

Virginia Clean Economy Act, the Virginia Energy Plan & Implications for Localities

July 11, 2023

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Fluvanna County
Planning & Zoning Department



"Responsive & Responsible Government"

Virginia Clean Economy Act & 2022 Energy Plan

Fluvanna County

- In 2020 the Virginia General Assembly passed the Virginia Clean Economy Act (VCEA) (House Bill 1526 and Senate Bill 851).
 - (The VCEA) requires new measures to promote energy efficiency, sets a schedule for closing old fossil fuel power plants, and requires electricity to come from 100 percent renewable sources such as solar or wind. Energy companies must pay penalties for not meeting their targets, and part of that revenue would fund job training and renewable energy programs in historically disadvantaged communities.
- In 2022, Governor Youngkin presented Virginia's 2022 Energy Plan, a plan that seeks to, "(Honor) our calling to environmental stewardship...(and) deliver economic development and job creation opportunities across the Commonwealth."

(source: https://energy.virginia.gov/public/documents/2022_Virginia_Energy_Plan.pdf)

Virginia Clean Economy Act (VCEA)

Fluvanna County

- The VCEA mandates 100% zero carbon energy by 2050, taking into consideration these energy factors:
 - affordability, grid reliability, new technology flexibility, performance accountability, local land use authority and contribution to the overall baseload capacity of the PJM system.
 - ♦ PJM is a regional transmission organization (RTO) formed in 1927 that coordinates the movement of wholesale energy within:
 - Pennsylvania, New Jersey, Maryland, Delaware, Ohio, Virginia and West Virginia; along with Eastern North Carolina, Eastern Kentucky and small parts of Indiana, Illinois, Michigan and Tennessee for energy production.
 - Virginia is the first member of PJM to adopt this carbon reduction commitment.

Virginia Clean Economy Act (VCEA)

Fluvanna County

VCEA Goals:

- establishes **renewable portfolio energy standards** to be 100% carbon-free by 2050.
 - ♦ Requires Dominion Energy to be 100% carbon-free by 2045 and Appalachian Power to be carbon-free by 2050.
 - ♦ Requires nearly all coal-fired plants to be closed by the end of 2024.
- establishes **energy efficiency standards** through the Department of Energy with third party reviews to determine whether Virginia energy companies are meeting the goals.
- advances **off shore wind production** by 5,200 megawatts (MW) and creates environmental and fisheries mitigation programs.
- advances **solar and distributed generation** by 16,100 MW and expands the net metering program for rooftop solar.

Virginia Clean Economy Act (VCEA)

Fluvanna County

- The VCEA requires Virginia to retire natural gas plants by 2050; these plants comprise 67% of baseload generation and 100% of such plants that meet the peak electrical power energy in Virginia.
 - Tenaska Energy opened in Fluvanna in May 2004 and produces 940 megawatts of electricity, meeting the electrical needs of 940,000 homes by using Shell natural gas.
- The complete switch from fossil fuels to renewables has not occurred successfully anywhere in the world.

Virginia's 2022 Energy Plan

Fluvanna County

- Energy demands will increase with future demands from, among others: increased jobs, increased population, electric cars, data centers, and indoor farming.
- The 2022 Energy Plan raises concerns about energy reliability and capacity, noting that,“(The) VCEA requires the retirement of reliable baseload generation and prescribes that the Virginia will utilize only solar and wind generation (and legacy nuclear plants) beginning in 2045”.
 - In May 2021, Dominion received approval to extend the Surry Power Station until 2053 and North Anna Power Station until 2060 for nuclear power usage.

Virginia's 2022 Energy Plan

Fluvanna County

- 2022 Energy Plan estimated energy lifespans:
 - Nuclear energy - 80 years
 - Natural gas - 30 years
 - Renewable energy (solar and wind) - 20+ years
- Virginia's baseload energy generation sources:
 - 50% natural gas
 - 30% fossil fuels
 - 17% nuclear energy
 - 3% solar and wind renewables

Virginia's 2022 Energy Plan

Fluvanna County

The 2022 Energy Plan proposes the following:

- Requires re-evaluation of the VCEA every 5 years based upon the latest technology
- Restores discretion to State Corporation Commission (SCC) concerning power plant retirements and periodic reports to the Governor and Virginia General Assembly
- Repeals the Virginia legislative mandate tying Virginia to California's electric vehicles (EVs) mandate
- Directs VDEQ and VDOT to expedite approval of all the critical infrastructure projects across Virginia
- Requires VA Department of Energy and the Virginia Department of Economic Development Partnership to plan for better PJM electrical utilities and needs

Solar Site Selection

In the Summer of 2022, the William & Mary Law School published *Developing Solar Energy in Rural Virginia: An Analysis of Legal, Environmental and Policy Issues*. It notes that:

- Solar site selection comes down to these factors:
 - land availability, land cost, topography, existing site conditions, community support, proximity to existing electrical transmission lines for projects.

and that,

- Solar developers are drawn to agricultural parcels because qualities that make them highly suitable for farming, like sunlight exposure and mild climate, also make them suitable for utility-scale solar energy projects.

Solar Siting & Substantial Accord Review

Fluvanna County

Solar installations are subject to review in locality's Comprehensive Plan like any other development:

- unless such solar use is by right in zoning district by being a small distributed solar energy installation that produces energy to be used on that project site OR to have permission from such locality waiving the typical review for Substantial Accord with their Comp Plan.

Substantial Accord Review VA State Code 15.2-2232

2232 reviews for solar facilities are advertised along with the Special Use Permit for requested land use approval.

If a siting agreement is approved, it is deemed to be substantially in accordance with locality's Comp Plan.

Solar Siting Agreements & Special Use Permits

Fluvanna County

- Solar Siting Agreements and Special Use Permits can be powerful tools for rural counties or other localities.
 - Some localities have approached the main issue of managing impacts of utility-scale solar uses with these tools working together with cash incentives.
- A locality may grant a condition that includes the dedication of real property of substantial value OR cash payments for, or construction of, substantial public improvements. So long as conditions are reasonably related to the solar project and are found in the Capital Improvement Plan (CIP) of the locality.

Fluvanna Zoning Ordinance

Fluvanna County

Current Fluvanna County Zoning Ordinance:

- Zoning districts for each type of solar use
- Zoning land use definitions for solar uses
- Adopted by the Board of Supervisors on September 15, 2021 following the 2021 Virginia General Assembly

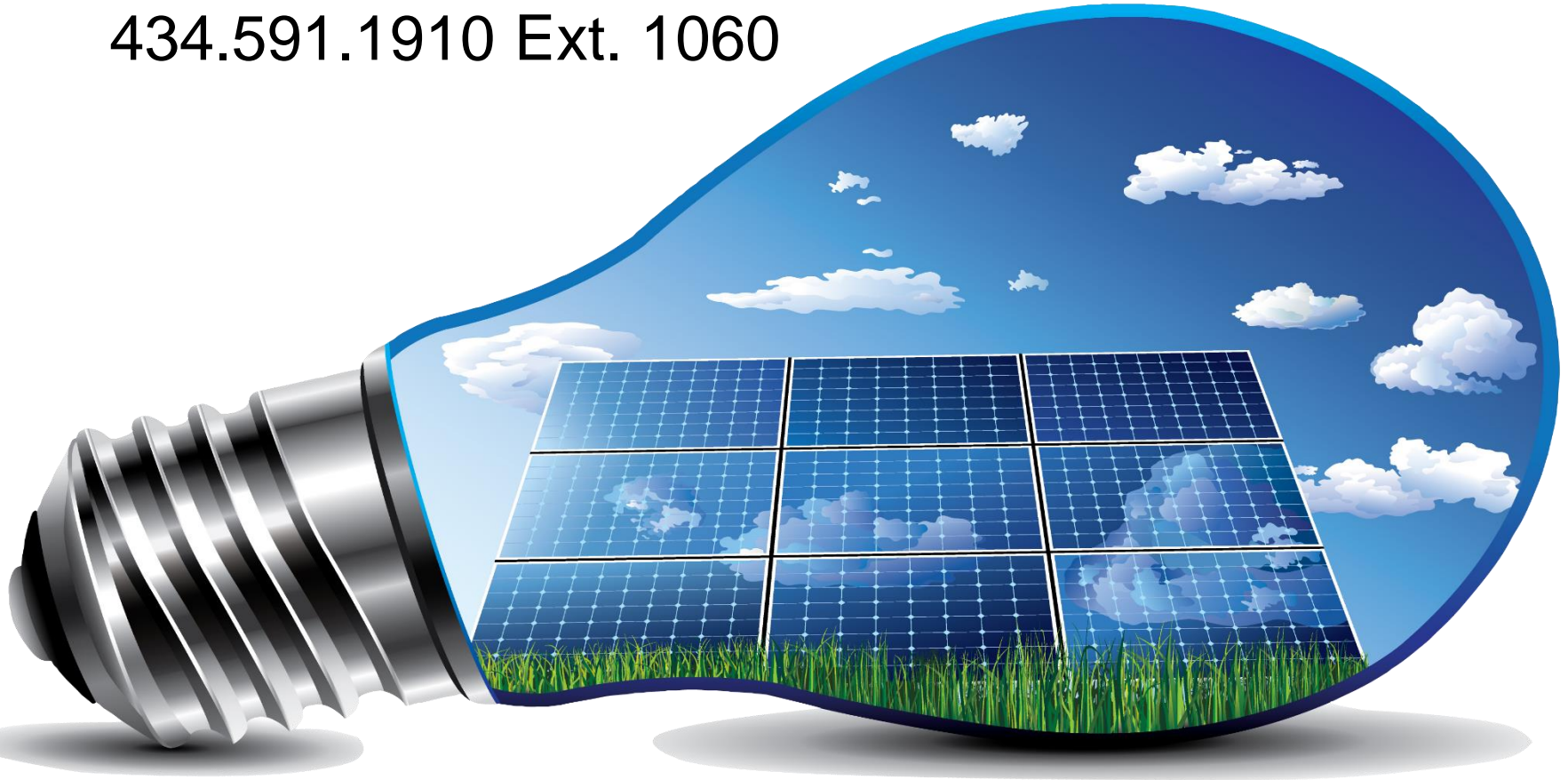
Proposed Zoning Amendments in Fall of 2023:

- Height and setback requirements for solar panels
- Buffers and supplemental landscaping for solar use
- Decommissioning process not by lease but by use

Questions or Comments?

Fluvanna County

Douglas Miles at dmiles@fluvannacounty.org
434.591.1910 Ext. 1060



ZMP 23:03 Caroline and Christopher Minsky Zoning Case Amendment Request

Tuesday, July 11, 2023

Douglas Miles, AICP, CZA
Community Development Director

Fluvanna County
Planning & Zoning Department



"Responsive & Responsible Government"

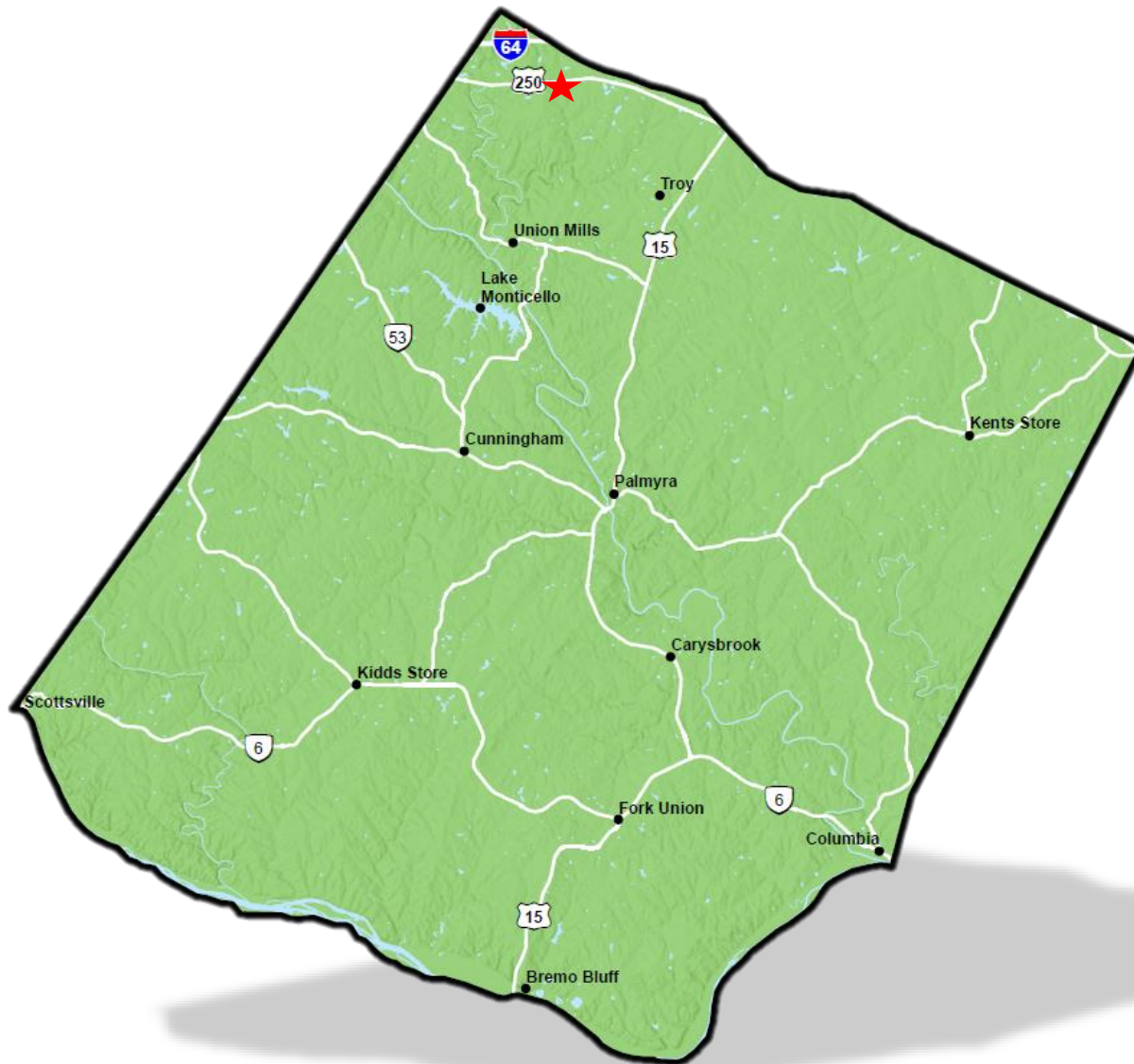
ZMP 23:03 Minsky Amendment Request

Fluvanna County

ZMP 23:03 Caroline and Christopher Minsky - An ordinance to amend proffers of ZMP 19:02 with respect to 7.5 acres of Tax Map 4 Section A front portion of Parcel 27 which is zoned I-1. This case amendment would permit previously proffered out commercial uses such as a retail store. There is a retail furniture store with warehouse space that would like to occupy this existing building. The front portion of the property is known as 2428 Richmond Road and is in the Zion Crossroads Community Planning Area and the Palmyra Election District.

Minsky Amendment Site Location

Fluvanna County



Minsky Landscaping and Screening

Fluvanna County

The Minsky redevelopment Minor Site Plan would:

- **Screening of Parking areas from public roadways with shade trees, ornamental shrubs and materials.**
- **Dumpster and Recycling enclosure area shall be screened by materials compatible with principal structure such as brick or other durable materials.**
- **Applicants plan to utilize the existing brick building to operate their home furnishings and furniture store by making quality improvements to the property.**

I-1 Proffers: Excluded I-1 Land Uses

Fluvanna County

I-1 Zoning by Right land uses excluded:

Car washes, Gas stations, Laundries, Indoor shooting ranges, Research laboratories, Temporary sawmills, and Solid waste collection facilities.

I-1 Zoning by SUP land uses excluded:

Outdoor shooting ranges, Sanitary landfills, Permanent sawmills, Solid waste material recovery facilities, Aviation facilities and Major utilities.

I-1 Zoning District Permitted Land Uses

Fluvanna County

I-1 Zoning District: by right permitted Land uses:

Financial institutions (banks) Flea markets (art shows)
Professional schools, General retail store (household goods and furniture) Large scale retail store (more than 30,000 square feet) Neighborhood convenience retail store (household supplies and hardware store)

These are the land uses that they have asked to be added back into the I-1 permitted land uses that are currently Proffered out by current property owner.

They intent to operate a home furnishings retail store and eventually could add wholesale warehousing use.

Compliance with Comprehensive Plan

Fluvanna County

- **The subject property is located in the Zion Crossroads Community Planning Area that calls for neighborhood mixed-use land uses.**
- **Neighborhood Mixed-Use is comprised of retail, office warehouse and residential uses that serve the surrounding neighborhood.**
- **The Economic Development chapter states the Zion Crossroads Area is prime for new commercial uses with proper site design.**

Applicant Presentation

ZMP 23:03 Minsky Zoning Amendment

Fluvanna County

Public Hearing **(with 5 minutes per speaker)**

Planning Commissioners Discussion

ZMP 23:03 Planning Commission Motion

Fluvanna County

I move that the Planning Commission recommends (Approval / denial / deferral) of ZMP 23:03 as an ordinance to amend proffers of ZMP 19:02 with respect to 7.5 acres of Tax Map 4 Section A front portion of Parcel 27 zoned I-1 and is subject to the revised proffers dated May 26, 2023.



2428 RICHMOND ROAD PROFFER AMENDMENT

Planning Commission Public Hearing

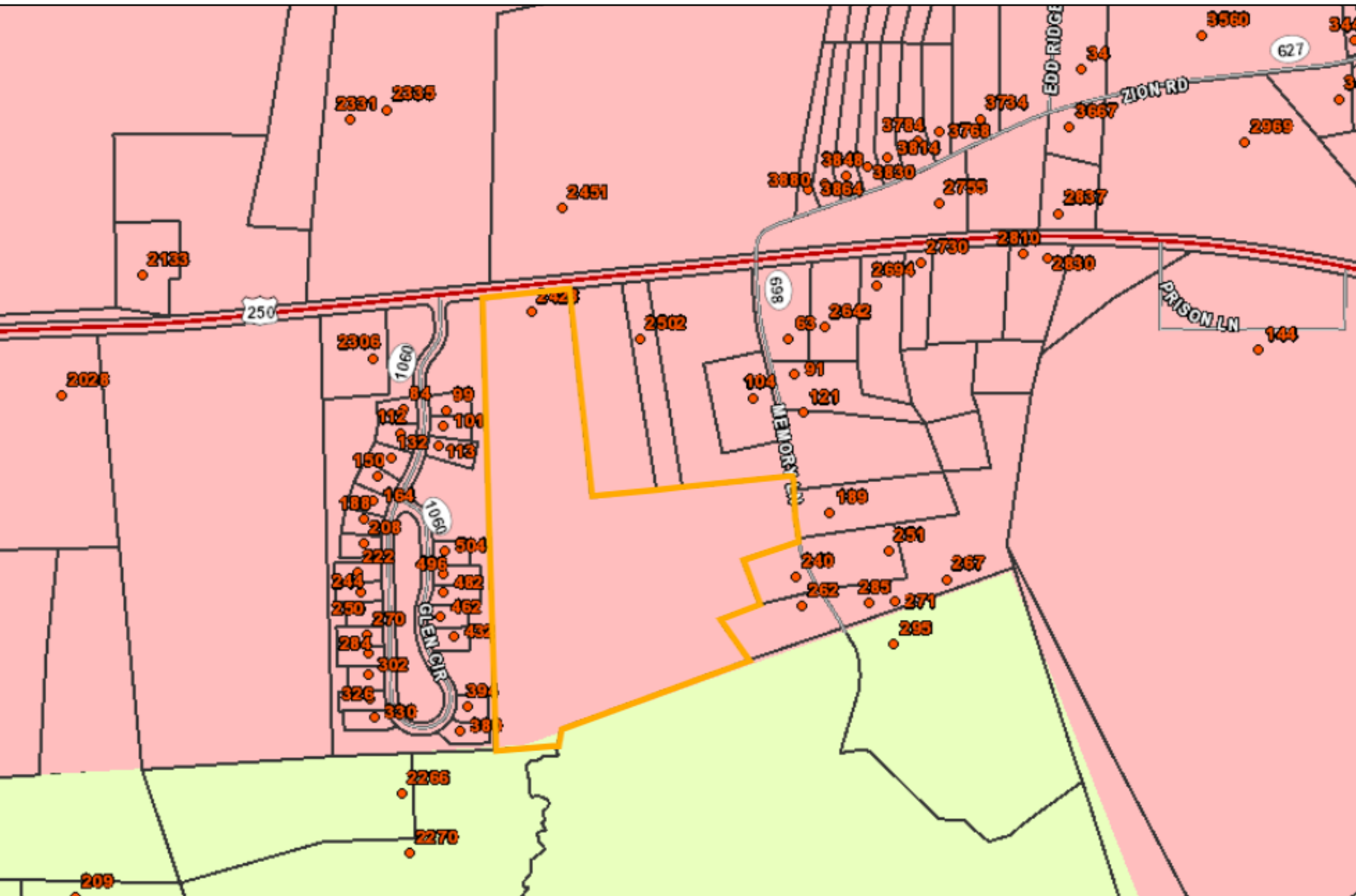
ZMP 23-03

JULY 11, 2023

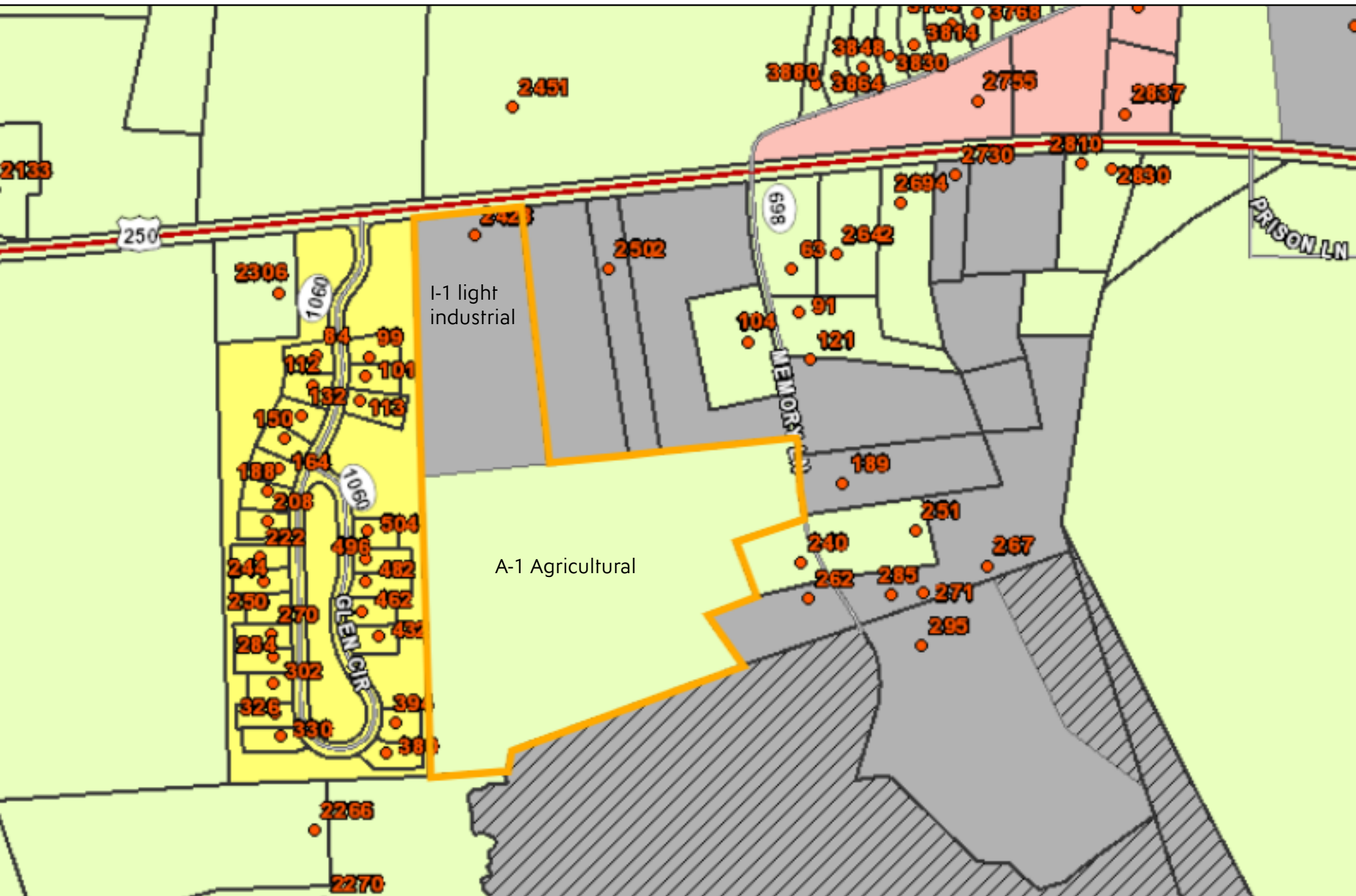
STREET VIEW



COMPREHENSIVE PLAN



ZONING MAP



SHIMP ENGINEERING, P.C.

PROFFER AMENDMENT

PROPERTY ZONING HISTORY

JUNE 17, 2020 ----> CONDITIONAL REZONING OF FRONT 7.5 AC OF TMP 4-A-27 FROM A-1 TO I-1



BOS2020-06-17 p.30/306

STATEMENT OF PROFFERS

Pursuant to Section 15.2-2296 of the Code of Virginia and Section 22-17-9 of the Fluvanna County Zoning Ordinance, 2428 Richmond Road LLC, does hereby voluntarily proffer, as the owner of record of the property (the "Property") which is the subject of this rezoning request, that the development of the Property shall be in strict accordance with the following conditions set forth in this submission:

We present this statement of proffers for Tax Map 4 A, the front portion of Parcel 27 for which rezoning to I-1 is sought:

1. The following permitted by right land uses shall be excluded from the Property under I-1 Zoning Section 22-11-2.1:

Commercial Uses: Car washes; Financial institutions; Flea markets; Gas stations; Laundries; Medical clinics; Professional schools; Retail stores, general; Retail stores, large scale; Retail stores, neighborhood convenience; Shooting ranges, indoor; and Transportation terminals.

Industrial Uses: Railroad facilities; Research laboratories; Sawmills, temporary; and Solid waste collection facilities.

2. The following permitted by special use permit land uses shall be excluded from the Property under I-1 Zoning Section 22-11-2.2:

Commercial Uses: Shooting ranges, outdoors.

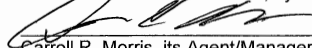
Industrial Uses: Sanitary landfills; Sawmills, permanent; and Solid waste material recovery facilities.

Miscellaneous Uses: Aviation facilities; and Utilities, major.

Uses available for the balance of the property, whether governed by ordinance or by vested right, will remain unaffected by the proposed rezone of the front portion of the property.

I hereby acknowledge as the Property Owner that the Rezoning of the Property gives rise to the need for these conditions.

2428 RICHMOND ROAD LLC, by:


Carroll R. Morris, its Agent/Manager

Date: 01/02/20

PROFFER AMENDMENT

PROFFER STATEMENT

Pursuant to Section 15.2-2296 of the Code of Virginia and Section 22-17-9 of the Fluvanna County Zoning Ordinance, 2428 Richmond Road LLC, as the owner of record of Tax Map 4 Section A Parcel 27, a 7.5 acre portion of which is zoned I-1 (the “Property”) that is the subject of this rezoning request, does hereby voluntarily proffer that development of the Property shall be in strict accordance with the following conditions set forth in this submission:

We present this amended statement of proffers for Tax Map 4A, the front portion of Parcel 27, which is zoned I-1. If approved these proffers presented with this amended proffer statement will supersede all formerly approved proffers on the Property, including those approved with ZMP19:02:

1. The following permitted by right land uses shall be excluded from the Property under I-1 Zoning Section 22-11-2.1:

Commercial Uses: Car washes; Gas stations; Laundries; Shooting ranges, indoor; and Transportation terminals.

Industrial Uses: Railroad facilities; Research laboratories; Sawmills, temporary; and Solid waste collection facilities.

2. The following permitted by special use permit land uses shall be excluded from the Property under I-1 Zoning Section 22-11-2.2:

Commercial Uses: Shooting ranges, outdoors.

Industrial Uses: Sanitary landfills; Sawmills, permanent; and Solid waste material recovery facilities.

Miscellaneous Uses: Aviation facilities; and Utilities, major.

PROFFER AMENDMENT

NON-PERMISSIBLE USES (CURRENT)

- CAR WASHES
- FINANCIAL INSTITUTIONS
- FLEA MARKETS
- GAS STATIONS
- LAUNDRIES
- MEDICAL CLINICS
- PROFESSIONAL SCHOOLS
- RETAIL STORES, GENERAL
- RETAIL STORES, LARGE SCALE
- RETAIL STORES, NEIGHBORHOOD CONVENIENCE
- SHOOTING RANGES, INDOOR
- TRANSPORTATION TERMINALS
- RAILROAD FACILITIES
- RESEARCH LABORATORIES
- SAWMILLS, TEMPORARY
- SOLID WASTE COLLECTION FACILITIES

BY SPECIAL USE PERMIT

- SHOOTING RANGES, OUTDOORS
- SANITARY LANDFILLS
- SAWMILLS, PERMANENT
- SOLID WASTE MATERIAL RECOVERY FACILITIES
- AVIATION FACILITIES
- UTILITIES, MAJOR

NON-PERMISSIBLE USES (PROPOSED WITH THIS PROFFER AMENDMENT)

- CAR WASHES
-
-
- GAS STATIONS
- LAUNDRIES
-
-
-
-
- SHOOTING RANGES, INDOOR
- TRANSPORTATION TERMINALS
- RAILROAD FACILITIES
- RESEARCH LABORATORIES
- SAWMILLS, TEMPORARY
- SOLID WASTE COLLECTION FACILITIES

BY SPECIAL USE PERMIT

- SHOOTING RANGES, OUTDOORS
- SANITARY LANDFILLS
- SAWMILLS, PERMANENT
- SOLID WASTE MATERIAL RECOVERY FACILITIES
- AVIATION FACILITIES
- UTILITIES, MAJOR

SITE CONCEPT





2428 RICHMOND ROAD PROFFER AMENDMENT

Planning Commission Public Hearing

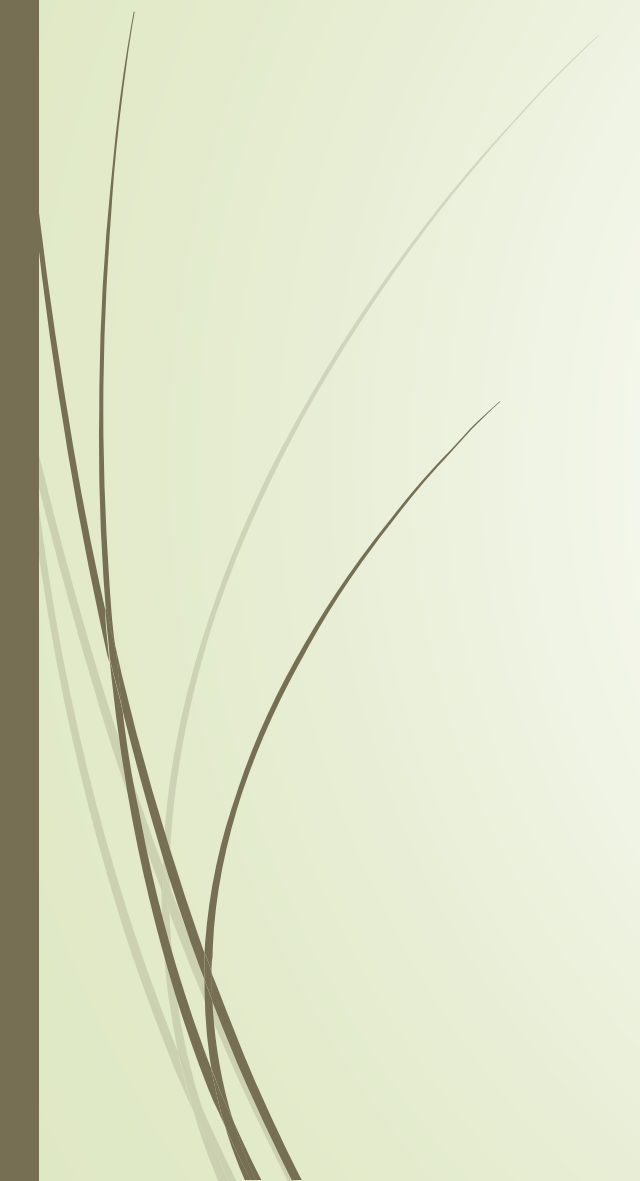

ZMP 23-03

JULY 11, 2023




Virginia General Assembly Update for Planning Commission

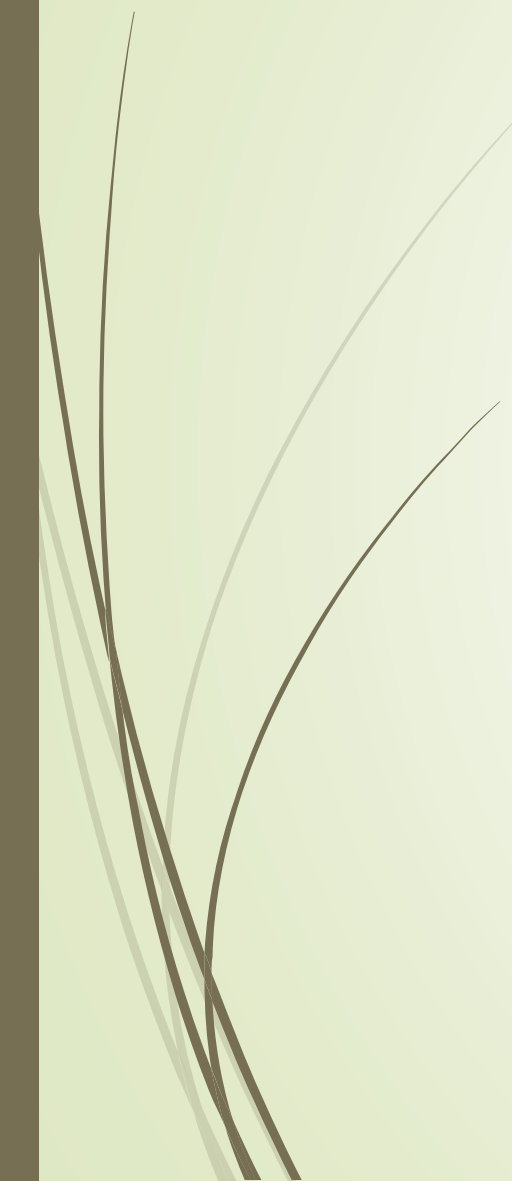
Dan Whitten,
County Attorney
July 11, 2023




Part I - Optional Bills for Consideration by the County



SB 956 Localities; authorized to create business improvement and recruitment districts.

- Authorizes any locality to create a local business improvement and recruitment district plan, consisting of fees charged to businesses and used to fund business improvements, business promotions, and business recruitment activities.
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HB 1634/SB1187 - Comprehensive plan; encouraged to consider strategies to address resilience.

- Encourages localities to consider strategies to address resilience in their comprehensive plans. "Resilience" means the capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment.

Part II - Mandatory Bills for the County



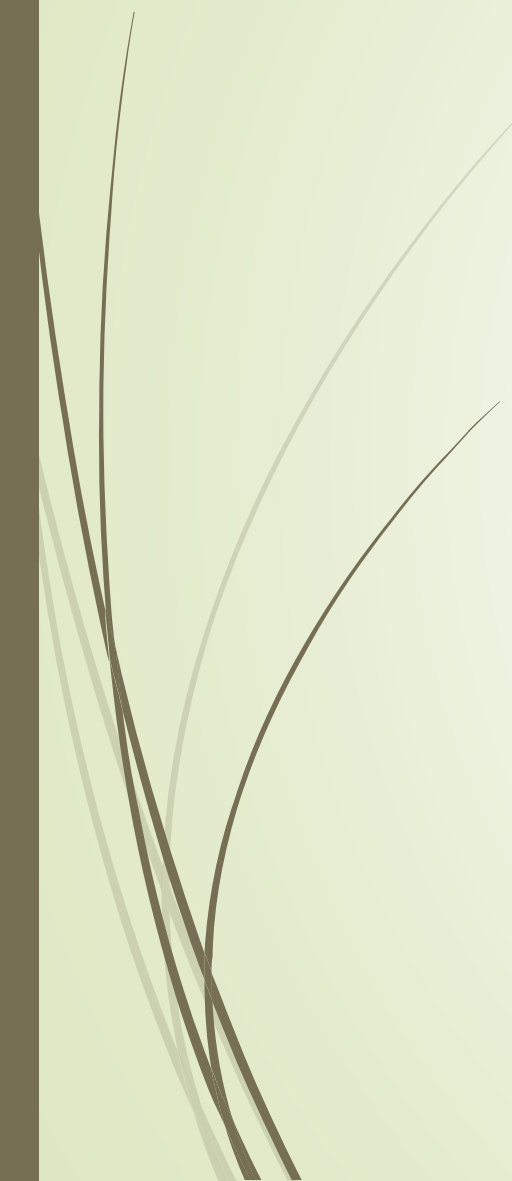



SB 1305 Farm buildings and structures; building code exemptions.

- Requires farm buildings and structures where the public is invited to enter and that are used for storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm and that are exempt from the Uniform Statewide Building Code (the building code) to have (i) portable fire extinguishers, (ii) a simple written plan in case of an emergency, and (iii) a sign posted in a conspicuous place upon entry that states that the building is exempt from the provisions of the building code. The bill also directs the Agritourism Event Structure Technical Advisory Committee to meet at least four times between the 2023 and 2024 Regular Sessions of the General Assembly and provides guidance to the Committee on topics to be considered related to fire safety and the welfare of the general public.



HB 2332 Virginia Economic Development Partnership Authority; eligible site for site development grant.

- Reduces from 100 acres to 50 acres the minimum number of contiguous acres required for a site that is not a brownfield to satisfy the acreage requirement to be considered eligible to receive a site development grant from the Virginia Business Ready Sites Program Fund by the Virginia Economic Development Partnership Authority.
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HB 1671 Residential land development and construction; fee transparency, annual report.

- Requires localities with a population greater than 3,500 to submit an annual report no later than March 1 to the Department of Housing and Community Development containing the total fee revenue collected by the locality over the preceding calendar year in connection with the processing, reviewing, and permitting of applications for residential land development and construction activities. The bill requires the report to be submitted by the locality in accordance with any guidelines and forms developed by the Department and the Commission on Local Government. The Department shall make the reports available on its website.

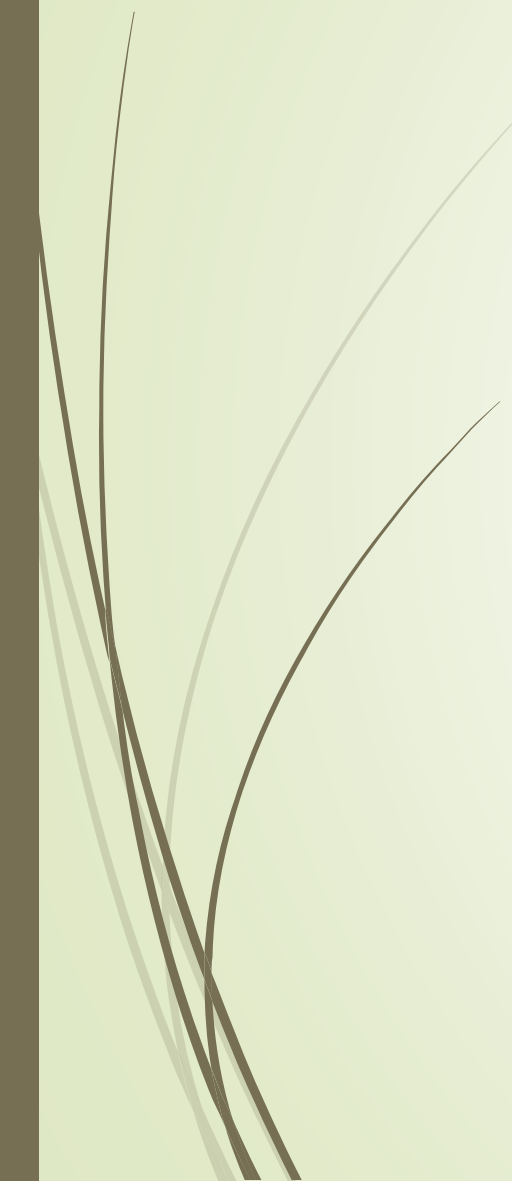



HB 2325/SB1438 - Agricultural land; definitions, ownership by foreign adversaries prohibited, report.

- Prohibits any foreign adversary, as defined in the bill, from acquiring or transferring any interest in agricultural land, as defined in federal law, beginning January 1, 2023, and requires the Department of Agriculture and Consumer Services to compile a report annually with certain information regarding agricultural land that is under foreign ownership and submit such report to the Governor and General Assembly. This bill is identical to SB 1438.




HB 1665/SB 1205 Local land use approvals; extension of approvals to address the COVID-19 pandemic, sunset provision.

- Extends from July 1, 2023, to July 1, 2025, the sunset date for various local land use approvals that were valid and outstanding as of July 1, 2020. The bill also provides that its provisions shall not be construed to extend previous extensions related to the housing crisis and that any extension of approvals outstanding as of July 1, 2020, shall apply to any such approvals granted subsequent to July 1, 2020, that expire prior to July 1, 2025. This provision is declarative of existing law.
- 





HB1944/SB 1390 Solar photovoltaic projects; extension of land use approvals, extends sunset provision.

- Extends to July 1, 2026, the sunset date for various local land use approvals for solar photovoltaic projects that were valid and outstanding as of July 1, 2023.

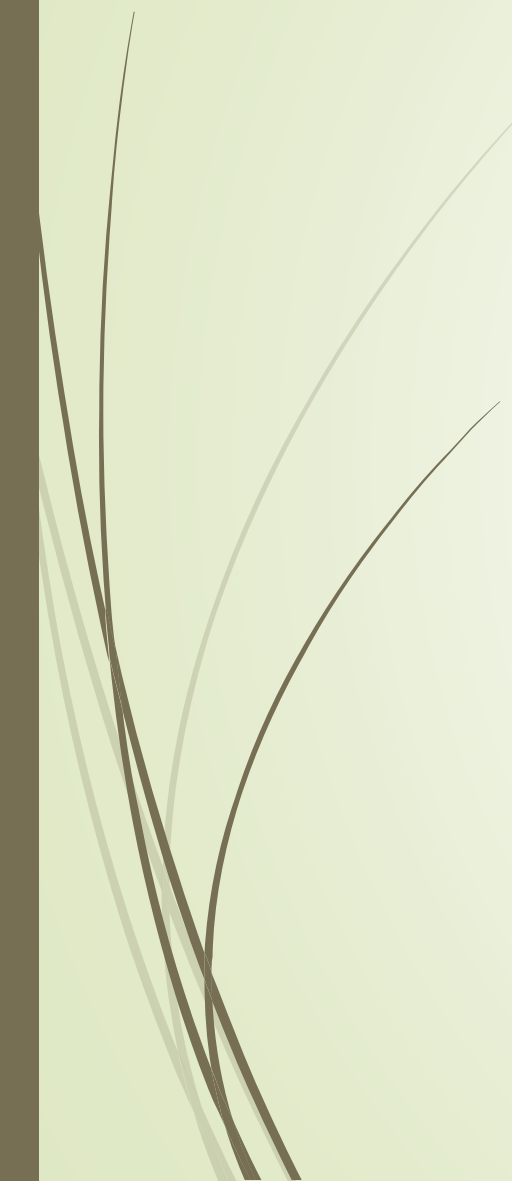



HB 1674 Comprehensive plan; freight corridors.

- Requires localities, when developing a transportation plan as part of the locality's comprehensive plan, to include freight corridors when designating transportation facilities that support the planned development of the locality.
- 



HB 2494 Local housing policy; reports to the Department of Housing and Community Development.

- Requires any locality with a population greater than 3,500 to submit an annual report to the Department of Housing and Community Development summarizing the adoption or amendment of any local policies, ordinances, or processes affecting the development and construction of housing during the preceding fiscal year. The bill requires such localities to submit the report annually by September 1 in accordance with any forms developed by the Department and requires the Department to make such reports available on its website.
- 




SB 1495 - Local enforcement action; willful disregard for applicable law, damages.

- Provides that any person against whom an enforcement action is carried out by a locality, of any ordinance or regulation, where the enforcement action was based upon a willful disregard for applicable law, regulation, or ordinance, shall be entitled to an award of compensatory damages and to an order remanding the matter to the locality and may further be entitled to reasonable attorney fees and court costs.



HB 2007 Virginia Freedom of Information Act; posting of fee policy by a public body.

- Requires a public body to make available upon request and post on its website or otherwise publish a written policy (i) explaining how the public body assesses charges for accessing or searching for requested records and (ii) noting the current fee charged, if any, by the public body for accessing and searching for the requested records.



HB 2161 Local government; standardization of public notice requirements for certain intended actions.

Standardizes the frequency and length of time that notices of certain meetings, hearings, and other intended actions of localities must be published in newspapers and other print media. The notice provisions included in the bill are organized into the following three groups: (i) publication required one week before the meeting, hearing, or intended action; (ii) publication required two consecutive weeks before the meeting, hearing, or intended action; and (iii) publication required three consecutive weeks before the meeting, hearing, or intended action. In addition, the bill amends provisions related to the content of notices for zoning ordinances and amendments to such ordinances by removing the requirement that such notices contain a descriptive summary of the proposed action and providing that such notices shall include the street address or tax map parcel number of the parcels subject to the action. In cases where the intended action affects more than 25 parcels, the notice must also include the approximate acreage subject to the intended action. For more than 100 parcels of land, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of the subject area. The bill also removes the requirement that notices of proposed amendments to a zoning map state the general usage and density range of the proposed amendment and the general usage density set forth in the applicable part of the comprehensive plan.



HB 2191 Unattended or immobile vehicles; removal by locality

- Allows for the removal of certain unattended or immobile vehicles by the locality's civil code enforcement division. Current law provides that such removal must be carried out under the direction of a law-enforcement officer or other uniformed employee of the local law-enforcement agency who specifically is authorized to do so.