - Develop policies regarding private utilities that might serve or pass through the County, e.g., highspeed internet service, cellular towers, cable TV, fiber optics, natural gas, etc.
 - Protect water supplies and develop an adequate quantity and quality of water.
 - Pursue expansion of central water and sewage facilities in the designated Primary Settlement Areas.
 - Protect the public health and safety through the provision of public water and wastewater treatment systems in designated areas where growth is appropriate and consistent with the goals and policies of this plan.
 - Manage the location, pattern and density of land development through the provision of central public utilities that will support more intensive land development in designated locations near community facilities and existing settlements.
 - Encourage compatible economic development of businesses and industries that require central water and wastewater services.
 - Coordinate water and wastewater facilities as a unified system in designated, planned locations, rather than a piecemeal, uncoordinated collection of independent facilities in unplanned locations.
 - Goals for community services and facilities within the County include:
 - Provide and promote adequate recreational access to State waters, while protecting the natural environment.

- Create public access opportunities of aquatic resources that can enhance economic development opportunities in King George County.
- Provide needed first responders, police, fire, and emergency medical services to all areas of the County.
- Policies for community services and facilities within the County include:
 - Commit resources to enhance facilities, equipment, and training for fire and rescue services.

ANALYSIS

As referenced herein, the Application proposes four (4) principal actions: to amend the County's Comprehensive Plan; to conditionally rezone eight (8) parcels and a portion of one (1) parcel from A-1 or A-2 to the Industrial District; to amend the proffers associated with Rezoning 91-03-ZO1 for Tax Map 21 Parcel 50; and to amend an existing special exception permit applicable to a portion of one (1) parcel and an associated easement.

With respect to the requested amendments to the Comprehensive Plan, the principal question to consider is whether the proposed amendments accomplish a coordinated, adjusted and harmonious development which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities. Proposed changes are two-fold: removing properties from the Rappahannock River/South Rural Development Area and Potomac River/North Rural Development Area and adding these properties to the Route 3/West Primary Settlement Area; and amending policies of the Route 3/West Primary Settlement Area to identify the appropriate location of industrial development within the area.

To the first action, while at the surface it would seem to be a simple action to change the boundaries of the Settlement/Development areas, consideration should be given to potential negative effects that this policy change may have on the Rappahannock River/South Rural Development Area and Potomac River/North Rural Development Area, as well as the applicability of existing policies of those areas to the properties subject to the amendment. Specifically, the effect that this change has on the County's rural character goals, in terms of both industrial development as well as the expansion of supporting infrastructure, is a critical consideration. Furthermore, the proposed changes would increase land within the Route 3/West Settlement Area by approximately 590 acres, a notable increase and expansion of area in the County generally acceptable for industrial development and presumed appropriate for increased supporting infrastructure. While economic and industrial growth are encouraged by County policies, such support is based on currently defined areas, with infrastructure planned accordingly. However, it

should be noted that, at this time, the Applicant is not proposing to expand water and sewer infrastructure to serve the development.

To the second action, including the proposed increase of lands within the Route 3/West Settlement Area by approximately 590 acres based on the boundary amendment, the amendments to policies would increase the land determined to be appropriate for industrial development by an equivalent amount or by more than 1,600 acres, depending upon the amendment option selected. These changes are notable when considering that the current "triangle" referenced in Route 3/West Settlement Area policies has an area of approximately 850 acres, approximately 600 acres of which, while intended for industrial development, is not currently utilized in that manner. However, since the Route 3/West Settlement Area is indeed intended for industrial development, it is necessary to note that the land may be utilized in such a manner regardless of any misgivings.

It seems that current boundaries of the Route 3/West Settlement Area, as well as those of the Rappahannock River/South Rural Development Area and Potomac River/North Rural Development Area, along with the land use policies specific to the "triangle," were very intentionally established to preserve the County's rural character and to define and limit appropriate areas for industrial uses and development. If the amendment of the boundaries of the Settlement/Development Areas and/or the policies regarding appropriate areas for industrial development are approved as requested, then it may set a precedent for future development and infrastructure expansion that makes it difficult to further limit, fundamentally changing the intent of the Plan for this immediate area, as well as potential other areas included within the Rappahannock River/South Rural Development Area and Potomac River/North Rural Development Area. However, while the Rappahannock River/South Rural Development Area and thus Tax Map 21 Parcel 43 may not currently accommodate industrial uses per the Comprehensive Plan, there are existing industrial uses and industrially zoned parcels nearby, and allowing industrial uses on nearby sites but not this one seems arbitrary. Expanding the Route 3/West Settlement Area to encompass Tax Map 21 Parcel 43 would merely allow limited expansion of industrial uses adjacent to an existing industrial use.

As for the requested conditional rezonings and special exception permit amendment, these requests should be considered relative to the action on the proposed Comprehensive Plan amendments. Generally, the requested actions relative to Tax Map 21 Parcel 50, in its entirety, are consistent with the Comprehensive Plan as it presently exists. However, the rezoning request for Tax Map 21 Parcels 25, 33, 35, 43, 44, 47, 48, and 48D, from a policy perspective are unsupported by the Comprehensive Plan without amendment.

With respect to the requests for Tax Map 21 Parcel 50, as noted, a portion of this parcel is presently zoned Industrial, and it was recently, and for the previous 30 years, put to industrial use; additionally, the property is currently included within the Route 3/West Settlement Area. While the remaining portion of the parcel is zoned A-1, and the entire property is outside of the “triangle created by Route 3, Route 665, and Route 605” identified as being the area appropriate for industrial development, it is reasonable to recognize the longstanding industrial use of the former Birchwood Power Plant property and the fact that the undeveloped portion of the property is almost entirely abutted by industrial uses, as well as a CSX railway line, and currently has no direct access. Furthermore, the site is directly across Birchwood Creek Road from the King George County Industrial Park, an area where the Comprehensive Plan suggests industrial development be encouraged. However, it is important to consider that the Generalized Development Plan identifies the northern portion of the property as being undeveloped and preserved as open space; therefore, it does raise the question whether the rezoning of this property as requested is necessary.

With respect specifically to the request regarding the special exception permit amendment for Tax Map 21, Parcel 50, it is important to recall, as noted above, that the parcel had previously been used as an industrial use of greater magnitude and impact than that which is currently being proposed. It is thus reasonable to expect that the proposal meets the standards for approving a Special Exception Permit in the following manner:

1. The safety, health, morals, and general welfare of the community will not be negatively affected by the change in use, since the parcel had previously been used as an industrial use of greater magnitude and impact than that which is currently being proposed.
2. The proposed development is expected to generate only an additional 1,144 trips daily trips above and beyond that of the currently allowed uses, and thus congestion levels will remain at a minimum.
3. The Applicant has committed to providing an Emergency Action Plan to help dissuade any public safety concerns.
4. Residential uses are not proposed, and thus overcrowding of land should not be an issue.
5. The proposed use will utilize the existing water permit and intake facility that was previously used by the decommissioned Birchwood Power Facility presently located on the property.
6. Viewshed impacts of the proposed use will be minimal, so as to not interfere with light, air, or the general purpose and intent of the Zoning Ordinance.
7. Data centers are a permitted use in the Industrial zoning district and are thus harmonious with the other uses permitted by right on the subject parcel(s), as well as with the established development pattern of the area, since there are other industrial uses in proximity of the proposed development.

With respect to the rezoning request for the remaining eight (8) parcels (Tax Map 21 Parcels 25, 33, 35, 43, 44, 47, 48, and 48D), the rezoning of these parcels alone would increase the land zoned Industrial by approximately 675 acres. Regardless of the Comprehensive Plan amendments, expansion of Industrial-zoned lands to this degree and the resulting development as proposed does not seem to be supported by County policies encouraging the focused development of industrial uses in areas that would not negatively impact residential or agricultural land uses or natural resources, and which are presently served by or planned to be served by supporting infrastructure. It should be noted that the Applicant intends for the proposed development to be served by the existing surface water intake permit and facility and that the Applicant is proposing to construct several electrical substations on site to help with any potential load on existing infrastructure. Furthermore, the Applicant has shown via the Generalized Development Plan that they will be providing extensive open space and protecting resource areas with generously-sized buffers.

In addition to the above, the Application presents some additional questions and considerations. However, it is important to mention that most of these concerns have since been addressed by the Applicant in subsequent application revisions.

- Data centers can have significant primary and backup electrical needs. Facilities and infrastructure associated with these needs can be impactful from a noise standpoint, present public health and safety considerations, and have aesthetic and viewshed impacts. While this may be the case, the Applicant has submitted a detailed utility plan showing the proposed location of all utilities, to include five future electrical substations. Furthermore, all utilities will be contained onsite, with the exception of water, which will use an existing easement to access a previously permitted intake facility that served the former Birchwood Power Facility. The Applicant has also proposed at least a 100-foot setback with a naturalized site buffer of variable width from adjacent roadways, limiting aesthetic and viewshed impacts.
- Industrial uses often have specific lighting needs for security and/or operations. The location, number, and intensity of lights may not be compatible with the welfare of abutting and nearby residents or resources. Examples of these potential impacts include: light fixtures in close proximity to abutting residential properties, natural resources, and roadways which may cast undesirable light onto these properties, natural resources, or roadways; lighting which may be deemed necessary for operations or security but may be excessively bright or intense, or utilized during hours that may be incompatible with abutting properties and/or unnecessary given hours of operation. While the Applicant has proposed limiting the height of light fixtures, requiring that fixtures be fully shielded (i.e.,

so as not to direct light upward), and limited footcandle levels at property lines, there are additional design aspects related to lighting that are not addressed (e.g., “full cutoff” light fixtures vs. fully shielded, maximum fixture and site lumen levels, maximum site footcandles, correlated color temperature, etc.). Based upon the proposed development and information submitted, potential impacts to rural and “dark sky” conditions supported by the County are not fully known. However, it should be noted that buildings will be set back at least 100 feet and include a naturalized site buffer when abutting a residential or agricultural district or use, which should help serve to limit the impacts of lighting fixtures on buildings and security-related lighting fixtures.

- Tax Map 21 Parcel 43 may contain notable and important historic resources. There are believed to be possible Underground Railroad, Native American settlement/village, and slave cabin artifacts, structures, and/or remnants with historical significance on the site. The County’s Comprehensive Plan includes policies and strategies indicating that historically significant sites should be protected “when [the County is] reviewing applications for change in land use decisions.” While the Applicant has committed to performing a Phase I survey for the property prior to site plan submission, and a Phase II survey if warranted, no additional information on the potential of existing historic resources is available at this time. It is not uncommon for development proposals at the stage of the current Application to provide an initial assessment providing information from publicly available sources on the presence of or potential for (or lack thereof) historical, architectural, archeological, or other cultural resources to be located on a project subject to a change in land use request.
- As previously noted, a Traffic Impact Assessment (TIA) has not been submitted; however, the Applicant has noted that a TIA will be performed prior to the first site plan approval for a data center use and that they will dedicate necessary right-of-way for warranted and future transportation improvements as identified under the TIA. The Applicant has also demonstrated that the proposed development is expected to generate only an additional 1,144 daily trips over that of the uses currently allowed under the existing zoning designations, negating the need for a VDOT Chapter 527 TIA.
- Based upon the size of the potential development area and potential floor area of industrial uses, both water and sewer service demand are expected to be significant. As noted herein, King George County Service Authority’s ability to service the potential development with potable water and sewer are limited based upon existing capacity. While this may be true, the Applicant has also stated their intent for water service for the project to utilize the existing ground water permit and that service will not be provided by King George County

Service Authority until public potable water services become available to the development in the future. The Applicant and King George County Service Authority are also working on cooperation to increase the potable water to this area.

- Landscaping and buffers are important components to development of this scale and to ensure consistency with County policies to preserve rural viewsheds. The Applicant has submitted street view renderings of the proposed buildings demonstrating that the impact to the viewshed will be minimal.
- With regard to the 8-acre minimum of potential public access along the Rappahannock River, while this access would be consistent with County's policies supporting the establishment of public river access, it is important to note that its usefulness may be limited by the topographic conditions of the site. However, given the topographical issues present on site, the Applicant has proffered to work with the County to address reasonable access to the Rappahannock River. The Applicant has also stated their intent to provide adequate right-of-way for the County to construct a shared use access road and other applicable improvements across the access easement area to and from the River Dedication Area. The proffers declare that the Applicant will be responsible for maintaining the constructed access road to and from the River Dedication Area, and they will also be responsible for repair of the access easement to and from the River Dedication Area in the event that the easement becomes damaged or impassable. On the other hand, the County would be responsible for repairing and maintaining the River Dedication Area itself.

While there are still some items of concern that have not been addressed in the application materials, the Applicant has been diligent about answering staff's questions and responding to their concerns. It is thus Staff's opinion that the Board of Supervisors act as recommended below for the following reasons:

1. Much of the area proposed for development is located directly across Birchwood Creek Road from the King George County Industrial Park, an area where the Comprehensive Plan suggests industrial development be encouraged. Furthermore, while the Rappahannock River/South Rural Development Area and thus Tax Map 21 Parcel 43 may not currently accommodate industrial uses per the Comprehensive Plan, there are existing industrial uses and industrially-zoned parcels nearby. Expanding the Route 3/West Settlement Area to encompass Tax Map 21 Parcel 43 would merely allow limited expansion of industrial uses adjacent to an existing industrial use.
2. The Applicant has submitted a detailed utility plan showing the proposed location of all utilities, to include five future electrical substations. Furthermore, all utilities will be

contained on site, with the exception of water, which will use an existing easement to access a previously permitted intake facility that served the former Birchwood Power Facility. This should help to dissuade any concerns about the potential electrical needs of the proposed data center use.

3. The Applicant has noted that a TIA will be performed prior to the first site plan approval for a data center use and that they will dedicate necessary right-of-way for warranted and future transportation improvements as identified in the TIA. They have also demonstrated that the proposed development is expected to generate only an additional 1,144 daily trips over that of the uses currently allowed under the existing zoning designations, negating the need for a VDOT Chapter 527 TIA. VDOT has also stated they have no objections to the proposed rezoning.
4. The Applicant has stated their intent for water service for the project to utilize the existing groundwater permit and intake facility, and that service will not be provided by King George County Service Authority until such time that public potable water services become available, which should help with concerns regarding the capacity limits of the existing system.
5. The Applicant has submitted street view renderings of the proposed buildings demonstrating that the impact to the viewshed will be minimal. Floor area and height of buildings will also be limited so as to assist in this matter. Generous setbacks and buffers are proposed adjacent to roadways and abutting properties as well.
6. The Applicant has proffered to provide approximately 351 total acres of open space throughout the development, to include a 75-acre preservation area on Tax Map 21 Parcel 50 and an 80-acre preservation area on Tax Map 21 Parcel 43, assisting in the protection of forest land and open space. The Generalized Development Plan also shows the Applicant's commitment to protecting critical environmental resources, most notably the Rappahannock River and Muddy Creek. It also depicts additional protection of Resource Protection Areas by utilizing a naturalized site buffer of variable width for each existing Area.
7. The Applicant has stated their intent to provide adequate right-of-way for the County to construct a shared use access road and other applicable improvements across the access easement area to and from the River Dedication Area on Tax Map 21 Parcel 43. They'll be responsible for maintaining the constructed access road to and from the River Dedication Area as well as for repair of the access easement in the event it becomes damaged or impassable. They will also work with the County to address reasonable access to the Rappahannock River.
8. The Applicant has committed to the submission of an Emergency Action Plan to help address public safety concerns. They have also proffered to pay \$2 million to the County to help mitigate any potential public safety impacts and have agreed to dedicate a total of

fifteen to twenty acres from Tax Map 21 Parcels 47, 48, and/or 48D to the County for use by the County's Sheriff's Office and Fire Department.

9. A Financial Impact Analysis (FIA) provided by the Applicant as an attachment to their application shows that this type of development, assuming a total investment of \$1 billion (to include both real and personal property), will generate approximately 138 total jobs (through both direct and indirect activity); approximately \$9.7 million worth of labor income; and approximately \$78 million of output. Approval of the Applications would help foster growth by promoting a more technology-driven environment that decreases the barriers to entry.
10. Several smaller parcels will be consolidated into this larger development, helping to achieve coordinated development with fewer entrances onto nearby roadways and greater setbacks.
11. The Applicant has proposed decibel limits of 60 dBA between 6 am and 10 pm and 55 dBA between 10 pm and 6 am, which is equivalent to the level of a normal conversation. This is consistent with King George County's noise ordinance which lists a maximum of 75 dBA between 6 am and 10 pm and 65 dBA between 10 pm and 6 am. It is also consistent with the limits proposed in King George County's draft noise ordinance of 60 dBA during daytime hours and 55 dBA overnight. The Applicant has also proposed to provide a Sound Analysis prior to both the County's approval of the final site plan and the issuance of the final certificate of occupancy for each data center building. Following these initial sound analyses, the Applicant has proffered to perform annual sound testing "on the anniversary date of the County's issuance of the final certificate of occupancy permit as applicable for each building" to confirm compliance with the standards outlined in the proffers.

STAFF RECOMMENDATION AND PLANNING COMMISSION ACTION

Staff Recommendation

Based upon the above analysis, Staff submits the following recommendations for consideration by the Board of Supervisors:

- Staff recommends **approval** of the **proposed Comprehensive Plan amendments**.
- Staff recommends **approval** of the request made under **Conditional Rezoning Application Case Number** Z-2023-00099 to conditionally rezone, with proffers, Tax Map 21 Parcels 25, 33, 35, 43, 44, 47, 48, 48D, and a portion of Tax Map 21 Parcel 50 from the Limited Agricultural (A-1) and Rural Agricultural (A-2) zoning districts to the Industrial (I) zoning district.

- Staff recommends **approval** of the request made under **Proffer Amendment Case Number Z-2023-00101** to amend the proffers associated with Rezoning 91-03-Z01 for Tax Map 21 Parcel 50 (the former Birchwood Power Facility, total of approximately 317 acres).
- Staff recommends **approval** of the request made under **Special Exception Permit Case Number Z-2023-00100** to amend the previously issued special exception permit applicable to a portion of Tax Map 21 Parcel 50 (the former Birchwood Power Facility, approximately 211 acres) and Tax Map 29 Parcel 4 (easement on parcel located along south boundary of Kings Highway) to terminate the existing use as a power production facility and manufactured aggregate facility as well as to retain the allowed pumping station and associated water intake facility uses.

Planning Commission Action

The Planning Commission made the following recommendations during their hearing on August 8, 2023:

1. With respect to the Comprehensive Plan amendments, the following motion was made by Mr. Fox and seconded by Mr. Parker. The motion failed with a vote of 4-4, with Flatley, Fox, Parker, and Kendrick in favor and DaCorta, Devries, Moss, and Williams opposed:

Subject to the applicant being required to install and maintain at its expensive, permanent noise monitoring stations, in such quantities and locations as are mutually agreed between the applicant and King George County Administration for the purpose of ensuring compliance with applicable King Goerge County noise ordinance limits, on a continuous 24 hour per day, 365 day per year basis for the lifetime of the applicants projects where the actual read out for all such noise monitoring stations is at all times accessible to King Goerge County Administration on a real time basis, I move that the Planning Commission forward the Comprehensive Plan Amendments as proposed by the applicant to the King George County Board of Supervisors with recommendation for partial approval to redefine the boundaries of the Route 3/West Primary Settlement Area, to expand a boundary line from Route 665 (Birchwood Creek Road) to Routes 3 (Kings Highway) and 603 (Fletchers Chapel Road) to include only parcels identified in Conditional Rezoning Application Case Number Z-2023-00099 but excluding parcels not owned or controlled by the applicant or located south of Route 3 as shown in the GIS Map 3 (incorporated by reference herein). This recommendation does not include changing the planning area of limited areas south of Route 3 (near the Rappahannock River) on either side of Dissington Lane whether or not parcels are identified in Conditional Rezoning Application Case Number Z-2023-00099 or any parcels presently outside of the Route 3/West Primary Settlement Area except for Tax Parcel 21-25, Tax Parcel 23-35, and Tax Parcel 21-33. The boundaries

of the Potomac River/North Rural Development Area are recommended to be amended consistent with the land to be excluded from that planning area and relocated to the Route 3/West Primary Settlement Area. Amendments should be made to update Maps 6 and 12 to be consistent with the foregoing. This recommendation includes a finding that the general location, character, and extent of electrical substations and accessory equipment shown on the applicant's General Development Plan north of Route 3 is substantially in accordance with the Comprehensive Plan as hereby recommended for amendment. These recommendations and findings are based on the existing language in the Comprehensive Plan to limit industrial development to the triangle created by Routes 3, 665, and 605 and harmonious development in accordance with present and future needs of the affected settlement areas and promoting low intensity industrial development in appropriate areas not adjoining the Rappahannock River. There is a further finding that the public interest would not be served at the present time by including parcels not owned or controlled by the applicant within the triangle created by Routes 3, 665, and 605 because of the objection of one or more owners of the affected parcels, the expressed intention of one or more owners to continue agricultural uses, and because the majority of the parcels so excluded do not individually meet the minimum square footage for industrial uses stated in the zoning code of 10 acres.

2. With respect to Conditional Rezoning Case Number Z-2023-00099, the following motion was made by Mr. Devries and seconded by Mr. Kendrick. The motion carried 6-2 with Devries, Fox, Kendrick, Moss, Parker, and Williams in favor and DaCorta and Flatley opposed:

I move to forward the Conditional Rezoning Application Case Number Z-2023-00099 to the King George County Board of Supervisors with recommendation for partial approval to rezone, with proffers, part of Tax Map 21 Parcel 47, Tax Map 21 Parcel 48, Tax Map 21 Parcel 48D, and part of Tax Map 21 Parcel 50 from Limited Agricultural (A-1) to Industrial (I). This recommendation for approval shall also include the request to rezone, with proffers, Tax Map 21 Parcel 25, Tax Map 21 Parcel 33, Tax Map 21 Parcel 35, and Tax Map 21 Parcel 44 from Rural Agricultural (A-2) to Industrial (I). This recommendation does not include any parcels south of Route 3 (Kings Highway) including Tax Map 21 Parcel 43 and the portion of Tax Map 21 Parcel 47 that is south of Route 3. The recommendation to approve rezoning Tax Map 21 Parcel 48D to Industrial is conditioned upon such parcel being combined with one or more industrial parcels by boundary line adjustment plat or resubdivision of properties on a duly approved and recorded plat to meet a minimum lot size of 10 acres as required by King George Zoning Ordinance Section 2.12.6(a). This recommendation is based on land use considerations including the existing language in the Comprehensive Plan to limit industrial development to the triangle created by Routes 3, 665, and 605 and harmonious development in accordance with present and future needs of the affected settlement areas and promoting low intensity industrial development in appropriate areas not adjoining the Rappahannock River that provide desirable employment and enlarge the tax base.

3. With respect to Proffer Amendment Application Case Number Z-2023-00101, the following motion was made by Mr. DaCorta and seconded by Mr. Kendrick. The motion carried 6-2, with DaCorta, Devries, Flatley, Kendrick, Moss, and Williams in favor and Fox and Parker opposed:

I move to recommend approval of Proffer Amendment Application Case Number Z-2023-00101: Request by Applicant to amend the proffers associated with Rezoning 91-03-ZO1, for limited industrial uses. Includes Tax Map 21 Parcel 50 (located at 10900 Birchwood Drive). Total area of approximately 317 acres included in this request. The property is located in the Route 3 West settlement Area per the King George County Comprehensive Plan.

4. With respect to Special Exception Permit Case Number Z-2023-00100, the following motion was made by Mr. Kendrick, seconded by Mr. Fox, and passed unanimously:

I move to forward Special Exception Permit Case Number Z-2023-00100 to the King George County Board of Supervisors with recommendation for approval to amend the previously issued Special Exception Permit #91-03-ZO1 to terminate the use of Tax Map 21 Parcel 50 as a power production facility and manufactured aggregate facility; as well as to retain the use of an easement located on Tax Map 29 Parcel 4 for a surface water intake facility in its current location on the lower Rappahannock River. This includes the water supply facilities associated with the intake and Dominion substation/switchyard and related electrical utility facilities. This recommendation is based on a special exception existing to limit use of the property to a coal-fired power plant and accessory uses, such power plant has been demolished except for some supporting infrastructure compatible with redevelopment, and the proposed redevelopment plan of the property is use consistent with priorities of the Comprehensive Plan.

With respect to the Comprehensive Plan amendments, pursuant to § 15.2-2223, *Comprehensive plan to be prepared and adopted; scope and purpose*, of the Code of Virginia, a Comprehensive Plan "shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities." It is recommended that the Board of Supervisors consider this purpose when considering action on the requested amendments to the Comprehensive Plan.

With respect to the rezoning requests, pursuant to Section 5.3, *Procedures for amending the zoning ordinance*, of the County's Zoning Ordinance, action by County's Board of Supervisors on a rezoning application shall be based on finding that, prior to accepting and imposing proffered

conditions, 1) the rezoning is proper and appropriate, notwithstanding the proffer of conditions, and 2) that the conditions proffered are in compliance with the limitations set in Section 5.3.7 of the Zoning Ordinance and the Code of Virginia. It is recommended that the Board of Supervisors consider these findings as a basis for their action on the requested conditional rezonings.

With respect to the amendment of the special exception permit, pursuant to Section 5.4, Procedures for special exception, of the Zoning Ordinance, special exception permits may be issued when the Board of Supervisors finds that the proposal meets the following:

- a. Will not be detrimental to the safety, health, morals and general welfare of the community involved;
- b. Will not tend to create congestion in streets, roads, alleys and other public ways and places in the area involved;
- c. Will not create hazards for fire, panic or other dangers;
- d. Will not tend to overcrowding of land and cause an undue concentration of population;
- e. Will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements;
- f. Will not interfere with adequate light and air;
- g. Will not interfere with the general purpose and intent of this ordinance.
- h. The use shall not tend to change the character and established pattern of development of the area of the proposed use.
- i. The use shall be in harmony with the uses permitted by right in the Zoning District.

In preparation for the meeting, Staff will provide motion options for the four principal requests, with motions for approval, denial, and deferral.

- A. Conditional Rezoning Application Forms
- B. Proffer Amendment Application Form
- C. Special Exception Permit Application Form
- D. Zoning Narrative
- E. Global Proffer Statement
- F. Proffer Amendment Statement
- G. Adjoining Property Owners List
- H. Location Map
- I. VDOT Letters of Review
- J. Generalized Development Plan

ADDENDUM

The Applicant has made revisions to their submittal since the Planning Commission meeting on July 18, 2023. Those amendments are as follows:

July 13, 2023 Submittal

1. Global Proffer Statement:
 - a. Section II(2): phrase "in excess of 1 million total square feet for the Project" removed to indicate that the Traffic Impact Analysis (TIA) will be completed prior to the first site plan approval for a data center use, regardless of size.
 - b. Section III(1)(b): mention of phasing removed for Development Area #2 (Tax Map 21 Parcel 50).
 - c. Section III(6)(b): resolves internal inconsistency.
 - d. Section III(14): word "phased" removed from Section.
 - e. Section III(16): resolves internal inconsistency.
2. Proffer Amendment Statement:
 - a. Section III(b): phrase "in excess of 1 million total square feet for the Project" removed to indicate that the Traffic Impact Analysis (TIA) will be completed prior to the first site plan approval for a data center use, regardless of size.
 - b. Section IV(e)(2): resolves internal inconsistency.
 - c. Section IV(k): resolves internal inconsistency.
3. Zoning Narrative:
 - a. Section I: Paragraph referencing phasing removed. Information added regarding how the estimated daily trips negate the need for a Chapter 527 TIA but will necessitate the preparation of one per County standards. Paragraph referencing total trips at full buildout removed.
 - b. Section III: Phrase "and in multiple phases" removed from second paragraph. Mention of phasing removed for Development Area #2.
 - b. Section IV: Mention of phasing removed for Development Area #2. Phrase "and phased" removed from final paragraph on page 13.
 - c. Section VII: Information added regarding how the estimated daily trips negate the need for a Chapter 527 TIA but will necessitate the preparation of one per County standards. Third paragraph removed in its entirety.
 - d. Section XI: Phrase "in several phases" removed from first paragraph.
4. Generalized Development Plan: "Phase 1" label removed for Development Area #2.

July 18, 2023 Submittal

1. Global Proffer Statement:
 - a. Section III(1): Subsections (d) and (e) removed.
 - b. Section III(2): Development Areas #4 and #5 added to square footage limitations for accessory uses.
 - c. Section III(16): Proposed dBA levels changed to be in accordance with King George County draft Noise Ordinance. Exemptions to requirements listed in this Section added. Clarifies that Sound Analysis will be submitted prior to final Certificate of Occupancy for each data center building.
2. Proffer Amendment Statement:
 - a. Section IV(k): Proposed dBA levels changed to be in accordance with King George County draft Noise Ordinance. Exemptions to requirements listed in this Section added. Clarifies that Sound Analysis will be submitted prior to final Certificate of Occupancy for each data center building.
3. Zoning Narrative:
 - a. Section III: Development Areas #4 and #5 are now listed under buildable development area limitations for accessory buildings/structures. Phrase "of industrial constructed space" removed.
 - b. Section IV: Development Areas #4 and #5 are now listed under buildable development area limitations for accessory buildings/structures. Phrase of "industrial constructed space" removed. Language indicating that Development Areas #4, #5, and #6 may only be developed for accessory uses, including a retention pond, has been added.
 - c. Section XII: Proposed dBA levels changed to be in accordance with King George County draft Noise Ordinance. Clarifies that Sound Analysis will be submitted prior to final Certificate of Occupancy for each data center building. Exemptions to requirements listed in this Section added.

July 21, 2023 Submittal

1. Global Proffer Statement:
 - a. Section III(16): Added phrase "whether one data center or multiple located on a subject parcel". Added language agreeing to annual sound testing on the anniversary date of the issuance of the final Certificate of Occupancy for each building.
2. Proffer Amendment Statement:
 - a. Section IV(k): Added phrase "whether one data center or multiple located on a subject parcel". Added language agreeing to annual sound testing on the anniversary date of the issuance of the final Certificate of Occupancy for each building.

3. Zoning Narrative:

- a. Section XII: Added phrase "whether one data center or multiple located on a subject parcel". Added language agreeing to annual sound testing on the anniversary date of the issuance of the final Certificate of Occupancy for each building.

August 9, 2023 Submittal

1. Global Proffer Statement:

- a. Section III(12): Clarified that the dedication area in Development Area #1 will be a minimum of eight acres. Added language stating the Applicant will work with the County to address reasonable access to the Rappahannock River.
- b. Section III(16): Added language stating that a Sound Analysis will also be provided prior to the County's issuance of each final site plan.
- c. Section V(3): Increased public safety cash proffer to \$2 million.
- d. Added Section V(4): "Dedication of Land for Sheriff's Office and Fire Department".