



REZ2021-00037

Ram Misra

Staff Report for Board of Supervisors Public Hearing
Amended October 28, 2021

This report is prepared by the Henrico County Planning Staff to provide information to the Planning Commission and the Board of Supervisors to assist them in making a decision on this application. It may also be useful to others interested in this land use matter.

I. PUBLIC HEARINGS:

Planning Commission:	August 12, 2021	Recommended for Denial
Board of Supervisors:	September 14, 2021 November 10, 2021	Deferred at the Board's request Pending

II. IDENTIFICATION AND LOCATIONAL INFORMATION:

Request:	Amend Proffer #9 accepted with C-8C-01 regarding setbacks and landscape buffer
Existing Zoning:	R-3C One-Family Residential District (Conditional)
Total Acreage:	0.288 acres
Proposed Use:	Single-family home
Location:	Located on Brandyview Lane approximately 265' west from its intersection with Clary Preston Drive
Magisterial District:	Three Chopt
Comprehensive Plan Recommendations:	Suburban Residential 2
Parcel No.:	737-754-6589
Zoning of Surrounding Properties:	North: R-3C One-Family Residence District (Conditional) South: R-3AC One-Family Residence District (Conditional) East: R-3C One-Family Residence District (Conditional) West: R-3C One-Family Residence District (Conditional)

III. SUMMARY OF STAFF REPORT:

This is a request to amend Proffer #9 accepted with rezoning case C-8C-01 regarding setback and landscape buffer requirements. All other proffers accepted with that case, including but not limited to: access, dwelling size and style, foundations, and density will remain intact. The applicant proposes to amend the proffer to allow a bedroom addition on the rear of their home facing Church Road.

The property is located within the Brandyview subdivision, directly north of the Church Road and Retrievers Ridge Road intersection. The property is zoned R-3C One-Family Residence District (Conditional) and is recommended for Suburban Residential 2. This request is not consistent with the intent of the original proffer, nor the enhanced setbacks required from major roads. While the proposed addition is not expected to adversely impact adjacent residents, staff is concerned the proposed amendment would set a negative precedent for numerous similarly situated properties along major roadways in the county. For these reasons staff does not support this request.

The Planning Commission recommended denial of this item at their August 12, 2021 meeting. The Board of Supervisors deferred this request at their September 14, 2021 public hearing in order to allow the applicant additional time to procure a survey. At this time, no new information has been provided.

IV. LAND USE ANALYSIS AND IMPLICATIONS:

The 0.288-acre site is located along the north line of Church Road within the Brandyview subdivision and is improved with a 2,478 square foot single-family dwelling. The site is surrounded entirely by residential uses, with the Brandyview subdivision to the north and east of the site, Coventry to the west, and Retriever Ridge to the south.

With this request, the applicant is proposing to remove and replace Proffer #9, originally accepted in 2001 via rezoning case C-8C-01, in order to build a bedroom addition on the first floor of their home and extending in the rear yard adjacent to Church Road. Proffer #9 requires a 25' landscape buffer along any property line adjacent to Church Road in addition to the required setbacks. The R-3 District requires a 40-foot rear yard setback; therefore, a 65-foot setback is required for lots adjacent to Church Road. The applicant wishes to amend the proffer to reduce the setback to 45'. The proffer also mentions to which standard the landscape buffer shall be planted and where fences and utilities may be located, which would be carried forward in the new proffer. Other proffers accepted with the case would not be changed with this request, and address items such as access, dwelling size and style, foundations, chimneys, roads, and density.

Prior to 2002, proffers requiring landscape buffers in addition to required setbacks for residential development were not unusual for properties located along a major roadway identified on the Major Thoroughfare Plan (MTP). Church Road is identified as a Major Collector on the MTP and is approximately 70' wide. The practice of providing the additional setbacks were later codified in the zoning ordinance and today apply to properties not part of a conditional subdivision approval, recorded subdivision, plan of development, or approved proffers relating to setbacks and buffering prior to March 26, 2002. The increased setback is determined by the type of road, the width of the road, and which property line abuts it.

The subject property is part of the Brandyview subdivision, which was rezoned on March 13, 2001 and includes Proffer #9 to provide the enhanced setbacks and buffering adjacent to

Church Road. If the rezoning was not in place, residential development of the site after March 26, 2002 would still have required a 65' enhanced setback per the zoning ordinance, which is consistent with the requirements of the existing proffer. The intent behind the existing proffer and the enhanced setback requirements is for homes to be placed at a further distance away from heavy trafficked road to minimize impacts on homeowners. For this reason, similar proffers were accepted throughout the County, including several others along Church Road. Because similar proffers have been required for numerous subdivisions in the area, and because the zoning ordinance requires more recent developments to provide a similar rear yard setback, staff is concerned this request would be inconsistent with the county's goals for residential development along major roadways.

The 2026 Comprehensive Plan recommends Suburban Residential 2 for the subject site. While the existing residential development is consistent with this recommendation, the proposed amendment is not consistent with the Plan's objective to encourage landscaped buffers in addition to the required setbacks for lots adjacent to collector or arterial streets. Additionally, the proposed proffer amendment could set a precedent for other properties in similar situations. For these reasons, staff does not support this request.

The Planning Commission recommended denial of this item at their August 12, 2021 meeting. The Board of Supervisors deferred this request at their September 14, 2021 public hearing in order to allow the applicant additional time to procure a survey. At this time, no new information has been provided.

V. COMPREHENSIVE PLAN ANALYSIS:

Land Use Plan Recommendation:

The 2026 Comprehensive Plan recommends Suburban Residential 2. The proffer amendment is not consistent with the Plan's objectives regarding buffering and setbacks. The proposed amendment does not meet the original intent of the proffer and is not consistent with the Plan's objective to encourage landscaped buffers in addition to the required setbacks for lots adjacent to collector or arterial streets.

Vision, Goal, Objectives, and Policies:

This request is inconsistent with the following Goals, Objectives and Policies of the 2026 Comprehensive Plan:

- Economy Goal 4: The County will have a strong sense of community identity that is protected and further developed.
- Land Use and Community Character Objective 18: Encourage landscaped buffers on lots, in addition to the minimum required setbacks along any boundary which lies adjacent to collector or arterial streets.

VI. PUBLIC SERVICE AND SITE CONSIDERATIONS:

Major Thoroughfare and Transportation:

Traffic Engineering has no objections to this request.

Drainage:

Land disturbance greater than 2500 sq feet will require a Comprehensive Grading Plan and an Agreement in Lieu of an Erosion and Sediment Control Plan. No permanent structures are permitted within the existing 8' drainage easement in the side yard.

Public Utilities:

DPU has no objection to amended proffers.

General Services:

No comments

Schools:

This request does not involve the addition of any residential housing thus it does not have any educational impacts.

Division of Fire:

No comments

Division of Police:

Based on the information provided, the Police Division has no comments on this request.

Recreation and Parks:

No park or recreation facilities, historical, archeological or battlefield impact

Libraries:

No comments

Topography and Land Characteristics Adaptability:

There are no known topographic reasons why the property could not be developed as proposed.



Proffers for Conditional Rezoning

County of Henrico, Virginia

4301 E. Parham Road, Henrico, Virginia 23228

Henrico Planning Web Site: <http://www.henrico.us/planning>

Mailing Address: Planning Department, P.O. Box 90775, Henrico, VA 23273-0775

Phone (804) 501-4602

Facsimile (804) 501-4379

☐ Original ☒ Amended Rezoning Case No. C-8C-01 Magisterial District Three Chopt

Pursuant to Section 24-121 (b) of the County Code, the owner or duly authorized agent* hereby voluntarily proffers the following conditions which shall be applicable to the property, if rezoned:

[Signature]

/ Ram Misra

7/20/2021

Signature of Owner or Applicant / Print Name

Date

Namita Mishra *Namita Mishra*

*If applicant is other than Owner, the Special Limited Power of Attorney must be submitted with this application

The following proffered condition shall replace proffered condition #9 accepted in rezoning case C-8C-01 as it applies to Lot 4, Block A, Section 1 of Brandyview subdivision:

9. The house shall be a minimum of forty-five (45) feet from the rear property line. There shall be a twenty-five (25) foot landscaped buffer provided adjacent to the ultimate right-of-way line of Church Road. The landscaping within the twenty-five (25) foot buffer shall at a minimum meet the Henrico County twenty-five (25) foot transitional buffer requirements. Exceptions allowed within this landscaped buffer shall include utility easements and fences. Any fence within the buffer shall be at least fifteen (15) feet from the ultimate right-of-way of Church Road. All utilities shall run generally perpendicular to the landscaped buffer area.

Ref 2021-00037

4' 1 5/8" 15' 8"

Church Rd ↑
side

≈ 21'

Around
16'

Existing
Home

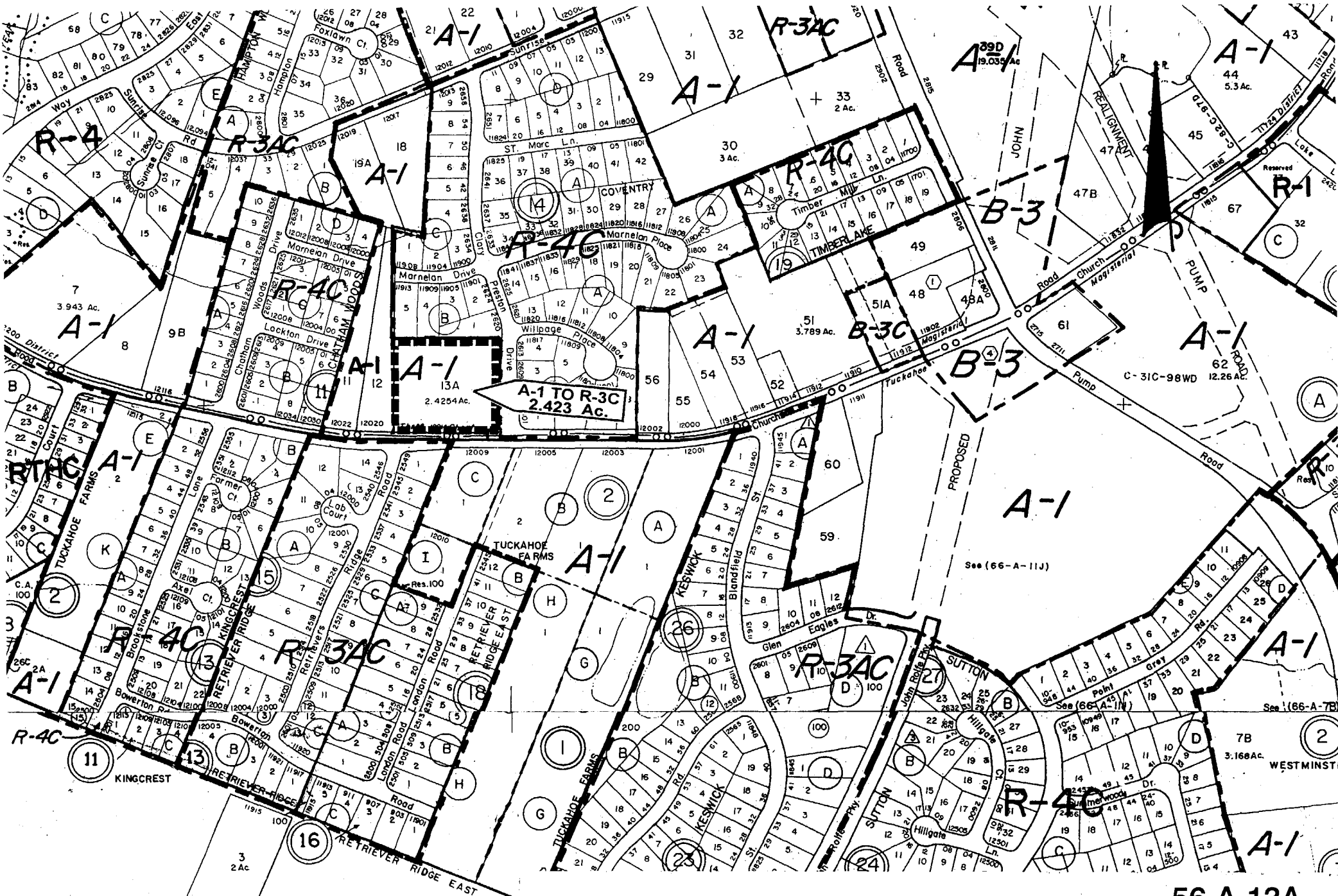
7' 7 3/4"

1' 11 1/8"

9' 8 1/4"

40' 3 3/4"

REZ2021-00037



SINGLE - FAMILY RESIDENTIAL.

56-A-13A
THREE CHOPT DISTRICT

C-8C-01



HENRICO COUNTY PLANNING OFFICE

A-1



COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO

March 20, 2001

Virgil R. Hazelett, P.E.
County Manager

Re: Conditional Rezoning Case C-8C-01

Mr. Michael Tummillo
7906 San Juan Road
Richmond, VA 23229

Dear Mr. Tummillo:

The Board of Supervisors at its meeting on March 13, 2001, granted your request to conditionally rezone property from A-1 Agricultural District to R-3C One Family Residence District (Conditional), Parcel 56-A-13A, described as follows:

Commencing at a point where the W. line of Clary Preston Drive meets the N. line of Church Road; thence N. $83^{\circ}08'07''$ W., 16.71' to a point being the point of beginning; thence N. $83^{\circ}08'07''$ W., 328.29' to a point; thence N. $07^{\circ}13'00''$ E., 306.55' to a point; thence S. $83^{\circ}01'52''$ E., 345.00' to a point; thence S. $07^{\circ}13'00''$ W., 282.44' to a point; thence along a curve to the right having a delta angle of $70^{\circ}38'03''$, a radius of 25.00', a length of 30.82', a chord bearing of S. $42^{\circ}32'02''$ W., and a chord distance of 28.91' to a point being the point of beginning, containing 2.423 acres or 105,453 square feet of land.

The Board of Supervisors accepted the following proffered conditions, dated March 13, 2001, which further regulate the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

1. There shall be no direct vehicular access to or from any residential lot developed on the property to or from Church Road.
2. Minimum house sizes within the subdivision shall be:

1,900 Square feet for homes adjacent to Church Road and
2,000 Square feet for homes adjacent to the Coventry Subdivision.

Ranch style homes shall be prohibited.

3. The exterior foundation of any dwelling constructed on the property shall be brick or stone. This will apply to future conversions or additions that are enclosed and intended for year-round use.

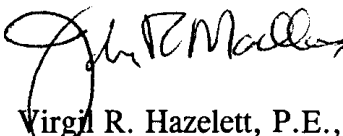
Mr. Michael Tummillo
March 20, 2001

2

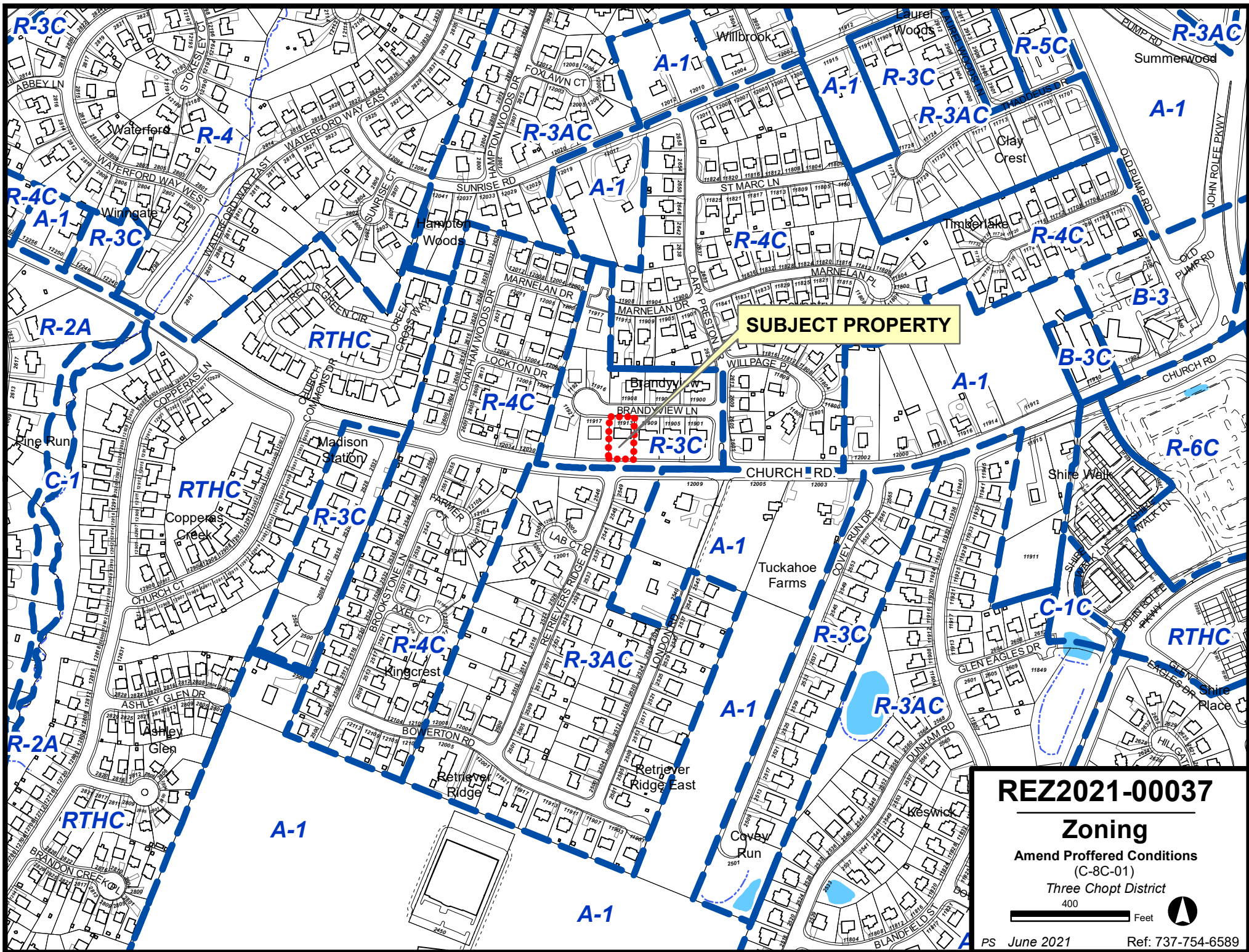
4. No chimneys or fireplace enclosures shall be cantilevered.
5. The total number of lots developed on this property shall not exceed 8.
6. There shall be no stem shaped lots.
7. All rights-of-way shall be at least 44 wide.
8. A stub road shall be provided to the vacant parcels to the west unless otherwise requested and approved by the Planning Commission at the time of subdivision approval.
9. There shall be a twenty-five (25) foot landscaped buffer provided adjacent to the ultimate right-of-way line of Church Road. This buffer shall be in addition to the required setbacks. The landscaping within the twenty-five (25) foot buffer shall at a minimum meet the Henrico County twenty-five (25) foot transitional buffer requirements. Exceptions allowed within this landscaped buffer shall include utility easements and fences. Any fence within the buffer shall be at least fifteen (15) feet from the ultimate right-of-way of Church Road. All utilities shall run generally perpendicular to the landscaped buffer area.

The Planning Office has been advised of the action of the Board of Supervisors and will revise its records and place a copy of the accepted proffered conditions in the Conditional Zoning Index.

Sincerely,


6a Virgil R. Hazelett, P.E.,
County Manager

cc: Director, Real Estate Assessment
Conditional Zoning Index
Ms. Anne J. Foster
Est. of Rena Puffenbarger



REZ2021-00037

Zoning

Amend Proffered Conditions
(C-8C-01)

Three Chopt District

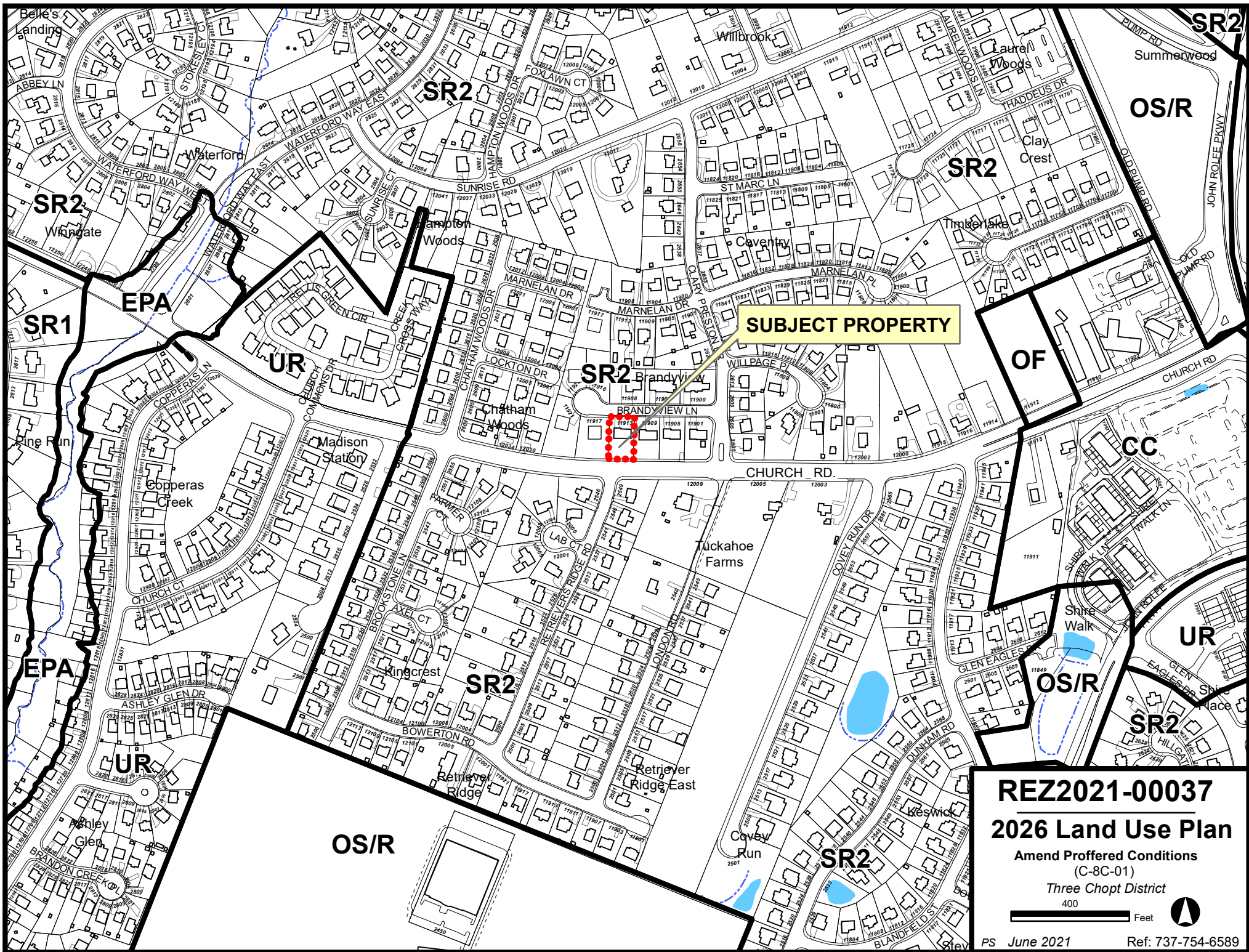
400

Feet



PS June 2021

Ref: 737-754-6589



REZ2021-00037
2026 Land Use Plan

Amend Proffered Conditions
(C-8C-01)
Three Chopt District

400 Feet

PS June 2021

Ref: 737-754-6589