



## CUMBERLAND COUNTY BOARD OF SUPERVISORS

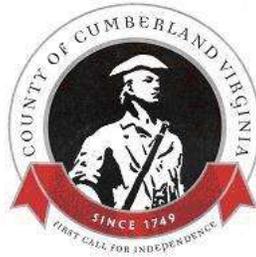
### Regular Monthly Meeting Cumberland County Elementary School Cumberland, VA

December 10, 2019  
Regular Meeting – 7:00 p.m.

1. **Call to Order**
2. **Welcome and Pledge of Allegiance**
3. **Roll Call**
4. **Approval of Agenda** **Motion**
5. **State and Local Departments/Agencies/Community Service Providers** **Information**
  - a. Dr. Amy Griffin, Superintendent of Cumberland County Public Schools **Information**
  - b. VDOT **Information**
  - c. Mrs. Lisa Davis, Cumberland County Public Library **Information**
6. **Public Hearing Notices/Set Public Hearings**
7. **Public Hearings** **Motion**
  - a. CUP 19-06 Harris Porch (pg. 1-12) **Motion**
  - b. CUP 19-07 Boese LLA (pg. 13-21) **Motion**
  - c. CA 19-08 Erosion & Sediment Control Ordinance (pg. 22-38) **Motion**
  - d. CA 19-09 Short-term rental complex (pg. 39-52) **Motion**
8. **County Attorney/County Administrator Report** **Motion**
  - a. Consent agenda **Motion**
    - i. Approval of bills
    - ii. Approval of Minutes (November 12, 2019) (pg. 53-68)
  - b. Ratify TransTech Alliance Regional Development Agreement (pg. 69-74) **Motion**
  - c. Records destruction request from Treasurer (pg. 75) **Motion**
  - d. Resolution declaring Cumberland as a second amendment sanctuary (pg. 76-77) **Motion**
  - e. RFP 2019-10-18 CCES Intent to award (addendum) **Motion**
9. **Finance Director's Report** **Information**
  - a. Monthly Budget Report (addendum) **Motion**
  - b. Piedmont Regional Health District – request for additional funding (pg. 78-79) **Motion**

For questions or information, please contact [info@cumberlandcounty.virginia.gov](mailto:info@cumberlandcounty.virginia.gov) or call 804/492-3800.

- 10. Planning Director's Report**
  - a. Planning Project updates (pg. 80) **Information**
- 11. County Attorney's Report**
- 12. Old Business**
  - a. Cobbs Creek Reservoir Ordinance (pg. 81-86) **Motion**
- 13. New Business**
- 14. Public Comments**
- 15. Board Members Comments**
- 16. Adjourn into Closed Meeting** **Motion**
- 17. Reconvene in Open Meeting** **Motion**
- 18. Additional Information**
  - a. Treasurer's Report (addendum)
  - b. DMV Report (pg. 87)
  - c. Monthly Building Inspections Report (addendum)
  - d. Approved Planning Commission meeting minutes – N/A
  - e. Approved EDA minutes – September 24, 2019 (pg. 88-90)
  - f. 2020 PC meeting dates (pg. 91)
- 19. Adjourn – Organizational Meeting – January 14, 2019.**



**STAFF REPORT**  
**CUP 19-06**  
**Harris Porch**  
**Conditional Use Permit**  
**Cumberland County, Virginia**  
**Board of Supervisors Public Hearing**

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**General Information:**

Processing schedule: The Planning Commission considered this proposal on October 28, 2019 with a public hearing. They recommended denial of this application to the Board of Supervisors. The Board of Supervisors will hold a public hearing on December 10, 2019.

**Application Information:**

Owner/Applicant: Travis & Jennifer Harris  
Requested Action: Conditional Use Permit for: Adding a deck in the front setback.  
Tax Parcel Number: 16A2-1-282C  
Address: 6 McCutcheon Ave  
Election District: 1  
Existing Zoning: R-2 with CUP  
Proposed Zoning: R-2 with CUP  
Size: .612 acres  
Existing land uses: Single family dwelling  
Comp. plan area: Not in a growth area  
Overlay districts: None

**Surrounding Area Information:**

<u>Direction</u>	<u>Adjacent existing uses</u>	<u>Adjacent zoning</u>	<u>Adjacent Comp. Plan Area (2013)</u>
All	Residential	R-2	Not in a growth

**Summary of Request and Background Information:**

Travis & Jennifer Harris are the owners of this property, and they are applying for this CUP as a front porch has been built on her property without any permits. This porch currently represents a violation of Cumberland County Code. This CUP would bring her property back into compliance.

This property falls under CUP 15-03 Trice's Lake Community. There were seven (7) conditions apart of this CUP that set setbacks and standards of development. They are as follows:

1. No development or redevelopment may occur on any remaining single lots, unless the degree of non-conformity is held constant or diminishes. The exception to this would be sheds that are under the size that requires a building permit.
2. In order to develop a property for a residence, there must be at least two contiguous lots (based upon the original subdivision plat), with the property line vacated between them.
3. All side and rear yard setbacks for structures (both dwelling and accessory) would be fifteen feet.
4. Front yard setbacks would be determined by averaging the setbacks of the four houses closest to the property in question.
5. In order to develop or redevelop any property, an approved septic plan from the state Health Department or certified AOSE (Alternative Onsite Soil Evaluator) must be in place. The septic plan would determine the number of bedrooms that would be allowed.
6. Provision of water for the property must be through the community well system.
7. Each new home must provide two off-street parking spaces within their lot.

The front setback is determined by the how far the nearest four (4) houses are setback from the road. The dwellings closest are 16 McCutcheon (64 feet), 13 McCutcheon (73 feet), 8 Hillcrest (59 feet), and 14 Hillcrest (59 feet). The average of these setbacks makes the setback for this house to be 63.25 feet from the centerline of the road, and this porch is 38 feet from the centerline. This means the current porch is encroaching into the front setback by 25.25 feet.

If this CUP is granted, the Building Inspections Department will have to issue permits and conduct inspections prior to completing a final inspection.

**Consistency with the 2013 Comprehensive Plan:**

Under the land use goals for the Comprehensive Plan, Objective 1 reads, "Through effective zoning, regulate future development to protect existing land use patterns within Cumberland County." This proposal will not allow the development of this property in a way that is consistent with surrounding development.

**Consistency with the Zoning Ordinance:**

**Section 74-786** of the Zoning Ordinance states the grounds for granting a CUP for lot issues. It states, "Preexisting nonconforming lots, parcels, uses or structures that fail to meet the width, area, setback or frontage requirements of this chapter may apply for a conditional use permit to address any such deficiencies, provided the granting of the conditional use permit promotes good zoning practice and will not adversely affect the public health, safety and welfare. The fee for this conditional use permit shall be waived."

**Public Notification:**

Notice was published in the Farmville Herald on November 27, 2019 and December 4, 2019.

Adjoining property owners were mailed a notice for the public hearing via certified mail on October 8, 2019.

**Public Comment:**

As of this report, there have been two nearby property owners that have been against this CUP.

**Conclusion:**

Staff believes the requested action is inconsistent with the recommendations of the Comprehensive Plan and the Zoning Ordinance as well as a prior CUP.

**Planning Commission Recommendation:**

The Planning Commission voted 4-2-1 in recommendation of **denial** of CUP 19-06.

The following setbacks and conditions are recommended upon approval:

1. The lot shall not be subdivided, nor shall boundary lines be adjusted to cause the lot to become smaller and more non-conforming in the future.
2. Setbacks for this parcel are:
  - Front: 38 feet
  - Rear: Standard setbacks apply
  - Side yards: Standard setbacks apply
  - Accessory: Standard setbacks apply

This CUP is granted indefinitely. However, if the underlying zoning is changed in the future that would allow the same, similar, or greater development on the parcel than granted by this CUP, it shall be rescinded at the initiation of the Zoning Administrator, with no further action required by the Planning Commission or Board of Supervisors.

Respectfully submitted by:  
JP Duncan  
Planning Director







COMMONWEALTH OF VIRGINIA  
COUNTY OF CUMBERLAND

Internal Use Only  
FILE # CUP 19-06  
RECEIVED 10/11/19  
RECEIPT # NO fee

### Application for Conditional Use Permit

Last revised 4/19

**IMPORTANT NOTE:** For some large-scale developments, VA State Code requires that a Traffic Impact Study (TIS) or a Traffic Impact Analysis (TIA) be completed and submitted with a rezoning application **before** the conditional use permit application is deemed complete.

Address/Location: 6 McCutcheon AVE  
Election District: 1 Current Zoning: R-2  
Proposed Use: Residential curved front porch/d<sup>st</sup> more than existing  
Acreage of Parcel: .612 Acreage to be covered by CUP: .612  
Tax Map Parcel(s): 16A2-1-282C  
Comprehensive Plan Area: Not in a growth area

Is this an amendment to an existing conditional use permit? If so, provide CUP number: _____	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
A Preliminary Site Plan is required to be attached to any CUP application. Is a preliminary site plan attached to this application?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Is this a proposal for a shopping center or telecommunication tower? If so, additional information and conditions may apply.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Is an amendment to the subdivision or zoning ordinance proposed as part of this CUP application? If so, attach the Code Amendment application.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Contact Person/Applicant: Travis / Jennifer Harris  
Address: 365 Apricot LN  
City: Fermville State: VA Zip: 23901  
Phone Number: 434-517-8933

Owner(s) of Record (If different than applicant):

Same

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

Does the property owner also own or have any ownership interest in any abutting property? If yes, please list those tax map numbers:

16A21-281C 16A21-285C

Section 74-702 of the Cumberland County Zoning Ordinance provides guidelines for conditional use permit applications. Please address the following standards which will be reviewed by the staff in analysis of your request. If you need assistance filling out these items, staff is available.

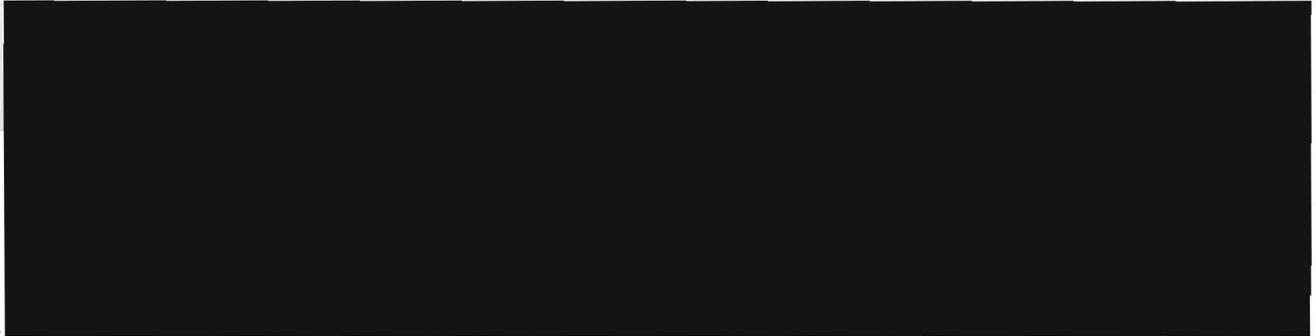
Provide a written statement demonstrating that:

1. The establishment, maintenance or operation of the CUP will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
2. The CUP will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
3. The establishment of the CUP will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
4. The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood;
5. Adequate utilities, access roads, drainage, and necessary facilities are provided;
6. Ingress and egress to property and structures on the property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access of fire or catastrophe are adequately provided for;
7. Off-street parking and loading areas are provided as required;
8. Above economic considerations, noise, glare and odor effects of the special exception are adequately provided for properties generally in the district;
9. Refuse and service areas, with particular reference to the items in #s 1. and 2. above are adequately provided for;
10. Appropriate screening and buffering with reference to type, dimensions and character of the use are adequately provided for;
11. Any signs and exterior lighting are compatible and in harmony with properties in the district with reference to aesthetics, glare, traffic safety and economic effect;
12. Required building setbacks and other open spaces are adequately provided for;

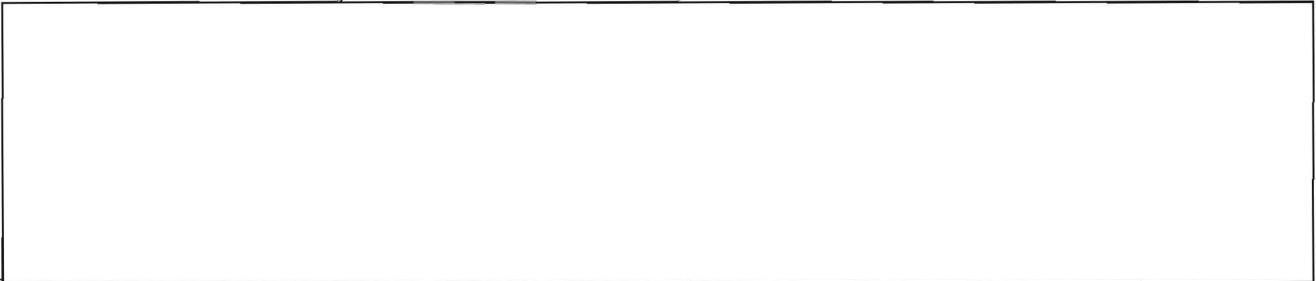
16 x 16

13. The proposed use is compatible with adjacent properties and other property in the zoning district;
14. An adequate supply of light and air to adjacent properties is adequately provided for; and
15. The CUP shall, in all other respects, conform to the applicable regulations of the zoning district in which it is located, except as such regulations may, in each instance, be modified by the Board of Supervisors.

Describe your request in detail and include any relevant information such as the number of persons involved in the use, operating hours, or any unique features of the proposed use.



If any improvements are being proposed, briefly state whether new structures are to be constructed, existing structures are to be used or additions are to be made to existing structures. If available, provide dimensions of any structures that will be used for this CUP.



**Attachments Required** – provide a copy of each

1. *Recorded plat or boundary survey of the parcel(s) requested for the rezoning.* If there is no recorded plat or boundary survey, please provide legal description of the parcel(s) and the Deed Book and page number.

Note: If you are requesting a rezoning for a portion of a parcel, it must be described or delineated on a copy of the plat or surveyed drawing.

2. *Ownership information* – If ownership of the property is in the name of any type of legal entity or organization including, but not limited to, the name of a corporation, partnership or association, or in the name of a trust, or in a fictitious name, an acceptable document must be submitted certifying that the person signing below has the authority to do so.

**If the applicant is a contract purchaser or an agent of the owner, an owner/agent agreement must be attached (ask staff for form if needed).**

**Certification**

I (We) hereby certify that I (we) own the subject property, or have the legal power to act on behalf of the owner in filing this application. I (We) also certify that the information furnished in this application is accurate to the best of my (our) knowledge.

*Travis Harris*

\_\_\_\_\_  
*Print Name of Owner/Applicant*

*[Handwritten Signature]*

\_\_\_\_\_  
*Signature of Owner/Applicant*

*10-1-19*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Print Name of Owner/Applicant*

\_\_\_\_\_  
*Signature of Owner/Applicant*

\_\_\_\_\_  
*Date*

Attention, C.U.P

I, Travis Harris purchased a house and property at 6 McCutcheon AVE Columbia VA. Upon purchase the house had a front porch/stoop with an attached patio that was 6x16.

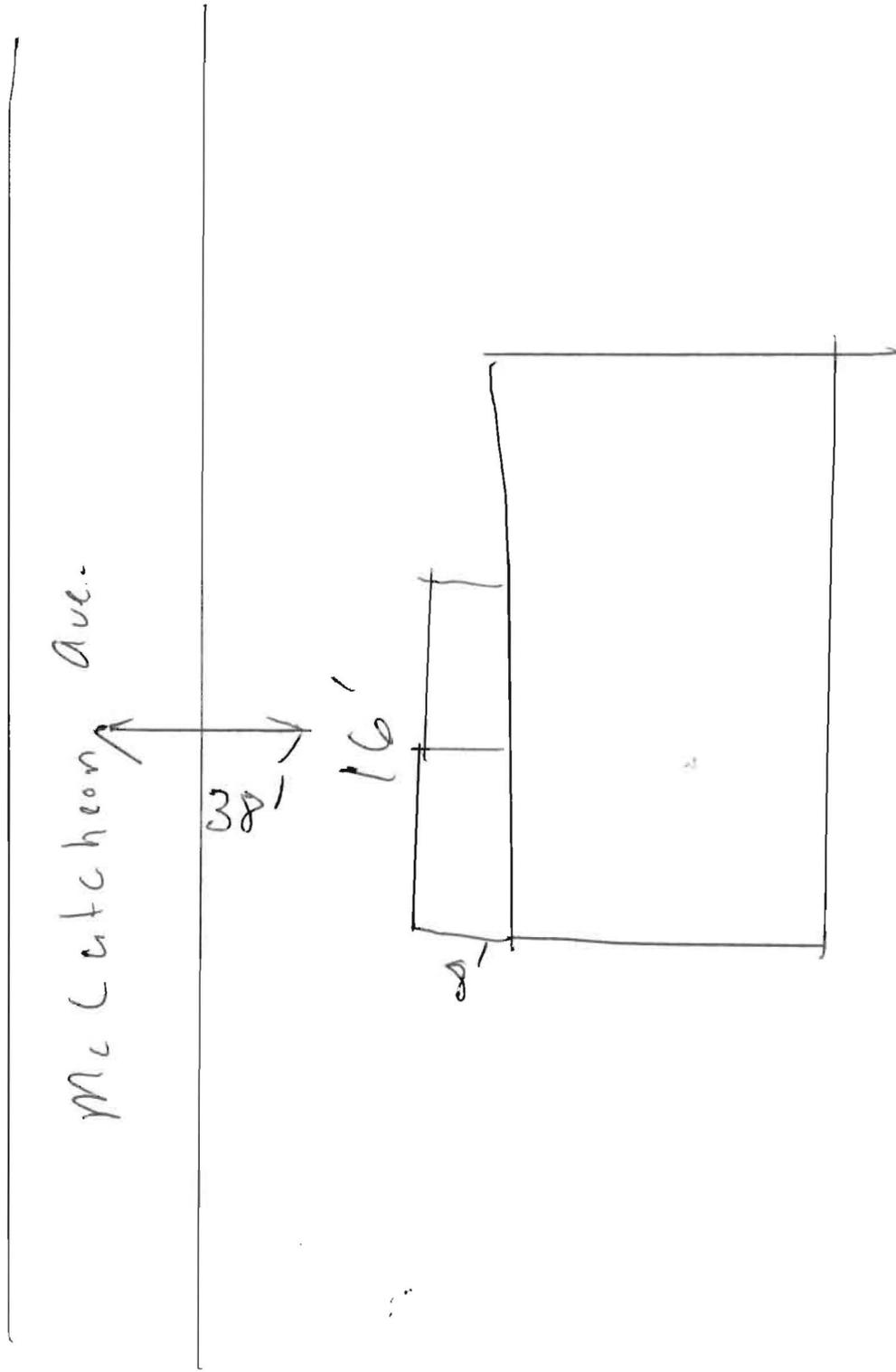
I removed the stoop and replaced it with wooden deck covered with a tin roof. It is now 8x16 I only made the deck 2ft larger.

I, Travis Harris is asking for your mercy and asking the planning commission and board to please pass this hard work that I have put into this home. To make it more presentable and more comfortable.

The work that has been done on this home was not done intentionally without a permit. My understanding was as long as I was building on what was already there then I did not need one.

I have then found out that it needs to be a certain distance from the road. The house itself does not meet that set back. I own the adjoining properties on all sides of the house 2.7 acres. The home was built in 1965 and there was an addition built on to the house at or around 1995.

The work that has been performed meets all of the application guidelines. Therefore, I am asking you to please pass this request.



COUNTY of  
CUMBERLAND  
VIRGINIA  
FOUNDED • 1749

Building Official's Office

Leland H. Leeds  
Building Official  
lleeds@cumberlandcounty.virginia.gov

Mackenzie Tate  
Building Coordinator  
mtate@cumberlandcounty.virginia.gov

P.O. Box 110  
1 Courthouse Circle  
Cumberland, VA 23040  
(804) 492-9114 Phone

September 12, 2019

Travis Harris  
365 Apricot Ln  
Farmville, VA 23901

Dear Mr. Harris:

It was brought to the attention of the Building Code Official's office that there has been construction activity on your property listed in the County's real estate property records as 6 McCutcheon Ave; Tax Map #16A2-1-282C in the R-2 zoning district.

According to our records we currently do not have a permit on file for a front porch and back deck. If you have already obtained a building permit for this construction, please contact this office and let us know in what name the permit was issued in.

Also, you may want to check with the Planning & Zoning department regarding setbacks, there office can be reached at 804-492-3520.

You are hereby given seven days from the date of this letter to respond. Thank you for your cooperation in this matter, and if you have any questions or concerns please contact us at (804) 492-9114 Monday through Friday 8:30 am to 4:30 pm.

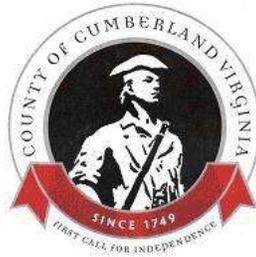
Sincerely,



Leland Leeds  
Building Official

Cc: File, Planning/Zoning Department





**STAFF REPORT**  
**CUP 19-07**  
**Boese LLA**  
Conditional Use Permit  
Cumberland County, Virginia  
Board of Supervisors Public Hearing

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**General Information:**

Processing schedule: The Planning Commission considered this proposal on October 28, 2019 with a public hearing. They unanimously recommended approval to the Board of Supervisors. The Board of Supervisors will hold a public hearing on December 10, 2019.

**Application Information:**

Owner/Applicant: Mary Boese  
Requested Action: Conditional Use Permit for: lot line adjustment  
Tax Parcel Number: 16-A-22A and 16-A-24  
Address: 192 and 190 Trices Lake Road  
Election District: 1  
Existing Zoning: A-2  
Proposed Zoning: A-2 with CUP  
Size: 3.59 acres  
Existing land uses: Residential  
Comp. plan area: Not in a growth area  
Overlay districts: None

**Surrounding Area Information:**

<u>Direction</u>	<u>Adjacent existing uses</u>	<u>Adjacent zoning</u>	<u>Adjacent Comp. Plan Area (2013)</u>
North/South/West	Residential and Agricultural	R-2	Not in a growth area
East	Residential and Agricultural	A-2	Not in a growth area

**Summary of Request and Background Information:**

Mary Boese owns the parcel of which 192 Trices Lake Road sits on. As the property lines stand, the driveway on tax map parcel (TMP) 16-A-22A lies on the property line of TMP 16-A-24. This CUP would allow for a lot line adjustment that would resolve this encroachment.

**Consistency with the 2013 Comprehensive Plan:**

The proposed use is within in an area not designated for growth in the 2013 Comprehensive Plan.

The following goals, objectives and policies of the 2013 Comprehensive Plan would be achieved by the proposed CUP:

*Goal 5:* It is the goal of this plan to encourage the creation of appropriate economic opportunity for current and future citizens of Cumberland County.

*Objective 1:* Encourage the overall strengthening and diversification of the economic base of Cumberland County to provide a sound tax base and to support the provision of needed public services.

*Objective 4:* To encourage the development of essential employment opportunities within Cumberland County for the resident workforce.

*Goal 3:* It is the goal of this comprehensive plan to promote the wise and efficient utilization of lands within Cumberland to result in the sustainability of land resources and harmonious development of lands to serve the divergent interest and needs of the citizens of Cumberland County.

*Objective 1:* Through effective zoning, regulate future development to protect existing land use patterns within Cumberland County.

**Consistency with the Zoning Ordinance:**

The proposed use of the subject property is compatible with surrounding zoning and the intent of the district.

**Public Notification:**

Notice was published in the Farmville Herald on November 27, 2019 and December 4, 2019.

Adjoining property owners were sent a notice for the public hearing via certified mail on October 8, 2019.

**Conclusion:**

The lot line adjustment would increase the overall conformity of the parcels involved.

**Recommendation:**

The Planning Commission unanimously voted 7-0 in recommendation of **approval** of CUP 19-07.

The following conditions are recommended upon approval:

1. Neither lot will be subdivided without meeting the standards in Cumberland County Code, nor will boundary lines be adjusted to cause either lot to become smaller and more non-conforming in the future.
2. The lot line adjustment will not cause any lot to become less than one (1) acre in area.

Respectfully submitted by:

JP Duncan  
Planning Director



COMMONWEALTH OF VIRGINIA  
COUNTY OF CUMBERLAND

<b>Internal Use Only</b>	
FILE #	_____
RECEIVED	_____
RECEIPT #	_____

### Application for Conditional Use Permit

Last revised 4/19

**IMPORTANT NOTE:** For some large-scale developments, VA State Code requires that a Traffic Impact Study (TIS) or a Traffic Impact Analysis (TIA) be completed and submitted with a rezoning application **before** the conditional use permit application is deemed complete.

Address/Location: \_\_\_\_\_

Election District: \_\_\_\_\_ Current Zoning: \_\_\_\_\_

Proposed Use: \_\_\_\_\_

Acreage of Parcel: \_\_\_\_\_ Acreage to be covered by CUP: \_\_\_\_\_

Tax Map Parcel(s): \_\_\_\_\_

Comprehensive Plan Area: \_\_\_\_\_

Is this an amendment to an existing conditional use permit? If so, provide CUP number: _____	<input type="checkbox"/> YES <input type="checkbox"/> NO
A Preliminary Site Plan is required to be attached to any CUP application. Is a preliminary site plan attached to this application?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Is this a proposal for a shopping center or telecommunication tower? If so, additional information and conditions may apply.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Is an amendment to the subdivision or zoning ordinance proposed as part of this CUP application? If so, attach the Code Amendment application.	<input type="checkbox"/> YES <input type="checkbox"/> NO

**Contact Person/Applicant:** \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**Owner(s) of Record** (If different than applicant):

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Does the property owner also own or have any ownership interest in any abutting property? If yes, please list those tax map numbers:

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Section 74-702 of the Cumberland County Zoning Ordinance provides guidelines for conditional use permit applications. Please address the following standards which will be reviewed by the staff in analysis of your request. If you need assistance filling out these items, staff is available.

Provide a written statement demonstrating that:

1. The establishment, maintenance or operation of the CUP will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
2. The CUP will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
3. The establishment of the CUP will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
4. The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood;
5. Adequate utilities, access roads, drainage, and necessary facilities are provided;
6. Ingress and egress to property and structures on the property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access of fire or catastrophe are adequately provided for;
7. Off-street parking and loading areas are provided as required;
8. Above economic considerations, noise, glare and odor effects of the special exception are adequately provided for properties generally in the district;
9. Refuse and service areas, with particular reference to the items in #s 1. and 2. above are adequately provided for;
10. Appropriate screening and buffering with reference to type, dimensions and character of the use are adequately provided for;
11. Any signs and exterior lighting are compatible and in harmony with properties in the district with reference to aesthetics, glare, traffic safety and economic effect;
12. Required building setbacks and other open spaces are adequately provided for;

13. The proposed use is compatible with adjacent properties and other property in the zoning district;
14. An adequate supply of light and air to adjacent properties is adequately provided for; and
15. The CUP shall, in all other respects, conform to the applicable regulations of the zoning district in which it is located, except as such regulations may, in each instance, be modified by the Board of Supervisors.

Describe your request in detail and include any relevant information such as the number of persons involved in the use, operating hours, or any unique features of the proposed use.

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If any improvements are being proposed, briefly state whether new structures are to be constructed, existing structures are to be used or additions are to be made to existing structures. If available, provide dimensions of any structures that will be used for this CUP.

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**Attachments Required** – provide a copy of each

1. *Recorded plat or boundary survey of the parcel(s) requested for the rezoning.* If there is no recorded plat or boundary survey, please provide legal description of the parcel(s) and the Deed Book and page number.

Note: If you are requesting a rezoning for a portion of a parcel, it must be described or delineated on a copy of the plat or surveyed drawing.

2. *Ownership information* – If ownership of the property is in the name of any type of legal entity or organization including, but not limited to, the name of a corporation, partnership or association, or in the name of a trust, or in a fictitious name, an acceptable document must be submitted certifying that the person signing below has the authority to do so.

**If the applicant is a contract purchaser or an agent of the owner, an owner/agent agreement must be attached (ask staff for form if needed).**

**Certification**

I (We) hereby certify that I (we) own the subject property, or have the legal power to act on behalf of the owner in filing this application. I (We) also certify that the information furnished in this application is accurate to the best of my (our) knowledge.

Mary S. Boese

Print Name of Owner/Applicant

Mary S Boese

Signature of Owner/Applicant

10/2/2019

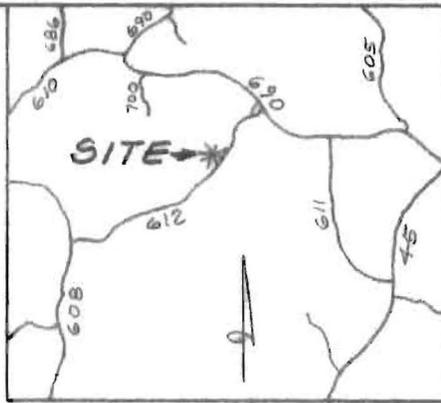
Date

Print Name of Owner/Applicant

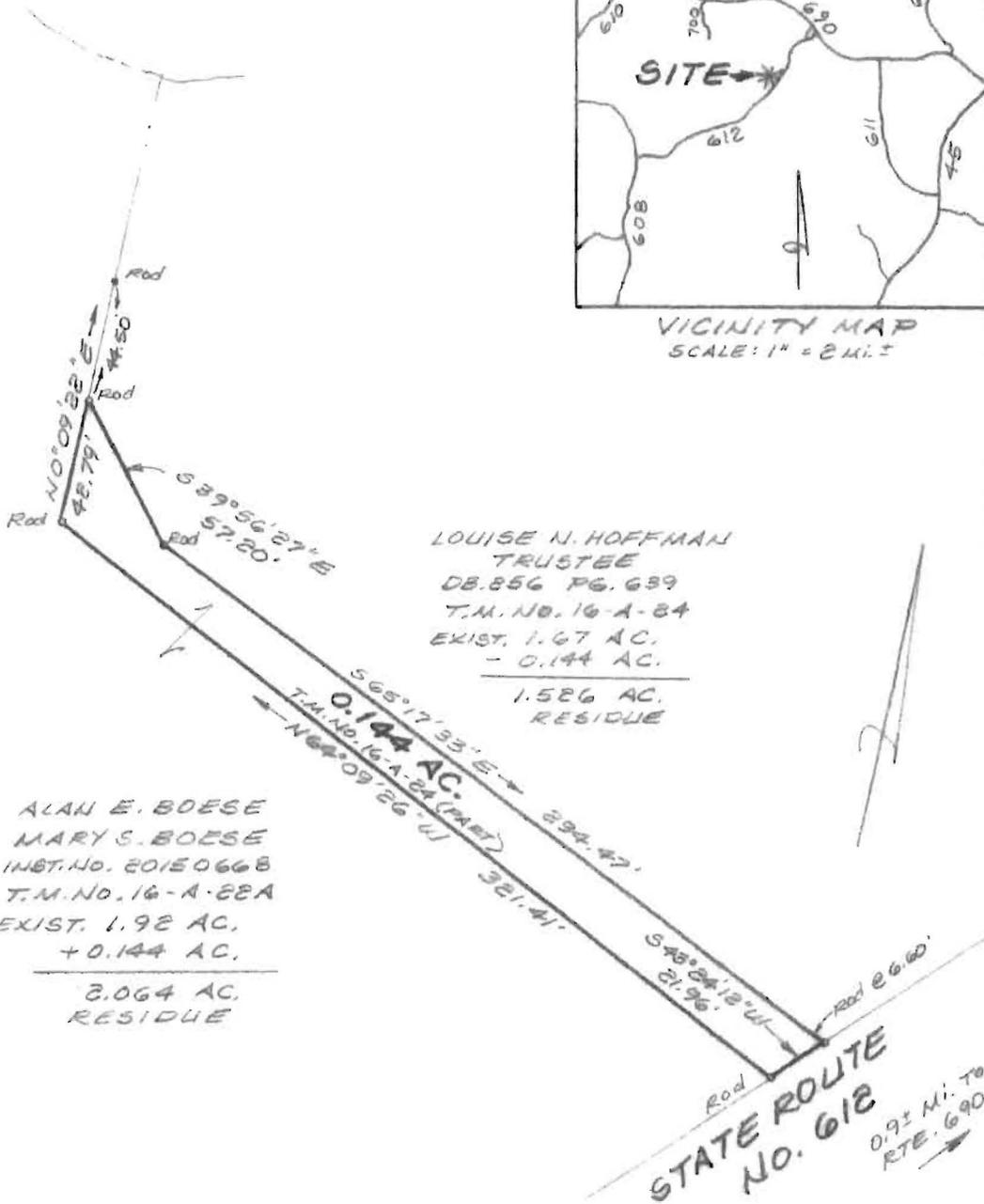
Signature of Owner/Applicant

Date

TRICES LAKE



VICINITY MAP  
SCALE: 1" = 2 MI.



**PLAT SHOWING 0.144 ACRE  
OF LAND LYING ON THE WEST  
LINE OF STATE ROUTE No. 612**

HAMILTON DISTRICT-CUMBERLAND COUNTY, VA.

DATE: SEPTEMBER 30, 2019 SCALE: 1" = 50'

NOTE:

THE 0.144 ACRE OF LAND SHOWN ON  
THIS PLAT TO BE COMBINED WITH  
T.M. No. 16-A-22A



WOODROW K. COFER, INC.  
CERTIFIED LAND SURVEYOR  
POWHATAN, VIRGINIA  
(804) 598-2014 20

\_\_\_\_\_  
Louise N. Hoffman, Trustee

Commonwealth of Virginia

County of \_\_\_\_\_, to wit:

Sworn and subscribed to before me a Notary Public in and for the jurisdiction aforesaid by  
\_\_\_\_\_ whose name is signed to the above.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_

Notary Number: \_\_\_\_\_

\_\_\_\_\_  
Alan E. Boese

\_\_\_\_\_  
Mary S. Boese

Commonwealth of Virginia

County of \_\_\_\_\_, to wit:

Sworn and subscribed to before me a Notary Public in and for the jurisdiction aforesaid by  
\_\_\_\_\_ whose name is signed to the above.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_

Notary Number: \_\_\_\_\_



## MEMO

Date: December 2, 2019

To: Cumberland County Board of Supervisors  
Don Unmussig, County Administrator

From: JP Duncan, Planning Director

Re: CA 19-08 ESC

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### **Recommendation:**

Hold a public hearing on December 10, 2019 to hear CA 19-08 ESC.

ARTICLE II. - EROSION AND SEDIMENT CONTROL<sup>2</sup>

Footnotes:

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**Editor's note**— Ord. No. 09-02, adopted Apr. 14, 2009, amended art. II in its entirety to read as herein set out. Former art. II, divs. 1—3, §§ 34-31—34-82, pertained to similar subject matter and derived from Code 1990, §§ 7-1—7-13.

Sec. 34-31. - Title, purpose and authority.

This article shall be known as the "Erosion and Sediment Control Ordinance of Cumberland County." The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of Cumberland County by establishing requirements for the control of soil erosion, sediment deposition and non-agricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

~~This article is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4, known as the Virginia Erosion and Sediment Control Law. This article shall be known as the "Erosion and Sediment Control Ordinance of Cumberland County, Virginia". The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of Cumberland County by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.~~

~~This article is authorized by the Code of Virginia, § 10.1-560 et seq., known as the Virginia Erosion and Sediment Control Law.~~

(Ord. No. 09-02, 4-14-2009)

Sec. 34-32. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agreement in lieu of a plan* means a contract between the plan-approving authority and the owner that specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

*Applicant* means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.

~~*As-built plans* means a final set of drawings and specifications illustrating exactly what has been constructed in the field to be produced upon completion by a licensed professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, § 54.1-400 et seq.~~

*Board* means the Virginia Soil and Water Conservation Board.

*Certified inspector* means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

*Certified plan reviewer* means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1

(Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 or a professional soil scientist as defined in Sec. 54.1-2200 of the Code of Virginia.

Certified program administrator means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

*Clearing* means any activity which removes the vegetative groundcover including, but not limited to, root mat removal or top soil removal.

*County* means the County of Cumberland, Virginia.

*Department* means the Virginia Department of ~~Conservation and Recreation~~Environmental Quality.

*Development* means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

*Director* means the Director of the Virginia Department of ~~Conservation and Recreation~~Environmental Equality.

*District or soil and water conservation district* means the Peter Francisco Soil and Water Conservation District.

*Erosion and sediment control plan or plan* means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the VESCP plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.  
~~means a document containing criteria, guidelines, material, and techniques for controlling erosion and sedimentation for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.~~

*Erosion impact area* means an area of land not associated with current land disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto adjacent or neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes.

*Excavating* means any digging, scooping or other methods of removing earth materials.

*Filling* means any depositing or stockpiling of earth materials.

*Grading* means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled conditions.

*Land disturbing activity* means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:  
~~means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:~~

- (1) Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

- (2) Individual service connections;
- (3) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining; Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1 of the Code of Virginia;
- ~~(6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off-site disposal areas;~~
- ~~(76) f) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Sec. 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163; Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations, including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not requiring to comply with the Dam Safety Act; Code of Virginia, § 10.1-604 et seq., ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Code of Virginia, § 10.1-1100 et seq., or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, § 10-1163B.;~~
- (87) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;
- (8) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (Va. Code § 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;
- (9) Disturbed land areas less than 10,000 square feet in size;
- (10) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article;
- (11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles; and
- (12) Emergency work to protect life, limb or property and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of ~~the plan approving authority~~this article.

*Land disturbing permit or approval* means a permit or other form of approval issued by Cumberland County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any ~~purpose set forth herein~~other land disturbing activity.

~~*Local erosion and sediment control program or erosion control program* means an outline of the various methods employed by Cumberland County, including those set forth in this article, to regulate~~

~~land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation. The Erosion Control Program of Cumberland County shall contain: (a) a certified inspector who is an employee or agent of Cumberland County: (i) holding a certificate of competence from the board in the area of project inspection or (ii) enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment; (b) a certified plan reviewer who is an employee or agent of Cumberland County; (i) holding a certificate of competence from the board in the area of plan review, (ii) enrolled in the board's training program for plan review and successfully complete such program within one year after enrollment; or (iii) licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia § 54.1-400 et seq.; and (c) a certified program administrator who is an employee or agent of Cumberland County: (i) holding a certificate of competence from the board in the area of program administration; or (ii) enrolled in the board's training program for program administration and successfully complete such program within one year after enrollment.~~

*Natural channel design concepts* means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

*Owner* means the owner or owners of the freehold of the premises or lesser estate therein, ~~a~~ mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

*Peak flow rate* means the maximum instantaneous flow from a given storm condition at a particular location.

*Permittee* means the person to whom the land-disturbing approval is issued or the person who certifies that the approved erosion and sediment control plan will be followed. ~~a responsible land disturber and is the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.~~

*Person* means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

~~*Plan-approving authority, program administrator or program authority* means Cumberland County and includes any person or official body designated by resolution of the Cumberland County Board of Supervisors to serve as its agent to administer this article.~~

*Responsible land disturber or RLD* means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved ESC plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the ESC plan or permit as a prerequisite for engaging in land disturbance. ~~from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who: (i) holds a responsible land disturber certificate of competence; (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection or plan review; (iii) holds a current contractor certificate of competence for erosion and sediment control; or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, § 54.1-400 et seq.~~

*Runoff volume* means the volume of water that runs off the land development project from a prescribed storm event.

*Single-family residence* means a noncommercial dwelling that is occupied exclusively by one family.

~~*State erosion and sediment control program or state program* means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.~~

*State waters* means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

~~*Stormwater maintenance agreement* means a signed and notarized agreement between the owner and the county naming a responsible party for the long-term maintenance of all manmade stormwater structures associated with a particular site development.~~

*Transporting* means any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative groundcover, either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and non-agricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of this article and its associated regulations.

"VESCP Plan-approving authority" means the plan reviewer responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

"VESCP authority" or "program authority" means Cumberland County, which has adopted a soil erosion and sediment control program that has been approved by the Board.

*Water quality volume* means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

(Ord. No. 09-02, 4-14-2009)

**Cross reference**— Definitions generally, § 1-2.

~~**State Law reference**— Similar provisions, Code of Virginia, § 10.1-560.~~

Sec. 34-33. - Local erosion and sediment control program.

Pursuant to section 62.1-44.15:54 of the Code of Virginia, Cumberland County hereby establishes a VESCP program and adopts the regulations promulgated by the Board (for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources).

A. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements for natural and man-made channels shall be satisfied by compliance with water quantity requirements specified in § 62.1-44.15:28 of the Stormwater Management Act and 9VAC25-870-66 of the Virginia Stormwater Management Program

(VSMP) regulations, unless such land-disturbing activities are in accordance with the grandfathering provisions of the Virginia Stormwater Management Program (VSMP) Regulations.

B. Pursuant to Sec. 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion Control Program of Cumberland County shall contain a certified program administrator, a certified plan reviewer, and a certified inspector (who may be the same person.)

C. Cumberland County hereby designates Peter Francisco Soil & Water Conservation District as the plan-approving authority.

D. The program and regulations provided for in this article shall be made available for public inspection at the office of the program administrator.

~~(a) Pursuant to Code of Virginia, § 10.1-562, Cumberland County hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in, but not limited to the "Virginia Erosion and Sediment Control Regulations" (Section 4 VAC 50-30, as amended) and include the Virginia Erosion and Sediment Control Handbook, as amended.~~

~~(b) A public hearing shall be held if Cumberland County proposes or revises this article or adopts regulations that are more stringent than the state program.~~

~~(c) In accordance with Code of Virginia, § 10.1-561, stream restoration and relocation projects that incorporate natural channel design concepts are not manmade channels and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.~~

~~(d) In accordance with Code of Virginia, § 10.1-561, any land disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to: (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one-year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.~~

~~(e) For stormwater management facilities, the record owner of the property at the time of permit issuance shall provide a signed and notarized stormwater maintenance agreement with the county, together with a map or plat in recordable form showing the stormwater management facilities to be maintained, all of which shall be recorded in the Clerk's Office of the Circuit Court of Cumberland County. The maintenance agreement may be transferred to another responsible person or entity, such as a property owners' association, provided that such association has been properly established and transfer of maintenance responsibility is completed prior to conveyance of any out-parcel in the project. As-built plans showing the final stormwater management facilities, manmade ditches and channels, and storm sewer systems shall be provided to the program administrator upon~~

~~completion of the project. No surety will be released until all items are provided to the program administrator. Failure to respond to an initial request for the required documentation will result in enforcement action in accordance with this article.~~

- ~~(f) Pursuant to Code of Virginia, § 10.1-561.1, an erosion control plan shall not be approved until it is reviewed under the erosion control program.~~
- ~~(g) The program and regulations provided for in this article shall be made available for public inspection at the office of the program administrator.~~
- ~~(h) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.~~

(Ord. No. 09-02, 4-14-2009)

Sec. 34-34. - Submission and approval of plans; contents of plans.

- A. Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the program administrator an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the VESCP authority. No approval to begin a land disturbing activity will be issued unless evidence of state permit coverage is obtained where it is required. Where land-disturbing activities involve lands under the jurisdiction of more than one VESCP, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Department for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.
- B. The standards contained within the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook are to be used by the applicant when making a submittal under the provisions of this article and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence.
- C. The VESCP plan-approving authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of the Erosion and Sediment Control Law and the Board's regulations, and if the person responsible for carrying out the plan certifies that he will properly perform the measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of the responsible land disturber, to the program authority, as provided by § 62.1-44.15:52, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of the responsible land disturber, prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.
- D. When the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- E. The VESCP authority shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.
- F. The VESCP authority may require changes to an approved plan when:

- (1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
- (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.
- G. Variances: The VESCP plan-approving authority may waive or modify any of the standards that are deemed to be inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:
- (1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.
- (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
- (3) The VESCP authority shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- H. In order to prevent further erosion, Cumberland County may require approval of a plan for any land identified in the local program as an erosion impact area.
- I. When a land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.
- J. In accordance with the procedure set forth in §62.1-44.15:55 (E) of the Code of Virginia, any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetland mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the Board for review and approval consistent with guidelines established by the Board. Approval of general erosion and sediment control specifications does not relieve the owner or operator from compliance with any other local ordinances and regulations including requirements to submit plans and obtain permits as may be required by such ordinances and regulations.
- K. State agency projects are exempt from the provisions of this article except as provided for in the Code of Virginia, Sec. 62.1-44.15:56.
- ~~(a) Except as provided herein, no owner or other person may engage in any land disturbing activity until he or she has submitted to the program administrator for Cumberland County an erosion and sediment control plan for the land disturbing activity and such plan has been approved by the plan-approving authority. Where land disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the board for review and approval rather than to each jurisdiction concerned. Where the land disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority. Where the land disturbing activity results from the construction of, or to provide access to, a new or existing structure (including a residence), and the disturbed area is less than 10,000 square feet, the permit will be issued without the requirement of official plans and reviews~~

~~unless the project is determined to constitute a major threat to, or likely to have a major impact on, off-site areas. The required permit must be obtained prior to commencement of any land disturbing activity. No building permits shall be issued in a single-family subdivision, multifamily development, or for any commercial or industrial use property until the owner has received a written inspection report from the program administrator confirming that all controls shown on the approved plan (including required stormwater facilities) are properly installed and all denuded areas are properly stabilized. In addition, all new road construction is to be at final grade and covered with stone with proper ditch lining.~~

- ~~(b) In further compliance with the Virginia Erosion and Sediment Control Regulations, the Virginia Erosion and Sediment Control Handbook as amended, is to be used by an applicant when making a submittal under the provisions of this article and in the preparation of an erosion and sediment control plan. The plan approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.~~
- ~~(c) The plan approving authority shall review conservation plans submitted to it and for which a fee is paid to determine if the plan meets the requirements of the board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval. When the plan is determined to be inadequate, the plan approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person is authorized to proceed with the proposed activity.~~
- ~~(d) As a prerequisite to engaging in the land disturbing activities shown on the approved plan, the owner, permitted or other person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority who will be in charge of and responsible for carrying out the land disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article. However, the plan approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single-family residence. If a violation occurs during the land disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by Code of Virginia, § 10.1-561 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land disturbing activities shall be a violation of this article.~~
- ~~(e) An approved plan may be changed by the plan approving authority when:
  - ~~(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or~~
  - ~~(2) The owner, permitted or other person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and the proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the plan approving authority and the person responsible for carrying out the plans.~~~~
- ~~(f) Variances. The plan approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:
  - ~~(1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan approving authority shall be documented in the plan.~~~~

- ~~(2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within ten days of receipt of the request, the request shall be considered to be disapproved.~~
- ~~(g) In order to prevent further erosion, Cumberland County may require approval of a plan for any land identified in the local program as an erosion impact area.~~
- ~~(h) When land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.~~
- ~~(i) In accordance with the procedure set forth by Code of Virginia, § 10.1-563(E), any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws or regulations for the establishment, use and operation of wetland mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the board for review and approval consistent with guidelines established by the board.~~
- ~~(j) State agency projects are exempt from the provisions of this article except as provided for in the Code of Virginia, § 10.1-564.~~

(Ord. No. 09-02, 4-14-2009)

Sec. 34-35. - Permits; fees; security for performance.

- A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan, certification that the plan will be followed and evidence of state permit coverage where it is required.
- B. No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this article), and has paid the fees and posted the required bond.
- C. An administrative fee set forth in Sec. 2-3 shall be paid to Cumberland County at the time of submission of the erosion and sediment control plan.
- D. No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan or agreement in lieu of an approved erosion and sediment control plan and certification that the plan will be followed.
- E. All applicants for permits shall provide to Cumberland County a performance bond with surety, cash escrow, or an irrevocable letter of credit acceptable to the program administrator, to ensure that measures could be taken by Cumberland County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity.

The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative

costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for Cumberland County to take such conservation action, the [locality] may collect from the applicant any costs in excess of the amount of the surety held.

Within sixty (60) days of adequate stabilization, as determined by the program administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

- ~~(a) Agencies authorized under any other law to issue grading, building or other permits for activities involving land disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.~~
- ~~(b) No person may engage in any land disturbing activity until he has acquired a land disturbing permit, unless the proposed land disturbing activity is specifically exempt from the provisions of this article, and has paid the fees and posted the required bond.~~
- ~~(c) An administrative fee as established and amended by the Board of Supervisors of Cumberland County shall be paid to Cumberland County at the time of submission of the erosion and sediment control plan.~~
- ~~(d) No land disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.~~
- ~~(e) All applicants for permits shall provide to Cumberland County a performance bond, cash escrow or an irrevocable letter of credit acceptable to the program administrator, to ensure that measures could be taken by Cumberland County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land disturbing activity.~~
- ~~(1) The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed 25 percent of the cost of the conservation action. Should it be necessary for Cumberland County to take such conservation action, Cumberland County may collect from the applicant any costs in excess of the amount of the surety held.~~
- ~~(2) Within 60 days of adequate stabilization, as determined by the program administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.~~

(Ord. No. 09-02, 4-14-2009)

Sec. 34-36. - Monitoring, reports and inspections.

A. The responsible land disturber, as provided by § 62.1-44.15:52, shall be in charge of and responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. Cumberland County may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

B. The inspector shall periodically inspect the land-disturbing activity in accordance with 9VAC25-840-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

If the program administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this article.

C. Upon issuance of an inspection report denoting a violation of Va. Code §§ 62.1-44.15:55, -44.15:56, the program administrator may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the program administrator may issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the alleged violator has been issued a notice to comply as specified in this article. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by Cumberland County or permit holder for appropriate relief to the Circuit Court of Cumberland County. Cumberland County shall serve such order for disturbance without an approved plan or permits upon the owner by mailing with confirmation of delivery to the address specified in the land records. Said order shall be posted on the site where the disturbance is occurring, and shall remain in effect until permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of the order, the program administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the permit application or the land records of [locality].

The owner may appeal the issuance of an order to the Circuit Court of [locality] [or other appropriate court].

Any person violating or failing, neglecting or refusing to obey an order issued by [position title] may be compelled in a proceeding instituted in the Circuit Court of [locality] to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the [position title] from taking any other action authorized by this article.

- ~~(a) Cumberland County may require the person responsible for carrying out the plan to monitor the land disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.~~
- ~~(b) The program administrator shall periodically inspect the land disturbing activity to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permitted, or person responsible for carrying out the plan shall be given notice of the inspection. Notwithstanding this, the right of entry to conduct such inspections shall be expressly reserved in the permit.
  - ~~(1) If the program administrator determines that there is a failure to comply with the plan, notice shall be served upon the permitted, or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land disturbing activities to the agent or employee supervising such activities.~~
  - ~~(2) The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permitted, or person responsible for carrying out the plan, shall be deemed to be in violation of this article and shall be subject to the penalties provided by this article.~~~~
- ~~(c) Upon determination of a violation of this article, the program administrator may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all or part of the land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.
  - ~~(1) If land disturbing activities have commenced without an approved plan, the program administrator may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all of the land disturbing activities be stopped until an approved plan or any required permits are obtained.~~
  - ~~(2) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permitted has been issued a notice to comply as specified in this article. Otherwise, such an order may be issued only after the permitted has failed to comply with such a notice to comply.~~
  - ~~(3) The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Cumberland County.~~
  - ~~(4) If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the program administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order~~~~

~~shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of Cumberland County.~~

~~(5) The owner may appeal the issuance of an order to the Circuit Court of Cumberland County within 30 days of the date thereof.~~

~~(6) Any person violating or failing, neglecting or refusing to obey an order issued by program administrator may be compelled in a proceeding instituted in the Circuit Court of Cumberland County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.~~

~~Nothing in this section shall prevent the program administrator from taking any other action authorized by this article.~~

(Ord. No. 09-02, 4-14-2009)

Sec. 34-37. - Penalties, injunctions and other legal actions.

(a) Violators of this article shall be guilty of a ~~class~~ Class I misdemeanor.

(b) ~~Any person who violates any provision of Va. Code §§ 62.1-44.15:55, 62.1-44.15:56 shall, upon a finding of the District Court of Cumberland County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000. Any such civil penalties shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of § 62.1-44.15:63.~~ Any person who violates any provision of this article shall, upon a finding of the General District Court of Cumberland County be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100.00, nor more than \$1,000.00, except that the civil penalty for commencement of land disturbing activities without an approved plan shall be \$1,000.00. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000.00, except that a series of violations arising from the commencement of land disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.00.

(c) ~~The program administrator, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of Cumberland County to enjoin a violation or a threatened violation of Va. Code §§ 62.1-44.15:55, 62.1-44.15:56, without the necessity of showing that an adequate remedy at law does not exist.~~ The program administrator, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of Cumberland County to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist.

~~However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property. The program administrator, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of Cumberland County to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist.~~

~~However, an owner of property shall not apply for injunctive relief unless: (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local~~

~~program has caused, or creates a probability of causing, damage to his property; and (ii) neither the person who has violated the local program, nor the program authority has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.~~

- (d) ~~In addition to any criminal or civil penalties provided under this article, any person who violates any provision of the Erosion and Sediment Control Law may be liable to Cumberland County in a civil action for damages.~~  
~~In addition to any criminal penalties provided under this article, any person who violates any provision of this article may be liable to Cumberland County in a civil action for damages.~~
- (e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. A civil action for such violation or failure may be brought by Cumberland County.  
  
Any civil penalties assessed by a court shall be paid into the Treasury of Cumberland County, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
- (f) ~~With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this article, or order of the VESCP authority Cumberland County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection E of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection B or E.~~  
~~With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this article, Cumberland County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (e).~~
- (g) The Commonwealth's attorney shall, upon request of Cumberland County ~~or the permit issuing authority~~, take legal action to enforce the provisions of this article.
- (h) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

(Ord. No. 09-02, 4-14-2009)

Sec. 34-38. - Appeals and judicial review.

- (a) ~~Final decisions of Cumberland County under this ordinance shall be subject to review by the Cumberland County Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.~~  
~~Any applicant under the provision of this article who is aggrieved by any action of Cumberland County or its agent in disapproving plans submitted pursuant to this article shall have the right to apply for and receive a review of such action by the Cumberland County Board of Supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Cumberland County Board of Supervisors shall be heard at the next regularly scheduled Cumberland County Board of Supervisors public hearing provided that the Cumberland County Board of Supervisors and other involved parties have at least 30 days' prior notice. In reviewing the agent's actions, the Cumberland County Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the Cumberland County Board of Supervisors may affirm, reverse or modify the action. The Cumberland County Board of Supervisors' decision shall be final, subject only to review by the Circuit Court of Cumberland County.~~

~~(b) Final decisions of Cumberland County under this article shall be subject to review by the Cumberland County Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land disturbing activities.~~

(Ord. No. 09-02, 4-14-2009)

Sec. 34-39. - Severability.

If any provision of this article is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining provisions therein.

(Ord. No. 09-02, 4-14-2009)

Secs. 34-40—34-100. - Reserved.



## MEMO

Date: December 2, 2019  
To: Cumberland County Board of Supervisors  
Don Unmussig, County Administrator  
From: JP Duncan, Planning Director  
Re: **CA 19-09 Short Term-Rental Complex**

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### **Recommendation:**

Hold a public hearing on December 10, 2019 to hear CA 19-09 Short-Term Rental Complex. The Planning Commission unanimously recommended the approval of this code amendment, as presented, during a public hearing on October 28, 2019.

Sec. 74-2. - Definitions.

- a) The following defined terms shall be used in this chapter unless the context clearly provides otherwise. Terms used herein but not otherwise specifically defined in this section, shall use the definitions set forth in chapter 54, the general definitions applicable to the Code in chapter 1, the terms used in the Virginia Code and then in the terminology used in common parlance, in that order.
- b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abattoir* means a commercial slaughterhouse.

*Accessory use or structure* means a subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

*Acreage* means a parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

*Administrator and zoning administrator* mean the official charged with the enforcement of this chapter. He may be any appointed or elected official who is by formal resolution designated to the position by the board of supervisors.

*Agriculture* means the tilling of the soil, the raising of crops, horticulture, forestry, gardening, including the keeping of animals and fowl, and including any agricultural industry or business, such as fruit packing plants, dairies or similar use, excluding intensive swine facilities.

*Airport* means an area of land or water which is used, or intended for public use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, easements, together with all airport buildings and facilities located on the area.

*Alteration* means any change in the total floor area, use, adaptability or external appearance of an existing structure.

*Apartment house* means a building used or intended to be used as the residence of three or more families living independently of each other.

*Automobile graveyard* means any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

*Basement* means a story having part but not more than half of its height below grade. A basement shall be counted as a story, for the purpose of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

*Bed and breakfast inn* means a dwelling in which the operator resides and in which, for compensation, meals and overnight accommodations are provided for no more than ten transitory guests.

*Boarding, rooming or lodging house* means a dwelling, in which the operator resides, other than a hotel or bed and breakfast inn, where, for compensation, meals or lodging are provided for three to ten non-transient guests and containing no more than five sleeping rooms.

*Buildable area of a lot* means that portion of a lot bounded by the required side and rear yards and the building setback line(s) as applicable.

*Building* means any structure having a roof supported by columns or walls, and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

*Building, accessory* means a subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

*Building, height of* means the vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, to the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

*Building, principal* means a building in which is conducted the principal use of the lot on which it is located.

*Building envelope* means the three-dimensional space within which a structure is permitted to be built on a lot and is defined by maximum height regulations and minimum yard setbacks.

*Building setback line* means a line in the interior of a lot which is generally parallel to, and a specified distance from, the street right of way line or lines. No building shall then be placed in the space between the building setback line and the right-of-way line.

*Cellar* means a story having more than half of its height below grade and which may not be occupied for dwelling purposes.

*Cemetery, family or church* , means a family, individual, or church owned place for the final disposition of human remains. A survey of the bounds of the cemetery, with confirmation of state code requirements being met, and showing a five-foot setback from any adjacent properties and a 100-foot setback from any active wells must be recorded with the circuit court clerk prior to establishment of the cemetery.

*Cemetery, private, cemetery association or for-profit* , means a privately owned and/or operated place for storage of human remains where lots or storage places may be sold and perpetual care is furnished.

*Child care center* means any place, however designated, operated for the purpose of providing care, protection and guidance to four (4) or more children under seven (7) years of age separated from their parents or guardians during a part of the day only between the hours of 6:00 a.m. and 7:00 p.m.

*Commission* means the Planning Commission of Cumberland County, Virginia.

*Convenience store* means a store that sells foods prepared on premises and provides an informal seating area; sale of gasoline and articles such as bread, milk, cheese, bottled food and drink, tobacco products, candy, papers, magazines and general small hardware articles.

*Dairy* means a commercial establishment for the manufacture and sale of dairy products.

*Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets and other paving utilities, filling, grading, excavation, mining, dredging or drilling operations.

*District* means districts as referred to in Code of Virginia § 15.2-2280.

*Dwelling* means any structure which is designed for use for residential purposes, except hotels, boardinghouses, lodging houses, tourist cabins, apartments and automobile trailers.

*Dwelling, multiple-family* means a structure arranged or designed to be occupied by more than one (1) family.

*Dwelling, single-family* means a structure arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.

*Dwelling, two-family* means a structure arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.

*Dwelling unit* means one (1) or more rooms in a dwelling designed for living or sleeping purposes, and having at least one (1) kitchen.

*Electrical substation, distribution centers, and transformer stations* mean premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place

between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

*Event facility* means a facility for hosting public and/or private events, including, but not limited to, weddings, receptions, social events or parties, workshops, and/or conferences, which is used as a venue for social, cultural, recreational, and/or educational activities. Event facilities may include lodging accommodations.

*Family or single-family* means an individual or two (2) or more persons related by blood, marriage or adoption, or a group of not more than three (3) unrelated persons, occupying a single dwelling unit. For purposes of single-family residential occupancy, this term also shall be deemed to encompass the residents of group homes or other residential facilities, as defined in Code of Virginia § 15.2-2291 which are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department of Social Services and which are occupied by not more than eight (8) mentally ill, mentally retarded, developmentally disabled, elderly or handicapped aged, infirm or disabled persons together with one (1) or more resident counselors. Mental illness and developmental disability does not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia § 54.1-3401.

*Foster care and adult family care (home-based)* means the provision by a family of room and board to persons (not exceeding three (3)) in number and which persons are not included within the meaning of "family" as defined herein) under a program of foster care or adult family care operated under the supervision of and pursuant to the regulations of the Virginia Department of Social Services.

*Frontage* means the means the continuous uninterrupted distance, including easements, along which a parcel abuts an adjacent road.

*Garage, private* means an accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one and one-half (1½) times as many automobiles as there are dwelling units.

*Garage, public* means a building or portion of a building, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor-driven vehicles.

*General store* means a single store, the ground floor area of which is four thousand (4,000) square feet or less and which offers for sale primarily most of the following articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, paper and magazines, and general hardware articles. Gasoline may also be offered for sale but only as a secondary activity of a country general store.

*Golf course* means any area of land, publicly or privately owned, on which the game of golf is played, including accessory uses and customary buildings, but excluding golf driving ranges.

*Golf driving range* means a limited area on which golf players do not walk but onto which they drive golf balls from a central driving tee.

*Group home (sheltered care facility)* means a dwelling unit shared by four (4) to twenty (20) unrelated handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide or facilitate care, education, and participation in community activities for the residents with the primary goal of enabling residents persons who are handicapped, mentally ill or retarded, developmentally or physically disabled, or who because of age or other physical infirmity, require the protection or assistance of a group setting, to live as independently as possible in order to reach their maximum potential. The minimum lot size for a group home shall be based on the number of residents (including resident staff) proposed to be housed in the facility, as set forth below:

	Minimum Lot Area for Zoning District	
# of Residents	A-2 and A-20	R-1, R-2 and R-3

4 to 8	2 × district minimum	2 × district minimum
9 to 14	6 × district minimum	3 × district minimum
15 to 20	10 × district minimum	5 × district minimum

As used herein, the term *handicapped* shall mean having:

- a) A physical or mental impairment that substantially limits one (1) or more of a person's major life activities so that such person is incapable of living independently; or
- b) A record of having such impairment;
- c) Being regarded as having such impairment.

*Guest house* means a second detached dwelling unit on a parcel with an existing dwelling unit (principal residence) that:

- (1) Shall not be used as a principal residence or permanent dwelling unit;
- (2) Shall not be a manufactured home;
- (3) Shall not be used in exchange for any form of compensation;
- (4) Shall not be larger in gross floor area than seventy-five percent (75%) of the principal residence;
- (5) Shall be at least fifty (50) feet from any existing dwelling and must meet all applicable building setback requirements for a non-accessory structure.

*Gun club* means any public or private organization whose principal activity involves the discharge of firearms, including but not limited to rifle or pistol ranges, trap or skeet shooting facilities, sporting clay facilities, or similar facilities or uses.

*Handicapped* shall not, however, include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home" shall not include detention facilities operated under the standards of the Department of Juvenile Justice, nursing homes, alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration or where the residents are under the supervision of a court.

*Historical area* means an area indicated on the zoning map to which the provisions of this chapter apply for protection of a historical landmark.

*Home occupation* means an occupation carried on by the occupant of a dwelling as a secondary use in which there is no display, no noise, no odor, no change from the residential or agricultural character of the home, and no one is employed in the home other than the members of the family residing on the premises. Traffic impacts to adjacent residences should be consistent with adjacent uses and zoning.

*Hospital* means any facility licensed pursuant to this chapter in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known by varying nomenclature or designation such as sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term,

outpatient surgical, and inpatient or outpatient maternity hospitals. Certain nursing homes and homes for the aged may be a home occupation if they comply with the definitions in this section.

**State Law reference**— Similar provisions, Code of Virginia § 32.1-123.

*Hotel* means a building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

*Household pet* means animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, and rodents.

*In home daycare* means a daycare run as an accessory use to a single family residential home, subject to the conditions of state licensure, with access approved by VDOT, providing at least two parking spaces off of the street for customers, adequate lighting and fencing for safety and meeting the bulk requirements of the subject zoning district, without any bonus provision.

*Inert waste* means the establishment of a landfill to handle stumps, roots, limbs, brush, leaves, and inert waste which means solid waste which is physically, chemically and biologically stable from further degradation and considered to be non-reactive waste which includes rubble, concrete, broken bricks, rocks and road pavement. All of which can be deposited without a liner providing it is five foot above the water table.

*Junkyard* means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard; and the term shall include garbage dumps and sanitary fills.

**State Law reference**— Similar provisions, Code of Virginia § 33.1-348.

*Kennel, commercial* means any structure or any land or any combination of either used, designed or arranged for the commercial grooming, boarding, breeding, training, selling or care of dogs, cats or other household pets that charges to or collects from animal owners a fee for overnight maintenance, care or boarding of animals or which is operated for any purpose other than that of a private kennel. For the purpose of this term, outdoor confinement shall mean any commercial kennel that utilizes any form of animal confinement and/or animal runs which are not completely enclosed in a structure that is properly ventilated and air conditioned. Facilities with a combination of indoor and outdoor confinement shall be deemed to have outdoor confinement.

*Kennel, private* means any structure or any land or any combination of either used, designed or arranged for grooming, boarding, breeding, training or care of dogs, cats or other household pets belonging to the owner of the property, kept principally for the purposes of show, hunting, or as household pets on the premises of the facility.

*Kindergarten, private* means a school which is primarily educational in nature, meets the needs of a child of five years and is operated at least five hours but not more than 6.5 hours per day.

*Land sales office* means a small structure or office used for displaying and selling lots from land which has been subdivided or partitioned in accordance with county regulations.

*Livestock market* means a commercial establishment wherein livestock is collected for sale and auctioned off.

*Lot* means a parcel of land, including a residue, described by metes and bounds or otherwise shown on a plat, and intended as a unit of real estate for the purposes of ownership, conveyance or development. For the purposes of this chapter, lot shall be interchangeable with "parcel", "tract" and "plot" or any similar term.

*Lot, area* means the total square footage included within the lot lines.

*Lot, corner* means a lot abutting on two or more streets at their intersection.

*Lot, depth of* means the average horizontal distance between the front and rear lot lines.

*Lot, double-frontage* means an interior lot having frontage on two streets.

*Lot, flag* means a residential building lot that utilizes unique physical features but does not have the required lot width at the normal setback line. Flag lot configurations are prohibited.

*Lot, interior* means any lot other than a corner lot.

*Lot of record* means a lot that exists as shown or described on a plat or deed in the records of the Clerk's Office of the Circuit Court of Cumberland County, Virginia.

*Lot, reverse frontage* means a double frontage lot which has its vehicular access point limited to the back of the lot, rather than having access on its front.

*Lot, width of* means the average horizontal distance between side lot lines.

*Lot line, front* means in the case of an interior lot, the line separating said lot from the road. In the case of a corner or double frontage lot, the line separating said lot from that road which is designated as the front road.

*Lot line, rear* means the lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line not less than ten feet long and wholly within the lot.

*Lot line, side* means any lot boundary not a front or rear lot line.

*Manufacture and/or manufacturing* means the processing and/or converting of raw, unfinished materials, products, or either of them into articles or substances of different character, or for use for a different purpose.

*Manufactured home* means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

*Manufactured home park* means any area designed to accommodate two or more manufactured homes or mobile homes intended for residential purposes.

*Modular and prefabricated housing unit* means an industrialized building assembly consisting of two or more standardized subassemblies, including the necessary electrical, plumbing, heating, ventilating and other service systems which are built to the Virginia Uniform Statewide Building Code standards, manufactured off-site and transported to the point of use for installation or erection, to a permanent foundation, as a finished building and not designed for removal to or installation, erection or assembly on another site.

*Multiple part parcel* means a parcel of land that is in multiple parts or portions, that may or may not be contiguous with one another.

*Nonbuildable lot* means a lot intended for the following uses: wells, septic systems (including conventional drain fields), stormwater management facilities, open space, noncommercial family cemeteries, but which is not used for residential purposes and does not meet one or more of the dimensional requirements of this chapter.

*Nonconforming activity* means the otherwise legal use of a building or structure that does not conform to the use regulations of this chapter for the district in which it is located either at the effective date of the ordinance from which this chapter derives or as a result of subsequent amendments to such ordinance or this chapter.

*Nonconforming lot* means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of the ordinance from which this chapter derives or as a result of subsequent amendments to such ordinance or this chapter.

*Nonconforming structure* means an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the ordinance from which this chapter derives or as a result of subsequent amendments to such ordinance or this chapter.

*Nursing home, convalescent home and rest home* means an establishment used as a dwelling place by the aged, infirm, chronically ill, or incurably afflicted persons, in which not less than four persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment or care of the sick or injured.

*Off-street parking area* means space provided for vehicular parking outside the dedicated street right-of-way.

*One-room school house* means an accessory structure used as a school house for members of the immediate community, situated on a parcel of at least 20 acres, with no more than a total of 30 students and no larger than 1,500 square feet in size. The school house must meet the same setbacks as the principal structure, have a VDOT approved entrance, have an average of no more than ten vehicle trips per day, meet health department requirements for the provision of water and wastewater, only operate during daylight hours, and allow no provision for overnight accommodation.

*Open space* means that area within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Open space may include, but need not be limited to lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, undisturbed natural areas, agriculture, wooded areas, water bodies; and provided further, however, that the area within wetlands, floodplains and slopes greater than 15 percent shall not comprise more than 50 percent of the total required open space. Open space shall not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, nor areas so located or so small as to have no substantial value for the purposes stated in this definition. Within a residential subdivision, open space shall be composed of only those areas not contained in individually owned lots.

*Pen* means a small enclosure used for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals; a coop, enclosed pasture or range with an area in excess of 100 square feet for each hog or 200 square feet for each larger animal shall not be regarded as a pen.

*Poultry* means fowl normally raised on a farm such as chickens, ducks, geese and turkeys.

*Private landing area* means an area for landing aircraft which has been constructed by a person for private use and which is not open to the general public.

*Processing and assemblage of wood products* means processing (excluding chemical treatment) and assemblage of wood products, including but not limited to assembling structural components for sheds, specialty buildings, etc., and/or processing wood and/or by-products such as mulch, pellets, chips, firewood, sawdust, etc.

*Professional office* means any room, studio, clinic, suite or building wherein the primary use is the conduct of a business by professionals, including but not limited to architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents, dentists or physicians, planners, landscape architects, computer programmers, and other related fields. Veterinarian offices and animal hospitals are excluded from this definition.

*Public health clinic* means a building or complex in which physicians or dentists, or both, and nurses offer diagnosis and treatment to the sick and injured. A clinic shall not include inpatient care.

*Public water and sewer* means a water or sewer system owned and operated by the county or an authority or owned and operated by a private individual or a corporation approved by the board of supervisors and properly licensed by the state corporation commission, and subject to special regulations as set forth in this chapter.

*Recreational vehicle* means a vehicle, regardless of size, which is not designed to be used as a permanent dwelling, and in which the plumbing, heating and electrical systems contained in the vehicle may be operated without connection to outside utilities, which are self-propelled or towed by a light-duty vehicle. Recreational vehicles are not to be inhabited as permanent residences but may be established for temporary occupations, within designated recreational vehicle parks that comply with all County Codes and ordinances.

*Recreational vehicle park* also known as an RV park or RV campground means a camping and overnight area for two or more recreational vehicles, pick-up coaches, motor homes, camping trailers, other vehicular accommodations and tents, suitable for temporary habitation operated as a business or for a fee. A recreational vehicle park shall be served by water and sewer systems approved by the Cumberland County Health Department. A recreational vehicle park shall not be construed to mean a mobile home park or be used for permanent residence. Continuous occupancy by the same person for more than six months in any 12-month period shall be prohibited, except that one permanent residence may be permitted for the park owner or manager. All recreational vehicles are required to maintain current licenses, inspections, and registrations. Additionally, the vehicles must have wheels, tires, tongue and no permanent underpinning. Recreational vehicles shall comply with the setback requirements of the zoning ordinance.

~~*Rental cabin campground* means a camping and overnight area for use as temporary habitation operated as a business or for a fee. Continuous occupancy by the same person for more than 14 days in any 30-day period or more than six months in any 12-month period shall be prohibited, except that one permanent residence may be permitted for the park owner or manager.~~

*Required open space* means any space required in any front, side or rear yard.

*Restaurant* means any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tearooms, confectionery shops and refreshment stands.

*Restaurant, drive-in* means an establishment from which, for compensation, food or beverages are dispensed for consumption within automobiles or on informal facilities on the premises.

*Retail stores and shops* means buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumber yards), such as the following, which will serve as illustrations: drugstore, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique shop, gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barbershop and beauty shop.

*Riding and boarding stable* means any structure or any land or any combination of either use, designed or arranged for the maintenance and boarding of horses, mules, ponies or donkeys for hire either with or without instructions or a riding area but exclusive of horses or mules used for agricultural purposes.

*Road* means highway, street, avenue, boulevard, road, lane, alley, or any other thoroughfare for vehicular traffic.

*Sales lot* means any land used or occupied for the purpose of buying and selling new or secondhand passenger cars or trucks, motor scooters, motorcycles, boats, travel trailers, motor homes, mobile homes, campers, aircraft or monuments and for their storage prior to sale.

*Sawmill, portable* means a portable sawmill located on private property for the processing of timber cut only from that property or from immediately contiguous and adjacent property.

*Service business* means a contractor firm such as a painter, carpenter, plumber or electrician that requires only an office and/or storage for materials and equipment, generally not accessible by the public and with less than three staff or employees on-site at any time. Service businesses also include professional offices that require infrequent access by the public. Such professional offices may have no more than three total on-site staff with customary hours of operation beginning no earlier than 7:00 a.m. and ending no later than 9:00 p.m., Monday through Saturday.

*Setback* means the minimum distance by which any building or structure must be separated from the front, side or rear lot lines, or from the centerline of any road right-of-way on any designated primary highway or from the centerline of any secondary road right-of-way or street right-of-way for any private road.

- (1) For the purposes of this definition, "primary highway" shall mean U.S. Route 60, Route 45 and Route 13, and any other public streets and roads shall be deemed to be "secondary road rights-of-way."
- (2) For the purposes of this definition, "centerline" shall mean the midpoint of the paved or graveled portion of any road in the county.

*Short-term rental complex means a camping and overnight area for use as temporary habitation operated as a business or for a fee.*

*Sign structure* means the supports, uprights, bracing and framework of any structure, be it single-faced, double-faced, V-type, or otherwise exhibiting a sign.

*Special event* means an event or gathering (i) having more than 75, but no more than 150 people, reasonably expected to be in attendance at any one point in time; (ii) is established for a limited duration in one day; and (iii) is held outside a building or held in a temporary or portable structure on open land or space, not associated with a commercial building or established facility, on private or public property or public right-of-way on a temporary basis. Use of public property or right-of-way requires applicable governmental approvals. Special events are limited to four times a year or less. Special events sponsored by non-profit organizations are not limited to the number of events each year. Special events can include, but are not limited to, weddings, parties, receptions or catered events. An event that would otherwise qualify as a special event but has fewer than 75 people in attendance can be held without limitation.

Where more than 150 people are reasonably expected to attend, a festival permit is required. See Cumberland County Code, chapter 6, article II, for festival permit requirements.

*Special exception* means a use that would not be appropriate generally or without restrictions throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as special exceptions if specific provisions for such special exceptions are made in this chapter. For the purpose of this chapter, the terms "*special exception*," "*use by special exception*" and "*conditional use*" shall be deemed to be synonymous.

*Special recreational event* means either:

- (1) A special event held more than four times a year and not sponsored by a non-profit organization; or
- (2) An event or gathering at which (a) more than 150 people are reasonably expected to be in attendance at any one point in time; (b) the event or similar event is held two or more times a year; and (c) each event or similar event is held over two or more consecutive days. Special recreational events are held outside a building or held in a temporary or portable structure on open land or space, not associated with a commercial building or established facility, on private or public property. Use of public property requires applicable governmental approvals. Special recreational events can include, but are not limited to, concerts, musical festivals, stage or theatrical shows, fairs, carnivals, exhibitions, sports events, automobile or animal races or competitions and off-road vehicle events.

Where more than 150 people are reasonably expected to attend but an event does not have the intensive use of a special recreational event, a festival permit is required. See Cumberland County Code, chapter 6, article II, for festival permit requirements.

*Store* means the same as "retail stores and shops."

*Story* means that portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it; if there is no floor above it, the space between the floor and the ceiling next above it.

*Story, half* means a space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

*Street and road* means a public thoroughfare which affords principal means of access to abutting property.

*Street line* means the dividing line between a street or road right-of-way and contiguous property.

*Structure* means anything constructed or erected the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. This definition includes, among other things, dwellings, buildings, signs, etc.

*Subdivision* means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership of building development, or if a new street is involved in such division, any division of a parcel of land.

*Transitional home* means a dwelling unit, other than a group home, shared by four to 20 unrelated persons, including resident staff, who live together temporarily as a single housekeeping unit, and in which staff persons provide or facilitate care, education, counseling and participation in community activities for the resident clients. The minimum lot size for a transitional home shall be based on the number of residents (including resident staff) proposed to be housed in the facility, as set forth below:

# of Residents	Minimum Lot Area for Zoning District	
	A-2 and A-20	R-1, R-2 and R-3
4 to 8	2 × district minimum	2 × district minimum
9 to 14	6 × district minimum	3 × district minimum
15 to 20	10 × district minimum	5 × district minimum

The following and similar types of occupancy shall be considered to be transitional housing:

- a) Temporary quarters for victims of physical or emotional abuse.
- b) Temporary or emergency quarters for children or adults needing room and board and support services that would lead to self-sufficiency and permanent shelter.

The term transitional home shall not include detention facilities operated under the standards of the Department of Juvenile Justice, nursing homes, alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration or where the residents are under the supervision of a court.

*Travel trailer* means a mobile unit less than twenty-nine (29) feet in length and less than four thousand five hundred (4,500) pounds in weight which is designed for human habitation.

*Use, accessory* means a subordinate use, customarily incidental to and located upon the same lot occupied by the main use.

*Variance* means, in the application of this chapter, a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of this chapter would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of this chapter and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

**State Law reference**— Similar provisions, Code of Virginia § 15.2-2201.

*Veterinary hospital* means a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. For the purpose of this term, outdoor confinement shall mean any veterinary hospital that utilizes any form of animal confinement and/or animal runs which are not completely enclosed in a structure that is properly ventilated and air conditioned. Facilities with a combination of indoor and outdoor confinement shall be deemed to have outdoor confinement. For animals boarded not incidental to hospital care see the term Kennel. Veterinary clinic, veterinary office and animal hospital mean the same as veterinary hospital.

*Wayside stand, roadside stand, wayside market* means any structure or land used for the sale of agricultural or horticultural produce, livestock or merchandise produced by the owner or his family on their farm.

*Wireless telecommunications facility* means all infrastructure and equipment including but not limited to antenna support structures, antennas, transmission cables, equipment shelters, equipment cabinets, utility pedestals, ground systems, fencing, signage and other ancillary equipment associated with the transmission or reception of wireless communications.

*Wood products* means the same as "processing and assemblage of wood products."

*Yard* means an open, unoccupied space that lies between the principal building or building and the nearest lot line on a lot unobstructed from the ground upward, except as otherwise provided by this chapter.

*Yard, front* means an open, unoccupied space that extends the full width of the lot between any building and the front lot line and measured perpendicular to the building and the closest point to the front lot line.

*Yard, rear* means an open, unoccupied space that extends across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

*Yard, side* means an open, unoccupied space that extends from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

(Ord. No. 11-05, § c, 7-12-2011; Ord. No. 11-08, 2-14-2012; Ord. No. 11-07, 7-10-2012; Ord. No. 14-05, 10-14-2014; Ord. No. 14-06, 11-18-2014; Ord. No. 15-01, 3-10-2015; Ord. No. 15-

07, 5-12-2015; Ord. No. 15-08B, 10-13-2015; Ord. No. 16-05, 4-12-2016; Ord. No. 16-08, 10-11-2016; Ord. No. 16-10, 3-14-2017; Ord. No. 16-11, 4-11-2017; Ord. No. 18-05, 11-13-2018)

**Cross reference**— Definitions generally, § 1-2.

Sec. 74-133. - Permitted uses with conditional use permit.

The following uses are permitted in the A-2 district with a conditional use permit:

- (1) Airstrips.
- (2) Animal research facility.
- (3) Antique shops.
- (4) Borrow, extraction, excavation and stockpiling of soil, gravel, or sand, ~~consistent with the provisions of section 74-150.~~
- (5) Churches (of over one hundred thousand (100,000) square feet) and cemeteries, private, cemetery association or for-profit.
- (6) Convenience and general stores.
- (7) Event facilities.
- (8) Fire and rescue facilities.
- (9) Garage, automotive repair.
- (10) Golf courses, country clubs, golf driving ranges and mini-golf.
- (11) Group home.
- (12) Guesthouse.
- (13) Gun clubs with or without indoor or outdoor shooting ranges, skeet shooting ranges and ball clubs.
- (14) Kennels, commercial.
- (15) Landfill (CDD) (including inert waste).
- (16) Livestock markets.
- (17) Nursery schools and private kindergartens.
- (18) Nursing home, convalescent home and rest home.
- (19) Off site collection, transportation and disposal of waste.
- (20) Parks and playgrounds.
- (21) Porta-John business~~es~~.
- (22) Public utilities.
- (23) Public utility generating plants, public utility booster or relay stations, transformer substations, meters and other facilities, including railroads and facilities, and water and sewerage facilities.
- (24) Racetracks (auto, motorcycle, and horse).
- (25) Radio stations, television stations and cable TV facilities, communication station and/or tower or related facilities; subject to provisions of section 74-731 et seq.

(26) Recreational Vehicle (RV) park.

(~~2627~~) Retail sales and display of storage sheds and carports.

(28) Short-term rental complex.

(~~2729~~) Special recreational events.

(~~2830~~) Transitional home.

(~~2931~~) Veterinary hospital.

(~~3032~~) Wood products (processing and assemblage of), as defined in section 74-2.

(Ord. No. 11-05, § c, 7-12-2011; Ord. No. 11-08, 2-14-2012; Ord. No. 11-07, 7-10-2012; Ord. No. 14-02, 7-8-2014; Ord. No. 15-01, 3-10-2015; Ord. No. 15-08A, 7-14-2015; Ord. No. 15-08B, 10-13-2015; Ord. No. 16

At a meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 12<sup>th</sup> day of November 2019, at the Cumberland County Circuit Court Room:

Present: Parker Wheeler, District 5, Chairman  
William F. Osl, Jr., District 1, Vice-Chairman  
Kevin Ingle, District 3  
Jennifer Crews, Finance Director  
JP Duncan, Zoning Administrator  
Brian Butler, County Attorney  
Stephany Johnson, Deputy Clerk

Absent: Lloyd Banks, Jr., District 2

**1. Call to Order**

The Chairman called the meeting to order.

**2. Welcome and Pledge of Allegiance**

The Pledge of Allegiance was led by the Chairman.

**3. Roll Call**

Deputy Clerk, Stephany Johnson, called the roll.

**4. Approval of Agenda**

On a motion by Supervisor Osl, and carried unanimously, the Board approved the Agenda as amended:

Vote: Mr. Osl – aye                      Mr. Banks – absent  
      Mr. Ingle – aye                    Mr. Wheeler – aye

**5. Resolution in appreciation of Travis Gilliam**

On a motion by Supervisor Osl, and carried unanimously, the Board approved a Resolution in appreciation of Mr. Travis Gilliam:

**Resolution of appreciation  
Upon the retirement of  
Travis Gilliam**

**WHEREAS**, Travis Gilliam, a lifelong resident, has dedicated himself to service to the County of Cumberland and to its citizens; and

**WHEREAS**, he began his service to Cumberland County in the Sheriff's Office as a Deputy Sheriff in July 1988. He served as a Deputy for eight (8) years, and in 1997 was promoted to Sargent, then Chief Deputy in 2006 before becoming the School Resource Officer for Cumberland High School in 2010; and

**WHEREAS**, Travis has served under three (3) Sheriff's during his tenure; and

**WHEREAS**, Travis has volunteered countless hours for the Cumberland Youth League, Cumberland Recreation Department, as well as many other groups; and

**WHEREAS**, he is a devoted husband to his wife of twenty-two (22) years, Tamara Harris-Gilliam, loving father to his three (3) children, and adopted father to all children he mentored throughout his time; and

**WHEREAS**, Travis has tirelessly served the County and its citizens with distinction and integrity, and has earned deep respect, and esteem of those with whom he has worked over the years; and

**NOW, THEREFORE, BE IT RESOLVED** that the Cumberland County Board of Supervisors, through this resolution, express its high regard and profound appreciation for the service that Travis Gilliam has performed for the County of Cumberland and its citizens over the past thirty-one (31) years, and wish his much success in his future endeavors.

**Adopted the 12<sup>th</sup> day of November 2019.**

Vote:	Mr. Osl – aye	Mr. Banks – absent
	Mr. Ingle – aye	Mr. Wheeler – aye

**6. Resolution in memory of John Holman**

On a motion by Supervisor Ingle, and carried unanimously, the Board approved a Resolution in memory of Mr. Jimmy Ownby:

**Resolution in Remembrance of  
The life and service of  
Jimmy L. Ownby**

**WHEREAS**, Jimmy L. Ownby, was born on the 23<sup>rd</sup> day of February 1941 to the late Fred and Della Ownby, and left this earth on June 28, 2019; and

**WHEREAS**, Jimmy, born and raised in Cumberland, served his country in the Virginia Army National Guard for six (6) years; and

**WHEREAS**, during his fifty (50) years in law enforcement, he served in Cumberland County as a full-time Deputy Sheriff for eighteen (18) years beginning in 1973, and most recently as Court Security since 2008. He also served under two sitting Sheriffs, and was awarded officer of the year in Chesterfield County in 1972; and

**WHEREAS**, Jimmy loved being outdoors, taking especially good care of his lawn, and had a passion for restoring old cars, including his numerous 1957 Chevy's, 2-seater T-birds and his 1964 and 1989 Mustang's; and

**WHEREAS**, he has tirelessly served the County and its citizens with distinction and integrity as a professional employee and is a devoted husband to Ailene Ownby for fifty-five (55) years, father to three (3) sons, and grandfather of five (5); and

**WHEREAS**, Jimmy has distinguished himself through his loyal commitment to improving the quality of life for all citizens of Cumberland County, and has earned the deep respect and esteem of all those with whom he has worked with over the years; and

**NOW, THEREFORE, BE IT RESOLVED** that the Cumberland County Board of Supervisors, through this resolution, honors the life, and records the death of Jimmy L. Ownby and extends to the family its deepest sympathy; and

**BE IT FURTHER RESOLVED**, that the Cumberland County Board of Supervisors directs that a copy of this resolution be made a part of the permanent records of the official minutes of the Cumberland County Board of Supervisors, and that a copy be given to the family.

**Adopted the 12<sup>th</sup> day of November 2019.**

Vote:	Mr. Osl – aye	Mr. Banks – absent
	Mr. Ingle – aye	Mr. Wheeler – aye

Supervisor Ingle also recognized the life and service of Jimmy Ownby's wife, Mrs. Aileen Ownby, and her contributions to the county and its' citizens.

**7. State and Local Department/Agencies**

- a) Dr. Amy Griffin, Superintendent of Cumberland County Public Schools

Dr. Griffin gave the following report to the Board:

- Cumberland Elementary School hosted a Veteran's Day breakfast on November 11<sup>th</sup>, and an Innovation night at the end of October with Parent Teacher Conferences
- American Youth Policy Forum to be held on November 19, 2019
- CCES now has new Club called Girls Who Code
- CHS Students and staff will visit workplaces such as PieTech
- As of November 8, 2019, Cumberland County Public Schools celebrates 50 years of integration
- JROTC participated in the Raider Challenge
- The Bands Program recently hosted their Harvest Dinner Theater, and is hosting their annual Breakfast with Santa fundraiser on Saturday, December 7, 2019
- Foxborough Farms set up a petting zoo at CCES
- Jenny Macintosh presented
- The Newly created Computer Science Honor Society held their induction ceremony recently

- b) VDOT

Mr. Steve Snell, Assistant Residency Engineer, provided the Board with a PowerPoint presentation reviewing the new federally mandated weight-restriction signage for bridges in the commonwealth. A copy of the presentation is available in the official board file. VDOT will finish county-wide mowing, brush-cutting and shoulder repairs next week.

- c) Cumberland Public Library

Ms. Lisa Davis, Library Director, informed the Board that the Christmas Tree Lighting ceremony on December 9, 2019 at 6:00 p.m. and open house on December 14, 2019 from noon until 2:00 p.m.

**8. Public Hearing Notices/Set Public Hearings**

N/A

**9. Public Hearings**

- a) TransTech Alliance Amendments

The Chairman opened the public hearing. With no citizens signed up to speak, the Chairman then closed the public hearing.

On a motion by Supervisor Osl, and carried unanimously, the Board approved the Ordinance to amend the TransTech Alliance Agreement:

BOARD OF SUPERVISORS  
OF THE  
COUNTY OF CUMBERLAND, VIRGINIA

**ORDINANCE**

**AMENDING THE TRANSTECH ALLIANCE AGREEMENT**

**November 12, 2019**

At a meeting of the Board of Supervisors of Cumberland County, Virginia, in the Circuit Courtroom of the Cumberland County Courthouse at Cumberland, Virginia commencing at 7:00 p.m., November

12, 2019, the following action was taken following a duly held public hearing during which staff provided a review of the proposed County Ordinance and members of the public offered comment:

Following a reading of the recitals and the resolutions for adoption of the proposed ordinance and on duly recognized motion, the Board of Supervisors adopted and approved the Resolution according to the cotes stated below:

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<u>Present:</u>	<u>Vote:</u>
William F. Osl, Jr., Vice-Chairman	aye
William K. Ingle	aye
Parker Wheeler, Chairman	aye
<u>Absent:</u>	Lloyd Banks, Jr.

Dated: November 12, 2019

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**WHEREAS**, the counties of Brunswick, Charlotte, Greenville, Lunenburg, Mecklenburg, Nottoway and the City of Emporia (the “Member Jurisdictions”) created a regional entity to increase business and other opportunities within the region pursuant to Section 15.2-1300 et seq. of the Code of Virginia, which authorizes the joint exercise of powers by political subdivisions; and

**WHEREAS**, in 2012, the Member Jurisdictions by ordinance adopted the TransTech Alliance Regional Development Agreement which created a board to put such regional development effort into place and that created the TransTech Alliance to accomplish such purpose; and

**WHEREAS**, the Member Jurisdictions have proposed amendments to the Regional Development Agreement which includes the requirements to become a member, requirements to withdraw as a member, and other technical amendments; and

**WHEREAS**, Buckingham, Cumberland and Prince Edward Counties have since joined the Alliance; and

**WHEREAS**, at the June 6, 2019 Board meeting the Member Jurisdictions agreed to amend the by-laws and the Alliance Agreement; and

**NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Cumberland County Board of Supervisors, as follows:**

- a. The foregoing recitals are hereby incorporated by this reference.

- b. Upon consideration of the foregoing, and pursuant to Virginia Code § 15.2-1300, the Board of Supervisors of Cumberland County deems it appropriate to by ordinance and this resolution approve the regional development agreement.
- c. Accordingly, the Board of Supervisors of Cumberland County, Virginia does hereby adopt the following Ordinance:

**AN ORDINANCE**

Approving the Amendments to the Regional Development Agreement attached hereto, which includes requirements to become a member, requirements to withdraw as a member, and other technical amendments and authorizes the County Administrator or Board of Supervisors Chairman to execute such Agreement on behalf of Cumberland County.

In addition, the Board appoints the following two persons as Board members of the TransTech Alliance:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

Alternate: \_\_\_\_\_

- d. This Resolution and the Ordinance herein contained shall be effective immediately.

Vote:	Mr. Osl – aye Mr. Ingle – aye	Mr. Banks – aye Mr. Wheeler – aye
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**10. County Attorney/County Administrator Report**

- a) Consent Agenda
  - 1) Approval of Bills for October 2019 and November 2019. Approved bills for November 12, 2019 total \$182,565.73. Ratified bills for October 9, 2019 through November 11, 2019 of warrants total \$617,910.11, Direct Deposits total \$156,778.60, all with check numbers ranging from 80844-81164.

2) Approval of Minutes – October 3, 2019, October 8, 2019 and October 9, 2019

On a motion by Supervisor Osl and carried unanimously, the Board approved the consent agenda as presented:

Vote: Mr. Osl – aye                      Mr. Banks – absent  
Mr. Ingle – aye                      Mr. Wheeler – aye

b) Ratify Board of Equalization appointments

On a motion by Supervisor Osl and carried by the following vote, the Board appointed Randy Bryant, Yvonne Earvin, Theresa Denaro, John Godsey and Larry Atkins to the Board of Equalization:

Vote: Mr. Osl – aye                      Mr. Banks – absent  
Mr. Ingle – aye                      Mr. Wheeler – aye

c) Set public hearing for Clothes Closet Lease

On a motion by Supervisor Ingle, and carried by the following vote, the Board set a public hearing for the Clothes Closet lease for December 10, 2019:

Vote: Mr. Osl – aye                      Mr. Banks – absent  
Mr. Ingle – aye                      Mr. Wheeler – aye

d) Set public hearing for James River Therapeutics Lease

On a motion by Supervisor Ingle, and carried by the following vote, the Board set a public hearing for the James River Therapeutic Services lease for December 10, 2019:

Vote: Mr. Osl – aye                      Mr. Banks – absent  
Mr. Ingle – aye                      Mr. Wheeler – aye

e) Set public hearing for Bear Creek Academy Lease



**WHEREAS**, Holiday Lake 4-H Educational Center (HL4HEC) serves nineteen (19) Virginia localities which includes the counties of Albemarle, Amherst, Appomattox, Amelia, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Fluvanna, Greene, Louisa, Lunenburg, Mecklenburg, Nelson, Nottoway, and Prince Edward as well as the cities of Charlottesville and Lynchburg; and

**WHEREAS**, HL4HEC is located in the 20,000-acre Appomattox/Buckingham State Forest, the largest state forest in Virginia; and

**WHEREAS**, the 4-H Center leases 157.8 acres from the Virginia Department of Forestry on a long-term lease through the year 2080; and

**WHEREAS**, the objectives of HL4HEC are:

To provide four seasons annually of educational camping programs for 4-Hers in Central, Southside and specialized camps across the state of Virginia. To provide special programs and activities to include Natural Resource Education as a resource for school groups, 4-H clubs, the summer 4-H camping program as well as for adults. To provide facilities, programs, and services necessary to serve as the Virginia 4-H Shooting Education Center. To provide quality facilities and support services year-round for diverse groups from multiple geographical regions. To evaluate the effectiveness of educational programming on an ongoing basis and to revise programming to meet the changing needs of stakeholders; and

**WHEREAS**, today at HL4HEC, over ten thousand (10,000) participants (many of which are underserved youth) benefit annually from a variety of programs. Holiday Lake 4-H Educational Center has served the youth and adults of Central/Southside Virginia and beyond since 1941. Thousands of urban youth get to experience the "forest" through 4-H and Natural Resource Education programs at the 4-H Center. For almost 80 years, Cumberland County has played an active part of the more than one hundred thousand (100,000) lives that have been enriched at the 4-H Center through educational programs, friendships and a closeness to nature; and

**WHEREAS**, in 2011 HL4HEC was registered as a Virginia Historic Landmark and listed on the National Register of Historic Places. The historic registration (which in part includes 15 cabins built in 1937 by the WPA which are still used today) assures that the original character of the historic buildings will be preserved; and

**WHEREAS**, through a memorandum of understanding between the Appomattox County School Board and HL4HEC, the 4-H Center serves as a designated evacuation site to be utilized in the event of an emergency which would require students to be taken out of the Appomattox County Schools and be temporarily located at HL4HEC.

**NOW THEREFORE BE IT RESOLVED**, the 4-H Center's capital improvement projects include facility upgrades/installations to include Medical Clinic Facility and Equipment Upgrade (including floor replacement and AED), PA System (Active Shooter), ADA



Vote: Mr. Osl – aye Mr. Banks – absent  
Mr. Ingle – aye Mr. Wheeler – aye

**12. Planning Director’s Report**

a) Planning Project Update

There was no discussion regarding this item.

b) Set public hearings

1) CUP 19-08 Harris Porch

On a motion by Supervisor Ingle and carried by the following vote, the Board set CUP 19-08 Harris porch for public hearing on December 10, 2019:

Vote: Mr. Osl – aye Mr. Banks – absent  
Mr. Ingle – aye Mr. Wheeler – aye

2) CUP 19-07 Boese LLA

On a motion by Supervisor Ingle and carried by the following vote, the Board set CUP 19-07 Boese LLA for public hearing on December 10, 2019:

Vote: Mr. Osl – aye Mr. Banks – absent  
Mr. Ingle – aye Mr. Wheeler – aye

3) CA 19-08 Erosion and Sediment Control Ordinance

On a motion by Supervisor Ingle and carried by the following vote, the Board set CA 19-08 Erosion and Sediment Control Ordinance for public hearing on December 10, 2019:

Vote: Mr. Osl – aye Mr. Banks – absent  
Mr. Ingle – aye Mr. Wheeler – aye



**16. Public Comments**

Mrs. Betty Rankin congratulated the newly elected Board members and gave her well wishes to the outgoing board members. She also stated that the county spent \$1,200 on the installation of a culvert on non-county owned property. Mr. Bernard Pond stated that Dr. Griffin, School Superintendent, spoke at the most recent Cumberland Landfill Alert meeting, and that she deserved a round of applause.

**17. Board Member Comments**

Supervisors Osl, Ingle and Wheeler stated that the county is fortunate to have Dr. Griffin, and congratulated the newly elected Board members.

**18. Adjourn into Closed Meeting**

On a motion by Supervisor Osl and carried, the Board entered into closed meeting pursuant to the Virginia Code Section set for the below to discuss the subject identified:

- Virginia Code § 2.2-3711.A.1: Personnel;  
Subject: Discussion regarding the County Administrator position; assignment and reassignment of administrative duty
- Virginia Code § 2.2-3711.A.5: Discussion of prospective business where no previous announcement has been made;  
Subject: Development and occupancy of the Cumberland Business Park on Commerce Road
- Virginia Code § 2.2-3711.A.7: Consultation with Legal Counsel regarding pending litigation;  
Subject: Opioid litigation

Vote:	Mr. Osl – aye	Mr. Banks – absent
	Mr. Ingle – aye	Mr. Wheeler – aye

**19. Reconvene in Open Meeting**

The Board returned to regular meeting on a motion by Supervisor Osl.

A motion was made by Supervisor Osl and adopted by the following vote:

Mr. Osl - aye  
Mr. Banks – absent  
Mr. Ingle – aye  
Mr. Wheeler - aye

That the following Certification of a Closed Meeting be adopted in accordance with The Virginia Freedom of Information Act:

**WHEREAS**, the Board of Supervisors of Cumberland County has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Cumberland County hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of Cumberland County, and (iii) no action was taken in closed meeting.

On a motion by Supervisor Osl and carried by the following vote, the Board withdrew from the negotiating class regarding the opioid litigation:

Vote: Mr. Osl – aye Mr. Banks – absent  
Mr. Ingle – aye Mr. Wheeler – aye

On a motion by Supervisor Osl and carried by the following vote, the Board approved an employment contract with Mr. Donald Unmussig for the County Administrator position:

Vote: Mr. Osl – aye Mr. Banks – absent  
Mr. Ingle – aye Mr. Wheeler – aye

Supervisor Ingle urged citizens to submit a volunteer application for EDA appointment.

**20. Additional Information**

- a) Treasurer’s Report
- b) DMV Report
- c) Monthly Building Inspections Report
- d) Approved Planning Commission meeting minutes – August 26, 2019
- e) Approved EDA meeting minutes – July 23, 2019, July 29, 2019, and August 19, 2019

**21. Adjourn –**

On a motion by Supervisor Osl and carried unanimously, the Board recessed the meeting until 6:00 p.m. on Wednesday, October 9, 2019 in Court Room A of the Cumberland Courthouse:

Vote: Mr. Osl – aye Mr. Banks – absent  
Mr. Ingle – aye Mr. Wheeler – aye

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Parker Wheeler, Chairman

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Stephany S. Johnson, Deputy Clerk



**DATE:** December 2, 2019

**TO:** Cumberland County Board of Supervisors  
Mr. Don Unmussig, County Administrator

**FROM:** Stephany S. Johnson, Deputy Clerk

**RE:** Ratify the Trans Tech Alliance Regional Development Agreement

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**Information**

At the November 2019 meeting, the Board adopted an ordinance amending the TransTech Alliance Regional Agreement, however, the agreement itself was unintentionally excluded from the packet.

**Recommendation**

Ratify approval of the TransTech Alliance Regional Development Agreement.

**TRANSTECH ALLIANCE  
REGIONAL DEVELOPMENT AGREEMENT**

**THIS AGREEMENT** is entered into this 12<sup>th</sup> day of November, 2019 among Brunswick County, Charlotte County, Greensville County, Lunenburg County, Mecklenburg County, Prince Edward County, Buckingham County, Cumberland County, and the City of Emporia (the “Member Jurisdictions”) all of which are political subdivisions in the Commonwealth of Virginia.<sup>1</sup>

**WHEREAS**, in 2012, the Alliance was created for the purpose of creating a regional organization to increase business opportunities and other development opportunities within the region; and

**WHEREAS**, the Member Jurisdictions desire to amend this Agreement with the Alliance governing the parties’ respective obligations;

**NOW THEREFORE**, it is agreed by the Member Jurisdictions as follows:

**1. Creation of TransTech Alliance.**

In 2012, Brunswick, Charlotte, Greensville, Lunenburg, Mecklenburg and Nottoway Counties and the City of Emporia created a regional entity to increase business and other development opportunities to be named the TransTech Alliance (the “Alliance”) pursuant to Section 15.2-1300 et. seq. of the Code of Virginia, which authorizes the joint exercise of powers by political subdivisions.

**2. Duration.**

The Alliance shall be in existence for an unlimited duration, unless dissolved as set forth in Section 10 of this Agreement.

**3. Board.**

The Alliance shall be administered by a Board of Directors consisting of two representatives appointed by the governing body of each of the Member Jurisdictions. The members of the Board shall serve without a term, and shall serve at the pleasure of their respective governing bodies. In addition, the Board may appoint up to six additional Board members representing business and education for two-year terms. The Board shall have

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<sup>1</sup> Nottoway County will withdraw as a member effective June 30, 2019. Amelia County withdrew as a member on June 30, 2018.

the power to adopt bylaws, and shall elect a chair, a vice-chair, secretary and treasurer, each of which shall serve for two-year terms. Approval of any action shall require a majority of a quorum of the Board.

#### **4. Method of Financing and Budget.**

The Alliance shall be financed by a combination of grants and awards and funding by the Member Jurisdictions in the form of an annual per capita appropriation based on the decennial United States Census. The amount of the annual per capita appropriation shall be determined by the Board when it adopts the annual budget. The annual per capita appropriation for the fiscal year beginning July 1, 2012 is \$1.00. The Board shall propose a budget for the next fiscal year by March 1 of each year, and shall present that budget to the county administrator or city manager of each Member Jurisdiction. The Alliance shall have the authority to accept grants and awards in its name on behalf of the Member Jurisdictions.

#### **5. Executive Director.**

The Board shall have the authority to employ an Executive Director and other employees, subject to available funds.

#### **6. Fiscal Agent.**

The Board shall appoint one of the Member Jurisdictions to serve as its fiscal agent. The fiscal agent shall receive and disburse all funds for the Board, and shall provide an accounting of all such funds. The Board may agree to pay the Member Jurisdiction serving as fiscal agent for such service. The Board may conduct its own annual audit, or may have the auditor for the Member Jurisdiction serving as fiscal agent have the annual audit conducted by its auditor.

#### **7. Title to Property.**

In the event that the Board shall acquire real or personal property, the title to such property shall, in the discretion of the Board, be in the name of the Alliance or the Member Jurisdiction serving as fiscal agent, which shall hold the property in trust for the members of the Alliance.

#### **8. Contracts.**

The Board shall have the power to enter into contracts to the extent funds are available. Such contracts shall be entered into in the name of the Alliance. The Board shall purchase such insurance as it deems necessary.

## **9. Withdrawal of Membership.**

Upon resolution of its governing body, a Member Jurisdiction shall be allowed to withdraw from this Agreement as of July 1 of any year by giving six months' written notice to the other Member Jurisdictions, unless such notice is unanimously waived by the other Member Jurisdictions. During such six-month period, the Member Jurisdiction seeking to withdraw agrees to continue its annual appropriations. In the event a Member Jurisdiction withdraws, it shall have no right to any personal property, real property, or any other asset, including cash, held by the Alliance or the fiscal agent. In the event a Member Jurisdiction does not appropriate the annual per capita amount determined by the Board in the annual budget, such Member shall be considered to have withdrawn from the Alliance, and shall have no right to any personal property, real property, or any other asset, including cash, held by the Alliance or the fiscal agent.

Further, any Member Jurisdiction that withdraws from the Alliance shall pay for the costs associated with removing said Member Jurisdiction from print and electronic media, including but not limited to, letterhead and websites, and any other materials used by the Alliance that includes the name of the withdrawing Member Jurisdiction.

## **10. Dissolution.**

The Member Jurisdictions may dissolve the Alliance by a majority of the governing bodies adopting resolutions to that effect. Such resolutions shall state the date of the dissolution. In the event of such dissolution, the assets of the Alliance shall be divided pro rata, based upon the relative percentages of Member Jurisdiction contributions, unless otherwise agreed to unanimously. Any assets held at the time of dissolution that have been contributed by entities that are not Member Jurisdictions shall be divided equally among the Member Jurisdictions, unless otherwise agreed to unanimously. In the absence of a unanimous agreement to do otherwise, any personal or real property shall be sold.

## **11. Additional Members.**

Any city or county in Virginia, may, upon the adoption of a resolution by its governing body, and with a majority of a quorum of the Board of Directors, may become a member of the Alliance. The new member shall adopt a resolution approving this Agreement and its membership in the Alliance. The city or county requesting membership shall appoint two members to the Board and one alternate.

## **12. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, will be an original, and the counterparts taken together will constitute one and the same instrument.

**WHEREFORE**, the parties indicate their desire to enter into this Agreement by their duly authorized signatures below.

**BRUNSWICK COUNTY**

By: \_\_\_\_\_

**BUCKINGHAM COUNTY**

By: \_\_\_\_\_

**CHARLOTTE COUNTY**

By: \_\_\_\_\_

**CUMBERLAND COUNTY**

By: \_\_\_\_\_

**GREENSVILLE COUNTY**

By: \_\_\_\_\_

**LUNENBURG COUNTY**

**By:** \_\_\_\_\_

**MECKLENBURG COUNTY**

**By:** \_\_\_\_\_

**PRINCE EDWARD COUNTY**

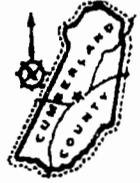
**By:** \_\_\_\_\_

**CITY OF EMPORIA**

**By:** \_\_\_\_\_



**L.O. Pfeiffer, Jr.**  
*TREASURER OF CUMBERLAND COUNTY*  
P.O. Box 28  
Cumberland, VA 23040  
(804) 492-4297  
Fax (804) 492-5365



November 17, 2019

Jennifer Crews, Interim County Administrator  
Cumberland County  
P.O. Box 110  
Cumberland, VA 23040

Dear Jennifer:

The Treasurer's Office would like to dispose of some of the old records that are no longer necessary to keep and may be destroyed pursuant to the Records and Retention Schedules issued by the Library of Virginia. Code of Virginia section 58.1-3129 (a) requires Treasurers to obtain the consent of the governing body before destroying paid tax tickets "after five years from the end of the fiscal year during which the taxes represented by such tickets were paid." I am hereby requesting that the Board of Supervisors approve the destruction of all paid tax tickets through Fiscal Year 2013-14.

I appreciate your help on this matter and if you or any Board member has any questions on this request, please do not hesitate to contact me.

Sincerely,

L.O. Pfeiffer, Jr.  
Treasurer



# County of Cumberland Virginia

## RESOLUTION OF THE CUMBERLAND COUNTY BOARD OF SUPERVISORS DECLARING CUMBERLAND COUNTY AS A "SECOND AMENDMENT SANCTUARY"

**December 10, 2019**

**WHEREAS**, the Second Amendment of the United States Constitution reads: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed," and,

**WHEREAS**, Article 1, Section 13, of the Constitution of Virginia provides "that a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power;" and,

**WHEREAS**, certain legislation introduced in the 2019 session of the Virginia General Assembly, and certain legislation introduced in the current session of the United States Congress could have the effect of infringing on the rights of law-abiding citizens to keep and bear arms, as guaranteed by the Second Amendment of the United States Constitution; and,

**WHEREAS**, the current Governor of Virginia has stated that he intends to endorse and pass into law legislation that is unconstitutional as it pertains to the rights enumerated in the US & Virginia Constitution.

**WHEREAS**, the Cumberland County Board of Supervisors is concerned about the passage of any bill containing language which could be interpreted as infringing the rights of the citizens of Cumberland County to keep and bear arms or could begin a slippery slope of restrictions on the Second Amendment rights of the citizens of Cumberland County, and,

**WHEREAS**, the Cumberland County Board of Supervisors wishes to express its deep commitment to the rights of all citizens of Cumberland County to keep and bear arms; and,

**WHEREAS**, the Cumberland County Board of Supervisors wishes to express opposition to any law that would unconstitutionally restrict the rights under the Second Amendment of the citizens of Cumberland County to bear arms; and,

**WHEREAS**, the Cumberland County Board of Supervisors wish to express its intent to stand as a Sanctuary County for Second Amendment rights and to oppose, within the limits of the Constitutions of the United States and the Commonwealth of Virginia, any efforts to unconstitutionally restrict such rights, and to use such legal means at its disposal to protect the right of the citizens to keep and bear arms, including through legal action, the power of appropriation of public funds, and the right to petition for redress of grievances, and the direction to the law enforcement and judiciary of Cumberland County to not enforce any unconstitutional law.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF CUMBERLAND, VIRGINIA:**

That the Cumberland County Board of Supervisors hereby expresses its intent to uphold the Second Amendment rights of the citizens of Cumberland County, Virginia and its intent that public funds of the County not be used to restrict Second Amendment rights or to aid in the unnecessary and unconstitutional restriction of the rights under the Second Amendment of the citizens of Cumberland County, Virginia to bear arms; and

That the Cumberland County Board of Supervisors hereby declares its intent to oppose unconstitutional restrictions on the right to keep and bear arms through such legal means as may be expedient, including without limitation court action; and,

That the Board of Supervisors hereby declares Cumberland County, Virginia, as a "Second Amendment Sanctuary,"

Adopted this 10<sup>th</sup> day of December 2019

APPROVED:

ATTEST:

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Mr. Parker Wheeler, Chairman  
Cumberland County Board of Supervisors

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Mr. Don Unmussig  
County Administrator



**DATE:** December 2, 2019

**TO:** Cumberland County Board of Supervisors  
Mr. Don Unmussig, County Administrator

**FROM:** Stephany S. Johnson, Deputy Clerk

**RE:** Request for additional contribution to the Local Health Department

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### **Information**

The Board approved a contribution to the local Health Department in the amount of \$100,096 for FYE20. In September 2019, staff received a letter from Dr. Robert Nash, Director of the Piedmont District Health Department, stating that Cumberland would be receiving a revenue refund from FY19. This refund in the amount of \$5,393.60 was received on October 26, 2019. In the same letter, Dr. Nash requests the Boards consideration for an increase in the FY20 contribution amount by \$2,456.59. This requested increase will be offset by the refund requiring no additional local funds.

### **Recommendation**

Make a motion to approve an increase in the contribution amount to the Local Health Department by \$2,456.59 for a total of \$102,552.59 for FYE20.



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF HEALTH

Piedmont Health District  
111 South Street, 1st Floor  
Farmville, VA 23901  
PHONE: (434) 392-3984  
FAX: (434) 392-1038  
TDD 1-800-828-1120

SERVING THE COUNTIES OF:  
AMELIA  
BUCKINGHAM  
CHARLOTTE  
CUMBERLAND  
LUNENBERG  
NOTTOWAY  
PRINCE EDWARD

Mr. Don Unmussig

18 Sept 2019

Cumberland County Administrator

P.O. Box 110, Cumberland, VA 23040

Dear Mr. Unmussig,

The Health Department has designated a Revenue Refund for your County from fiscal year 2019.

In our projected budget for fiscal year 2020, however, we are showing a modest but significant increase in our needed commitments. We are, therefore, asking for your consideration for an increase in your counties contribution in the amount of \$2,456.59 for 2020. This increase contribution would represent a proportional increase to match the State's increase in supporting revenue for ongoing operations for 2020. Some of the increases have been realized by increased Emergency Management Operations, Increased Infectious Disease Outbreaks and investigations, Increased Immunization Activities, increased cost associated with improved telecommunications and internet services, increased costs associated with maternal and infant care, nutrition, education and training, and our increased activities to fight the ongoing Opioid crisis, which effects all of our counties. In respect for your own county's financial obligations, we have carefully analyzed the figures and structured the above request to represent only a fraction of the funds designated for refund from 2019.

Please consider this as a reasonable request in good faith from a valued and dependable community partner, your Local Health Department.

Respectfully Submitted,

H. Robert Nash, M.D., F.C.A.P.

Director, Piedmont District, Virginia Department of Health

111 South St., Farmville, VA 23901

**Planning Projects Update  
November 2019**

<b>Zoning:</b>		
<i>Pending Zoning Questions and Requests</i>		
<i>CUP's and Rezoning Requests</i>		
<i>Zoning Compliance Issues- Two cases filed for injunction in the Circuit Court.</i>		
<b>Subdivisions:</b>		
<i>Approved Division</i>		
<b>Other Regulatory Functions:</b>		
<i>Erosion and Sediment Control Applications</i>		
Henrico County- MEB/Haymes	Cobbs Creek	Clearing and grading for the main project has begun.
Raman Enterprises, Inc	Bear Creek Market	Construction has begun.
Dollar General	Cumberland Road	Construction has begun.
Farmville Regional Airport	Farmville Airport	Construction has begun.
The Rosen Residence	Perkins Rd	Agreement in Lieu of a Plan for a dwelling.
Almond Ln Lot 6	Almond Ln	Agreement in Lieu of a Plan for a dwelling.
Dewsbury-Alderman	886 Old Buckingham Rd	Agreement in Lieu of a Plan for a dwelling.
John G. Stoltzfus	Airport Rd	Construction has begun.
<b>Code Amendment Questions</b>		
Definitions	Countywide	An update should happen as part of mixed use district. The first draft was completed as part of the initial review of the Ordinance for the mixed use district. Deferred by the Planning Commission until completion of CCR Plan Amendment.
Business uses	Countywide	All business uses should be inclusive as the Ordinance moves from a less intensive to a more intensive business zone. For instance, all uses in the B-3 should be included in B-2, and so on. Deferred by the Planning Commission until completion of CCR Plan Amendment.
Overlay district standards	Anderson Highway between 45 and 45	Standards to require improved appearance in mixed use district around the Courthouse. Deferred by the Planning Commission until completion of CCR Plan Amendment.
Mixed Use Zoning District	Cumberland Road and Anderson Highway	Combine uses in B-3 and R-2 for a mixed use district. Deferred by the Planning Commission until completion of CCR Plan Amendment.

## COBB'S CREEK RESERVOIR WATERSHED PROTECTION ORDINANCE

### ARTICLE I. – GENERAL PROVISIONS

#### Sec. 1-100. - Title and Authority

This ordinance shall be known as the Watershed Protection Ordinance for the Cobbs Creek Reservoir. The ordinance has been adopted pursuant to the August 10, 2010 Memorandum of Understanding between Cumberland County and Henrico County.

#### Section 1-101. - Definitions.

*“Cobbs Creek Regional Water Supply Reservoir” (“Cobbs Creek Reservoir”)* means the fourteen point eight (14.8) billion gallon raw water reservoir constructed by Henrico County in Cumberland County to allow for controlled releases from reservoir storage into the James River.

*“Cobbs Creek Reservoir Watershed”* means the reservoir watershed area identified on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office. It consists of the Reservoir Buffer and Other Reservoir Watershed Area as defined herein.

*“Other Reservoir Watershed Area”* means the portion of the Cobbs Creek Reservoir Watershed outside the Reservoir Buffer. Other Reservoir Watershed Area is shown on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office.

*“Owner”* means Henrico County which will construct, own, and operate the Cobbs Creek Reservoir.

*“Pollutant”* means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

~~*“Reservoir Buffer”* means the buffer which extends 150 feet landward from the reservoir normal pool elevation of 345 feet mean sea level. The Reservoir Buffer is shown on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office.~~

*“Reservoir Normal Pool”* means the reservoir’s water area surrounded by the Reservoir Buffer as shown on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office.

*“Zoning administrator”* means the Director of Planning for Cumberland County.

#### Section 1-102. - Jurisdiction

Cumberland County has jurisdiction over the Cobbs Creek Reservoir and is responsible for enforcing the provisions of this ordinance.

#### Section 1-103. - Purpose

The purpose of this ordinance is to achieve water quality protection; to control and abate the discharge of pollutants; to permit beneficial use of the Cobbs Creek Reservoir; and to safeguard potential future use of the reservoir as a direct source of drinking water for Cumberland County.

**Section 1-104. - Effective Date**

This ordinance shall be effective upon adoption.

**Section 1-105. - Applicability**

This ordinance applies to all activities in the Cobbs Creek Reservoir Watershed.

**Section 1-106. - Establishment of Reservoir Protection Overlay District**

[Reserved]

**Section 1-107. - Interpretation of District Boundaries**

The zoning administrator shall determine the boundaries of the Reservoir Buffer and Other Reservoir Watershed Area based on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office.

**ARTICLE II. – WATERSHED PROTECTION**

~~Section 2-100. – Reservoir Buffer~~

~~Section 2-100.1. – Intent~~

~~These provisions codify the requirements established in the Cobbs Creek Reservoir Buffer Management Plan approved by the Virginia Department of Environmental Quality (“DEQ”) and the United States Army Corps of Engineers as well as restrictions contained in easements signed by persons owning land in the Reservoir Buffer. Compliance with the approved Cobbs Creek Reservoir Buffer Management Plan is mandatory in the Reservoir Buffer.~~

~~Section 2-100.2. – Prohibited Uses~~

~~Except as provided in Section 2-100.3, the following activities are prohibited in the Reservoir Buffer.~~

- ~~1) Construction of new buildings, structures, fences, roads or utilities~~
- ~~2) Industrial or commercial activities~~
- ~~3) Storage of compost, manure, fertilizers, chemicals, machinery, or equipment outside of existing buildings and structures~~
- ~~4) Burning or harvesting timber or otherwise removing any vegetation~~
- ~~5) Tree removal to provide for sight lines and vistas~~
- ~~6) Mowing, plowing, cultivating, or landscaping~~
- ~~7) Grading, blasting, mining, or performing other earth-disturbing activities~~
- ~~8) Damming, impounding, capturing, or diverting flowing water.~~
- ~~9) Dumping or depositing waste machinery, equipment, other waste materials, household refuse, lawn clippings, woody debris, leaves, or fill material.~~
- ~~10) Erecting or installing any billboards, signs, towers, playground equipment, or recreational fields~~
- ~~11) Operating any motorized vehicles~~

- 12) ~~Pasturing or grazing any livestock or poultry~~

### **Section 2-100.3. -- Exceptions to Prohibited Uses**

~~Notwithstanding the prohibitions contained in Section 2-100.2, the following structures and activities are allowed within the Reservoir Buffer.~~

- 1) ~~Public use areas designated by Henrico County, provided that DEQ approves the locations and that any activities conducted in public use areas will not contravene water quality protection goals.~~
- 2) ~~Facilities supporting the water supply project.~~
- 3) ~~Expansion, repair, or relocation of septic or drinking water systems when required by the Virginia Department of Health law or regulation.~~
- 4) ~~Reconstruction of existing buildings, structures, fences, roads, or utilities damaged by natural events if the original dimensions and locations are maintained.~~
- 5) ~~Industrial or commercial activities authorized within existing buildings and structures where no material alteration to the external appearance occurs and where no discharge of materials occurs.~~
- 6) ~~Storage of compost, manure, fertilizers, chemicals, machinery, or equipment within existing buildings and structures where no discharge of materials occurs.~~
- 7) ~~Burning or harvesting timber or otherwise removing vegetation when necessary for safety purposes or for fire, pest, or invasive species control. Prior approval from Henrico County will be required before a private landowner undertakes any burning, harvesting, or removal of vegetation.~~
- 8) ~~Burning or harvesting timber or otherwise removing vegetation for water supply project-related activities approved by DEQ and for which a restoration plan is submitted and approved by DEQ.~~
- 9) ~~Tree pruning to provide for sight lines and vistas, subject to the following conditions specified in the Cobbs Creek Reservoir Buffer Management Plan approved by the Virginia Department of Environmental Quality ("DEQ") and the United States Army Corps of Engineers: (1) pruning is conducted by a certified arborist with the intent that pruned trees survive, (2) maximum pruning area on a single property is a single pruning corridor up to one hundred (100) feet wide through the Reservoir Buffer in a corridor roughly perpendicular to the reservoir shoreline, and (3) a pruning plan is prepared by the property owner, approved by the U.S. Army Corps of Engineers, and provided by the owner to Henrico County and the Cumberland County Planning Office before the pruning occurs.~~
- 10) ~~Mowing of existing lawn areas adjacent to existing buildings and cemeteries.~~
- 11) ~~Grading, blasting, mining, or performing other earth-disturbing activities for upland borrow activities for construction of the water supply project.~~
- 12) ~~Installation of billboards, signs, or towers necessary for operation of the water supply project.~~
- 13) ~~Operation of motorized vehicles used for traveling on existing roads or for the mowing of existing lawn areas adjacent to the existing buildings and cemeteries.~~
- 14) ~~Operation of motorized vehicles necessary for the operation, maintenance, or protection of the water supply project.~~
- 15) ~~Pasturing or grazing livestock or poultry within an existing fenced or otherwise enclosed area that is already being used for such activity.~~

### **Section 2-200. - Other Reservoir Watershed Area**

**Section 2-200.1. - Statement of Intent.** These provisions establish the activities that are prohibited and permitted in Other Reservoir Watershed Area of the Cobbs Creek Reservoir Watershed.

**Section 2-200.2. - Prohibited Uses**

The following activities are prohibited throughout Other Reservoir Watershed Area of the Cobbs Creek Reservoir Watershed.

- 1) Activities involving the manufacture, bulk storage, or any type of distribution of petroleum, chemical, asphalt products, or any hazardous substances as defined in Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and substances designated under section 311(b)(2)(A) of the Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, as amended in 1977).
- 2) Installation of long distance transmission pipelines for natural gas, liquid petroleum, petroleum products, slurry coal, and any other liquids or solids, except water lines, sewer lines and storm sewers.
- 3) Fuel storage tanks in the absence of secondary containment structures such as earthen berms around the tanks.
- 4) Gas stations and/or automotive service stations.
- 5) Junkyards.
- 6) Exploration, development or operation of oil wells, natural gas wells, strip mines or quarries.
- 7) Application to land surfaces or landfilling of industrial, commercial or residential waste.
- 8) Land application of biosolids.
- 9) Dumping or spreading of animal waste in areas not used in such manner prior to implementation of this ordinance.
- 10) Feed lots for more than fifty (50) animals.
- 11) Sewage system discharges to surface waters.
- 12) Discharges into the storm drainage system or state waters of any pollutants or waters containing any pollutants other than stormwater.
- 13) Any use prohibited by state or federal law, regulation, or permit.

**Section 2-200.3. - Permitted Uses.**

Any uses allowed in the zoning district and not listed in Section 2-200.2 are permitted.

**Section 2-300. - Reservoir Normal Pool**

**Section 2-300.1. - Statement of Intent.** These provisions establish the activities that are prohibited in the Reservoir Normal Pool of the Cobbs Creek Reservoir.

**Section 2-300.2. - Prohibited Uses**

The following private activities are prohibited in the Reservoir Normal Pool of the Cobbs Creek Reservoir to protect water quality, public facilities, and safe recreational use.

- 1) All activities prohibited in the Reservoir Buffer and Other Reservoir Watershed Area.
- 2) ~~Use of boats, sailboats, kayaks, canoes, and paddleboards within restricted areas [within restricted areas as mutually designated by Cumberland and Henrico Counties designated by Henrico County.](#)~~

- ~~3) Use of jet skis.~~
- ~~4)2) Use of a boat with any type of engine that exceeds ten (10) horsepower.~~
- ~~5) Swimming within restricted areas within restricted areas as mutually designated by Cumberland and Henrico Counties.~~designated by Henrico County.~~~~
- ~~6)3) Littering or polluting the reservoir.~~
- ~~7)4) Use of firearms or explosives.~~
- ~~8)5) Accessing or mooring at dam facilities.~~



COMMONWEALTH OF VIRGINIA  
COUNTY OF HENRICO

John A. Vithoukas  
County Manager

November 26, 2019

Mr. Don Unmussig  
County Administrator, Cumberland County  
1 Courthouse Circle  
P.O. Box 110  
Cumberland VA 23040

Dear Mr. Unmussig:

Henrico County has received the latest draft of the Cumberland County Watershed Protection Ordinance to regulate activities related to the Cobbs Creek Reservoir. This draft makes substantial changes from previous drafts and raises several issues regarding enforcement of state and federal permitting requirements, the safety of Cumberland County residents and visitors who will be using the reservoir, and protection of water quality in the reservoir.

Because of the magnitude of these revisions and in light of upcoming changes in the Cumberland County Board of Supervisors, we would appreciate the opportunity for Henrico County staff to meet with you or members of your staff to discuss the proposed changes and how best to satisfy state and federal permitting requirements and to ensure safe operation of the reservoir. It is vitally important for our counties to work cooperatively to ensure successful operation of this most important project.

Sincerely,

John A. Vithoukas  
County Manager

pc: Deputy County Manager for Community Operations  
Deputy County Attorney  
Director of Public Utilities

# Transactions for DMV Select

November 2019

	# Transactions	Total \$	# Helped	# Transactions	Total \$	# Helped
1	72	\$8,449.37	12	17		
2				32	\$2,290.93	8
3				32	\$1,421.79	4
4	43	\$3,436.71	13	31	\$1,738.05	5
5	25	\$1,116.25	10	37	\$1,438.17	5
6	28	\$1,192.50	9	40	\$2,679.28	6
7	22	\$908.47	4	23		
8	29	\$1,201.90	11	24		
9				51	\$14,211.98	13
10				46	\$4,413.05	14
11				26	\$2,447.63	14
12	38	\$1,435.21	17	28		
13	24	\$713.14	5	29		
14	29	\$1,759.37	9	30		
15	33	\$2,863.53	8	31		
16				638	\$53,717.33	167

**MINUTES OF THE ECONOMIC DEVELOPMENT AUTHORITY  
REGULAR MEETING  
COUNTY ADMINISTRATION BUILDING DOWNSTAIRS CONFERENCE ROOM  
CUMBERLAND COUNTY COURTHOUSE COMPLEX  
TUESDAY, SEPTEMBER 24, 2019  
9:00 A.M.**

**PRESENT:** Jack Lawhorne, Director  
Leroy Pfeiffer, Sr., Vice Chair  
John Godsey, Director  
Brian Stanley, Director  
James Henshaw, Director  
Joe Hazlegrove, Director (late arrival/early exit)

**ABSENT:** Fred Shumaker, Chairman

**ALSO PRESENT:** Don Unmussig, County Administrator  
Brian Butler, County Attorney  
Sierra Duncan, Senior Executive Assistant

**CALL TO ORDER AND ROLL CALL**

Mr. Pfeiffer called to order the meeting of the Economic Development Authority of Cumberland County, Virginia on Tuesday, September 24, 2019 at 9:00 AM and a quorum was established.

**APPROVAL OF AGENDA**

On a motion by Mr. Stanley and seconded by Mr. Godsey, the agenda was approved as presented. The motion carried unanimously 5-0.

**APPROVAL OF MINUTES**

On a motion by Mr. Stanley and seconded by Mr. Godsey, the minutes from the 7/23/19, 7/29/19, and 8/19/19 meetings were approved as presented. The motion carried unanimously 5-0.

**PLANNING COMMISSION INQUIRY**

The EDA reviewed a memo from Planning Director, Mr. JP Duncan. The memo noted that the Planning Commission wanted to know if the EDA has looked at the Republic landfill land for any possible development. The EDA noted that they had not looked at that land for possible development.

**ADJOURN INTO CLOSED MEETING**

On a motion by Mr. Brian Stanley and seconded by Mr. Leroy Pfeiffer, Sr., the Board entered into closed meeting pursuant to the Virginia Code §2.2-3711 A.5 "Discussion of prospective business where no previous announcement has been made". The subject was potential lease or purchase of Cumberland Business Park Shell building (two projects). The motion carried 6-0.

**RECONVENE IN OPEN MEETING**

A motion was made by Director Stanley and adopted by the following vote:

Mr. Shumaker -	Absent
Mr. Stanley -	Yes
Mr. Godsey -	Yes
Mr. Hazlegrove -	Yes
Mr. Henshaw -	Yes
Mr. Lawhorne -	Yes
Mr. Pfeiffer -	Yes

that the following Certification of a Closed Meeting be adopted in accordance with The Virginia Freedom of Information Act.

WHEREAS, the Economic Development Authority of the County of Cumberland, Virginia has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Economic Development Authority of the County of Cumberland, Virginia hereby certifies that, to the best of each director’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Economic Development Authority of the County of Cumberland, Virginia; and (iii) no action was taken in closed session regarding the items discussed.

**PUBLIC COMMENT**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

None.

**ADDITIONAL INFORMATION**

None.

**AQUAPOINT PRESENTATION**

Mr. William Fenner, PE, Regional Sales Engineer with AquaPoint, gave a detailed presentation regarding components of systems, types of system approaches, pros and cons of systems, review of case studies, and application for the Cobbs Creek Reservoir. Mr. Don Unmussig suggested an integrated model would work best and that the Planning Commission may be interested in seeing the presentation.

**ADJOURN**

On a motion by Mr. Pfeiffer and seconded by Mr. Henshaw, the Board adjourned the meeting until the next regular meeting of the Authority to be held on November 26, 2019 at 9AM in the County Administration Building Downstairs Conference Room, Cumberland County Courthouse Complex in Cumberland, Virginia.

## 2020 Cumberland County Planning Commission Schedule

Regular Meetings 6:30 PM	Application Deadline 4:30 PM	Workshop Meetings 6:30 PM
January 6, 2020*	December 18, 2019	January 27, 2020
February 24, 2020	February 5, 2020	March 9, 2020
March 23, 2020	March 4, 2020	June 8, 2020
April 27, 2020	April 8, 2020	September 14, 2020
May 18, 2020*	April 29, 2020	
June 22, 2020	June 3, 2020	
July 27, 2020	July 8, 2020	
August 24, 2020	August 5, 2020	
September 28, 2020	September 9, 2020	
October 26, 2020	October 7, 2020	
November 23, 2020	November 4, 2020	
December 14, 2020*	November 25, 2020	

\* Meeting is on an alternative date

Unless otherwise noted, all meetings will be held in room C-8 of the Cumberland Community Center located at the corner of Anderson Highway (Route 60) and Forest View Road (Route 628) in Cumberland, Virginia, 55 Community Center Drive.

**Regular Meetings** are held to review and conduct public hearings on current development applications. All regular meetings include a period for general public comment.

**Workshop Meetings** are held to focus on long-range and comprehensive planning matters. If there are no items for the agenda for any workshop, it may be canceled with prior notification. Workshops are open to the public, but there is no general public comment period unless noted.