



County of King William, Virginia

**PLANNING COMMISSION MEETING  
DECEMBER 6, 2022 – 7:00 P.M.  
KING WILLIAM COUNTY ADMINISTRATION BUILDING  
KING WILLIAM, VIRGINIA**

**A G E N D A**

1. Call to Order
2. Roll Call
3. Review and Adoption of Meeting Agenda
4. Review and Approval of Minutes:
  - a. November 1, 2022
5. Public Comment Period – Speakers: *One opportunity of 3 minutes per individual or 5 minutes per Group on Non-Public Hearing Matters*
6. Public Hearing
  - a. CUP-03-22: Owner/Applicant – John W. Foley, Applicant/John W. Foley, II, Trustee, Owner
7. Old Business
  - a. Review Zoning Map
  - b. Discussion of TCO and PUD
  - c. Minor Subdivision Ordinance
8. New Business
9. Staff and/or Special Committee Reports
  - a. Edmunds Reports provided by Christina Grover
  - b. Violation Logs
  - c. Commissioner Comments
10. Adjournment

**4a.**

**Review and Approval of Minutes**

**November 1, 2022**



**MINUTES  
KING WILLIAM COUNTY  
PLANNING COMMISSION  
REGULAR MEETING OF NOVEMBER 1, 2022**

A regular meeting of the Planning Commission of King William County, Virginia, was held on the 1st day of November 2022, beginning at 7:00 p.m. in the King William County Board Room of the Administration Building and via Zoom.

**Agenda Item 1. CALL TO ORDER**

The meeting was called to order by Chairman Matthew Sluder at 7:00 p.m.

**Agenda Item 2. ROLL CALL**

**The members were polled:**

Darrell Kellum	Aye
Bonnie Hite	Aye
Don Wagner	Aye
Stephen Greenwood	Aye
Chairman Matthew Sluder	Aye

Also in Attendance:

Sherry Graham, Director of Planning  
Christina Grover, Zoning Administrator  
Barbara Trimmer, Planning Secretary

**Agenda Item 3. REVIEW AND ADOPTION OF AMENDED MEETING AGENDA**

Commissioner Wagner moved for the adoption of the meeting agenda as presented. The motion was seconded by Commissioner Kellum. The Chairman called for any discussion. The members were polled:

Darrell Kellum	Aye
Bonnie Hite	Aye
Don Wagner	Aye
Stephen Greenwood	Aye
Chairman Matthew Sluder	Aye

**Agenda Item 4a. REVIEW AND APPROVAL OF OCTOBER 4, 2022, MINUTES**

Commissioner Hite moved for the adoption of the October 4, 2022, minutes as presented. The motion was seconded by Commissioner Kellum. The Chairman called for any discussion. The members were polled:

Darrell Kellum	Aye
Bonnie Hite	Aye
Don Wagner	Aye
Stephen Greenwood	Aye
Chairman Matthew Sluder	Aye

**Agenda Item 4b. REVIEW AND APPROVAL OF THE AMENDED OCTOBER 12, 2022 JOINT WORKSESSION MINUTES**

Commissioner Kellum moved for the adoption of the October 12, 2022, Joint Work session minutes as amended. The motion was seconded by Commissioner Hite. The Chairman called for any discussion. The members were polled:

Darrell Kellum	Aye
Bonnie Hite	Aye
Don Wagner	Aye
Stephen Greenwood	Aye
Chairman Matthew Sluder	Aye

**Agenda Item 5. PUBLIC COMMENT PERIOD**

The Chairman opened the floor for public comments. There being no one in person or via Zoom to speak, the Public Comment Period was closed.

**Agenda Item 6. Public Hearing**

**a. CUP-02-22: Owner/Applicant – Liberty Hall VA, LLC**

Ms. Graham presented the request by Liberty Hall VA, LLC property owner and James Gottwald, Registered Agent for a Conditional Use Permit 02-22 in order to construct a 33' x 38' covered boathouse to be located at 5239 Green Level Road. The boat house will be located on tax map parcel 51-9 and located on the Pamunkey River. The property is zoned A-C (Agricultural-Conservation).

After the Planning Commission held a discussion, Chairman Sluder opened the for comments or questions. There being no one in person or via Zoom to speak, the Public Comment Period was closed.

Commissioner Kellum made a motion, seconded by Supervisor Greenwood to recommend approval to the Board of Supervisors with the following conditions.

1. The proposed work must meet all requirements of the State and Local agencies.
2. All work must be completed within two (2) years of the approval date, or the permit becomes invalid, and the applicants will need to re-apply.

The members were polled:

Darrell Kellum	Aye
Bonnie Hite	Aye
Don Wagner	Aye
Stephen Greenwood	Aye
Chairman Matthew Sluder	Aye

**Agenda Item 7. Old Business**

- a. Review of Zoning Map
- b. Discussion of TCO and PUD

**Agenda Item 8. New Business**

The Planning Commission discussed minor subdivisions and possibly revising the ordinance to permit lots to front secondary roads and have a shared driveway between two lots.

**Agenda Item 9. STAFF AND COMMITTEE REPORTS**

Edmonds and Violation reports were presented to the Board Ms. Grover.

**Agenda Item 11. Adjournment or Recess**

Commissioner Greenwood made a motion to adjourn the meeting, seconded by Commission Kellum. There being no further business, the meeting adjourned at 8:50 p.m. The members were polled:

Darrell Kellum	Aye
Bonnie Hite	Aye
Don Wagner	Aye
Stephen Greenwood	Aye
Chairman Matthew Sluder	Aye

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**Matthew Sluder, Chairman**

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**Sherry Graham, Commission Secretary**

**6a.**

**Public Hearing – CUP-03-22**

**Owner – John W. Foley**

**Applicant – John W. Foley, II, Trustee**



County Administrator

William L. Hodges, First District  
Travis J. Moskalski, Second District  
Stephen K. Greenwood, Third District  
C. Stewart Garber, Jr., Fourth District  
Edwin H. Moren, Jr., Fifth District

**TO:** Planning Commission  
**FROM:** Sherry Graham, Director of Planning  
**SUBJECT:** Public Hearing for CUP 03-2022  
**DATE:** December 6, 2022

### **Request**

This is a request from John W. Foley, Applicant, and Owner, John W. Foley, II, Trustee, for Conditional Use Permit 03-22 in order to use the existing home located at 5149 Wakema Road as a Short-Term Business Rental. The property is a single-family home that consists of approximately 3372 square feet and is located on 13.53 acres and situated on the Mattaponi River. The property is located on tax map parcel 56-2-1 and zoned R-R (Rural-Residential).

### **Existing/Proposed Uses**

Existing use: The applicant currently uses the home as a vacation home part-time.  
Existing structures: Single Family Dwelling, Boathouse, Dock and Shed  
Proposed uses: Short Term Business Rental that will be limited to 6 adult guests.

### **Background**

The applicant purchased this home in 2021 and has personally occupied the home on a part-time basis as their vacation home. The applicant now seeks to offer the home as a Short-Term business rental to others who are visiting the area or would enjoy a peaceful getaway that is located on the Mattaponi River.

Short term business rental means the rental of any legally permitted dwelling unit for occupancy, or any portion of any legally permitted dwelling unit for occupancy, for dwelling, lodging, or sleeping purposes for a period of less than 30 consecutive calendar days.

## **Conditional Use Permit Analysis**

On September 27, 2021, the Board of Supervisors adopted changes to the Subdivision and Zoning Ordinance which included the addition of short-term rentals. The ordinance requires the approval of a Conditional Use Permit prior to a short-term rental facility being permitted in the R-R zoning district. This information can be found in Section 86-210 of the Ordinance. (Copy attached)

The applicant has stated in his application that the short-term rental will be offered for stays of less than 30 days and that no food or beverages will be offered for sale in connection with these stays.

The applicant will maintain a registration book for one year or longer and make such a book available to the County upon request.

The applicant will have no signage advertising a short-term rental.

The applicant understands that three substantiated complaints may result in the license being revoked; the applicant will take the following measures to avoid any complaints:

- a. Screen all potential guests and prohibit the following: large gatherings, pets, groups of guests under age 25.
- b. Maintain a Ring doorbell with camera at the front of the property to ensure the above.
- c. Keep the nightly rate at or over \$500 per night and a nightly minimum of at least 2 nights.
- d. Require guests to agree to rules prohibiting the above.
- e. Remove all trash from the property immediately following each rental (or more frequently, should the rental period be over one week).
- f. Keep the property maintained at all times including hiring local businesses for housekeeping, landscaping, and other maintenance.
- g. The applicant will maintain a business license.
- h. All guests will park in the driveway which can comfortably hold all guest vehicles.
- i. The property will meet all building codes for a rental unit and applicant understands that the County may inspect the home once per year.
- j. The property address will be placed in a position that is plainly legible from the street.
- k. There will be no recreational vehicles.
- l. No occupancy less than overnight will be allowed.
- m. The property owner's name and telephone number will be posted.
- n. The principal guest shall be at least 25 years of age.
- o. The maximum number of adult guests is limited to 6.
- p. The applicant will remit any applicable lodging tax to the County.

## **Public Notice**

Advertisements were run in the Tidewater Review on November 23<sup>rd</sup> and November 30<sup>th</sup>, 2022. Letters were mailed to the adjacent property owners on November 18, 2022.

## **Recommendation**

Staff recommends approval of the conditional use permit will the condition that the applicant meet all requirements of Section 86-210 of the Subdivision and Zoning Ordinance. The applicant has stated in his application that he will meet each of these requirements.

## **Materials/Background**

The Conditional Use packet includes the following:

Application

Public Notices

Letters to Adjacent Property Owners

Letters to Property Owners

Zoning Map

GIS Map

Site Plans

Zoning Ordinance Section 86-456

Application # 4679



## **HOW TO OBTAIN A CONDITIONAL USE PERMIT KING WILLIAM COUNTY, VA**

**WHAT IS A CONDITIONAL USE?** A conditional use is a use listed as such in the Zoning Ordinance and which may be permitted in a specified zoning district under certain conditions, such conditions to be determined in each case by the terms of the Zoning Ordinance and by the Board of Supervisors after public hearing and a report by the Planning Commission.

Once the applicant submits all required materials for a Conditional Use Permit to the Planning Department, County staff will review its content and determine when the next public hearing will be available. Two successive weeks prior to the hearing date, the County must advertise for hearings by both the Planning Commission and the Board of Supervisors. After both hearings, the applicant will submit a Final Site Plan to the Zoning Administrator.

### **APPLICANT'S RESPONSIBILITIES:**

The applicant for a conditional use permit is expected to:

1. Complete the application form
2. Prepare preliminary and final site plans in accordance with requirements of Article X, Section 86-451, of the Zoning Ordinance; and
3. Attend all meetings and public hearings of the Planning Commission and Board of Supervisors at which the application is discussed.

**ADDITIONAL INFORMATION:** The applicant is advised to read Article X of the Zoning Ordinance, concerning conditional uses. Questions should be referred to the Zoning Administrator.

**NOTE:** An incomplete application will be returned to the applicant. An application is not complete until all supporting documents have been submitted. After the submission of the initial application, any and all additional information necessary for deciding whether the Zoning Map Amendment should be approved must be submitted by the 5<sup>th</sup> of the Month in order to be considered for the closest public hearing date. Failure to submit the information in this manner may lead to either the tabling or denial of the request.

**INSTRUCTIONS FOR COMPLETING THE APPLICATION FOR  
CONDITIONAL USE PERMIT  
KING WILLIAM COUNTY, VA**

1. The application form must be filled out completely, with full answers to every statement and question. If spaces provided are not adequate, supplemental sheets may be attached. The form **MAY NOT** be signed by an agent or attorney, but **MUST BE** signed by the owner or applicant before a Notary Public in the space provided.
2. A preliminary site plan which complies with the requirements of Article XI, Sec. 86-491 of the Zoning Ordinance must accompany the application.
3. A non-refundable application fee of **\$2,500.00**, payable to King William County, must accompany the application.

**Effective 12-2019**



**CONDITIONAL USE PERMIT APPLICATION**  
King William County  
Department of Community Development  
180 Horse Landing Rd. #4 King William, VA 23086  
Phone (804) 769-4980 Fax (804) 769-2235

1. Owner: John Weldon Foley, II, Trustee  
Name: \_\_\_\_\_  
Address: 6254 Fox Branch Ct, Midlothian, VA 23112  
Phone Number: 757-839-3428
  
2. Applicant:  
Name: John W. Foley  
Address: 6254 Fox Branch Ct, Midlothian, VA 23112  
Phone Number: 757-839-3428
  
3. Property description:
  - (a) Size (acres): 13.53 Road frontage: \_\_\_\_\_
  
  - (b) Deed recorded in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_  
Plat recorded in Plat Book \_\_\_\_\_ at Page \_\_\_\_\_  
Tax Map: 560 Section 2, Parcel 1
  
  - (c) Zoning District: \_\_\_\_\_
  
4. Hours of operation of the planned facility: 24 hours, 365 days/year  
\_\_\_\_\_
  
5. Describe water supply plans: existing well  
\_\_\_\_\_
  
6. Describe sewage disposal plans: existing septic  
\_\_\_\_\_

7. Attach a statement describing how specific conditions stated in Article X, Sec. 86-451, of the Zoning Ordinance for the type of project planned will be met.

I hereby certify that the information presented in this application and on the accompanying site plan is complete and accurate to the best of my knowledge. County officials and employees are authorized to enter upon the property described herein during regular working hours for the purpose of performing assigned duties in connection with this application.

Signature of Owner or Applicant: 

\*\*\*\*\*

STATE OF: Virginia COUNTY OF: Chesterfield, to-wit:

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of October, 2022.

  
Notary Public



10/31/2024  
My Commission Expires

**Statement in Support of Conditional Use Permit Application**

This statement is submitted in support of the Conditional Use Permit Application for the property at 5149 Wakema Road, West Point, VA 23181 (the "Property") to be utilized as a Short term business rental in accordance with Section 86-210 of the Zoning Ordinance.

**Background**

The Property is a single family home located on over 13 acres on the Mattaponi River. The Property consists of 3877 square feet including 4 bedrooms and has been recently remodeled to provide a comfortable, modern living space with beautiful views of the Mattaponi River. The Property runs on well water and a septic system and has a large driveway with ample parking off the main road.

The Applicant purchased the Property in 2021 and has personally occupied it on a part-time basis as a vacation home (Applicant maintains a permanent residence outside of Richmond, approximately an hour away). The Applicant now seeks to offer the home as a Short Term business rental to others who are visiting the area or would enjoy a peaceful getaway to the Mattaponi River. The Applicant envisions that guests will visit from all over the state of Virginia to enjoy the peace and relaxation that come with the home as well as from outside the state to those visitors who may use it as a "home base" for visits to Williamsburg, Jamestown, and Richmond. Additionally, the Applicant notes that King William and surrounding areas are home to several event/wedding venues that are increasing in popularity but there are few lodging options for guests. The Applicant anticipates that some of these wedding parties may like to rent a home to stay in rather than travel further to a hotel.

As such, the Applicant seeks the approval of its Conditional Use Application for the Property to be classified as a Short Term Business rental.

**Compliance with Article X, Sections 86-451 and 86-210 of the Zoning Ordinance****Section 86-510: Relationship to Comprehensive Plan**

The Applicant seeks a Conditional Use Permit as a Short Term Business rental. The Applicant proposes keeping the Property as it currently stands - a single home.

**Section 86-210: Short Term Business Rental**

The Applicant understands and agrees to the following requirements of Section 86-210 and intends to comply as follows:

- The short term rental will be offered for stays of less than 30 days. No food or beverages will be offered for sale in connection with these stays (i.e., not a bed and breakfast).
- The Applicant shall maintain a registration book for one year (or longer) and make such book available for examination by the County upon request.
- There will be no signage advertising a short term rental.
- The Applicant understands that three substantiated complaints may result in the license being revoked; however, applicant shall take the following measures to avoid any complaints:
  - Screen all potential guests and prohibit the following: large gatherings, pets, groups of guests under age 25.
  - Maintain a Ring doorbell with camera at the front of the property to ensure the above.

10/21/2022

Applicant: John Weldon Foley, II, Trustee

- Keep the nightly rate at or over \$500 per night and a nightly minimum of at least 2 nights.
- Require guests to agree to rules prohibiting the above.
- Remove all trash from the Property immediately following each rental (or more frequently, should the rental period be over one week).
- Keep the Property maintained at all times including hiring local businesses for housekeeping, landscaping, and other maintenance.
- The Applicant shall maintain a business license to be renewed annually.
- There shall be no on-street parking; all guests will park in the Property's driveway which can comfortably hold all guest vehicles.
- The Property shall meet all applicable building codes for a rental unit and Applicant understands that the County may inspect it once per year to monitor compliance.
- The Property shall have an address placed in a position that is plainly legible from the street fronting the Property (Wakema Road). The numerical address (5149) shall also be posted.
- No recreational vehicles shall be used in conjunction with the Property.
- Occupancy shall not be permitted for a period of less than overnight (in most cases a minimum of 2-3 days occupancy shall be required).
- The name and telephone number if the Owner shall be conspicuously posted in the Property.
- The principal guest shall be at least 18 years of age (actually, the plan is to require that they be 25 years of age).
- The maximum number of adult guests is limited to 6.
- The Applicant shall collect and remit any applicable lodging tax to The County.

#### **Conclusion**

As stated above, the Property is the Applicant's second home which is cherished. The Applicant intends to take every measure possible to ensure that the Property's use as a short term business rental is not a burden to any of its neighbors and is in fact a benefit to its neighbors, local businesses, and to the County as a whole.

Accordingly, the Applicant respectfully requests the approval of its Conditional Use Permit Application.



**King William County**  
Building & Zoning Department  
180 horse Landing Road #4  
King William, VA 23086

<b>INVOICE #</b>
<b>22-05109</b>

ACCOUNT ID: O-000715 PIN: 512627  
INVOICE DATE: 10/28/22  
DUE DATE: 11/27/22

FOLEY II TRUSTEE, JOHN WELDON 5149 WAKEMA ROAD WEST POINTVA 23181, 00000
--

PERMIT INFORMATION  
APPLICATION ID: 4679  
LOCATION: 5149 WAKEMA ROAD  
OWNER: FOLEY II TRUSTEE, JOHN WELDON

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
		Permit App Id: 4679		
1.0000	PLN-CONA	CONDITIONAL USE - ACCESSORY Permit App Id: 4679	2,500.000000	2,500.00
			TOTAL DUE:	<u>\$ 2,500.00</u>

King William County

Date: 10/28/2022 Time: 10:41 AM

Invoice Payment

Customer: O-000715

Name: FOLEY II TRUSTEE, JOHN WELDON

Invoice: 22-05109

Permit App Id: 4679

Item 1 2,500.00  
CONDITIONAL USE - ACCESSORY

-----  
2,500.00

Chk#: 1746

Batch Id: AC1028

Ref Num: 6599 Seq: 8 to 8

Cash Amount: 0.00  
Check Amount: 2,500.00  
Credit Amount: 0.00

-----  
Total: 2,500.00

Thank You for your payment!



**King William County  
Public Hearing Notice**

The Planning Commission of King William County, Virginia will hold a Public Hearing on Tuesday, December 6, 2022, at 7:00 p.m., or as soon thereafter, in the Board Meeting Room of the County Administration Building, 180 Horse Landing Road, King William, Virginia, and via Zoom to receive public comments on the following matter:

**CUP-03-22: Owner/Applicant: John W. Foley, II, Trustee  
Agent: John W. Foley**

A request for Conditional Use Permit 03-22 to use the existing home located at 5149 Wakema Road as a Short-Term Business Rental. The property is a single-family home located on 13.53 acres and situated on the Mattaponi River. The property is located on tax map parcel 56-2-1 and zoned R-R (Rural-Residential).

All interested persons may appear and present their views in person or via Zoom as applicable. Those attending via Zoom must preregister at [kingwilliamcounty.us](http://kingwilliamcounty.us) by noon on the day of the meeting. If a member of the public cannot attend, comments may be submitted by mail to 180 Horse Landing Road, #4, King William, VA 23086; by email to [sgraham@kingwilliamcounty.us](mailto:sgraham@kingwilliamcounty.us) or by calling 804-769-4980. Comments received by 12:00 noon on the day of the hearing will be distributed to Commission Members and made a part of the public record. All records pertaining to this matter may be viewed in the Office of Community Development at 180 Horse Landing Road, King William, VA during regular business hours. Anyone needing assistance or accommodations under the provisions of the American with Disabilities Act should contact the Office of Community Development at (804)769-4980 or [sgraham@kingwilliamcounty.us](mailto:sgraham@kingwilliamcounty.us).

By Authority of  
Sherry L. Graham  
Director of Community Development  
**Ad to run November 23<sup>rd</sup> and November 30<sup>th</sup>, 2022**

**John Weldon Foley, II, Trustee**  
**5149 Wakema Road**  
**Tax Map 56-2-1**

**Adjacent Property Owners:**

Plantation Rose LLC  
3656 Custis Mill Pond Road  
West Point, VA 23181  
Tax Map 48-26

Elliott B. Bondurant  
Laura W Bondurant  
PO Box 1227  
West Point, VA 23181  
Tax Map 56-2-2

Huntington Woods, LLC  
PO Box BM  
Williamsburg, VA 23187  
Tax Map 55-7-11

Sibyl Rose  
3656 Custis Mill Pond Road  
West Point, VA 23181  
Tax Map 49A-1



King William  
County  
Est. 1702

Board of Supervisors

Office of  
Community Development

William L. Hodges, First District  
Travis J. Moskalski, Second District  
Stephen K. Greenwood, Third District  
C. Stewart Garber, Jr., Fourth District  
Edwin H. Moren, Jr., Fifth District

November 18, 2022

**RE: Notice to Adjacent Property Owners  
Request for Conditional Use Permit 03-22  
Tax Map Parcel: 56-2-1  
Owner/Applicant: John W. Foley, II, Trustee  
Agent: John W. Foley**

Dear Property Owner:

The King William County Planning Commission will hold a Public Hearing on Tuesday, December 6th, 2022, at 7:00 p.m., or as soon thereafter, in the Board Meeting Room of the County Administration Building, 180 Horse Landing Road, King William, Virginia and via Zoom to receive public comment on the following matter:

A request for Conditional Use Permit 03-22 in order to use the existing home located at 5149 Wakema Road as a Short-Term Business Rental. The property is a single-family home located on 13.53 acres and situated on the Mattaponi River. The property is located on tax map parcel 56-2-1 and zoned R-R (Rural-Residential).

You are being notified of this hearing because your property is adjacent to or in close proximity to the above-stated request. All interested persons may appear and present their views at the above time and place, or via the Zoom Meeting, as applicable. **Those attending via Zoom must preregister at [kingwilliamcounty.us](http://kingwilliamcounty.us) by noon on the day of the meeting.** If a member of the public cannot attend, comments may be submitted by mail to 180 Horse Landing Road, #4, King William, VA 23086; by email to [sgraham@kingwilliamcounty.us](mailto:sgraham@kingwilliamcounty.us) or by calling 804-769-4980. Comments received by 12:00 noon on the day of the hearing will be distributed to Commission Members and made a part of the public record. All records pertaining to this matter may be viewed in the Office of Community Development at 180 Horse Landing Road, King William, VA during regular business hours. Anyone needing assistance or accommodations under the provisions of the American with Disabilities Act should contact the Office of Community Development at (804)769-4980 or [sgraham@kingwilliamcounty.us](mailto:sgraham@kingwilliamcounty.us).

Sherry L. Graham  
Director of Planning



King William County  
Est. 1702

Board of Supervisors

Department of Community Development

William L. Hodges, First District  
Travis J. Moskalski, Second District  
Stephen K. Greenwood, Third District  
David E. Hansen, Fourth District  
Robert W. Ehrhart, Fifth District

November 18, 2022

Mr. John W. Foley  
6254 Fox Branch Court  
Midlothian, VA 23112

**RE: Application for a Conditional Use Permit**

Dear Mr. Foley:

The Planning Commission will hold a Public Hearing on Tuesday, December 6, 2022, at 7:00 p.m. in the Board Meeting Room of the County Administration Building, 180 Horse Landing Road, King William, Virginia to consider your request for a conditional use permit to use the existing home located at 5149 Wakema Road as a Short-Term Business Rental.

Although your attendance is not mandatory, it is strongly encouraged. If you have any questions, please do not hesitate to call.

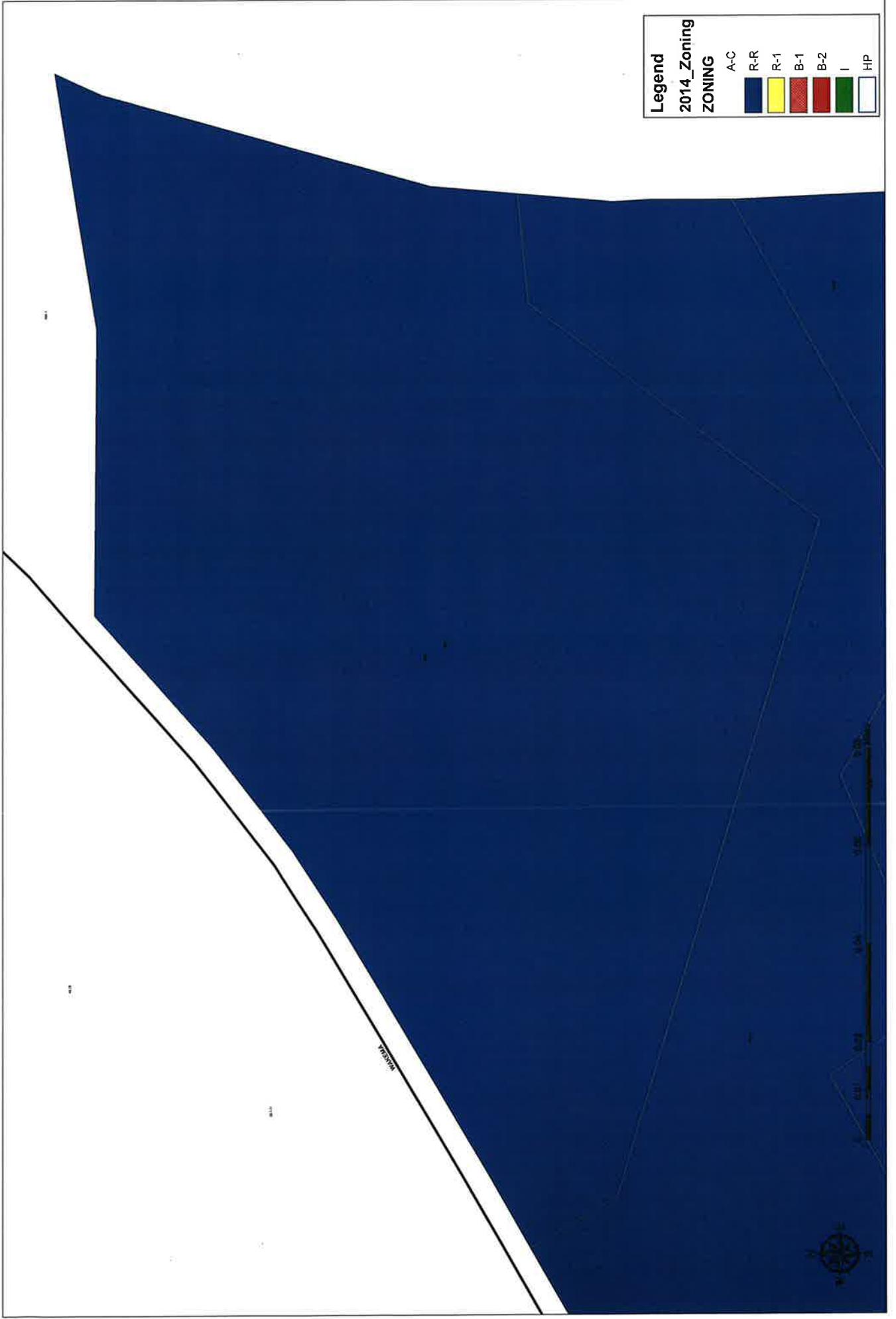
Sincerely,

Sherry L. Graham

Sherry L. Graham  
Director of Planning

180 Horse Landing Road, No.4 • King William, Virginia 23086  
804-769-4969 • Fax: 804-769-4964  
[www.kingwilliamcounty.us](http://www.kingwilliamcounty.us)

**CASE # CUP-03-22**  
**OWNER: JOHN W. FOLEY II, TRUSTEE - APPLICANT: JOHN W. FOLEY**  
**TAX MAP: 56-2-1**



This map was created for planning purposes only. November 15th, 2022 B. Brooks

**CASE # CUP-03-22**  
**OWNER: JOHN W. FOLEY II, TRUSTEE - APPLICANT: JOHN W. FOLEY**  
**TAX MAP: 56-2-1**



This map was created for planning purposes only. November 15th, 2022 B. Brooks



5149 Wakema - 23-7-1



October 17, 2022

-  Provisioning Boundary
-  West Point Boundary
-  County Boundary
-  Road Centerline

1:2,257



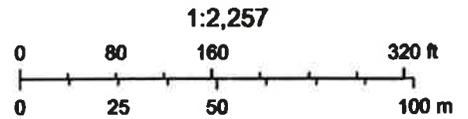
Virginia Geographic Information Network (VGIN)

# Wakema



October 28, 2022

-  Provisioning Boundary
-  County Boundary
-  West Point Boundary
-  Road Centerline



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

**Sec. 86-205. Sales offices; temporary.**

In any zoning district, a temporary office trailer designed as an office and lacking kitchen facilities may be placed on any active construction site for the duration of the construction project. Any such temporary office shall be removed from the site within ten days after completion of construction. A similar temporary office may be used as a sales office in any major subdivision as defined in article XVIII, subdivisions, provided that such office shall be removed from the subdivision within ten days after sale of the last lot, or six months after recordation of the final plat, whichever is sooner.

**Sec. 86-206. Shooting range, indoor.**

1. Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking and appearance. Drop-off areas may be located in the front yard but shall maintain a residential character and appearance.
2. Exterior lighting shall be compatible with the surrounding neighborhood and follow the lighting restrictions and guidelines of this ordinance.
3. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
4. The scale, massing, and building design shall be compatible with the surrounding neighborhood.
5. The location, design, and construction of the site buildings shall prevent noise from being heard beyond the property boundaries.

**Sec. 86-207. Shooting range, outdoor.**

All such turkey shoots or shooting matches that use number 8 shot shall be held such that all ranges shall be at least 300 feet from any and all property lines, and other size shot shall require a range of adequate distance as deemed appropriate by the Zoning Administrator utilizing information received from local or state law enforcement agencies or private ballistics experts.

**Sec. 86-208. Shooting range, private.**

All private shooting ranges shall be at least 100 feet from a road and 300 feet from any dwelling that is not located on the subject property.

**Sec. 86-209. Shopping center.**

The following general standards shall apply to all shopping centers:

1. Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
2. The scale, massing, and building design shall be compatible with surrounding developments. The structures shall be street oriented with pedestrian entrances from the street.
3. No outdoor display of goods shall be permitted.

**— Sec. 86-210. Short term business rental.**

1. Definitions. As used in this article, unless the context requires a different meaning:
  - a. *Booking transaction* means any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.
  - b. *Guest or transient* means a person who occupies a short-term business rental unit.

## King William County Zoning and Subdivision Ordinance

- c. *Short Term Business Rental* means a legally permitted dwelling unit or any portion of any legally permitted dwelling unit that is used or advertised for occupancy, for dwelling, lodging or sleeping purposes for a period of less than 30 consecutive days. This use type does not include bed and breakfast establishments and does not apply to month to month extensions following completion of a year's lease.
  - d. *Primary resident (or Host)* means the owner of the short-term business rental, or lessee of the short-term business rental with a lease agreement that is one year or greater in length.
  - e. *Residential dwelling unit* means a residence where one (1) or more persons maintain a household.
2. Business License and other requirements.
- a. No host shall operate a Short-Term Business Rental without first obtaining an annual business license from the County.
  - b. A registration book must be maintained for one (1) year and be made available for review by the County upon request.
  - c. No signage advertising a Short-Term Business Rental shall be allowed.
  - d. License may be revoked if more than three substantiated complaints are received within a one-year period. Revocation is for a minimum of one year but may be permanent at the discretion of the County.
  - e. Any short-term business rental in violation of zoning regulations, including operation without a license, is subject to all relevant penalties as set forth by the County.
  - f. The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.
3. Safety. The unit shall meet all applicable building codes for a rental unit and the County may inspect any short-term business rental once per year for compliance with applicable building codes.
4. Site address. Building (dwelling) will have an approved address placed in a position that is plainly legible and visible from the street fronting the property. Structures obscured from street view or access roads in excess of one hundred and fifty (150) feet in length shall additionally post the numerical address at the roadway entrance.
5. Use regulations.
- a. No recreational vehicles may be used in conjunction with the short-term business rental to increase the occupancy of the rental unit.
  - b. The host shall not permit occupancy of a short-term business rental unit for a period of less than overnight.
  - c. The name and telephone number of the host or the host's designee shall be conspicuously posted within the rental unit for guest(s).
  - d. The principal guest of a short-term business rental unit shall be at least eighteen (18) years of age.
  - e. The maximum number of adult guests in a short-term business rental unit is limited to six (6).

King William County Zoning and Subdivision Ordinance

6. Business License suspension or cancellation.
- a. A short-term rental business license may be suspended or cancelled for the following reasons:
    - i. Failure to collect and/or remit the transient occupancy tax.
    - ii. Three (3) or more substantiated complaints (including, but not limited to, noise and excess trash) within a twelve-month period.
  - b. Before any suspension or cancellation can be effective, the Zoning Administrator shall give written notice to the host. The notice of suspension or cancellation issued under the provisions of this ordinance shall contain:
    - i. A description of the violation(s) constituting the basis of the suspension or cancellation;
    - ii. If applicable, a statement of acts necessary to correct the violation; and
    - iii. A statement that if no written response by the host is received by the Planning Department within fourteen (14) days from the date of the notice, the business license will be suspended or cancelled.
  - c. The notice shall be given to the host by delivering a copy of the notice in person. If the host cannot be found, such notice shall be sent to the address of record by:
    - i. Certified mail or e-mail to the addresses in the business license form; and
    - ii. A copy of the notice shall be posted in a conspicuous place on the premises.
  - d. A copy of the notice will be provided to the Commissioner of Revenue to advise the business license may be revoked.
  - e. Any determination made by the Zoning Administrator may be appealed to the Board of Zoning Appeals as outlined in article IV.
  - f. Penalty.
    - i. It shall be unlawful to operate a short-term business rental:
      - 1. without obtaining a business license as required by this article,
      - 2. after a business license has been suspended or cancelled, or
      - 3. in violation of any other requirement of this article.
    - ii. The penalty shall be a fine of five hundred dollars (\$500.00) per occurrence.
  - g. Exemptions.
    - i. Any residential dwelling unit which, at the time of adoption of this ordinance, is being operated as a short term business rental and is properly licensed by the Commissioner of Revenue of the County shall not be subject to the provisions of this section "Short Term Business Rental" set forth below until December 31, 2020:
      - 1. The limitation on the total number of guests set forth in paragraph 5(e) of this section.

King William County Zoning and Subdivision Ordinance

- ii. All other provisions of this section not listed above shall apply to all residential dwelling units. Beginning in calendar year 2021, this sunset provision (section g. i) shall terminate, and the provisions of this ordinance shall apply uniformly, without regard to operation prior to the adoption of this ordinance. This section g. i shall not be construed to allow a short term business rental to operate at any time without a license from the County.

**Sec. 86-211. Store, grocery.**

Entrances to the site shall be minimized and located in such a way as to maximize safety, ensure efficient traffic circulation, and minimize the impact upon the surrounding neighborhood.

**Sec. 86-212. Temporary construction structure.**

A temporary building or structure, including a manufactured home, recreational vehicle, or other highway vehicle, may be erected or placed on a construction site in any district as an accessory structure if such building's structures or vehicle are incidental and reasonably necessary to construction work on the premises. Such temporary building, structure, or vehicle shall be placed on a construction site only after a building permit has been issued for the on-site construction work to be performed. When such construction work is completed or abandoned, when the building permit expires or is revoked, whichever comes first, such temporary building, structure, or vehicle shall be removed.

**Sec. 86-213. Tent or tent-like structures.**

Tents or tent-like structures shall not be erected as buildings. Tents may be erected for temporary events accessory to the primary use or related to a permitted use for the zoning district to last no longer than ten days. Such permits for temporary events shall be subject to any reasonable conditions related to health, safety and transportation that the Zoning Administrator may require after consultation with the state department of health, sheriff's department and the state department of transportation.

**Sec. 86-214. Wholesale sales.**

1. Loading areas shall be sited in such a way to minimize the impact on any surrounding neighborhood.
2. Parking shall be located behind the front line of the principal building.

**Sec. 86-215—86-229. Reserved.**

**Division 5 – Industrial Uses**

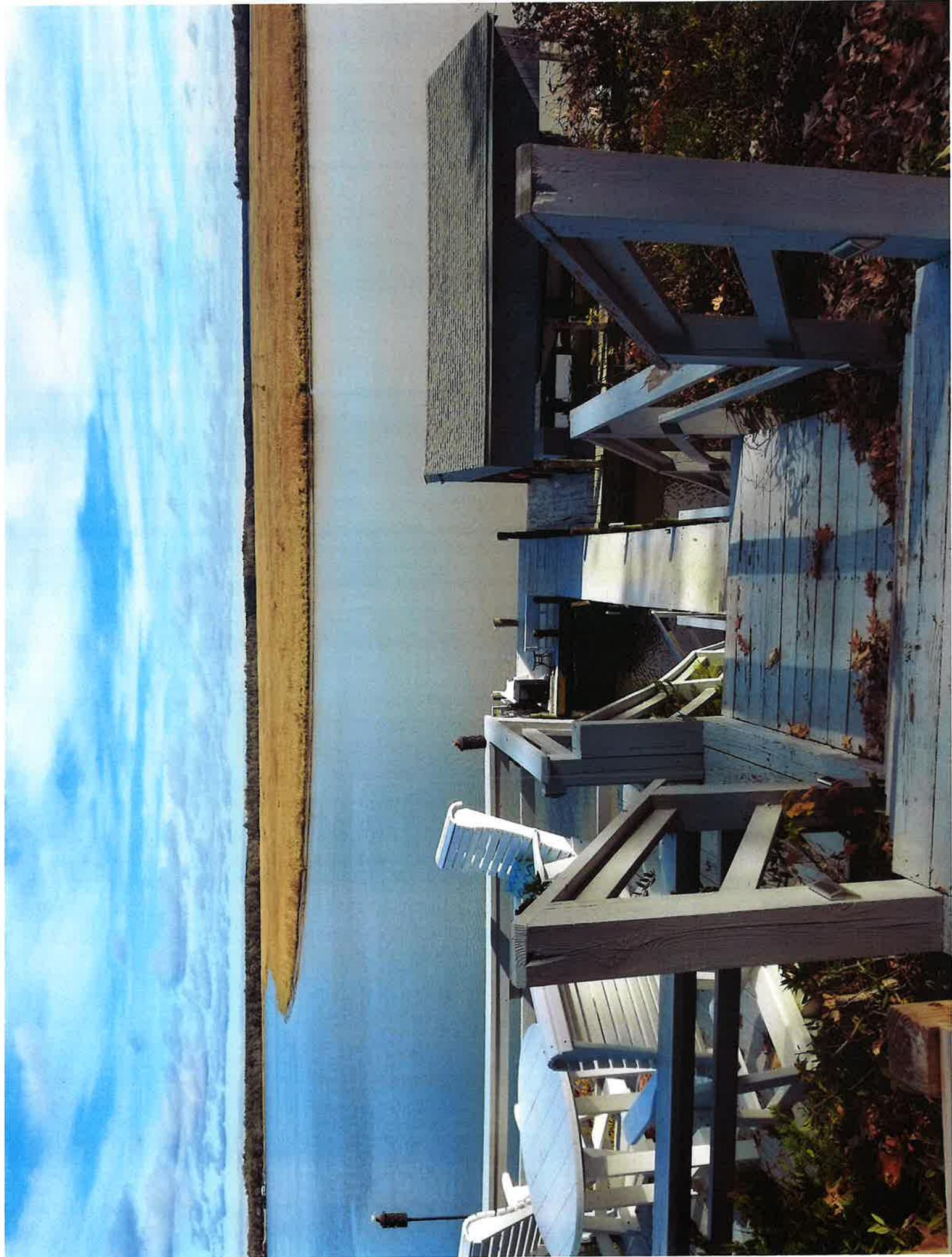
**Sec. 86-230. Generally.**

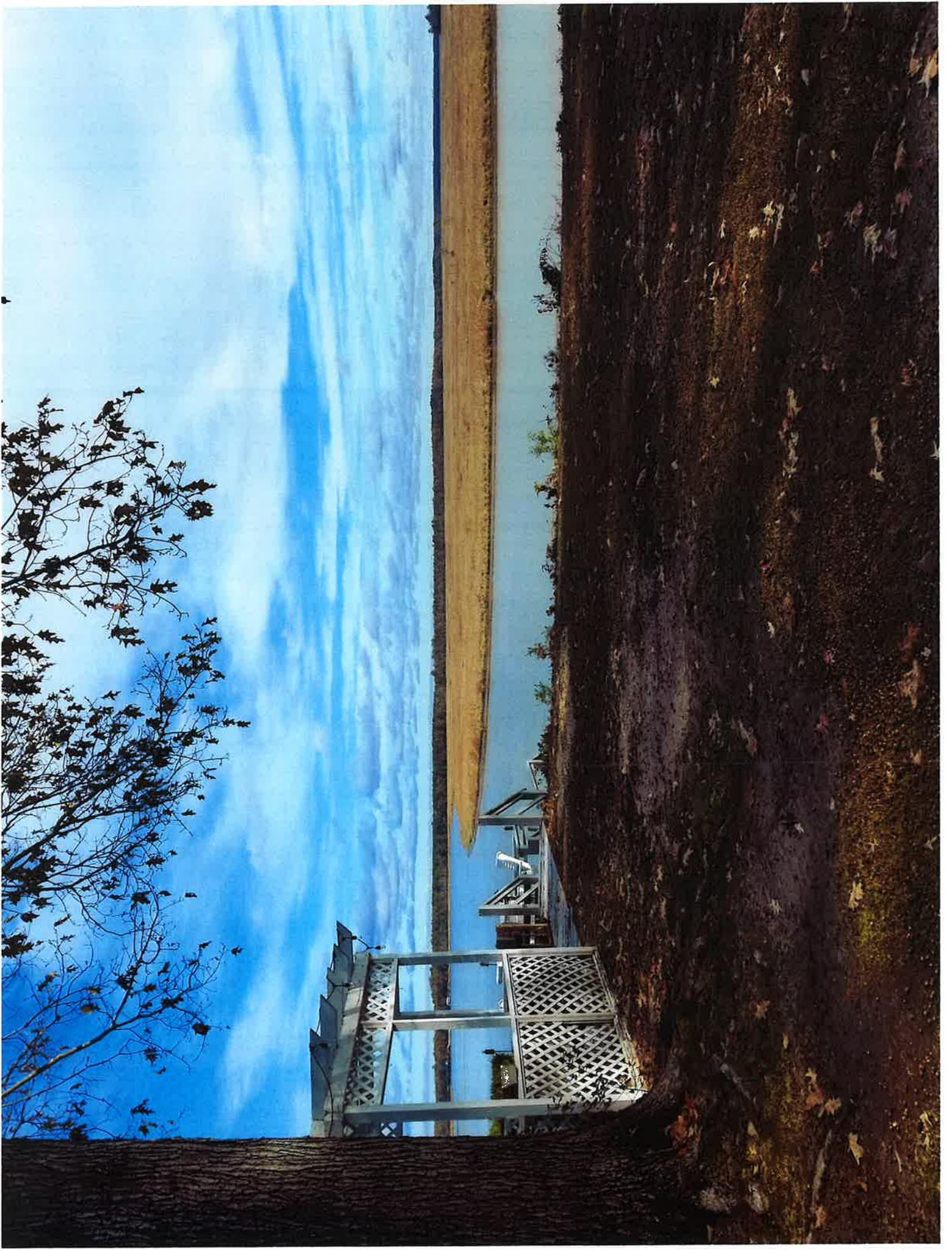
1. Finished or semi-finished products manufactured on the premises may be stored in the open if screened from a residence district by landscaping, fences or walls.
2. All fencing and/or walls shall have a uniform and durable character and shall be properly maintained.

**Sec. 86-231. Junk, salvage, and auto wrecking yards.**

1. No junkyard, salvage yard or automotive wrecking yard or graveyard shall hereafter be established with any portion of its area within 500 feet of a public street, road, or highway.
2. All such yards shall be screened effectively from view from public streets or highways, public spaces, and adjacent property in a residence or business district by natural vegetation, topography or other means and shall be surrounded by an opaque structural screen, fence, or wall not less





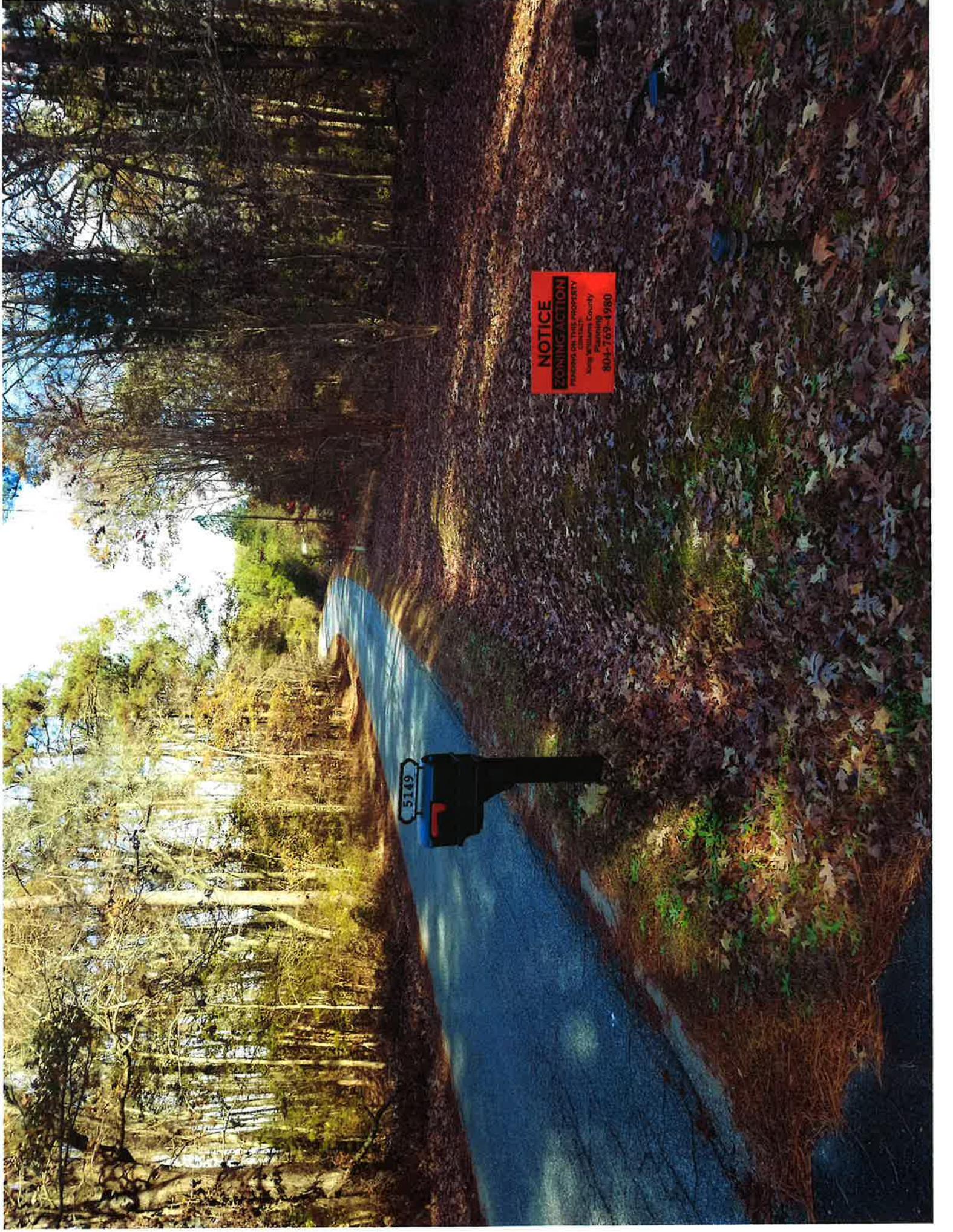




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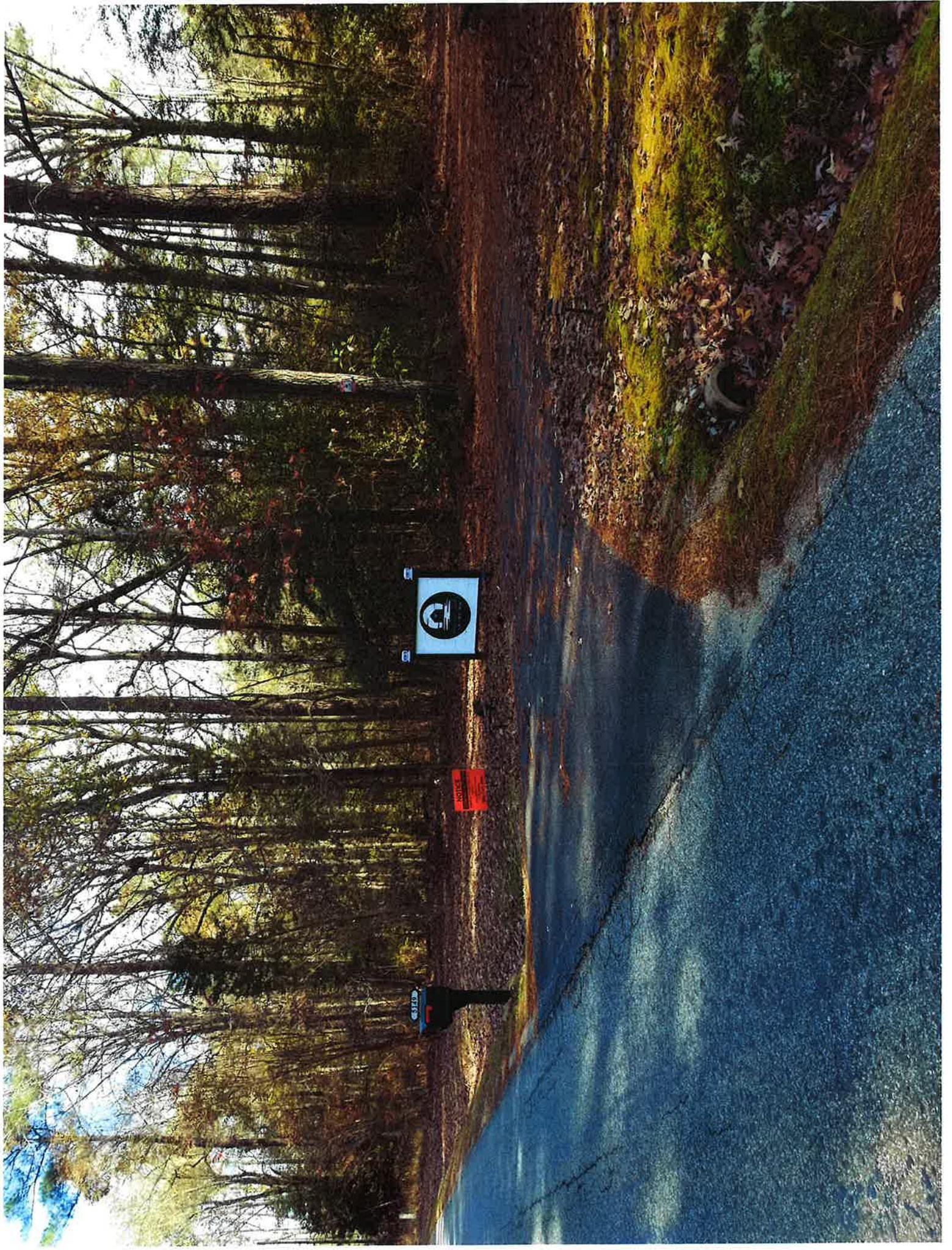






**NOTICE  
ZONING ACTION**  
PREFERRED OVER TREE PROPERTY  
King Williams County  
Planning  
804-769-4980

5149







**7.**

**Old Business**

- a. Review Zoning Map**
- b. Discussion of TCO and PUD**
- c. Minor Subdivision Ordinance**

## **Sec. 86-136. TCO Transportation Corridor Overlay District.**

### **Sec. 86-136.1. Establishment.**

For the purposes enumerated in section 86-100, a special overlay zoning district is hereby established to be known as the transportation corridor overlay (TCO) district.

### **Sec. 86-136.2. Boundaries.**

The boundaries of the TCO district are hereby established on the County's zoning district map and made a part of the applicable regulations for all properties shown on the zoning district map. The TCO district boundaries are defined as follows:

1. *Route 360.* Properties with frontage on U.S. Highway 360 for its entire length through the County and extending 750 feet on either side from the centerline of such highway or to the depth of the property, whichever is less; and,
2. *Route 30.* Properties with frontage on State Highway 30, for its entire length through the County and extending 500 feet on either side from the centerline of State Highway 30, or to the depth of the property, whichever is less.

### **Sec. 86-136.3. Applicability.**

Regulations in the TCO district shall apply to all sites developed, redeveloped, or expanded after the establishment of the district. The district shall not apply to those sites developed prior to its establishment, unless there is an expansion of floor area in excess of a cumulative total of 50 percent or 5,000 square feet, whichever is less. A one-time expansion consisting of 1,200 square feet or less of additional floor area shall be exempt from the requirements of the TCO district.

### **Sec. 86-136.4. Permitted uses.**

Permitted uses in the TCO district are uses permitted in the underlying primary zoning.

### **Sec. 86-136.5. Standards of development.**

All applications for development or redevelopment in the TCO district except those exempted by section 86-136.3 must satisfy the following standards as well as applicable provisions of article XVII of this ordinance (site plans).

1. *Frontage landscaping.* Along the property's border on U.S. Highway 360 or State Highway 30, a buffer shall be provided as follows:
  - A. A landscape buffer of at least 25 feet in width shall be landscaped with at least one deciduous tree, at least two inches in caliper measured six inches from the ground when planted, with branching no closer than five feet to the ground, or one evergreen tree, at least six feet in height when planted, for each 50 feet of lineal frontage; as well as at least one shrub, at least 18 inches in spread when planted, for each 30 feet of lineal frontage, planted and maintained at 24 inches in height or lower; and other ground cover reasonably dispersed throughout the buffer.
  - B. Vegetation planted in the buffer shall be of a type and/or positioned so as to not interfere with overhead or underground utility lines when fully grown.
  - C. All landscaping shall be installed in accord with good horticultural practices. The owner of the property shall be responsible for the maintenance, repair, and replacement of all required landscaping materials. All plant materials shall be maintained in a healthy, growing condition and free from refuse and debris at all times. All unhealthy, dying, or dead plant materials shall be replaced during the next planting season.
  - d. The buffer shall adhere to all sight distance requirements as determined by VDOT.
  - e. An additional buffer of ten feet along the property's frontage shall be preserved for future road or pedestrian improvements.

2. *Buffers.* Buffers shall be provided in accordance with the requirements of section 86-294.

3. *Screening, loading, and storage.* Screening shall be required in accordance with the Requirements of section 86-295. Loading docks shall be provided at the side or rear only. All outside storage shall be located only in the rear or side yard and shall be screened from view at the property line from a public road or adjoining A-C, R-R, or R-1.
3. *Installation of landscaping.* Required landscaping shall be installed in accordance with the requirements of section 86-293.
4. *Access.* Each B-1, B-2, or I development site shall be limited to one point of access for every 500 feet of frontage on U.S. Highway 360 or State Highway 30. To the extent feasible, parking areas shall be arranged so that circulation among or between various businesses can be accomplished without reentering a primary public highway. A-C, R-R, or R-1 parcels subdivided after the effective date of this section shall be required to share a single entrance on U.S. Highway 360 or State Highway 30.
5. *Building exteriors.* Building exteriors visible from U.S. Highway 360 or State Highway 30 shall be approved by the Zoning Administrator. ~~be stucco, natural wood siding, brick, stone, decorative block, neutral colored cementitious siding or other materials with similar texture and appearance shall be providing.~~ ~~Nationally recognized and/or trademarked colors, logos, pictures or similar type features may be permitted on the building facades, awnings or other complimentary architectural features with the approval of the Zoning Administrator.~~ ~~Vinyl siding, flat or corrugated metal and concrete block shall not be used for exterior siding material on any building, except that vinyl siding may be used as trim material.~~ ~~The exterior covering material shall extend to the ground, except that when a solid brick or masonry perimeter foundation is used, exterior covering material need not extend below the top of the foundation.~~
6. *Roofs.* Roofing materials shall consist of wood, tin, copper, slate, terra cotta, standing seam metal or dimensional fiberglass shingles. Pitched roofs shall be provided wherever practicable, and any flat roof shall have a parapet wall to screen from view at ground level at the property line the flat roof and any roof mounted equipment.
7. *Architectural.* All principal buildings within a single development project shall have a Complementary architectural appearance with the use of similar building materials, scale, color and other architectural features. ~~No building façade, whether front, side or rear, shall consist of architectural materials inferior in quality, appearance, or detail to any other façade of the same building.~~ ~~The intent of this requirement is not to preclude the use of different materials on different building facades, but rather to preclude the use of inferior materials on sides which face adjoining property and thus, might adversely impact existing or future development causing a substantial depreciation of property values.~~ ~~Large work area doors or open bays shall not open towards or face the public right-of-way.~~ ~~All mechanical equipment including duct work, air compressors and other fixed operating machinery shall be either screened from view with either a solid wall, solid fence or landscaping or located so that such items are not visible from the public right-of-way.~~
8. *Outside storage.* Outside storage of equipment, materials, or supplies if permitted in the underlying district, shall be permitted only in the side or rear yards and shall be screened from view from the public right-of-way with fencing or landscaping.
9. *Fencing.* Fencing along the public right-of-way is discouraged, but if used, such fencing shall be landscaped to minimize visibility from the public right-of-way or be of a style which is harmonious with the rural, agricultural and historical character of the County. Chain link fences shall be prohibited.
10. *Signs.* All business identification signs shall be monument signs not to exceed 15 feet in height for individual businesses and 20 feet in height for businesses with multiple tenants. Pole signs and free-standing signs shall be prohibited. Electronic or digital signage, as permitted pursuant to article X, shall be equipped with a device to automatically dim the brightness during night or low-light conditions.
11. *Lighting.* Any on-site lighting shall be "shoe-box" style lighting fixtures, or equivalent, to conceal the lighting source and minimize spillover or glare on adjoining properties. Any lighting used under canopies shall be recessed to minimize glare. Lighting shall be reduced to no more than a security level following close of daily operations.

12. A pedestrian way (sidewalk) of no less than five feet of clear unimpeded areas shall be provided across the frontage of the property and be ADA compliant. All pedestrian ways must adjoin one another or connect.
13. *Underground utilities.* Utility lines, including, but not limited to, electric, CATV, and telephone, shall be placed underground. This requirement applies to lines serving individual sites within the development as well as utility lines providing service to the development. Existing overhead utility lines may be extended to a terminal pole at the property line, as needed, and thence placed underground.

#### Exceptions to the Transportation Corridor Overlay District Requirements.

Exceptions to the development requirements and standards specified in this article may be granted by the Board of Supervisors following a recommendation by the Planning Commission in accordance with the procedures set out in this section.

## Article II, Definitions

**Subdivision, minor** means a subdivision other than a major subdivision or a single-lot subdivision that results in the creation of no more than four platted lots.

**Subdivision, major** means a subdivision with more than four lots and may contain lots of less than 15 acres. The term "major subdivision" shall include any subdivision of more than four lots, which is designed and developed as a single unit, regardless of the number of owners and/or subdividers involved, or the number of parcels or tracts of land encompassed, by the subdivision. The term "major subdivision" shall also include any subdivision which initially contains fewer than five lots, but which is intended to become a subdivision of more than four lots at some future time through additions. Any proposed subdivision which standing alone would qualify as a minor subdivision, but which will adjoin an existing minor subdivision shall be classified as a major subdivision and shall meet all the requirements of this article pertaining thereto if the total number of lots in the two subdivisions exceeds four and:

1. The proposed minor subdivision will be created from the remainder of the tract or parcel of land from which the existing subdivision was created, irrespective of any change of ownership of such remainder since the creation of the existing subdivision;
2. Access to the proposed subdivision is through the existing minor subdivision;
3. The two subdivisions have the same or similar names; or
4. The lot numbering system for the two subdivisions suggests that the proposed subdivision is an expansion of the existing one.

### **Sec. 86–454. Minor residential subdivisions.**

1. *Intent.* The requirements of this division are intended to be commensurate with the impact of small subdivisions, creating two to four lots, on the areas in which they are located. Thus, the regulations focus on access, lot sizes, and suitability of the land, abbreviated platting requirements and accelerated administrative processing.
2. *Multiple minor subdivisions.* Development of two or more adjoining minor subdivisions, for the purpose of circumventing the requirements of this division pertaining to major subdivisions shall not be permitted. Refer to the definition of "major subdivision".
3. *Improvements.* Improvements in minor subdivisions shall be installed in accordance with provisions 5. – 7. below.
4. *Streets.* As allowed by the State Code of Virginia §15.2-2241
  - a. *Generally.* There shall be only one access to an adjacent primary or secondary highway by a new street and no lot shall have direct access to an existing primary or secondary highway. **However, lots can front an existing secondary highway with the use of a shared driveway between two lots.**
  - b. *New streets.* All streets in a proposed subdivision shall be designed and constructed in accordance with subdivision street standards of VDOT. Streets so designed and constructed shall be recommended by the County for inclusion in the state highway system. For streets that remain private, there shall be road maintenance agreements for each lot in the subdivision as provided for in Item i. of this section.
  - c. *Alignment and layout.* Street arrangement shall be such as to cause no unnecessary hardship to owners of adjoining property should they decide to plat their own land and seek to provide convenient access to it. Where in the opinion of the agent it is necessary to provide for street access to adjoining property, right of way for proposed streets shall be extended to the property line. Half streets along the boundary of land proposed for subdivision shall not be permitted. The street layout shall be designed to create desirable building sites while respecting existing topography, minimizing street grades, avoiding excessive cuts and fills, and preserving trees to the maximum extent feasible for a reasonable economic use of the land.
  - d. *Spacing.* Streets shall be spaced to allow for blocks meeting the dimensional requirements contained herein and to minimize the number of intersections with existing or proposed arterial thoroughfares.
  - e. *Minor residential streets.* Minor residential streets, intended primarily for access to

individual properties, shall be arranged to discourage their use by through traffic.

f. *Reduction of traffic impacts.* No residential lot shall be platted in a minor subdivision, which has its primary frontage on U.S. Highway 360 or State Highway 30. Reverse frontage lots having access only from a parallel secondary highway or from new public streets are required.

g. *Right of access.* Anyone who subdivides land shall provide right of access to public streets to meet the minimum requirements of VDOT. No land shall be reserved, held or controlled for the purpose of prohibiting access to streets and roads unless owned, held or controlled exclusively by the County or an agency of the state or federal government.

h. *Scenic roads.* Where an existing or proposed street or roadway is designated as a scenic road or byway on the comprehensive plan, of which the major thoroughfare plan is a part, the purpose and standards established for such roads to maintain their scenic and historic qualities shall be observed in the design and development of an adjacent subdivision, including but not limited to such factors as maintenance of existing alignments and natural vegetation, appropriate pavement design, and due care with respect to location and design of access points.

i. *Maintenance of private streets.* Private streets must be maintained at a level that keeps the private street in compliance with the subdivision street standards of VDOT. Any private street must be owned and maintained by the developer, until such time as it is turned over to the ownership and maintenance of an approved homeowners' association.

j. *Maintenance of public streets.* The subdivider shall provide for maintenance of all new or improved public streets until such time as the streets are accepted into the secondary highway system of VDOT. The subdivider or developer shall furnish to the County a maintenance and indemnifying bond with surety satisfactory to the Board of Supervisors, in an amount sufficient for and conditioned upon the maintenance of public streets until such time as they shall be reviewed at the end of each twelve month period and at such times the agent may require that the amount of the bond be increased to cover inflated maintenance costs.

k. *Street names.* Proposed streets which are obviously in alignment with existing named streets shall bear the names of such existing streets. Names of proposed streets shall not duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court. Street names shall be indicated on all plats and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the Board of Supervisors.

l. *Street signs.* Street identification signs of a design approved by the agent shall be installed at all intersections either by the subdivider or at their cost.

m. *Construction of utilities.* All utilities constructed in or on public streets rights-of-way shall comply with the current land use permit manual of VDOT.

**State Law reference**— Coordination of streets with other streets, Code of Virginia, §15.2-2241(2); acceptance of dedication of right-of-way, Code of Virginia, §15.2-2241(5).

#### 5. Lots.

a. *Generally.* Lots in minor subdivisions shall comply with the requirements of this section.

b. *Lot arrangement.* The lot arrangement, design and orientation, shall be such that all lots will provide satisfactory building sites, properly related to topography and the character of surrounding development.

c. *Remnants.* Remnants or parcels of land below minimum area, including parcels which fail percolation tests, which may be left over after subdivision of a tract, shall be incorporated to adjacent lots or otherwise disposed of rather than allowed to remain as unusable parcels.

d. *Suitability for sewage disposal.* If on-site disposal systems are to be utilized in a minor subdivision, the plat shall not be approved until the health official affixes his signature to a statement on the plat certifying that the lots are generally suitable for the installation of such on-site systems.

#### 6. Easements.

a. *Generally.* Easements in minor subdivisions shall be reserved as indicated in this section.

b. *Required.* Where alleys are not provided in appropriate locations, easements of not less than 15 feet in width shall be provided where necessary to meet public utility requirements.

Easements of greater width may be required along lot line or across lots where necessary for the extension of trunk sewers or other primary utility lines.

*Drainage easements.* Where a proposed subdivision is traversed by any stream, watercourse or drainageway, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such streams, watercourses and drainageways, in accordance with standards established by the County.

c. *Utilities.* All utilities, poles or underground conduits for electric power lines or communication lines shall be placed in alleys if such are provided or in easements appropriately located, generally along the rear or side lot lines whenever this is possible.

**State Law reference—** Drainage, Code of Virginia, §15.2-2241(3).

7. *Monuments.* All lot corners shall be marked with iron pipe not less than three-fourths inch in diameter or iron rod not less than one-half inch in diameter, and not less than 24 inches long and driven so as to be flush with the finished grade.

**State Law reference—** Monuments, Code of Virginia, §15.2-2241(7).

8. *Performance guarantee.* The Code of Virginia §15.2-2241 (11)(B) provides that, prior to approval of the final plat, the subdivider shall file with the agent a performance guarantee to ensure that improvements required by this ordinance or proposed by the subdivider are installed in accordance with approved plats and plans.

a. Such guarantee shall either be:

i. A certified check or a personal, corporate or property bond with cash escrow or other method of performance guarantee approved by the Agent and sufficient to cover the cost of all improvements as estimated by the agent, furnished by the subdivider; or

ii. Evidence of the existence of agreements between the subdivider and a qualified contractor for the installation and completion of the improvements and the contractor's performance bond with surety for the benefit of the County and the subdivider, and satisfactory to the Agent, in an amount to cover the cost of all improvements as estimated by the agent.

b. Within 30 days after receipt of written notice by the subdivider of completion of part or all of any facilities or improvements required to be constructed by this article, the agent shall either grant a periodic partial or final complete release of any bond, escrow, letter of credit or other performance guarantee required by this section, or notify the subdivider or developer in writing of non-receipt of approval by applicable state agency or of any specified defects or deficiencies in construction and suggested corrective measures. If no such action is taken by the agent within the 30-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after expiration of such 30-day period and there is an additional request in writing sent by certified mail, return receipt, to the County Administrator. The agent shall act within ten working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider. The agent shall not refuse to make a periodic partial or final complete release of a bond, escrow, letter of credit or other performance guarantee for any reason not directly related to specified defects in construction of the facilities covered by such bond, escrow, letter of credit or other performance guarantee.

c. Upon written request by the subdivider, the agent shall be required to make periodic partial releases of such bond, escrow, letter of credit or other performance guarantee in a cumulative amount equal to 80 percent of the original amount for which the bond, escrow, letter of credit or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the agent or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit or other performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" is deemed to mean when such public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.

d. For the purposes of this section a certificate of partial or final completion of such facilities

from either a duly licensed professional engineer or land surveyor, as defined in and limited to §54.1-408 of the Code of Virginia or from a department or agency designated by the agent may be accepted without requiring further inspection of such facilities.