



COMMONWEALTH OF VIRGINIA

COUNTY OF HENRICO

John A. Vithoulkas
County Manager

April 21, 2020

Stanley Martin Homes
404 People Place, Suite 303
Charlottesville, VA 22911

Re: Rezoning Case REZ2020-00009

Dear Sir/Madam:

The Board of Supervisors at its meeting on April 14, 2020, approved your request to conditionally rezone from A-1 Agricultural District to R-6C General Residence District (Conditional) (16.82 acres) and B-2C Business District (Conditional) (6.09 acres) Parcel 730-765-6508 containing 22.91 acres located on the south line of W. Broad Street (U.S. Route 250) at the western County Line with Goochland County, described as follows:

PARCEL "A"

Beginning at a point on the south line of West Broad Street and 2848'± west of the western line of Gayton Road being labeled P.O.B. "A" on this plat: thence S 75°15'30" E 1078.67'; thence S 14°44'30" W 52.45'; thence S 30°14'09" E 38.07'; thence S 14°45'51" W 116.90'; thence along a curve to the right with a radius of 50.00' and a length of 78.54'; thence N 75°14'09" W 667.32'; thence along a curve to the right with a radius of 125.00' and a length of 70.12'; thence N 88°29'21" W 261.25'; thence N 01°30'39" E 294.43' to the point and place of beginning and containing 6.09 acres of land.

PARCEL "B":

Beginning at a point on the south line of West Broad Street and 2848'± west of the western line of Gayton Road thence S 01°30'39" W 294.43' being labeled P.O.B. "B" on this plat: thence S 88°29'21" E 261.25'; thence along a curve to the left with a radius of 125.00' and length of 70.12'; thence S 75°14'09" E 667.32'; thence along a curve to the left with a radius of 50.00' and a length of 78.54'; thence N 14°45'51" E 116.90'; thence N 30°14'09" W 38.07'; thence N 14°44'30" E 52.45'; thence S 75°15'30" E 96.22'; thence S 02°17'46" E 64.85'; thence N 88°47'47" E 21.84'; thence N 01°12'13" W 58.24'; thence S 75°15'30" E 28.31'; thence S 07°45'03" W 737.78'; thence N 87°04'47" W 1114.77'; thence N 01°30'39" E 692.44' to the point and place of beginning and containing 16.82 acres of land.

The Board of Supervisors accepted the following proffered conditions, dated April 9, 2020, which further regulate the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

APPLICABLE TO ALL

1. **Concept Plan.** The Property shall be developed in general conformance with Exhibit A, attached (see case file) entitled "Westgate", and prepared by The Bay Companies (the "Concept Plan"). The exact locations, footprints, configurations, size, and details of the lots, drives, roads, buildings and other improvements shown on the Concept Plan are illustrative and are subject to change and may be updated from time to time as required for final engineering designs, compliance with governmental regulations or as otherwise approved at the time of Plan of Development review of the Property.
2. **Construction.** The hours of exterior construction activities, including operation of bulldozers and other earthmoving equipment shall be between 7:00 a.m. and 7:00 p.m. Monday through Friday and 7:30 a.m. and 5:00 p.m. on Saturdays, except in emergencies or where unusual circumstances require the specific hours in order to complete work as concrete pours and utility connections. No exterior construction activities shall be allowed on Sundays. Signs, in both English and Spanish, stating the above-referenced provisions, shall be posted and maintained at all entrances to the Property prior to any land disturbance activities thereon.
3. **Entrance Feature.** Any detached entrance signage shall be ground mounted monument- style and not exceed 10 feet in height. The base of any such sign shall be brick or stone and be landscaped with plantings.
4. **Underground Utility Lines.** All utility lines on the Property shall be underground, except for existing utilities, junction boxes, meters, utility lines in wetlands areas, and utility lines required to be above ground by the utility company.
5. **Best Management Practices.** Best Management Practice structures shall be located outside of any landscaped buffer within the Property, except as a landscaping amenity or water related feature, or unless approved at the time of Plan of Development review. Any wet pond best management practice structures shall include an aeration feature to move water within such structure.
6. **Protective Covenants.** Prior to or concurrent with the final approval of the initial Plan of Development for the Property, a document setting forth covenants shall be recorded in the Clerk's Office of the Circuit Court of Henrico County, Virginia, setting forth controls on the development and maintenance of the Property and establishing one or more owners' associations.

7. **Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.
8. **Conservation Areas.** Notwithstanding the uses permitted and regulated by the zoning of the Property, such portion(s) of the Property which lie within a one hundred (100) year flood plain as determined by definitive engineering studies approved by the Department of Public Works, and/or such portion(s) of the Property which may be inundated by waters impounded to a maximum elevation determined in a controlled, regulated manner by a structure or structures approved by the Department of Public Works, may only be used for the following purposes:
 - a. Stormwater management and/or retention areas;
 - b. Ponds, lakes and similar areas intended as aesthetic and/or recreational amenities and/or wildlife habitats;
 - c. Access drives, utility easements, signage, walkways and recreational facilities installed in a manner to minimize their impacts; and
 - d. Such additional uses to the uses identified in (a), (b) and (c) above as may be deemed compatible and of the same general character by the Planning Administrator (Director of Planning) pursuant to Chapters 19 and 24 of the County Code (the "Zoning Ordinance").

The Owner shall, prior to Plan of Development and/or subdivision approval for areas that include such flood plain, apply to rezone such portions of the Property to a C-1 Conservation District.

The location and limits of such portion(s) of said Property shall be established by Plan(s) of Development and/or subdivision plats approved pursuant to the Zoning and/or Subdivision Ordinance.

9. **Outdoor Music.** Outdoor music shall not be permitted on the Property after 9:00 p.m. Sunday through Thursdays nor after 10:00 p.m. on Fridays, Saturdays and holidays.
10. **West Broad Street Improvements.** The Applicant shall make the following listed improvements to West Broad Street, provided such improvement is approved by VDOT:
 - a. Eastbound right turn lane where adjacent to the Property serving the westernmost access and a right turn lane serving the easternmost access.
 - b. Egress from the Property aligning Bon Secours Parkway shall consist of three (3) outbound lanes (a left, a shared thru and left, and a right lane).
 - c. Cut back medians at Bon Secours Parkway for vehicle movements.

- d. Signal improvements at Bon Secours Parkway if such are within the public right of way or on the Property.

APPLICABLE TO R-6 ZONED PARCEL

11. **Density.** No more than 194 dwelling units will be developed on the Property which will be marketed as condominium or townhome units for sale.
12. **Minimum Finished Floor Area.** The minimum finished floor area for any dwelling unit shall be 1,350 square feet.
13. **Sound Suppression Measures.** Dwellings units shall be constructed with a minimum certified sound transmission class (STC) of fifty-four (54) between units. A cross section detail, reviewed and approved by a certified architect or engineer as to the methodology accomplishing the STC, shall be included in the building permit application.
14. **Architecture.** To minimize visual repetition of buildings, no two adjacent buildings shall have the same identical individual elevation sequence pattern across the front of the building. Buildings constructed on the Property shall generally be in conformance with Exhibit B (see case file) and attached hereto and by this reference made a part hereof, unless otherwise approved by the Planning Commission at the time of Plan of Development review.
15. **Building Materials.** All buildings shall have exposed exterior walls (above grade and exclusive of trim) of stone, stone veneer, brick, hardi-plank, or a combination of the foregoing unless different architectural treatment and/or materials are specifically approved with respect to the exposed portion of any such wall, at the time of Plan of Development review. A minimum of thirty (30) percent in the aggregate for each building and an average of thirty-five (35) percent in the aggregate for all buildings, of the exterior portions of the front building wall surfaces of each building, excluding windows, doors, breezeways, gables and architectural design features, shall be of brick, stone or stone veneer construction.
16. **Foundations.** The exposed exterior portions of all foundations below the first floor level shall be finished with brick, stone or cultured stone. On the front, side and rear elevations of each building, there shall be a minimum of twelve (12) inches of brick, stone or cultured stone visible above grade. For reasons associated with required site grading, the requirements of this proffer may be modified or waived by the Director of Planning for individual side or rear facades.
17. **Foundation Planting.** Each ground floor unit shall have a minimum of four (4) shrubs planted in the front planting bed.

18. **Exterior Lighting.** Any exterior lighting along the southern boundary of the Property shall be produced from concealed sources of light (such as shoebox type fixtures), and shall be directed to minimize glare on public roads and adjacent properties. Street lights shall be in general conformance with that depicted on Exhibit C (see case file) attached hereto, unless otherwise approved by the Planning Commission at the time of Plan of Development review. Direct embedded light poles and standards shall be prohibited.
19. **Roads.** Prior to the issuance of any final Certificate of Occupancy, the applicant shall provide the Planning Department with certification from a licensed engineer that the roadways within the project were constructed according to the approved plan of development, and in compliance with Henrico County road design standards and specifications (except as to pavement width, turning radii, cul-de-sac dimensions, curb type, and underdrains), to include proper compaction of the subbase soils, utility trenches, base stone, and asphalt surface. The internal roadways shall be private and shall be maintained by the Association.
20. **Garages.** Each dwelling unit shall have a minimum of a one (1) car attached garage.
21. **Driveways.** Driveways shall be constructed of either cobblestone, brick, asphalt, pre-cast pavers, concrete or other similar materials approved by the Director of Planning.
22. **Sidewalks.** A continuous sidewalk a minimum of four (4) feet in width shall be provided in front of all buildings.
23. **Trash.** There shall be no central trash receptacles.
24. **Common Amenities.** A central recreational gathering and multi-use area shall be built on the Property in the area generally as shown as "Park Area" on the Concept Plan (Exhibit A), (see case file). Such recreational area may include various improvements, such as benches, tables, gazebo, landscaping and other passive or active amenities, to facilitate community activities. A pedestrian trail shall be provided connecting to the GreenGate trail system subject to any required approvals. All common amenities and common areas shall be maintained by the Association for the benefit of the residents and their guests.
25. **Buffer Requirements.** Any buffer within the Property may be landscaped, including supplemental plantings, signage, berms and/or fencing and other purposes as approved by the Planning Commission at the time of landscape plan review. Roads, sidewalks, utility easements (including drainage), common owned

fencing/walls adjacent to any roads or drives, and signage shall be permitted within any such buffer; provided, any such road or utility easements (other than existing) shall be extended generally perpendicular through such buffer. All buffers, whether in common area or a lot, shall be maintained by an association applicable to the Property.

26. **Condominium Act.** Condominiums constructed on the Property shall comply with the Virginia Condominium Act.
27. **Cantilevering.** There shall be no cantilevered chimneys or closets. Any first floor cantilevered items shall be limited to box or bay-type windows only, shall not extend beyond a maximum of twenty-four (24) inches from the predominant plane of the side of the home, nor shall the bottom be less than three (3) feet above the grade level below. Any usable floor space on the first floor such as breakfast nooks shall not be cantilevered. Items on the second floor such as balconies, decks, box or bay-type windows may be cantilevered, but shall include decorative corbels. The exposed portions of all fireplace chimneys shall be of brick or stone.
28. **Height.** Residential buildings shall not exceed fifty (50) feet in height to the top of a flat roof, nor sixty (60) feet in height for an A-Frame roof.

APPLICABLE TO B-2 ZONED PARCELS

29. **Exterior Materials/Architecture.** The exposed portion of each exterior wall surface (front, rear and sides) of any building (excluding rooftop screening materials for mechanical equipment) shall be similar to the exposed portions of other exterior walls of such building in architectural treatment and materials. Any building shall have exposed exterior walls (above finished grade and exclusive of trim) of brick, glass, E.I.F.S., stone, stone veneer, split face block, cementitious, composite-type siding, architectural-grade metal panels, or a combination of the foregoing, unless different architectural treatment and/or materials are specifically approved with respect to the exposed portion of any such wall, at the time of Plan of Development. A minimum of forty (40) percent of each facade of buildings which face Broad Street, excluding windows, doors, breezeways, gables and architectural design features, shall be of brick, stone or stone veneer construction. No building shall be covered with or have exposed to view any painted or unfinished concrete block, or industrial-grade metal, unless otherwise specifically approved at the time of Plan of Development. Any sloped roofs shall be constructed of slate, simulated slate, standing seam metal or textured fiberglass shingles, architectural shingles, cedar shakes, concrete or composition shingles. Retail users will be permitted to include prototypical or corporate identification architectural elements in the design of their building or space.

30. **Prohibited Uses.** The following uses shall be prohibited:

- a. billiard, bagatelle, video game or a bingo parlor;
- b. flea markets or antique auctions;
- c. billboards;
- d. recycling facilities,
- e. funeral homes, mortuaries, crematories and/or undertaking establishments;
- f. dance halls;
- g. truck stops;
- h. gun shop, sales and repair;
- i. parking garages or commercial parking lots as a principal use;
- j. sign painting shops;
- k. free-standing communication towers;
- l. car washes as a principal use;
- m. car title loan operations;
- n. adult businesses as defined by Section 24-3 of the Henrico County Code;
- o. establishments whose primary business is check cashing and/or the making of payday loans as defined and regulated by Sections 6.2-2100 et seq. and 6.2-1800 et seq. of the Code of Virginia (the foregoing shall not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code sections);
- p. automotive filling and service stations including towing service.
- q. No free-standing building or out-parcels, excluding the food truck area, shall be used for a fast food and/or carryout restaurant, not to exclude, however, fast-casual restaurants such as Panera, restaurants with dedicated parking for the pickup of carry-out food, nor restaurants whose primary business is the sale of specialty coffees or other non-alcoholic beverages or pastry. The Director of Planning shall determine if a restaurant is fast food or fast casual pursuant to the above.

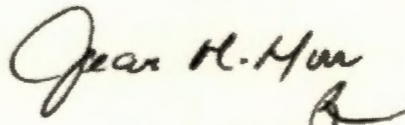
31. **Refuse Containers/Trash Receptacles/Recycling Activities.** Dumpsters, trash receptacles, not including convenience cans, and recycling receptacles shall be screened from public view with masonry enclosures compatible with the architectural design of the buildings at ground level at the property lines; as approved at the time of Plan of Development. The gates and doors on the masonry refuse screens shall be of a substantial and durable material as determined at the time of Plan of Development. Support posts, gate frames, hinges and latches shall be of a sufficient size and strength to allow the gates to function without sagging or becoming a visual eyesore as determined at the time of Plan of Development. The number of refuse containers shall be adequate for

the development as determined at the time of Plan of Development. Convenience cans shall be within or part of a decorative container.

32. **West Broad Street Sidewalk.** Subject to all applicable government approvals, a five (5) foot sidewalk for pedestrian access shall be constructed along the Property's West Broad Street frontage where not constrained by utilities and storm drainage. Site lighting shall be designed to provide lighting for pedestrians along West Broad Street in a manner approved at the time of lighting plan review.

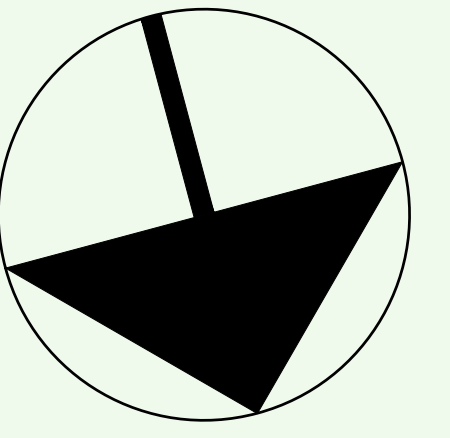
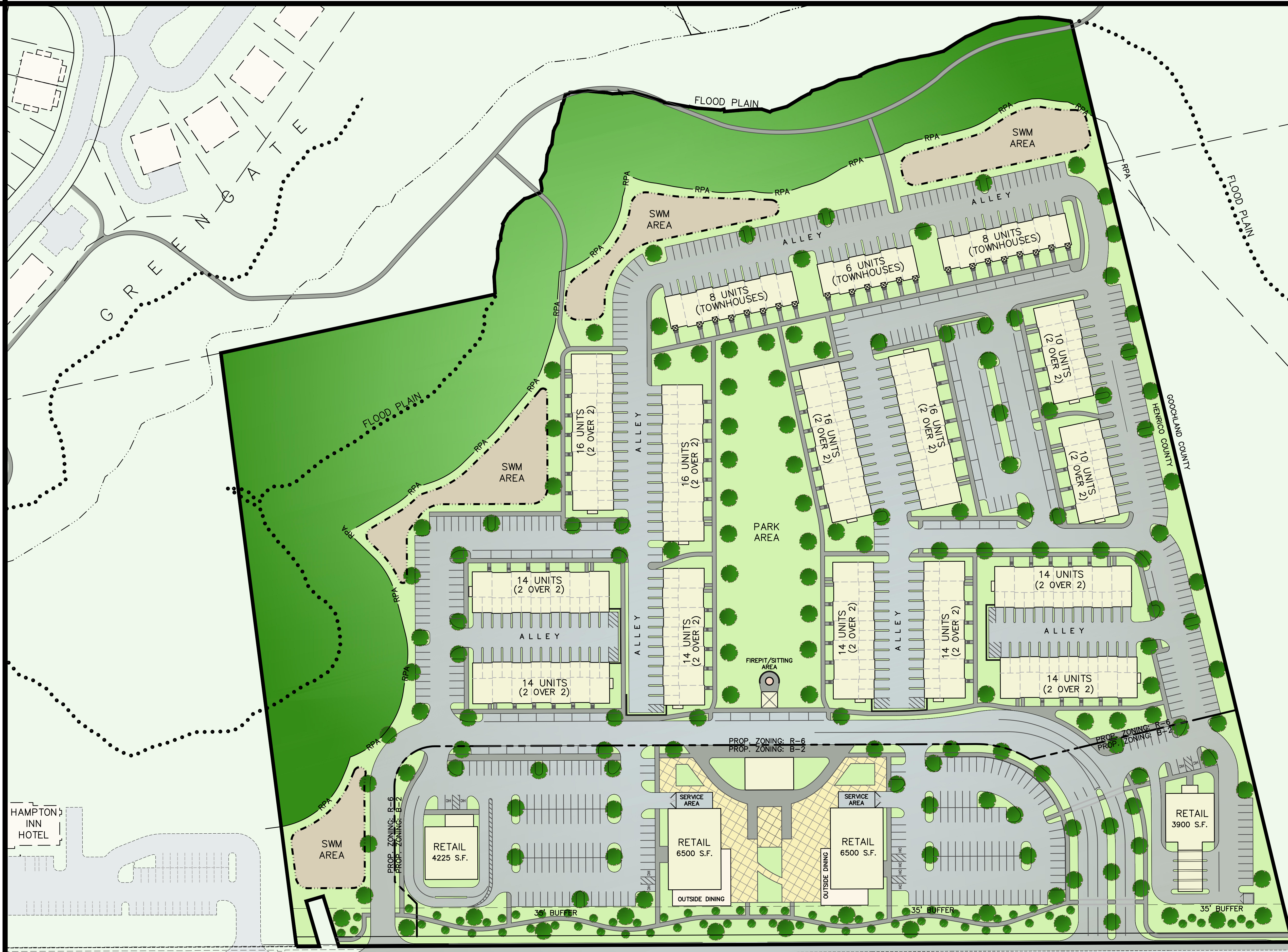
The Planning Department has been advised of the action of the Board of Supervisors and will revise its records.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Vithoukas", with a stylized flourish at the end.

John A. Vithoukas
County Manager

pc: Schafstedde Properties, Inc.
James W. Theobald, Esquire
Director, Real Estate Assessment
Mr. Chris Sorenson, Schools
Mr. Justin Briggs, Schools
Police, Special Services



WestGate



EXHIBIT A

REZ2020-00009



EXHIBIT B

REZ2020-00009



EXHIBIT B

REZ2020-00009



EXHIBIT B

REZ2020-00009



EXHIBIT B

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