

**Board of Supervisors**  
Meg Bohmke, Chairman  
Gary F. Snellings, Vice Chairman  
Jack R. Cavalier  
Thomas C. Coen  
L. Mark Dudenhefer  
Wendy E. Maurer  
Cindy C. Shelton

Thomas C. Foley  
County Administrator

## Community & Economic Development Committee Meeting AGENDA

April 3, 2018 - 12:00 Noon  
Conference Room A/B/C, Second Floor

**Committee Members:** Chairman Wendy Maurer, Cindy Shelton and Gary Snellings

Agenda Item	
1.	Cluster Sub-division next steps
2.	Consider an Amendment to the Zoning Ordinance to permit drive-through as a by-right accessory use
3.	PDR Policy discussion including limiting requirement that 50% of funding come from outside sources
4.	Winding Creek proffer for acceptance of property for park land.
5.	Discuss possible use of Government Center Parking space for Farmer's Market
6.	Discuss Underground Utilities with Courthouse Road Project
7.	Discuss a possible Property Assessed Clean Energy Ordinance
	Next CEDC meeting is scheduled for May 1, 2018

CEDCAgenda04030218



**Current Situation**

- On March 20, 2018, the Board adopted a map identifying where cluster development shall occur.
- On March 20, 2018, the Board referred amendments to the Comprehensive Plan and zoning ordinance to the Planning Commission.
- The Board had identified other concerns with cluster development regulations that need to be addressed and potential solutions. (See attachment 1).

**Proposed End State**

- Finalize amendments to the subdivision and zoning ordinance that meet the intended goals of providing for quality developments and preservation of rural character.

**Request for the CEDC Committee/Board of Supervisors**

- Consider a path forward to improve the cluster development standards.
- The Board could send the issue to the Planning Commission requesting them to develop a committee consisting of members from the PC, AG/PDR committee and FABA.

**Benefits to the County**

- Preservation of land for continuation of farming, forestry, environmental protection, scenic vistas and recreation enhance the sustainability of the County.
- Cluster development, when done correctly, can create desirable communities that are stable, provide high quality housing, are enjoyable to live in, and enhance the tax base of the County

## CEDC

April 3, 2018

### **Cluster Development Concerns**

- Subdivisions are configured such that lots front on existing roads giving the perception of over-crowding in rural areas.
- Open space configured such that it is not visible by the public creating a perception overcrowding and loss of rural character
- Use of community drainfields increases lot yield for properties with substantial environmental constraints that would normally not support that level of development.
- Community drainfields being located outside of the subdivision they serve.
- Use of community drainfields and long-term maintenance concerns with those systems.
- Open space areas not suitable for farming or forestry due to configuration.
- Open Space is not contiguous with other open space areas within the subdivision or adjacent open space areas outside of the subdivision.
- Open space is configured such that there are no usable areas or usable areas that can be accessed without crossing a stream.
- Lack of recreational amenities being placed in open space areas for the community
- Open space can be sold off to lot owners or other parties.
- Lack of specific standards for the various forms of open space – observed small remnant open space parcels that are not useable or functional.

### **Potential Solutions**

- Require subdivisions to utilize new internal streets only. No driveway access to existing rural roads.
- Require that a minimum percentage of frontage along existing rural roads be comprised of open space.
- Specify larger setbacks for lots that front on existing rural roads.
- Require extensive buffers or open space areas be located adjacent to existing rural roads
- Require that drainfields must be located on the lots that they serve.
- Focus the location of cluster development to be within or in relative close proximity to the Urban Services Area.
- Require open space to be contiguous to any existing conservation areas or recorded open space parcels.
- Specify size and configuration requirements for the various types of open space.
- Require that some of the open be cleared and useable for recreational purposes.
- Specify that all open space shall be conveyed to a homeowners association and cannot be owned by an individual.

**Current Situation**

- Definition for drive-through facilities
- Drive through facilities permitted with approved Conditional Use Permit in in all districts that allow for business.
- Drive through facilities currently have design standards. Please see attachment 1.

**Proposed End State**

- Consider an Amendment to the Zoning Ordinance to permit drive-through as a by-right accessory use in all districts that allow for business unless otherwise permitted
- Adopt performance standards for such a use to provide uniformity and consistency and provisions for requests that deviate from such standards

**Request for the CEDC Committee/Board of Supervisors**

- Discuss if the CEDC would like to recommend the Board send this issue to the Planning Commission for their consideration of the following;
  - Considered permitting drive-through facilities as a by-right accessory use for businesses allowed in the district
  - To designate performance standards such as:
    - screening from public road,
    - hours of operation,
    - number of lanes per the use
    - Distance from residential zone or use
    - Require a CUP for requests that deviate from the standards
- Attachment 2 are examples of design standards from other jurisdictions

**Benefits to the County**

- The ordinance amendment would establish a uniform approval process for a drive-through facility within the county.
- Establish performance standards to help mitigate any impact on adjacent properties

**Drive-thru information**

*Drive-through.* A facility designed to enable a person to transact business or order and pick up food while remaining in a motor vehicle

## Section 28-102. Off-street parking

(8) Drive-through *facilities, special design requirements.* Storage aisles and lanes for drive-through facilities shall not be less than ten (10) feet in width and shall provide a stacking reservoir with a minimum total length of one hundred fifty (150) feet measured from the point at which the transfer of products is conducted with a minimum of seventy-five (75) feet from the first point of transaction or menu board. The stacking reservoir length may be reduced to seventy-five (75) feet for each stacking lane where there are two (2) drive-through lanes associated with a business. The stacking reservoir length may be reduced to fifty (50) feet for each stacking lane where there are three (3) or more drive-through lanes associated with a business. Such aisles and lanes shall provide sufficient radii so those vehicles can approach drive-through facilities without crossing the limits of the lanes or aisles. The service or actual drive-up area shall not be less than eight (8) feet in width. Drive-through lanes cannot block any travel way, drive isle or parking spaces.

(11) *Ingress/egress for parking and loading spaces.* The location and design of parking and loading spaces shall be such that there is easy ingress and egress in and out of the spaces for vehicles that they are designed to serve. There shall be adequate turning radii into parking and loading spaces such that the vehicles they are intended to serve will not encroach into other parking spaces or designated drive-through lanes. The minimum travel lane width between mini-storage warehouses shall be thirty (30) feet to allow for adequate turning area for trucks delivering goods and materials to the storage units.

Henrico County

ARTICLE XII. - B-1 BUSINESS DISTRICT

Sec. 24-54. - Purpose of district.

This district is primarily for low-intensity retail and personal service uses developed either as a coordinated unit or on individual parcels, serving the needs of a relatively small area, primarily nearby, residential neighborhoods. In order to enhance the general character of the district, its function of neighborhood service and its compatibility with residential surroundings, the building height and size of certain uses and the permitted hours of operation are all limited.

(Code 1980, § 22-54; Code 1995, § 24-54)

Sec. 24-54.1. - Principal uses permitted.

A building or land shall be used only for the following purposes:

- (a) Any principal use permitted and as regulated in the R-6 district except for dwellings as herein provided and the minimum lot area and lot width for a place of worship may be reduced in accordance with the B-1 district regulations. The permitted height of buildings or structures shall be subject to the B-1 district requirements unless otherwise provided for by this chapter.
- (b) Antique shops for the sale of bona fide antiques, except that no indoor or outdoor auctions are permitted.
- (c) Reserved.
- (d) Banks, savings and loan, small loan offices and similar financial institutions. Adequate space shall be provided off the street for all vehicles waiting for drive-in service. ....
- (t) Restaurant, delicatessen or ice cream parlor, but not restaurants or establishments which primarily provide outside delivery of packaged goods to patrons. No outside dining areas shall be provided

ARTICLE XIII. - B-2 BUSINESS DISTRICT

Sec. 24-58. - Purpose of district.

This district is to provide commercial and community shopping, recreational and service activities generally serving a community of several neighborhoods and appropriately located on major collector or arterial roadways. Uses and activities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material or the nuisance factors of dust, odor and noise associated with manufacturing are not intended to be located within such areas.

(Code 1980, § 22-58; Code 1995, § 24-58)

Sec. 24-58.1. - Principal uses permitted.

A building or land shall be used only for the following purposes:

- (a) Any use permitted and as regulated in the R-6 district except dwellings as herein provided and any principal use permitted and as regulated in the O-3 district except the permitted height of buildings or structures shall be subject to the B-2 district requirements unless otherwise provided for by this chapter.
- (b) Any use permitted in the B-1 business district but subject to the development standards for the B-2 district, with no limit on floor area unless otherwise provided for in this section.
- (t) Restaurants (with dancing), take out and meal delivery service, delicatessens or ice cream parlors

#### ARTICLE XIV. - B-3 BUSINESS DISTRICT

##### Sec. 24-62. - Purpose of district.

This district is to provide locations for a variety of commercial, automotive, recreational and service activities, serving a wide area of the county and located along arterial thoroughfares where a general mixture of commercial and service activity may exist. Uses and activities which are characterized by extensive warehousing, frequent heavy trucking activity, open storage of material or the nuisance factors of dust, odor and noise associated with manufacturing are not to be located within such areas.

(Code 1980, § 22-62; Code 1995, § 24-62)

##### Sec. 24-62.1. - Permitted uses.

A building or land shall be used only for the following purposes:

- (a) Any use permitted and as regulated in the R-6 district except dwellings as herein provided. The permitted height of buildings or structures shall be subject to the B-2 district requirements except as otherwise provided for by this chapter.
- (b) Any use permitted in the B-1 and B-2 business districts, subject to the development standards of the B-3 district.
- v) Restaurants of any kind, delicatessens and ice cream parlors

Prince William County

**PART 400. - GENERAL REGULATIONS**

(Ord. No. 94-1, 1-11-94; Ord. No. 98-62, 7-7-98)

**Sec. 32-400.07. - Special Use Permit for drive-in facilities.**

Except when proposed in conjunction with financial institutions in planned development districts or permitted by right by specifically proffered rezoning or Special Use Permit as approved by the Board of County Supervisors, drive-in, drive-up, or drive-through windows, or any other similar facility that allows businesses to be conducted without leaving the car shall require a Special Use Permit. where site perimeter (property line or boundary which includes all elements of the use including but not limited to all structures, parking and travelways) is within 500 feet of (1) any lot/parcel zoned for residential purposes or (2) a dwelling unit in an A-1 district or (3) any intersection involving public right-of-way. The provisions of this section shall not apply to drive-in, drive-up or drive-through restaurant facilities.

(Ord. No. 99-50, 7-6-99; Ord. No. 09-30, 5-19-09)



Spotsylvania County

DIVISION 17. - COMMERCIAL 1 (C-1) DISTRICT

Sec. 23-6.17.1. - Purpose and intent.

The purpose of the commercial 1 (C-1) district is to provide for general retail sales and service to neighborhoods within the county.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.17.2. - Permitted uses.

The following uses may be established as permitted uses in the commercial 1 (C-1) district, subject to site plan approval:

- (1) Accessory uses as permitted by article 5, division 3 of this chapter;
- (2) Adult day care center;
- (3) Amusement arcade;
- (4) Animal shelter;
- (5) Antique shop;
- (6) Art and craft studio;
- (7) Assisted living facility;
- (8) Billiards/pool hall;
- (9) Business service and supply service establishment;
- (10) Child care center;
- (11) Civic, social or fraternal facility;
- (12) Community center;
- (13) Contractor's offices and shop;
- (14) Convenience store;
- (15) Cultural center, museum or similar facilities;
- (16) Eating establishment;
- (17) Eating establishment, carry out/fast food;
- (18) Financial institution;
- (19) Garden center;
- (20) Live entertainment, indoor;
- (21) Medical care facility;
- (22) Miniature golf;
- (23) Nursing home;

- (24) Office;
- (25) Personal service establishment;
- (26) Public facility/use;
- (27) Quasi-public park, playground, athletic field and related facility;
- (28) Repair service establishment;
- (29) Retail sales establishment;
- (30) Scientific research and development establishment;
- (31) Veterinary hospitals/services.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-152, 1-8-13; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.17.3. - Special uses.

The following uses may be established as special uses in the commercial 1 (C-1) district, subject to approval by the board of supervisors in accordance with article 4, division 5 of this chapter:

- (1) Above ground fuel storage tanks exceeding one-thousand (1,000) gallons;
- (2) Auction establishment;
- (3) Car wash;
- (4) Convent, monastery, seminary, and nunnery;
- (5) Fuel dispensing service;
- (6) Funeral home;
- (7) Indoor commercial recreational/athletic facilities;
- (8) Live entertainment, outdoor;
- (9) Mini-warehousing establishment;
- (10) Place of worship;
- (11) Private school;
- (12) Public school;
- (13) Public utility, light;
- (14) Theaters;
- (15) Telecommunications tower;
- (16) Establishing a permitted use as specified in section 23-6.17.2 or special use as specified in section 23-6.17.3 with a building exceeding the height limitations set out in section 23-6.17.6(1);
- (17) Vehicle, light service establishment;
- (18) Wetland mitigation bank.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-78, 2-9-99; Ord. No. 23-97, 10-23-01; Ord. No. 23-152, 1-8-13; Ord. No. 23-160(2), 9-22-15)

**Sec. 23-6.17.4. - Development standards: Use limitations.**

- (1) The outdoor storage, loading and display of goods shall be limited to the area or areas so designated for those uses on an approved site plan.
- (2) All refuse shall be contained in completely enclosed facilities.
- (3) All outdoor storage and loading areas, parking of construction equipment, construction vehicles, tractors and/ or trailers of tractor-trailer trucks shall be screened from the public right-of-way by site design, enclosure, or vegetation.
- (4) Above ground storage tanks for the storage of liquid or pressurized fuel for sale shall not exceed one-thousand (1,000) gallons. Above ground storage tank size may be increased above one-thousand (1,000) gallons if permitted by the board of supervisors in accordance with the provisions of section 23-6.17.3.
- (5) Drive-through facilities shall be located to the rear or side of the building. Stacking lanes for drive-through facilities shall not be located between the building and the street. Drive-through windows and menu boards shall be located a minimum of three hundred (300) feet from a residential zone or use. Drive-through facilities shall be designed to minimize glare on adjacent residential zones or uses by the installation of dense vegetative screening or a masonry wall of no less than four (4) feet in height or a combination of both.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-152, 1-8-13; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.17.5. - Lot size requirements.

- (1) Minimum lot area: Twenty thousand (20,000) square feet.
- (2) Minimum lot width: One hundred (100) feet.
- (3) The lot size requirements do not apply to development in accordance with an approved generalized development plan (GDP). The board of supervisors may waive or modify the lot size requirements by special use.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-105, 6-24-03; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.17.6. - Bulk regulations.

- (1) *Maximum building height:* Thirty (30) feet, subject to increase as may be permitted by the board of supervisors in accordance with the provisions of section 23-6.17.3.
- (2) *Minimum yard requirements:*
  - A. Front yard: Thirty (30) feet.
  - B. Side yard: No requirement.
  - C. Rear yard: Twenty (20) feet.
  - D. Development in accordance with an approved generalized development plan (GDP) shall be subject to the minimum yard requirements only with respect to development along its peripheral lines and in such cases parking lots shall be located no closer than thirty (30) feet to any public street or highway right-of-way.
- (3) *Maximum floor area ratio:* 0.50

(Ord. No. 23-66, 10-24-95; Ord. No. 23-104, 3-11-03; Ord. No. 23-105, 6-24-03; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.17.7. - Open space.

Twenty (20) percent of the gross area shall be landscaped open space. As used herein, "gross area" refers to either the total parcel area or, where applicable, the total aggregate land area subject to an approved generalized development plan.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-105, 6-24-03; Ord. No. 23-160(2), 9-22-15)

Sec. 23-6.17.8. - Additional requirements.

1. *General development standards*: Refer to article 5.
2. *Landscaping and screening*: Refer to article 5, division 5.
3. *Off-street parking*: Refer to article 5, division 9.
4. *Signs*: Refer to article 5, division 8.
5. *Curb, gutter and sidewalk*: Refer to article 5, Design Standards Manual.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-79, 4-13-99; Ord. No. 23-160(2), 9-22-15)

**Current Situation**

- In accordance with County Code Chapter 22A, the PDR Committee has scored 11 new PDR applications based on ranking criteria, and forwarded recommendations for the Board to consider easement acquisitions, subject to available funding.
- Approximately \$992,153 is available in PDR funds, with \$61,000 allocated from state matching funds. Additional County funds would be available in FY19, and matching fund application rounds will be available this year.
- The CEDC discussed this on March 6, and requested additional recommendations regarding prioritization of properties for easement acquisition.
- Options for the CEDC's consideration are attached.
- The Board will consider any unused funds in this program at the next FAB Committee

**Proposed End State**

- The Board would opt to purchase new easements based on funding available, and authorize request for matching funds through appropriate agencies.

**Request for the CEDC Committee/Board of Supervisors**

- The PDR Committee recommends the CEDC consider the application rankings and make recommendation to the Board regarding easement acquisitions.
- Staff recommends that the CEDC and Board authorize additional applications for matching funds.
- *Note: some of the matching fund applications are property-specific*

**Benefits to the County**

- The PDR program allows property owners to receive compensation for retaining their land in agricultural/open space and limit future residential development.
- The PDR program enables retention of open space lands outside the Urban Services Area, thereby reducing the costs of infrastructure and public services to the Agricultural/Rural areas.

## Purchase of Development Rights

### A. 2017 Application Round Acquisitions

The Purchase of Development Rights Committee prioritized 11 applications received for the July 2017 application round. The order of ranking, including the number of development rights, and the cost to purchase easements, is provided in the table below:

Rank	Applicant Name	Acreege	Zoning	Election District	No. of Devt. Rights	Cost to Purchase Easement	County Cost	Comments
1	Harris, John and Cathy	122.17	A-1	Hartwood	36	900,000	450,000	
2	Moore, William	82.68	A-1	George Washington	19	475,000	237,500	
3	Secrest, David	58	A-1	George Washington	15	375,000	187,500	Purchase contract with developer valid through September, 2018
4	Shelton, Frank	81.78	A-1	Hartwood	19	475,000	237,500	
5	Beach, Carlton	32.84	A-1	Hartwood	9	225,000	112,500	Located in REPI target area
6	Littlejohn, Janet	49	A-1/A-2	George Washington	26	650,000	325,000	
7	Jones, Kevin	76.1	A-1	George Washington	15	375,000	187,500	
8	Snyder, John	45.76	A-1	Hartwood	9	225,000	112,500	
9	Johnson, Mary	21.68	A-1	George Washington	6	150,000	75,000	
10	Caton, Charlotte	30.87	A-1	Hartwood	7	175,000	87,500	Located in REPI target area
11	Petley, Sarah	54	A-1	Aquia	12	300,000	150,000	
	<b>Total</b>	<b>654.88</b>			<b>173</b>	<b>4,325,000</b>	<b>2,162,500</b>	

At the CEDC meeting March 3, 2018, the Committee discussed the applications and asked staff to present recommendations for easement acquisitions that would best utilize existing County funds, as well as matching State and Federal funds. Staff notes that while the PDR Committee must make recommendations based on the scoring criteria set forth in Chapter 22A of the County Code, the Board may make recommendations based on other factors, including available funding. The current County funding for PDR is \$992,153, including FY17 rollback taxes, unspent funds, additional funds that were allocated in the FY18 budget, and \$250,000 projected from FY18 rollback taxes.

The potential amount of matching funds available this year is as follows:

Virginia Department of Agriculture and Consumer Services (VDACS)

\$61,600 (FY18)

\$50,000 (FY19)

\$111,600 Total

- FY18 amount approved in December 2017
- Estimated FY19 amount based on past awards
- Funds not project-specific, can apply to any property
- Requires 50% local match
- Application deadline September, 2018

Department of Defense Readiness and Environmental Protection Integration (REPI)

\$4,300,000 (FY18 and FY19)

- Split between 3 localities, depending upon number of applications
- Property must be within REPI target area (near MCB Quantico)
- Project-specific, must be identified before grant application
- Requires 50% local match
- Application deadline July, 2018

Virginia Land Conservation Foundation (VLCF)

\$4,500,000 (FY19 proposed)

- Statewide, depending upon number of applications
- Project-specific, must be identified before grant application
- Requires 50% local match
- Application deadline August 2018

US Department of Agriculture, Natural Resources Conservation Service (NRCS)

\$1,200,000 (FY2019 proposed)

- Statewide, depending upon number of applications

- Project-specific, must be identified before grant application
- Requires 50% local match
- Application deadline July 2018

Three of the PDR applications have circumstances that may warrant consideration exclusive of the ranking criteria. The third-ranked property, Secrest, has an existing purchase contract that is valid through September, 2018. The owner has indicated that he will need to sell the property for development if he is not a successful candidate for the PDR easement acquisition. Also, the fifth-ranked property, Beach, and the tenth-ranked property, Caton, are located within the target area for the REPI program. The REPI program supports the mission of the Department of Defense and Marine Corps Base Quantico to protect military testing and training capabilities and conserve land surrounding the base.

The following options could be considered by the Board:

#### Option 1

Acquire PDR easements in the order of ranking for the top properties, utilizing existing County funds, and applying for a combination of matching funds from four of the sources. Under this scenario, the top three properties would be acquired; however, there would not be enough remaining to acquire the 4<sup>th</sup>-ranked property, so we would proceed with the 5<sup>th</sup>-ranked property. A total of **\$987,500** would be required for acquisition costs, leaving **\$4,653** for future acquisitions. The Board could then opt to proceed with the additional properties in the order of ranking, as additional funds become available in FY19.

Rank	Applicant Name	Acreage	Zoning	Election District	No. of Devt. Rights	Cost to Purchase Easement	County Cost	Comments
1	Harris, John and Cathy	122.17	A-1	Hartwood	36	900,000	450,000	
2	Moore, William	82.68	A-1	George Washington	19	475,000	237,500	
3	Secrest, David	58	A-1	George Washington	15	375,000	187,500	Purchase contract with developer valid through September, 2018
5	Beach, Carlton	32.84	A-1	Hartwood	9	225,000	112,500	Located in REPI target area
				<b>Total</b>	<b>79</b>	<b>1,975,000</b>	<b>987,500</b>	



Option 2

Acquire PDR easements on the three properties with extenuating circumstances, and then pursue the remaining properties beginning from the top of the list, as indicated below. Under this scenario, after the four properties identified, the Board would proceed to the 8<sup>th</sup>-ranked property, based on amount of remaining funds. Acquisitions could be accomplished utilizing existing County funds, and applying for a combination of matching funds from all four sources of matching funds. A total of **\$950,000** of County funds would be required to acquire five easements, leaving **\$42,153** for future acquisitions. The Board could then opt to proceed with the additional properties in the order of ranking, as additional funds become available in FY19.

Rank	Applicant Name	Acreage	Zoning	Election District	No. of Devt. Rights	Cost to Purchase Easement	County Cost	Comments
3	Secrest, David	58	A-1	George Washington	15	375,000	187,500	Purchase contract with developer valid through September, 2018
5	Beach, Carlton	32.84	A-1	Hartwood	9	225,000	112,500	Located in REPI target area
10	Caton, Charlotte	30.87	A-1	Hartwood	7	175,000	87,500	Located in REPI target area
1	Harris, John and Cathy	122.17	A-1	Hartwood	36	900,000	450,000	
8	Snyder, John	45.76	A-1	Hartwood	9	225,000	112,500	
				<b>Total</b>	<b>76</b>	<b>1,900,000</b>	<b>950,000</b>	

Option 3

Acquire PDR easements in the order of lowest cost to highest cost. This could be accomplished utilizing existing County funds, and applying for a combination of matching funds from all four sources of matching funds. A total of **\$912,500** of County funds would be required to acquire seven easements, leaving **\$79,653** for future acquisitions. The Board could then opt to proceed with the additional properties in the order of ranking, as additional funds become available in FY19.

Rank	Applicant Name	Acreage	Zoning	Election District	No. of Devt. Rights	Cost to Purchase Easement	County Cost	Comments
9	Johnson, Mary	21.68	A-1	George Washington	6	150,000	75,000	
10	Caton, Charlotte	30.87	A-1	Hartwood	7	175,000	87,500	Located in REPI target area
5	Beach, Carlton	32.84	A-1	Hartwood	9	225,000	112,500	Located in REPI target area
8	Snyder, John	45.76	A-1	Hartwood	9	225,000	112,500	
11	Petley, Sarah	54	A-1	Aquia	12	300,000	150,000	
3	Secrest, David	58	A-1	George Washington	15	375,000	187,500	Purchase contract with developer valid through September, 2018
7	Jones, Kevin	76.1	A-1	George Washington	15	375,000	187,500	
				<b>Total</b>	<b>73</b>	<b>1,825,000</b>	<b>912,500</b>	

**B. Financial Policy**

The CEDC discussed including a written policy that ensures that the County only provide 50% of the costs to acquire PDR easements. This was standard practice in the first two PDR application rounds, and captured in the resolutions that authorized acquisitions. The Finance/Budget departments can develop language to be written into the financial policies regarding PDR.

### **C. Fiscal Impact of PDR Properties**

The CEDC requested information regarding cost comparisons for developed properties versus properties remaining undeveloped. The following information is provided with regard to the 11 new PDR applications:

- 173 Development Rights to be extinguished on 654 acres = 173 potential single family lots/homes
- 173 lots/homes at 3.13 persons/household = 541 residents (based on Comprehensive Plan figures)
- 173 lots/homes at 0.66 students/household = 114 students (based on Comprehensive Plan figures)
- Based on Comprehensive Plan methodology for calculating **capital** costs by residential dwelling type, the impact of 173 single family residences is \$75,539 per unit, or \$13,068,247
- Cost to County to purchase 11 easements on 654 acres = \$2,162,500

Also, a report entitled *Virginia's Return on Investment in Land Conservation, The Trust for Public Land, August 2016*, (available at the following link <https://www.tpl.org/virginias-return-investment-land-conservation#sm.00015lq76shkrfa3yqx24a24yltph>) indicated that conservation saves Virginia communities money through avoided costs on infrastructure and other municipal services required by residential property owners, such as schools, police, and fire protection. Research conducted in six Virginia counties shows that on average, residential lands require \$1.18 in services for every \$1.00 paid in local taxes. At the same time, working and open lands only require \$0.35 in services for every dollar contributed in property taxes. Based on this information, staff prepared a comparison of the PDR application properties and the required annual services if they remain undeveloped, and the properties if developed with the allowable number of lots.

<b>Scenario</b>	<b>Taxes</b>	<b>Required Services at \$0.35/tax dollar</b>	<b>Required Services at \$1.18/tax dollar</b>	<b>Total Off-set for Services Per Year (Taxes Paid minus cost for services)</b>
PDR Application Properties Undeveloped – (Agricultural, 654 acres)	\$26,301 (paid in 2017)	\$9,205	N/A	+\$17,164
PDR Application Properties Developed – (Residential, 654 acres divided into 173 lots at 3 acres in size)	\$5,970 per lot (based on estimated amount for similar parcel) or \$1,032,810	N/A	\$1,218,715	-\$185,905

**Current Situation**

- The Winding Creek Project was rezoned with proffers on June 20, 2018 pursuant to Ordinance O17-02.
- Proffer #5 stipulates that 10.326 acre “Open Space Parcel E” would be dedicated to the County for park purposes prior to the approval of the platting of the first section of the subdivision. (See attachment 1).

**Proposed End State**

- Determine whether the property should become part of the County’s land holdings for park purposes.
- PRCF Consideration:
  - Due to the topography the property would not be conducive to meeting the need for additional athletic fields.
  - Additionally, our Park Utilization Study recommends we take a regional approach to parks with larger acreage and where the property is developable for numerous highly active uses – multiple ball fields.
  - PRCF recommends that the County not accept this property as park property.

**Request for the CEDC Committee/Board of Supervisors**

- The applicant is requesting a decision from the Board as to whether or not they would like to accept the proffered property.

**Benefits to the County**

- Accepting the property may minimize future land acquisition costs.

**STAFFORD COUNTY, VIRGINIA**

**PROFFER STATEMENT**

Applicant: Winding Creek Owner LLC (the “Applicant”)

Property Owner: John J Musselman, Trustee of the Earl F. Musselman Trust (the “Owner”)

Property: Tax Parcel 29-4 (the “Property”)

Rezoning Request: From A-1 to R-1

Project Name: Winding Creek (the “Project”)

Date: June 16, 2017

County File No. RC 16151330  
CUP 16151334

---

**1. General Requirements.**

(a) The following proffers are being made pursuant to Sections 15.2-2298 and 15.2-2303, et al. of the Code of Virginia (1950), as amended, and Section 28-161, et seq. of the Stafford County Zoning Ordinance. The proffers provided herein are the only proffered conditions offered in this rezoning application, and any prior proffers to which the Property (as generally defined above and shown on the GDP) may be subject to or previously offered with the Applicant’s application or otherwise previously proffered are hereby superseded by these proffers, and further said prior proffers are hereby void and of no further force and effect. In addition and notwithstanding the foregoing, the proffers provided hereunder are conditioned upon and become effective only in the event the Applicant’s rezoning application No. RC 16151330 and associated conditional use permit application 16151334 are approved (including through applicable appeal periods) by the Stafford County Board of Supervisors (the “County”).

(b) Subject to the terms hereunder, the Property will be developed in accordance with that certain generalized development plan entitled “Winding Creek Generalized Development Plan” dated May 2014, as last revised August 29, 2016, with addition of revised sheet 11 dated June 16, 2017, prepared by Bowman Consulting, attached hereto as Exhibit A (the “GDP”), which plan includes a clustered development with a maximum of ninety-seven (97) single family detached units (“Units” or Unit”). The aforesaid number of units are subject to the approval of the Applicant’s companion conditional use permit application #16151334.

(c) For purposes of the final site plan, which will supersede the GDP, proposed parcel lines, parcel sizes, building envelopes and footprints, access points, building sizes, building locations, public road locations, private driveway, road and travel way locations, interparcel

connectors, RPAs and wetland areas, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the GDP may be relocated and/or amended from time-to-time by the Applicant to address final development, engineering, and design requirements and/or compliance with federal or state agency regulations including, but not limited to, VDOT, DEQ, Army Corps of Engineers, etc., and compliance with the requirements of the County's applicable development regulations and design standards manual.

2. **Architecture & Materials.** For purposes of the proposed development, the architectural design of the Units shall be in general accordance with the renderings attached hereto as **Exhibit B** (the "Renderings"). The Renderings are illustrative only and do not depict the final elevations for this Project. In this regard, the Renderings depict (i) a commitment to a general type, character, and quality of architectural design, details and materials; and (ii) the general types of architectural and decorative elements and features. In addition, the Units will specifically include the following:

(a) The front elevation of 75% of the Units will consist of a minimum of 60% brick, natural stone, or cultured stone (excluding doors, windows and garages). All homes will include beaded vinyl and Applicant will offer fiber cement siding as an option to buyers.

(b) The side elevation facing the street of a Unit on a corner lot will have at least two operable windows.

(c) All Units will have brick or stone to grade on any side facing a street (including corner lots).

(d) All Units will include pitched roofs symmetrically sloped no less than 5:12, except that porches and attached sheds may be no less than 2:12 and all Units will avoid continuous roof planes on the front side of dwellings by incorporating gables as depicted on the Renderings.

3. **Entrance Features.** The Applicant agrees to construct an entrance monument out of brick or stone utilized in the development. The client has attached a rendering which reflects the general architectural features and materials of the entrance sign.

4. **Transportation.** The Applicant, subject to necessary County and VDOT approvals for the development of the Project, agrees to provide the following in-kind transportation proffers, all as generally shown and noted on the GDP:

(a) The Applicant agrees to dedicate 0.84 acres of right of way along Winding Creek Road to widen the right of way to a width of sixty feet (60'), all in the areas generally shown and noted on the GDP.

(b) The Applicant agrees to dedicate 0.78 acres of right of way for the relocation of Embrey Mill Road, all in the areas generally shown and noted on the GDP.

(c) Subject to the terms and conditions provided herein, the Applicant agrees to provide the following in kind offsite transportation proffers:

(1) the construction of right turn tapers and acceleration lanes off of Winding Creek Road into the southernmost entrance of the Project, all as depicted on the GDP; and

(2) the construction of certain road improvements along Winding Creek Road extending from the end of the northernmost entrance of the Project to the intersection of Winding Creek Road and Flatford and Walpole Streets (approximately 1250 feet), all as generally shown and noted on the GDP (collectively the "Winding Creek Road Improvements"). All Winding Creek Road Improvements shall be designed and constructed in general accordance with the attached GDP and will follow the Virginia Department of Transportation ("VDOT") RRR guidelines (with waivers potentially required for shoulder widths and pavement radii), and further subject to final County and VDOT review and approval of the construction plans and completed under VDOT permit. With the exception of any temporary construction, private or public storm water easements or other similar easements, the Winding Creek Improvements will be constructed and located within dedicated right of way area, including without limitation any improvements that include retaining walls. The Winding Creek Road Improvements are estimated as approximately One Million Dollars (\$1,000,000) in total costs.

In the event the Applicant is unable to obtain easement approvals and/or right of way area(s) dedication from any third party property owner that are necessary for the construction of the Winding Creek Road Improvements, the Applicant shall petition the County to utilize its condemnation authority to obtain necessary public easements and/or right of way areas to construct said improvements. In this event, the Applicant shall provide the following:

- Written request to the County to utilize its condemnation authority to obtain the subject easements and right of way areas;
- The names of the record owners, the property addresses, tax map parcel numbers for each landowner from whom such right-of-way and/or easements are sought.
- Plats, plans and profiles showing the necessary right-of-way and/or easements to be acquired and showing the details of the proposed transportation improvements to be located on each such property.
- An independent appraisal of the value of the right-of-way and easements to be acquired, and any and all damages to the residue of the involved property, said appraisal to be performed by an appraiser licensed in Virginia and approved by the County.

- A 60-year title search of each involved property.
- Documentation demonstrating to the County's satisfaction Applicant's good faith, best efforts to acquire the right-of-way and/or easements, at a cost of at least the appraised value of the involved property interests.
- A letter of credit acceptable to the County, cash or equivalent (from a financial institution acceptable to the County) in an amount equal to the appraised value of the property to be acquired, and all damages to the residue, together with an amount representing the County's estimate of its cost of condemnation proceedings, in a form permitting the County to draw upon the same as necessary to effectuate the purposes hereof.
- An Agreement signed by Applicant's representative and approved by the County Attorney whereby Applicant agrees to pay all costs of the condemnation, including expert witness fees, court costs, exhibit costs, court reporter fees, attorneys' fees for the Office of the County Attorney or attorney retained by the County, and all other costs associated with the litigation, including appeals. The Agreement shall specifically provide that in the event the property owner is awarded in the condemnation suit more than the appraised value estimated by Applicant's appraiser, Applicant shall pay to the County the amount of the award in excess of the amount represented by the letter of credit or cash deposit within fifteen (15) days of the award.

In the event that the County does not secure access to the public easements or right-of-way areas necessary for the Winding Creek Road Improvements within six (6) months of the Applicant providing all of the preceding information, the Applicant shall be relieved from having to construct the Winding Creek Road Improvements, and thereafter agrees to pay One Million Dollars (\$1,000,000) in total transportation cash proffers, which One Million Dollars (\$1,000,000) shall be payable per residential unit of \$10,309.27 prior to the issuance of a certificate of occupancy for each unit.

In the event the Applicant is able to obtain easements and/or right of way areas necessary to complete the Winding Creek Road Improvements, whether by third party agreements or County condemnation, the Applicant agrees to complete the Winding Creek Road Improvements prior to the County's issuance of the 21<sup>st</sup> certificate of occupancy permit for the Project.

(d) The Applicant agrees to construct a sidewalk to Winding Creek Road and a painted crosswalk connecting the east and west sides of Winding Creek Road, all in the areas generally shown and noted on the GDP.



(e) The transportation improvements (not otherwise required for the development) and/or dedications of right of way, as provided above under this Section 4, are an in kind transportation proffers for purposes of this rezoning. The dedications described under Sections 4 (a) and (b) shall be provided as part of the first (final & approved) subdivision plan for the Property.

5. **Preservation of Open Space.** The 10.326 acres of land shown and labeled as “Open Space Parcel E” on the GDP shall be preserved as open space and not developed or disturbed, except for park purposes in the event the County accepts the dedication of said parcel. In this regard, Open Space Parcel E will be dedicated to the County upon the approval of the first section of the final subdivision plan of the Property. In the event the County does not desire to accept the dedication, Open Space Parcel E will be placed in a conservation easement. Notwithstanding the foregoing, in the event the Applicant is unable to obtain the acceptance of a third party holder for the conservation easement, then Open Space Parcel E will be conveyed to the Project’s Homeowners’s association (as described below under Section 7) and encumbered by restrictive covenants that will prohibit the development of said parcel. The fair market value of the dedication and preservation of open space is approximately \$913,875.27.

6. **Cash Contributions.** For purposes of this rezoning and in addition to other proffers described hereunder, the Applicant agrees to pay \$1,939,557.00 or \$19,995.43 per unit in aggregate cash proffers, all as described in more detail below. These cash proffers are also subject to annual increases to be calculated on a yearly basis commencing two (2) years after the date of final County approval of this proffer statement. Such increases shall be calculated by multiplication of the Marshall-Swift Index and not the Consumer Price Index of the Department of Labor Statistics for the current year by the original per unit cash proffer amount. All cash proffers shall be paid by the Applicant upon the issuance of a final certificate of occupancy by the County for each Unit (e.g. 97 single family detached units).

These voluntary cash proffers, paid by the Applicant to the County, shall be allocated based on the following:

- (a) **Schools:** \$1,766,923.00 (\$18,215.70 per Unit). \*
- (b) **Parks & Recreation:** \$0.00
- (c) **Transportation:**\$0.00
- (d) **Libraries:** \$57,519.00 (\$593.00 per Unit)
- (e) **Fire & Rescue:** \$74,151.00 (\$764.44 per Unit)
- (f) **General Government:** \$40,964.00 (\$422.30 per Unit)

\* Notwithstanding anything to the contrary under this proffer statement, \$650,000.00 of the total of the abovementioned “Schools” proffer shall be set-aside for North Stafford High School

capital facility improvements so long as such improvements are approved and funded within seven (7) years of the approval of this proffer statement. If the aforesaid does not occur, these funds may be utilized for general Schools capital facility purposes.

7. **Covenants**. The Applicant, prior to developing the Property, shall encumber the Property with a declaration of conditions, covenants, restrictions, and easements for the purpose of (a) protecting the value and desirability of the property; (b) facilitating the planning and development of the project in a unified and consistent manner; (c) preserving the Open Space Parcel E; and (d) providing for the installation, maintenance, and repair for all landscaping, on-site amenities, open space, other common areas and applicable offsite improvements described above under Section 4 (c). The Applicant will also create a property or homeowner's association as a non-stock corporation under the laws of Virginia (the "HOA") that will provide and ensure oversight and structure for services provided, quality standards, intercampus relationships, and common area maintenance.

In addition, for all future property owners abutting the VEPCO easement shown on the GDP, the Applicant will provide each buyer a disclosure notice identifying the fact that overhead power lines may be constructed within the VEPCO easement in the future.

8. **Fire Sprinklers in Residential Units**. The Applicant agrees to offer as an option to purchasers of any of the Units, but not as a requirement, fire sprinkler systems within said Units. In no event shall these fire sprinkler systems be a requirement for purposes of construction and/or permitting, but rather only an option payable by purchasers of the Units.

9. **Environmental Impact Mitigation**. The Applicant proffers the following for any lot depicted on the GDP as being located within a Critical Resource Protection Area ("CRPA"):

- (a) Subsequent to the issuance of a building permit and prior to the issuance of an occupancy permit for the construction of a single-family dwelling on any residential lot or parcel with lot lines within the CRPA, a sign shall be installed by the developer identifying the landward limits of the CRPA and notification will be provided to the County Zoning Administrator after completion. Such signs shall conform to the Critical Resource Protection Area Signage Policy and shall be installed at the expense of the developer in accordance with the Critical Resource Protection Area Signage Policy.
- (b) No certificate of occupancy shall be issued for a single-family dwelling on any residential lot or parcel with lot lines within the CRPA until the installation of any required plant materials is completed and documentation of such is submitted to the County Zoning Administrator.
- (c) The deeds for such lots shall include deed restrictions providing the following:
  - i. The property owner shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of the County's Chesapeake Bay Preservation Area Overlay District.

- ii. Plant material within the CRPA shall be tended and maintained in healthy growing condition and free from refuse and debris at all times.
- iii. Diseased plant materials shall be replaced during the next planting season, as may be required by the provisions of the County's Chesapeake Bay Preservation Area Overlay District.
- iv. No certificate of occupancy shall be issued until the installation of any plant materials required by the County's Chesapeake Bay Preservation Area Overlay District is completed and documentation of such is submitted to the County Zoning Administrator.

**10. Historic Preservation.** The Applicant agrees to perform a Phase 1 Archeology Study on the Property if historical artifacts are discovered during development of the Property, and to perform a Phase 2 Archeology Study on the Property if required by the said Phase 1 Archeology Study.

**11. Miscellaneous.** The Applicant agrees to provide the following proffers:

- (a) Proposed development shall be limited to 97 single-family detached dwelling units.
- (b) Open Space Parcels "A" (outside the VEPCO easement) and "D" shall include a 20-foot street buffer, consisting of a double row of evergreen trees, between residential lots and along the Winding Creek Road right-of-way, as shown on the GDP.
- (c) Open Space Parcel "C" shall include a variable width street buffer, consisting of a double row of evergreen trees, between residential lots and along the Winding Creek Road right-of-way, to the maximum extent allowed by the lot configuration generally as shown on the GDP.
- (d) Each lot shall contain foundation landscaping and at least one (1) tree shall be provided in the rear yard, with a 1" caliper or 6-8' tall at planting.
- (e) The Applicant will install and construct a tot lot in the general location as shown on the GDP and a picnic/pavilion area, the availability and location of said picnic/pavilion area to be determined at time of final engineering.
- (f) The Applicant agrees to provide a landscape buffer, consisting of a double row of evergreen trees, between Lot 43 and 44 and the adjacent property owner, as shown on sheet 9 of the GDP.

[AUTHORIZED SIGNATURES TO FOLLOW]

**APPLICANT ACKNOWLEDGMENT & CONSENT**

Winding Creek Owner LLC,  
a Virginia limited liability company

By: [Signature]  
Name: Kevin J. O'Shea  
Title: Managing Member

STATE/Commonwealth of NEW YORK,  
CITY/COUNTY OF NEW YORK, to wit:

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of June, 2017, by Kevin J. O'Shea, Managing Member of Winding Creek Owner LLC, on behalf of said company.

[Signature]  
Notary Public

My Commission expires: 05.28.2021  
Notary Registration number: 07KAG28624

**JONATHAN M. KARL**  
Notary Public, State of New York  
No. 02KA6282624  
Qualified in New York County  
Commission Expires May 28, 2017  
21

**OWNERS ACKNOWLEDGMENT & CONSENT**

The Earl F. Musselman Trust created November 28, 2001

BY: John J. Musselman Trustee  
John J. Musselman, Trustee

COMMONWEALTH OF VIRGINIA,  
CITY OF FREDERICKSBURG, to wit:

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of June, 2017, by John J. Musselman, Trustee for The Earl F. Musselman Trust created November 28, 2001.

Betty J. Miller  
Notary Public

My Commission expires: 8/31/2018  
Notary Registration number: 4060695



## **EXHIBIT A**

### **Generalized Development Plan**

See attached “Winding Creek Generalized Development Plan” dated May 2014, as last revised August 29, 2016, with addition of revised sheet 11 dated June 16, 2017, and prepared by Bowman Consulting.

# GENERALIZED DEVELOPMENT PLAN WINDING CREEK GARRISONVILLE/ROCKHILL MAGISTERIAL DISTRICT STAFFORD COUNTY, VIRGINIA

**Bowman**  
CONSULTING

Bowman Consulting Group, LLC  
2000 Hunting Creek  
Falls Church, Virginia 22040  
Phone: (844) 371-2400  
Fax: (703) 771-1433  
www.bowmanconsulting.com

COVER SHEET  
WINDING CREEK  
GENERALIZED DEVELOPMENT PLAN  
GARRISONVILLE/ROCKHILL MAGISTERIAL DISTRICTS STAFFORD COUNTY, VIRGINIA



DATE	2/28/18	2/28/18	2/28/18
DESIGN	CVF	CVF	CVF
SCALE	1" = 100'	1" = 100'	1" = 100'
DATE	MAY 2014		
FILE NO.	9378-DP-001		



VICINITY SKETCH MAP  
1" = 1000'

**OWNER**  
JOHN J. MUSSELMAN TRUSTEE  
327 WINDING CREEK ROAD  
STAFFORD, VA 22554

**APPLICANT**  
WINDING CREEK OWNER, LLC  
C/O FRANK LACHMAN  
11506 BELTON COURT  
CENTREVILLE, VA 20120  
PHONE (703) 463-1808

**PLANNING COMMISSION APPROVAL**

CHAIRMAN	DATE
STAFFORD COUNTY PLANNING COMMISSION	

**SHEET INDEX**

1. COVER SHEET
2. LEGEND, ABBREVIATIONS, NOTES AND DETAILS
3. EXISTING CONDITIONS / SOILS MAP
4. ENVIRONMENTAL INVENTORY PLAN
5. OVERALL KEY PLAN
- 6-8. GENERALIZED DEVELOPMENT PLAN
9. SIGN / DISTANCE PROFILES
10. GENERALIZED LANDSCAPE PLAN
11. OFFSITE IMPROVEMENTS

- APPENDIX**
- ARCHITECTURAL RENDERINGS (SHEET 1 OF 2)
  - ARCHITECTURAL RENDERINGS (SHEET 2 OF 2)

**VICINITY SKETCH MAP LEGEND**

**SUBDIVISION KEY**

◇ BEAUSHIRE	◇ COLONIAL PRIDE
◇ LAMBERT HILL	◇ LIBERTY HANGS
◇ AUGUSTINE NORTH	◇ ALVIN RIDGE

**NOTES**

1. SUBDIVISIONS ARE CENTERED BY SHADING ON THE VICINITY SKETCH MAP THIS SHEET
2. SUBDIVISION LINES OBTAINED FROM STAFFORD COUNTY ROAD MAP WITH ACTING SUBDIVISIONS DATED MAY 1, 2011. SUBDIVISIONS MAY OR MAY NOT BE REDUCED ALTERNATE INFORMATION FROM ADD MAP

**SYMBOLS LEGEND**

- PRIVATE STREET
- SCHOOL LOCATED WITHIN ONE MILE OF THE SITE
- MAGISTERIAL DISTRICT LINE

**MOBILE**

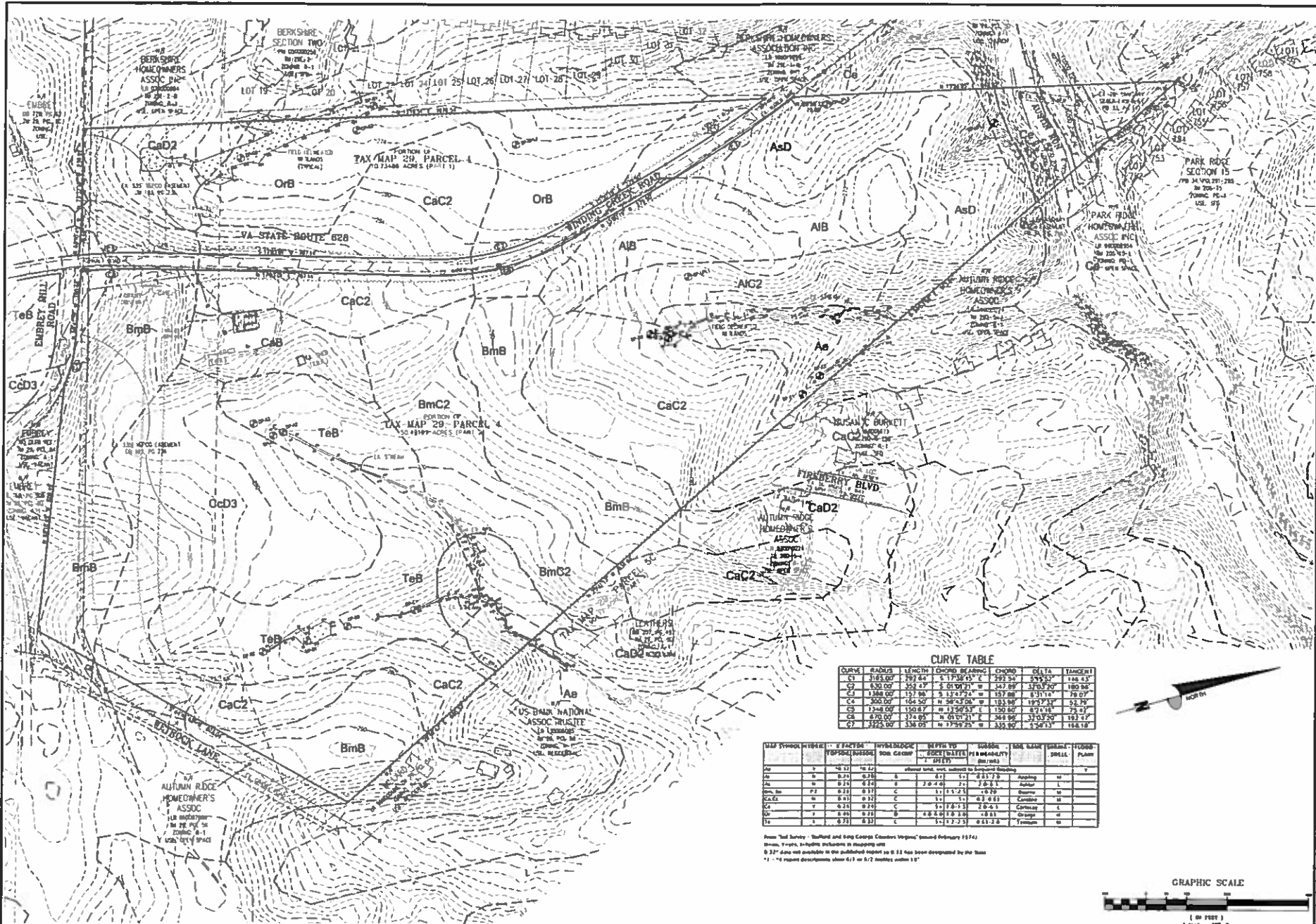
1. NO LIBRARIES ARE LOCATED WITHIN ONE MILE OF THE SITE.
2. NO PARKS ARE LOCATED WITHIN ONE MILE OF THE SITE.
3. NO FIRE OR RESCUE STATIONS ARE LOCATED WITHIN ONE MILE OF THE SITE.
4. TWO POLICE STATIONS ARE LOCATED WITHIN ONE MILE OF THE SITE AS SHOWN.



VICINITY MAP  
1" = 2000'







**CURVE TABLE**

CURVE	RADIUS	LENGTH	CHORD BEARING	CHORD	DELTA	TANGENT
C1	3183.00	292.84	S 17° 00' 00" W	292.54	5° 55' 25"	146.43'
C2	830.00	358.47	S 60° 00' 00" W	347.89	17° 00' 00"	180.88'
C3	1348.00	173.98	S 13° 30' 00" W	173.08	3° 11' 00"	78.27'
C4	808.00	164.50	N 38° 00' 00" W	163.88	1° 57' 30"	52.79'
C5	1348.00	160.67	N 13° 30' 00" E	150.62	8° 14' 00"	73.47'
C6	830.00	374.67	N 60° 00' 00" E	364.86	17° 00' 00"	183.27'
C7	2292.00	338.09	N 73° 30' 00" E	335.02	5° 30' 15"	166.18'

MAP SYMBOL	SYMBOL	HYDRAULIC	NON CORR	DEPTH	DEPTH	DEPTH	DEPTH	DEPTH	DEPTH	DEPTH	DEPTH
Ae	0	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21
BmB	0	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21
CaC2	0	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21
CaD2	0	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21
CaD3	0	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21
OrB	0	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21
TeB	0	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21

Notes: 1. All survey: Bullard and King Geologic Column Virginia (Issued February 1974)  
 2. 1" = 100 feet, 1" = 100 feet  
 3. 1" = 100 feet, 1" = 100 feet  
 4. 1" = 100 feet, 1" = 100 feet



# Bowman

CONSULTING

---

10000 Old Dominion Blvd., Suite 100  
 Fairfax, VA 22031  
 Phone: (703) 271-0000  
 Fax: (703) 271-0001  
 www.bowmanconsulting.com

---

**EXISTING CONDITIONS SOILS MAP**  
**WINDING CREEK**  
**GENERALIZED DEVELOPMENT PLAN**  
 GARRISONVILLE ROCOURN MAGISTERIAL DISTRICTS    STAFFORD COUNTY, VIRGINIA

---

NC PROJECT  
 COUNTY PROJECT NUMBER

---

DATE: 02/27/25  
 DRAWN: [Name]    CHECKED: [Name]  
 WSP: [Name]    CWP: [Name]    WSP: [Name]  
 DESIGN: [Name]    DESIGN: [Name]    CHECK: [Name]  
 SCALE: 1" = 100'  
 SHEET NO. 0279-02-011  
 DATE: 04/7/2014  
 FILE NO. 0279-02-011

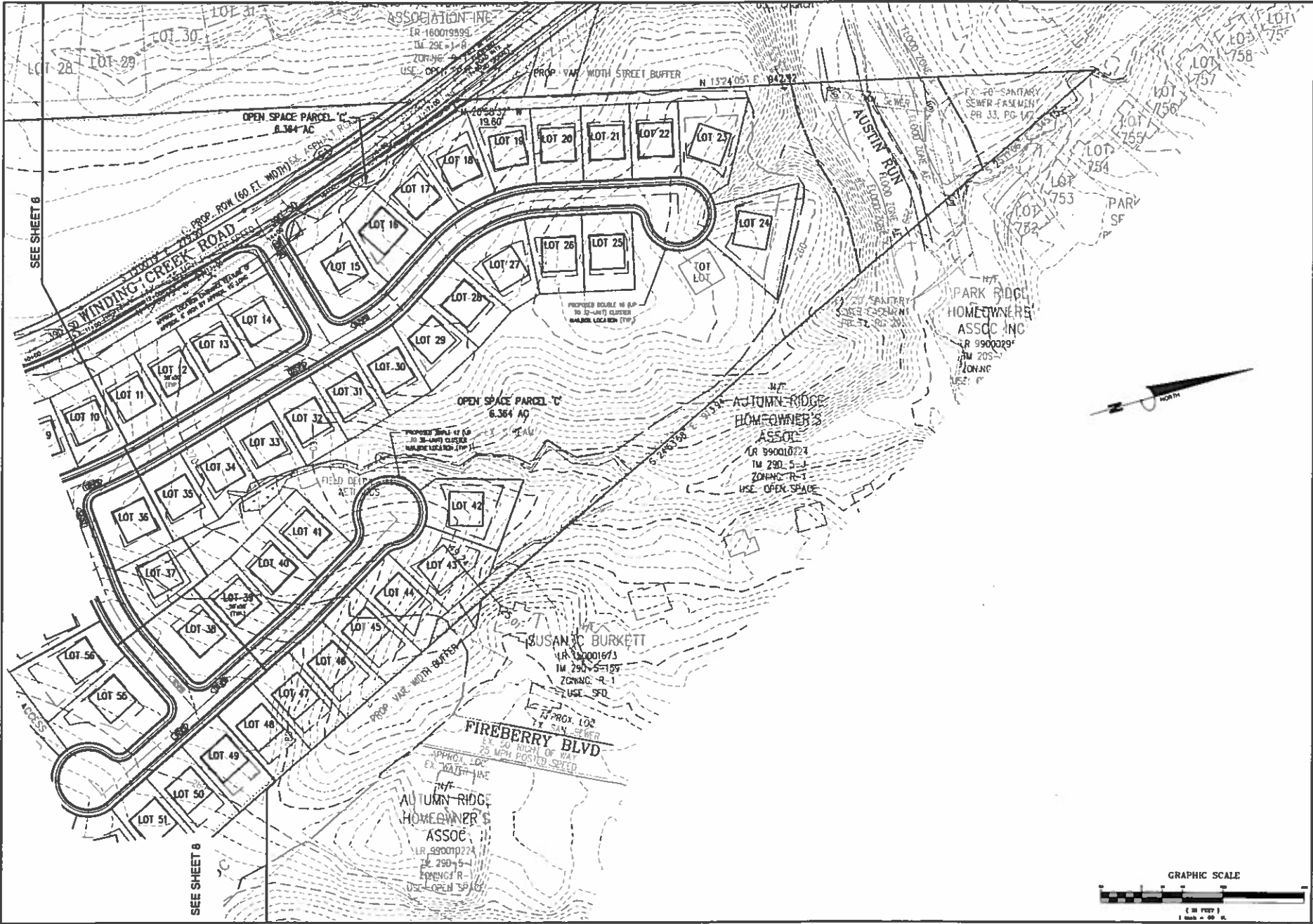
---

0271    3 of 11









# Bowman CONSULTING

Bowman Consulting Group, LLC  
 10000 Westpark Drive, Suite 200  
 Dallas, Texas 75241  
 Phone: (469) 271-0281  
 Fax: (469) 271-1277  
 www.bowmanconsulting.com

GENERALIZED DEVELOPMENT PLAN  
**WINDING CREEK**  
 GENERALIZED DEVELOPMENT PLAN  
 GARRISONVILLE-ROCKHILL MAGISTERIAL DISTRICTS STAFFORD COUNTY, VIRGINIA

NO. 000133  
 COUNTY PROJECT NUMBER



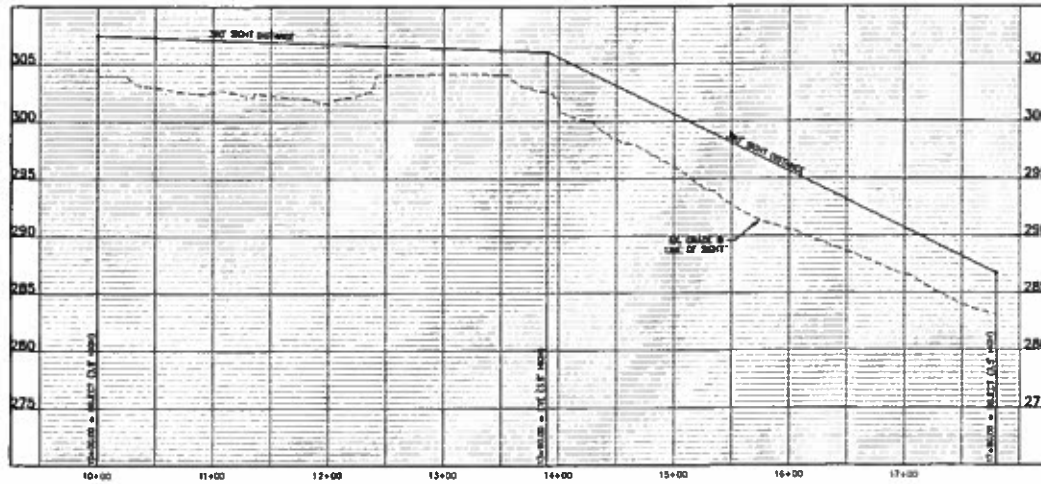
DATE	DESCRIPTION
05/06/16	15.0 GSP SUBMITTAL
05/27/16	15.0 Submittal
06/23/17	15.0 20% GSP
06/27/17	15.0 20% GSP
06/27/17	15.0 20% GSP
06/27/17	15.0 20% GSP

DATE	DESCRIPTION
05/06/16	15.0 GSP SUBMITTAL
05/27/16	15.0 Submittal
06/23/17	15.0 20% GSP
06/27/17	15.0 20% GSP
06/27/17	15.0 20% GSP
06/27/17	15.0 20% GSP

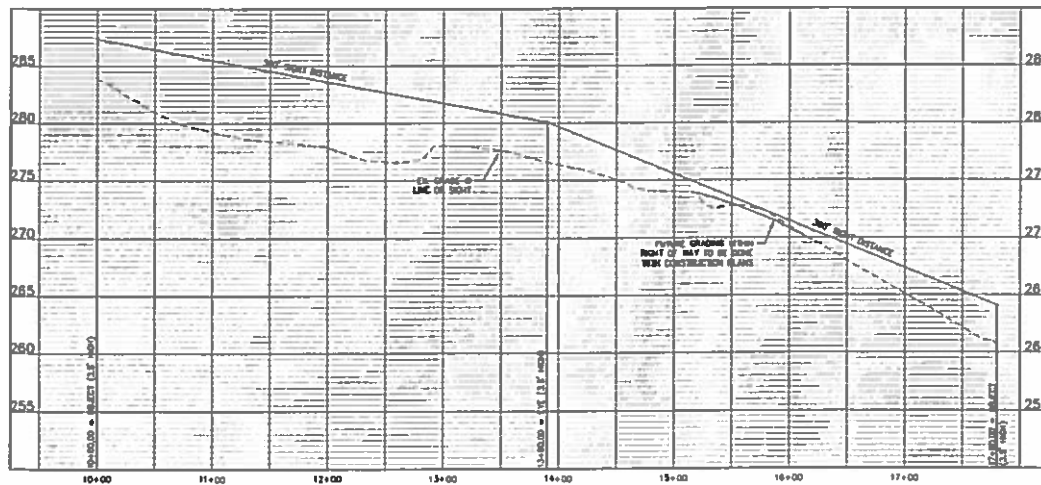
DATE: MAY 2014  
 FILE NO: 0276-02-001



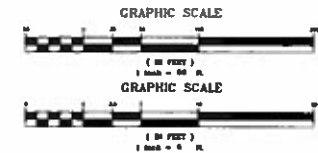




SIGHT DISTANCE - SOUTH ENTRANCE ROAD PROFILE VIEW  
 HORIZONTAL SCALE: 1"=50'  
 VERTICAL SCALE: 1"=5'



SIGHT DISTANCE - NORTH ENTRANCE ROAD PROFILE VIEW  
 HORIZONTAL SCALE: 1"=50'  
 VERTICAL SCALE: 1"=5'



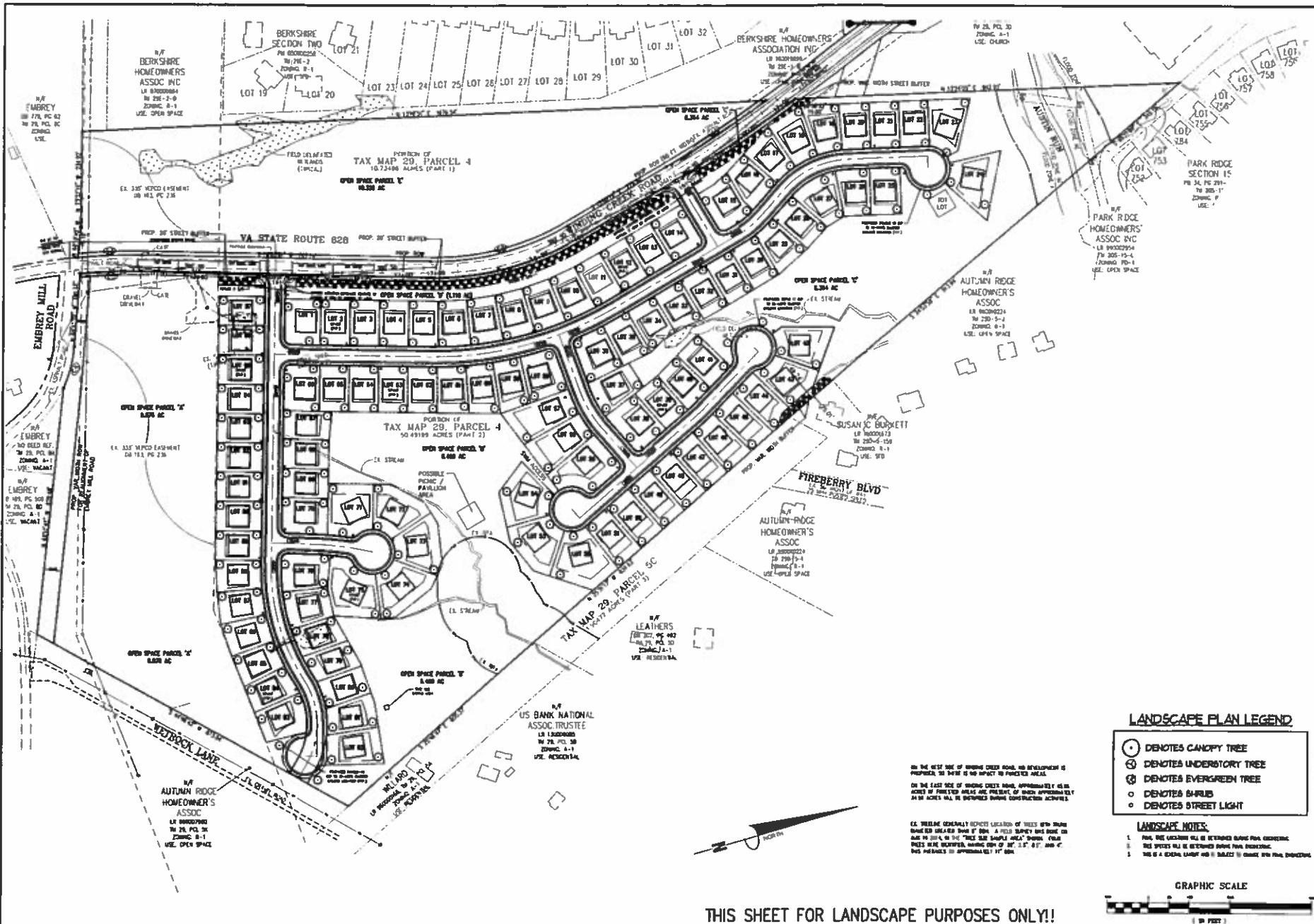
NO. 000133  
 COUNTY PROJECT NUMBER

COMMONWEALTH OF VIRGINIA  
 OFFICE OF THE REGISTERED PROFESSIONAL ENGINEER  
 License No. 000133  
 10/16/11

PLAN 150-307  
 05/20/14 US D. SP. 000000  
 05/20/14 US D. SP. 000000  
 05/20/14 US D. SP. 000000  
 05/20/14 US D. SP. 000000  
 05/20/14 US D. SP. 000000

DATE	BY	DESCRIPTION
WSP	CVF	WSP
DESIGN	DRAMA	CHD
SCALE	1" = 50'	1" = 5'
JOB No.	0270-02-001	
DATE	MAY 2014	
FILE No.	0270-D-27-001	





**LANDSCAPE PLAN LEGEND**

- ⊙ DENOTES CANOPY TREE
- ⊙ DENOTES UNDERSTORY TREE
- ⊙ DENOTES EVERGREEN TREE
- DENOTES SHRUBS
- DENOTES STREET LIGHT

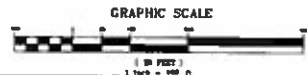
**LANDSCAPE NOTES**

1. TREE SPECIES SHALL BE DETERMINED BASED UPON EXISTING
2. TREE SPECIES SHALL BE DETERMINED BASED UPON EXISTING
3. THIS IS A GENERAL LANDSCAPE PLAN. DETAILED TREE PLANTING SHALL BE DETERMINED BY THE LANDSCAPE ARCHITECT.

ON THE WEST SIDE OF WINDING CREEK ROAD, NO DEVELOPMENT IS PROPOSED, SO THERE IS NO IMPACT TO FUNCTIONAL AREAS.

ON THE EAST SIDE OF WINDING CREEK ROAD, APPROXIMATELY 45 IN ACRES OF FORESTED WILDLIFE AND PRESERVE OF VARIOUS APPROPRIATELY 45 IN ACRES SHALL BE DETERMINED THROUGH CONSTRUCTION ACTIVITIES.

EX. TREEING GENERALLY INDICATES LOCATION OF TREES WITH STAMPS HAVING BEEN CREATED FROM A 2014. A FIELD SURVEY WAS DONE ON DATE TO 2014, IN THE "TREE SIZE SAMPLE AREA" SHOWING FIELD TREES WERE MEASURED, MARKING OF "LOT 11", "LOT 17", AND "LOT 25" PARCELS IS APPROXIMATELY 10' DIA.



**THIS SHEET FOR LANDSCAPE PURPOSES ONLY!!**

# Bowman CONSULTING

Bowman Consulting Group, LLC  
 10000 Westpark Drive, Suite 2000  
 Fairfax, VA 22031  
 Phone: (703) 271-0000  
 Fax: (703) 271-0070  
 www.bowmanconsulting.com

GENERALIZED LANDSCAPE PLAN  
 WINDING CREEK  
 GENERALIZED DEVELOPMENT PLAN  
 CAPPSVILLE/ROCKFALL INDUSTRIAL DISTRICTS STAFFORD COUNTY, VIRGINIA

NO. 1024330  
 COUNTY PROJECT NUMBER



PLAN 274370

DATE	BY	DESCRIPTION
05/21/14	W.H.M.	ISSUE FOR PERMITTING
05/21/14	W.H.M.	ISSUE FOR PERMITTING
05/21/14	W.H.M.	ISSUE FOR PERMITTING
05/21/14	W.H.M.	ISSUE FOR PERMITTING
05/21/14	W.H.M.	ISSUE FOR PERMITTING

DATE	BY	DESCRIPTION
05/21/14	W.H.M.	ISSUE FOR PERMITTING
05/21/14	W.H.M.	ISSUE FOR PERMITTING
05/21/14	W.H.M.	ISSUE FOR PERMITTING
05/21/14	W.H.M.	ISSUE FOR PERMITTING
05/21/14	W.H.M.	ISSUE FOR PERMITTING

Lot No: P2579 - Masscomp Property/0378-01-001 (S&D) - Planning/Engineering/Planning/0378-01-001-00-0379-01-001-01-01



**EXHIBIT B**

**Renderings**

8871170-2 039798.00001



# Winding Creek

ARCHITECTURAL ELEVATION ILLUSTRATIVE

**Bowman**  
CONSULTING

Stafford County, Virginia  
May 12, 2014



# Winding Creek

ARCHITECTURAL ELEVATION ILLUSTRATIVE

**Bowman**  
CONSULTING

Stafford County, Virginia  
May 12, 2014

**Current Situation**

- The EDA has asked the Board to consider providing additional funds to the Courthouse Road intersection project to allow the relocation of overhead lines to be converted to underground lines
- The EDA would also like any electrical relocations associated with the I-95 Interchange and Courthouse Road widening to be underground

**Considerations**

- The relocations associated with the Courthouse/Rt 1 Intersection project are all on the east side of Route 1 and will not affect the County portion of the Town Center
- The Courthouse widening and the Interchange projects are well underway. Those projects will not be relocating electric lines east of I-95 and will not affect the Town Center

**Request for the CEDC Committee/Board of Supervisors**

- Direction from the Committee regarding changes to the plans for the Courthouse Road/Rt 1 Intersection project
- If the Board would like underground utilities the plans will need to be redone and acquisition easements will need to be redone to reduce the cost of acquisitions
- The change will cost the County at least \$2.5 M

**Benefits to the County**

- Underground Utilities would save any future developer the cost of putting the electric lines underground

## MEMORANDUM

---

To: Stafford County Board of Supervisors

From: Joel Griffin  
Chairman, Stafford County Economic Development Authority

Date: March 15, 2018

Re: Stafford County Town Center Project – Underground Electric Lines Request

The Stafford County Economic Development Authority wishes to formally request that the Stafford County Board of Supervisors establish underground electric powerlines at the Courthouse Road/U.S. Route 1 intersection area.

The Town Center presents an opportunity to lay the foundation for development within a grid of streets that fosters activity, walking and connectivity. Employees and visitors from the Judicial Center campus and Hospital Healthcare Complex will increase foot traffic that benefits new upscale retail/commercial businesses, amenities, congregation and recreational spaces. The government seat cultivates a true pedestrian-oriented Town Center. Overhead lines create a lower quality visual perspective. The lines detract from the marketability of the high-end walkable community we envision as the new *Stafford Downtown*.

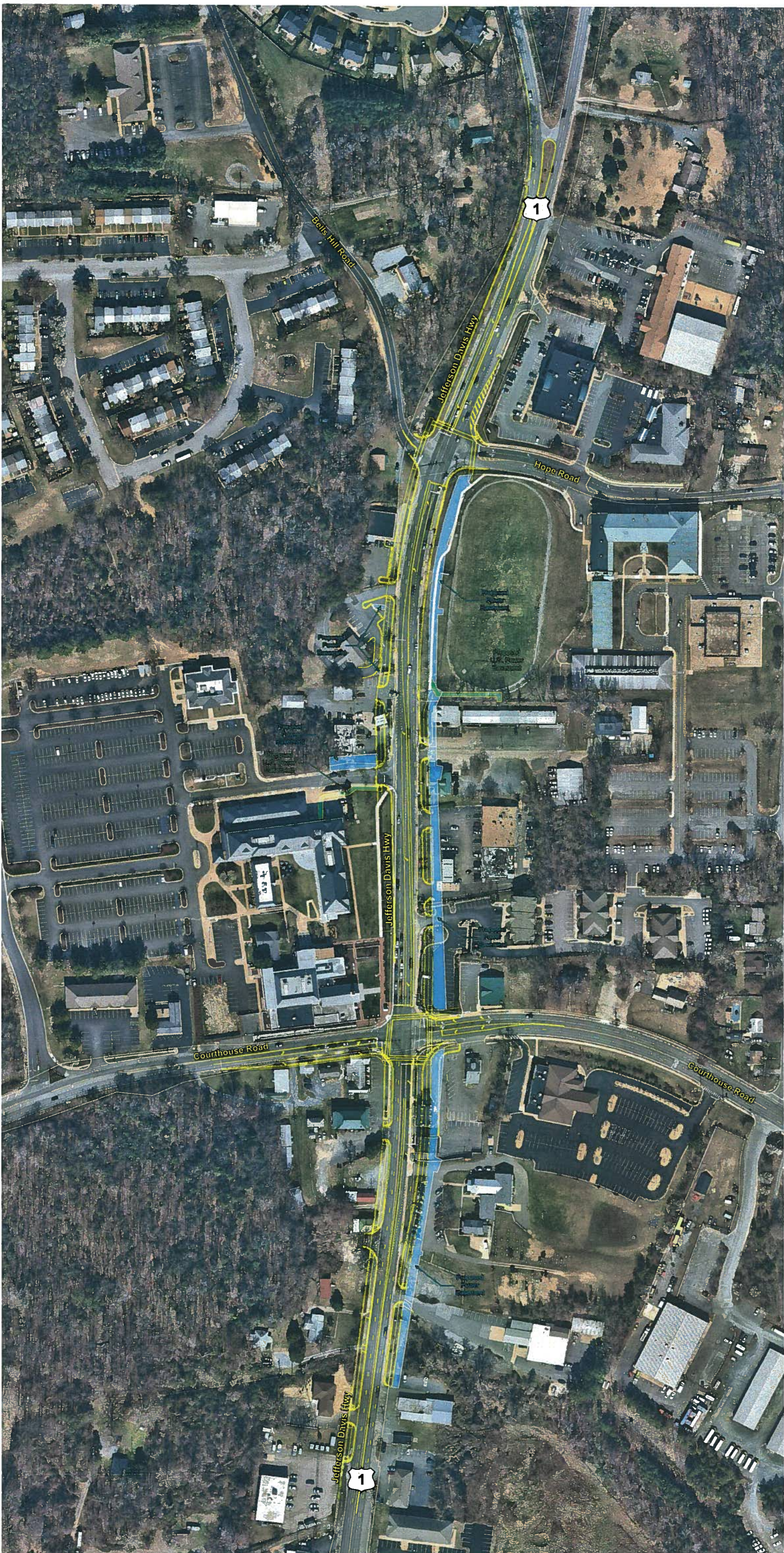
In addition to the aesthetic feature and the establishment of a higher level of standards, underground electric lines provide the following features:

1. Reduces outages during storms, which improves reliability and provides economic and societal benefits on the project;
2. Reduces range of electromagnetic fields (EMF) emission into the surrounding area;
3. Decreases operational costs over the lifetime of the cables.

We recognize the higher costs are a disadvantage today, but the long-term value of setting an immediate higher quality development standard will pay dividends to the Stafford County community.

Stafford County is developing a 21st century town center. Let's begin the project with 21st century electric transmission standards.





1/16/2018



0 25 50 100 Feet

Route1/Courthouse Road - Utilities





November 11, 2015

Stafford Courthouse Intersection Improvements  
Dry Utility Relocation Cost Estimates

To Whom It May Concern,

Utility Professional Services, Inc. calculated estimated costs to relocate the dry utility facilities along the Route 1 and Courthouse Road intersection impacted by the Intersection Improvements project. These are “high-level ballpark” cost estimates, for the type of work described, that should be used for budgeting purposes only. Unforeseen circumstances, or changes to the type or scope of work required or requested, may significantly change the magnitude and the cost of this estimate. Actual costs for any relocation will be generated by the dry utility provider, upon a formal request by the client to design/engineer the dry utility needs and present a formal cost/proposal and final design for payment.

Based on the available information and plans provided UtilityPros has calculated the prorated cost to relocate the utilities from **overhead to overhead** as costing the county \$1,275,907.00. The estimated relocation cost to the county based on the VDOT rules to covert the utilities from **overhead to underground** is \$3,724,101.00.

Enclosed you will find the spreadsheet use to calculate the estimated costs for both options.

The limits of the project we priced were per the drawings provided. The north boundary is north of Hope Road (Sta 100+00) and the south end boundary is currently south of the fire station (Sta 132+45). Also we priced east on Courthouse to the Funeral Home entrance (Sta 13+00) and west to the Courthouse building parking lot (Sta 81+00). We also including one span east of Route 1 on Hope Road as well as one span west on Bells Hill Road. Significant savings are possible if the limits of the project are reduced. Each one of these laterals represents significant cost and impacts.

If you should have any questions about the calculations or the available options, please contact me at (540) 834-3846 or [dalekniffin@utilitypros.com](mailto:dalekniffin@utilitypros.com).

Sincerely,

*Dale Kniffin*

Dale Kniffin  
Director-Telecommunication Distribution Engineering



Route 1 Stafford Courthouse Executive Consolidated Cost Summary						
			Prorates:	State (VDOT)	Utilities	
				76%	24%	
<b>Dominion</b>						
OH to OH:	\$1,425,700.00	x 24%	\$342,168.00	Utility Cost	State Cost	\$1,083,532.00
OH to UG:	\$3,648,900.00	-342,168.00	\$3,306,732	State (VDOT) Cost	Utility Cost	\$342,168.00
<b>Verizon</b>						
OH to OH:	\$180,175.00	x 24%	\$43,242.00	Utility Cost (Vz)	State Cost	\$136,933.00
OH to UG:	\$348,769.00	-43,242	\$305,527.00	State (VDOT) Cost	Utility Cost	\$43,242.00
<b>Comcast</b>						
OH to OH:	\$72,950.00	x 24%	\$17,508.00	Utility Cost (Comcast)	State Cost	\$55,442.00
OH to UG:	\$129,350.00	-17,508	\$111,842.00	State (VDOT) Cost	Utility Cost	\$17,508.00
<b>Total State OH-OH</b>						<b>\$1,275,907.00</b>
<b>Total Utility OH-OH</b>						<b>\$402,918.00</b>
<b>Total State OH-UG</b>						<b>\$3,724,101.00</b>
<b>Total Utility OH-UG</b>						<b>\$402,918.00</b>

**Current Situation**

- Background
  - Long & Long LLC currently runs one of two Farmer's Markets in Stafford
  - Their market has been operating at the UMW Campus and Stafford Hospital; Sundays – April thru November - approximately 5:00am to 3:00pm
  - They cannot continue to use the Hospital site due to Construction in their current spot
  - They have requested use of the Government Center Parking Lot – entire lot

**Considerations**

- Commercial Use of Government Property
- Term – One Year (April-November) – extensions/options
- Rent - \$250 per day (\$25/hr plus)
- Logistics –
  - No County Staff or Services
  - No Building Access
  - Parking for Armed Services Memorial
- Permits
  - Agricultural/PDR Committee
  - Other – Business License, Temporary ABC, Health Dept.

**Request for the CEDC Committee/Board of Supervisors**

- Direction from the Committee regarding a lease agreement for the Farmer's Market to use the Government Center Parking Lot.

**Benefits to the County**

- Provides an opportunity for the community to purchase locally grown produce. Provide a community benefit

Current Situation

- Virginia passed enabling legislation allowing localities to adopt Property Assessed Clean Energy (PACE) ordinances
- PACE allows for qualifying projects to obtain loans for energy & water efficient construction backed by real estate property tax special assessment
- The Economic Development Authority received a briefing on this subject at their February 9, 2018 meeting and responded favorably
- Presentation materials explaining the PACE program and benefits, along with the state enabling legislation are attached

Proposed End State

- Adopt a PACE for Stafford County for commercial buildings, although the Board could consider extending it to qualifying residential construction as well

Request for the CEDC Committee/Board of Supervisors

- Recommend that the Board authorize a public hearing at a future meeting to receive input regarding the adoption of a PACE ordinance

Benefits to the County

- If adopted, a PACE ordinance will allow developers and building owners additional opportunity to secure financing for projects
- This ordinance would encourage energy and water efficient construction in the county

# PACE

## Property Assessed Clean Energy

### WHAT IS PACE?

Property Assessed Clean Energy (PACE) is a financing mechanism that enables low-cost, long-term funding for energy efficiency, renewable energy and water conservation projects. PACE financing is repaid as an assessment on the property's regular tax bill, and is processed the same way as other local public benefit assessments (sidewalks, sewers) have been for decades. Depending on local legislation, PACE can be used for commercial, nonprofit and residential properties.

### HOW DOES IT WORK?

PACE is a national initiative, but programs are established locally and tailored to meet regional market needs. State legislation is passed that authorizes municipalities to establish PACE programs, and local governments have developed a variety of program models that have been successfully implemented. Regardless of model, there are several keystones that hold true for every PACE program.

- PACE is voluntary for all parties involved.
- PACE can cover 100% of a project's hard and soft costs.
- Long financing terms up to 20 years.
- Can be combined with utility, local and federal incentive programs.
- Energy projects are permanently affixed to a property.
- The PACE assessment is filed with the local municipality as a lien on the property.

### WHY IS IT SO POPULAR?

Property owners love PACE because they can fund projects with no out-of-pocket costs. Since PACE financing terms extend to 20 years, it's possible to undertake deep, comprehensive retrofits that have meaningful energy savings and a significant impact on the bottom line. The annual energy savings for a PACE project usually exceeds the annual assessment payment, so property owners are cash flow positive immediately. That means there are increased dollars that can be spent on other capital projects, budgetary expenses, or business expansion.

Local governments love PACE because it's an Economic Development initiative that lowers the cost of doing business in their community. It encourages new business owners to invest in the area, and creates jobs using the local workforce. PACE projects also have a positive impact of air quality, creating healthier, more livable neighborhoods.

### HOW CAN I GET PACE?

[www.PACENation.us](http://www.PACENation.us) has all the tools and resources you need to get started with PACE. Check to see if your state has passed a PACE statute, and if your area has an active program. If not, contact us to find out if there is a local initiative in development and we may be able to put you in touch with a working coalition. We look forward to hearing from you!

### BENEFITS OF PACE

**WORKFORCE DEVELOPMENT:**  
Creates local jobs

**ECONOMIC DEVELOPMENT:**  
Lowers cost of doing business

**BUILDING STOCK:**  
Maintained and upgraded

**BOTTOM LINE:**  
Directly impacts local businesses

**HEALTHY AIR:**  
Environmental impact



PACENation is the national, nonprofit advocate for PACE financing. We provide leadership, data, support and resources for the growing marketplace.

[www.pacenation.us](http://www.pacenation.us)  
[info@pacenow.org](mailto:info@pacenow.org)

## § 15.2-958.3. Financing clean energy programs

A. Any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy improvements with free and willing property owners of both existing properties and new construction. Such an ordinance shall include but not be limited to the following:

1. The kinds of renewable energy production and distribution facilities, energy usage efficiency improvements, or water usage efficiency improvements for which loans may be offered;
2. The proposed arrangement for such loan program, including (i) a statement concerning the source of funding that will be used to pay for work performed pursuant to the contracts; (ii) the interest rate and time period during which contracting property owners would repay the loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality;
3. A minimum and maximum aggregate dollar amount which may be financed;
4. A method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;
5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a third party for professional services to administer such loan program;
6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as (i) a program application fee paid by the property owner requesting to participate in the program, (ii) a component of the interest rate on the assessment in the written contract between the locality and the property owner, or (iii) a combination of (i) and (ii); and
7. A draft contract specifying the terms and conditions proposed by the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. The locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

D. In order to secure the loan authorized pursuant to this section, the locality shall be authorized

to place a voluntary special assessment lien equal in value to the loan against any property where such clean energy systems are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans.

E. A voluntary special assessment lien on real property other than a residential dwelling with fewer than five dwelling units or a condominium project as defined in § 55-79.2:

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien in the land records where the property is located, and (ii) evidence that the property owner is current on payments on loans secured by a mortgage or deed of trust lien on the property and on property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and that the title of the benefitted property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

2. Shall run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

3. May be enforceable by the local government in the same manner that a property tax lien against real property may be enforced by the local government. A local government shall be entitled to recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax; and

4. May incur interest and penalties for delinquent installments of the assessment in the same manner as delinquent property taxes.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

2009, c. 773;2010, c. 141;2015, cc. 389, 427.

# C PACE

v.

# R PACE

- Commercial, Multi-Family Residential, Agricultural, Industrial
- 33 states with adopted legislation; 19 with active programs
- New construction or existing property

- Single-Family Residential
- 3 states
- Consumer protection considerations



# Energy Efficient / Clean Energy Improvements

- HVAC
- Solar panels
- Geothermal improvements
- Energy efficient lighting
- Water heaters
- Air sealing
- Insulation
- Replacement windows
- Electronic vehicle charging equipment
- Wind resistance improvements (Florida)
- Seismic retrofits (California)

# Case Study



## PROJECT AT A GLANCE

- ✗ Aging Facility (Built 1965)
- ✗ Significant Load (30k Ft<sup>2</sup>)
- ✗ Failing Building Systems
- ✗ Leaking Roof
- ✗ Tax-Exempt Owner
- ✗ Limited Capital Budget
- ✓ Robust Utility Savings Opportunity
- ✓ Strong Solar Exposure
- ✓ Stable Property Value
- ✓ Engaged Owner

# Case Study

Project Improvements	\$1,337,255.66
Capital Provider Origination Fee	26,745.11
DC PACE Origination Fee	26,745.11
Capital Provider Pass Through Costs	<u>5,151.45</u>
<b><i>Sub-Total</i></b>	<b><i>\$1,395,897.34</i></b>
Capitalized Interest	<u>\$33,656.64</u>
<b>Total Assessment</b>	<b>\$1,429,554.00</b>

Term of Loan	20 years
LTV	15.5%
Annual Payment	\$126,599.88
Total Annual Energy Savings	≈\$139,800.00

# C PACE v. Commercial Loan

- Senior priority
- 100% financing
- Fully amortized over extended period
- No acceleration
- Default interest/penalties
- Remedy through tax foreclosure process
- Transfers with property

# PACE VS. TRADITIONAL EQUIPMENT FINANCING

## Bank Financing

**Project:** HVAC and Lighting

**Project Cost:** \$100,000

**Loan:** \$75,000

**Interest Rate:** 5%

**Term:** 5 years, fully amortizing

**Monthly Payment:** \$1,415

**Annual Payment:** \$16,984

## PACE Financing

**Project:** HVAC and Lighting

**Project Cost:** \$100,000

**Loan:** \$100,000

**Interest Rate:** 6.25%

**Term:** 15 years, fully amortizing

**Monthly Payment:** \$857

**Annual Payment:** \$10,290

# C-PACE IN VIRGINIA

- Law originally enacted in 2009 and amended in 2015 to make C-PACE attractive to investors (lien priority)
- DMME created uniform financial underwriting voluntary guidelines in December 2015
- Lender consent of all lien holders required
- Loan secured by voluntary special assessment lien, equal in priority to real estate taxes and senior to pre-existing mortgages
- C-PACE includes all commercial, residential over 4 units, no condos
- PACE allowed for both existing and new construction projects



# **VIRGINIA PACE AUTHORITY (VPA) MODEL C-PACE ORDINANCE**

## **AN ORDINANCE TO AMEND THE CODE OF THE [CITY][COUNTY] OF \_\_\_\_\_, VIRGINIA, BY CREATING A NEW [ARTICLE][CHAPTER] \_\_\_\_\_, ENTITLED “COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY FINANCING PROGRAM”**

**[Article][Chapter] \_\_\_\_.** “*[Insert Locality Name]* C-PACE Financing Program.

### **Sec. \_\_-1. Purpose and Creation of C-PACE Financing Program**

A. Pursuant to the C-PACE Act, any Virginia locality may enact an ordinance authorizing a C-PACE Program to provide C-PACE Loans for the initial acquisition and installation of eligible clean energy improvements with willing owners of qualifying existing and new Property. C-PACE Loans shall be secured by the placement of a C-PACE Lien against the Property, recorded in the Clerk’s Office. The C-PACE Payments shall be due and payable at the same time and in the same manner as the Real Estate Taxes are due and payable (pursuant to Title 58.1, Chapter 32 of the Code).

B. After due consideration, the [Council][Board] hereby determines that the promotion and development of a C-PACE Program will enhance the renovation of existing buildings and foster the construction of new buildings with energy or water efficient features, resulting in economic growth in the [City][County] and the region. The adoption of an ordinance creating a C-PACE Program for the [City][County] is in the public interest and fulfills multiple public purposes.

C. Therefore, the purpose of this Chapter is to create the “[*Insert Locality Name*] Commercial Property Assessed Clean Energy (C-PACE) Financing Program,” in accordance with the C-PACE Act, which shall operate in accordance with the provisions of this [Article][Chapter] (this “Ordinance”) and the C-PACE Act.

### **Sec. \_\_-2. Definitions**

“Amortization Schedule” means an amortization schedule of C-PACE Payments necessary to repay the C-PACE Loan, which is attached to the Certificate.

“Borrower” means (A) an entity (including a non-profit entity) or other owner of Property, which voluntarily obtains a C-PACE Loan under the C-PACE Program, resulting in a C-PACE Assessment and C-PACE Lien on the Property, or (B) a successor in title to Borrower.

“Borrower Certification” means a notarized certificate from Borrower, certifying that (A) Borrower is (i) current on all loan payments secured by a lien on the Property, (ii) current on Real Estate Tax and personal property tax payments, (iii) current on all federal, state and local taxes and that there is no federal income tax lien, judgment lien or similar involuntary lien against the Property, and (iv) not insolvent or in bankruptcy or foreclosure proceedings, and (B) the title of the Property is not in dispute.

“C-PACE” means Commercial Property Assessed Clean Energy.

“C-PACE Act” means Virginia’s clean energy financing law, established pursuant to Section 15.2-958.3 of the Code.

“C-PACE Agreement” means the C-PACE Assessment and Financing Agreement among Borrower, Lender, and the [City][County][Treasurer], which establishes the terms, conditions, party responsibilities and repayment obligations related to the C-PACE Loan and the C-PACE Assessment, a form of which C-PACE Agreement is attached to this Ordinance.

“C-PACE Assessment” means a voluntary, special assessment levied against a Property, at a Borrower’s request, to cover the debt service and recurring fees of a C-PACE Loan benefitting the Property.

“C-PACE Assignment” means a written assignment by Lender of the C-PACE Loan and the C-PACE Lien, which shall be recorded in the Clerk’s Office.

“C-PACE Certificate” means a Certificate of Levy and Lien of PACE Assessment, in a form prescribed by the [City][County], which shall include an Amortization Schedule and shall be recorded in the Clerk’s Office to evidence the C-PACE Lien.

“C-PACE Documents” means the C-PACE Agreement, C-PACE Note, C-PACE Certificate, C-PACE Assignment, and [*insert other applicable documents*].

“C-PACE Lien” means the voluntary, special assessment lien levied against the Property as security for the C-PACE Loan, which (A) is *pari passu* (i.e., of equal priority) with the [City][County] Real Estate Tax lien, (B) is senior to all other special assessment liens, (C) shall be senior to all previously recorded senior liens, provided a Lender Consent is recorded for each senior lien, (D) shall run with title to the Property and shall not be extinguished by a foreclosure; and (E) is evidenced by the C-PACE Certificate.

“C-PACE Loan” means a loan made under the C-PACE Program by a Lender to a Borrower to finance Eligible Improvements to a Property in accordance with the C-PACE Act, this Ordinance and the C-PACE Documents.

“C-PACE Note” means a promissory note executed by Borrower made payable to Lender in the original principal amount of the C-PACE Loan, including without limitation, any and all modifications, restructurings, extensions, consolidations, amendments and/or assignments thereof.

“C-PACE Payments” means the periodic, installment payments of the C-PACE Loan by Borrower due and payable to Lender to repay the C-PACE Loan in such amounts and at such times as described in the C-PACE Agreement, the C-PACE Certificate and the Amortization Schedule.

“[City][County]” means the [City][County] of [*Insert Locality Name*], Virginia.

“Clerk’s Office” means the Clerk’s Office of the Circuit Court of the [City][County], Virginia.

“Code” means the Code of Virginia of 1950, as amended to date and as it may hereafter be amended.



“Delinquent C-PACE Payment” means any C-PACE Payment that was not paid by Borrower when due, which shall include without limitation, all interest, late fees and penalties incurred pursuant to the C-PACE Documents.

“DMME” means the Virginia Department of Mines, Minerals and Energy.

“DMME Guidelines” means the Uniform Statewide Financial Underwriting Guidelines for C-PACE Loans, issued on December 1, 2015, by the PACE Stakeholder Committee organized by the DMME.

“Eligible Improvement” means any improvement, renovation, addition, construction, installation, modification of or to, a Property or a building located on a Property, if designed to (i) facilitate renewable energy production and distribution, (ii) reduce energy consumption, or (iii) reduce water consumption.

“Lender” means (i) a third party capital provider that has been approved in accordance with the Program Guidelines to originate a C-PACE Loan, or (ii) the current holder of a C-PACE Loan.

“Lender Consent” means an executed consent and subordination agreement from each senior lender having a senior lien on the Property, which shall be recorded in the Clerk’s Office in connection with the C-PACE Loan closing.

“PACE” means Property Assessed Clean Energy.

“Program” means the [City][County] C-PACE financing program established to provide C-PACE Loans to Borrowers in accordance with C-PACE Act, this Ordinance and the C-PACE Documents.

“Program Guidelines” means those procedures, rules, and restrictions promulgated, imposed and enforced by the County for the governance of the C-PACE Program.

“Property” means commercial, assessable real property located in the [City][County], whether vacant or occupied, improved or unimproved, excluding (a) a condominium or (b) a residential property with fewer than five dwelling units.

“Real Estate Tax” means the local tax on real estate which localities levy pursuant to Title 58.1, Chapter 32 of the Code.

“Treasurer” means the [City][County] Treasurer or other official that levies and collects taxes.

“Virginia” means the Commonwealth of Virginia.

### **Sec. \_\_-3. Eligible Improvements under the C-PACE Program**

A. The C-PACE Program shall be available throughout the [City][County], provided that Borrower, the Property and Eligible Improvements all qualify for the C-PACE Program. The following types of Eligible Improvements may be financed with a C-PACE Loan:

i. renewable energy production and distribution facilities (e.g., solar photovoltaic, solar thermal, wind, wave and/or tidal energy and the storage and/or distribution of the energy produced thereby);

ii. energy usage efficiency systems (e.g., high efficiency lighting and building systems, heating, ventilation and air conditioning (HVAC) upgrades, air duct sealing, high efficiency hot water heating systems, building shell or envelope improvements, reflective roof, cool roof or green roof systems and/or weather-stripping);

iii. water usage efficiency improvements (e.g., recovery, purification, recycling and other forms of water conservation);

iv. construction, renovation or retrofitting of a Property directly related to the accomplishment of any purpose listed in clauses (i), (ii) or (iii), above, whether such Eligible Improvement was erected or installed in or on a building or on the ground, it being the express intention of the [City][County] to allow Eligible Improvements that constitute, or are part of, the construction of a new structure or building to be financed with a C-PACE Loan; or,

v. any other category of improvement approved by [City Manager][County Administrator] as qualifying for financing under the C-PACE Program.

B. A C-PACE Loan may include construction, development and consulting costs directly related to a C-PACE Loan, including without limitation, the cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting services (e.g., engineering, energy, financial and legal), Program fees and C-PACE transaction closing costs.

**Sec. \_\_-4. C-PACE Loans**

A. C-PACE Loans shall be originated by Lenders. Except for oversight duties set forth in this [Article][Chapter], the role of the [City][County] shall be limited to facilitating the repayment of C-PACE Loans by authorizing and instructing the Treasurer to include each PACE Payment on Borrower's Real Estate Tax bill.

B. The minimum initial principal amount of a C-PACE Loan shall be [\$\_\_\_\_\_], and the maximum initial principal amount of a C-PACE Loan shall be [\$\_\_\_\_\_].

C. The interest rate of a C-PACE Loan shall be determined by mutual agreement of Borrower and Lender.

D. The term of a C-PACE Loan shall not exceed [\_\_\_\_ (\_\_\_\_)] years.

E. The amount of a C-PACE Loan shall be fully amortized in the C-PACE Payments over the term of the C-PACE Loan as agreed by Borrower and Lender.

F. A template of the C-PACE Agreement is included in this [Article][Chapter].

**Sec. \_\_\_-5. C-PACE Assessment and Lien**

A. A C-PACE Loan shall be secured by a C-PACE Lien, and the C-PACE Lien shall be evidenced by the recordation of a C-PACE Certificate in the Clerk's Office. The C-PACE Assessment shall be payable in C-PACE Payments over a period of years, due at the same time and in the same manner as Real Estate Taxes, in accordance with the C-PACE Certificate.

B. The C-PACE Lien shall have equal priority with the [City][County] Real Estate Tax lien, except that it shall have priority over any previously recorded lien only if (i) a Lender Consent is recorded in the Clerk's Office in connection with the C-PACE Loan Closing, and (ii) Borrower has delivered an executed Borrower Certificate to the [City][County] in connection with the C-PACE Loan.

C. In connection with the C-PACE Loan closing, the recorded C-PACE Certificate shall be provided to the [City][County][Treasurer], and the Treasurer will add the C-PACE Assessment (and related C-PACE Payments) to the Property's Real Estate Tax bill. Thereafter, the C-PACE Assessment Payments shall be billed on the Property's Real Estate Tax bill and shall be collected with the payment of Real Estate Taxes.

D. The [City][County] obligation to remit the C-PACE Payments to Lender shall be a limited obligation, only payable if and when funds from the C-PACE Payments are received by the Treasurer. The Treasurer shall promptly process, deposit and credit C-PACE Payments upon receipt.

E. No later than [fourteen (14) days] after a C-PACE Payment (or any portion thereof) has been received by the Treasurer, the Treasurer shall remit the C-PACE Payment (or so much thereof as available) to the Lender in accordance with the Amortization Schedule.

F. Only the current C-PACE Payments and any Delinquent C-PACE Payments shall constitute a first lien on the Property (having equal priority with the [City][County] Real Estate Taxes. Delinquent C-PACE Payments shall accrue penalties and interest in accordance with the C-PACE Agreement and shall be enforced in accordance with Title 58.1, Chapter 32 of the Code). C-PACE Payments and Delinquent C-PACE Payments shall be collected and enforced by the [City][County] in the same manner as delinquent Real Estate Taxes are collected and enforced, and in addition to the C-PACE Payments and Delinquent C-PACE Payments due to Lender, the [City][County] and the Treasurer shall be entitled to recover their costs and expenses, including [reasonable] attorneys' fees and costs, in the same manner as in a suit to collect delinquent Real Estate Tax, and may charge interest and penalties for delinquent installments of the C-PACE Assessment in the same manner as delinquent Real Estate Taxes. All collection and enforcement costs, expenses, interest and penalties incurred by Lender, [City][County] and the Treasurer shall (i) be added to the Delinquent C-PACE Payments being collected, (ii) become part of the aggregate amount sued for and collected, (iii) be added to the C-PACE Assessment, and (iv) be secured by the C-PACE Lien.

G. The owner of a property subject to a C-PACE Lien shall assume the obligation to repay all remaining unpaid C-PACE Payments due on the C-PACE Assessment whether the transfer of ownership was voluntary or involuntary. Only current C-PACE Payments and Delinquent C-PACE Payments, together with any costs of collection, shall be payable at the settlement of a C-PACE Property sale, unless otherwise agreed by the parties.

H. C-PACE Loans may be transferred, assigned or sold by a Lender at any time during the C-PACE Loan term, provided that Lender shall (i) record a C-PACE Assignment in the Clerk's Office, and (ii) deliver a copy of the recorded C-PACE Assignment to the [City][County][Treasurer]. The Treasurer will not be obligated to remit C-PACE Payments to a new Lender unless a recorded copy of the C-PACE Assignment has been provided to the Treasurer at least fourteen (14) days before the next due date for the C-PACE Payment. Recordation of the C-PACE Assignment shall constitute an assumption by the new Lender of the C-PACE rights and obligations contained in the C-PACE Documents.

**Sec. \_\_-6. Limitation of Liability**

By executing a C-PACE Agreement or any other C-PACE Document, or otherwise participating in the C-PACE Program, each Borrower, Lender, contractor or other party or participant hereby acknowledges and agrees, for the benefit of the [City][County] and as a condition to the [City][County] participation in the C-PACE Program, that: (A) the [City][County] does not undertake any obligations under or in connection with the C-PACE Act, this Ordinance, the Program Guidelines or any C-PACE Document, except as expressly stated therein or herein, and no implied covenants or obligations of the [City][County] exist; (B) regardless of any default by Borrower, the [City][County] has no obligation to remit any C-PACE Payments or Delinquent C-PACE Payments to any Lender, or any other payments related to any C-PACE Loan, except from the funds actually received by the [City][County][Treasurer] in payment therefor, as the obligation to remit such funds to the Lender is hereby declared to be a special or limited obligation of the [City][County]; (C) the PACE Loan, C-PACE Lien, C-PACE Payment, and/or any other obligation arising from any PACE Document, the C-PACE Act and/or this Ordinance (i) are not backed by any credit of the [City][County], Virginia or any of its political subdivisions, or any taxes, taxing power or governmental funds, and (ii) shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction; (D) the [City][County] has not made any representations, financial or otherwise, regarding Borrower, the Property or the Eligible Improvements; (E) the [City][County] makes no representation or warranty as to, and assumes no responsibility with respect to, the accuracy or completeness of any C-PACE Lien; (F) the [City][County] assumes no responsibility or liability for the Eligible Improvements, or the planning, construction or operation thereof, (G) each Borrower, Lender and contractor shall, upon request, provide the [City][County] with any information associated with the C-PACE project or the C-Loan; and (ix) each Borrower, Lender, contractor and other C-PACE participant in the Program shall comply with all applicable requirements of the C-PACE Act, this Ordinance, the C-PACE Documents and the Program Guidelines.

**§ \_\_-\_\_. Effective Date**

This Ordinance shall become effective as of [\_\_\_\_\_], 2018].

END OF ORDINANCE