

RESOLUTION

CASE NO. SUP-0003-2015. COLONIAL HERITAGE DEER LAKE ESTATES UTILITY

EXTENSION: AMENDMENT AND RESTATEMENT OF CASE NO. SUP-0021-2004

- WHEREAS, the Board of Supervisors of James City County, Virginia (the "Board") has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and
- WHEREAS, Mr. William Holt, of Kaufman and Canoles (the "Applicant"), on behalf of Colonial Heritage LLC (the "Owner"), has applied to extend public utilities to a ±228 acre portion of land associated with the Colonial Heritage Deer Lake SUP 0021-2004; and
- WHEREAS, the subject property is located at 499 Jolly Pond Road on land zoned A-1, General Agricultural, with proffers, and can be further identified as James City County Real Estate Tax Map Parcel No. 2240100007 (the "Property"), as shown on the exhibit titled "Deer Lake Estates Utility Extension-Water/Sewer SUP Exhibit" dated September 17, 2015 ("the Exhibit"), prepared by AES Consulting Engineers; and
- WHEREAS, on December 14, 2004, the Board approved SUP 0021-2004 permitting a 50-lot rural cluster development ("Deer Lake Estates") on the Property and prohibiting the extension of utilities to the Property; and
- WHEREAS, as part of SUP-0003-2015, the Owner seeks to amend and restate conditions associated with SUP-0021-2004 to allow the 50-lot rural cluster to connect to public utilities; and
- WHEREAS, the subject ±228 acres of the Deer Lake Estates development was included in the Primary Service Area on the adopted 2035 Comprehensive Plan Land Use Map; and
- WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case SUP-0003-2015; and
- WHEREAS, the Planning Commission, following its public hearing on October 7, 2015, recommended approval of this application by a vote of 7-0.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of SUP 0003-2015 as described herein with the following conditions.
- BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, upon application by the Owner, and after consideration of the factors in Section 24-9 of the James City County Code, does hereby amend and restate the conditions of James City County Case No. SUP-0021-2004 with the following conditions:

1. *Development Limitation.* No more than 50 residential lots shall be platted on the 50-lot rural cluster portion of the Boy Scout of America property (known as "Deer Lake Estates"), as shown on the Exhibit. Any residential lots developed on the Property shall be subject to the 2,000-residential-unit density cap.
2. *Conservation Easement.* The conservation easement of ± 282 acres (the "Conservation Easement") shall be dedicated to James City County or an agency acceptable to the County and recorded prior to final subdivision approval by the County for any lot within Deer Lake Estates, as shown on the Exhibit. The area within the Conservation Easement shall be available and the Owner shall retain the right to utilize the open space and conservation area for stormwater management structures and facilities, required open space, required impervious/pervious cover calculations and watershed protection measures for the Colonial Heritage development and Deer Lake Estates. The Conservation Easement shall clearly state that no clearing, land disturbing or development shall occur on the ± 282 acres unless otherwise approved by the Planning Director.
3. *Buffers.* A minimum 150-foot buffer shall be maintained along Jolly Pond Road and Cranston's Mill Pond Road (the "Buffers"). The Buffers shall remain undisturbed with the exception of breaks for any entrance road, pedestrian connections, utilities, walking, hiking and biking trails, any *required* clearing necessary to create adequate sight distance and other uses specifically approved by the Planning Director. The Planning Director shall approve the design of such features located within the Buffers.
4. *Vehicular Access.* Access to the Deer Lake Estates development shall be from a single entrance road onto Jolly Pond Road unless a second entrance road is approved by the Planning Commission following the review of the Development Review Committee.
5. *Public Utilities.* Construction and operation of public utilities shall be subject to the following conditions:
 - a. *Commencement.* Construction on this project shall commence within 36 months from the date of approval of this SUP or this permit shall be void.
 - b. *Construction Management:*
 - i. Construction, operation and maintenance of the water and sewer extensions shall comply with all local, state and federal requirements.
 - ii. Adequate dust and siltation control measures, as determined by the Director of Engineering and Resource Protection, shall be taken to prevent adverse effects the adjacent properties.
 - iii. All construction activity on the water and sewer extensions shall occur between 7 a.m. and 5 p.m., Monday through Friday.
 - c. *Regulatory Requirements:* All state and local permits and easements shall be acquired prior to the issuance of a land disturbing permit for any lot within the previously approved 50-lot rural *cluster* known as Deer Lake Estates.
 - d. *Erosion and Sediment Control:* The project shall comply with all Virginia erosion and *sediment* control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook as amended.

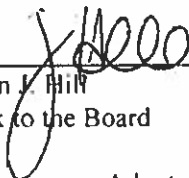
- e. *Construction Access.* Vehicular access to all residences along the affected rights-of-way, including Jolly Pond Road and Cranston's Mill Pond Road, shall be maintained at all times.
- f. *Vegetation Protection.* The applicant shall avoid removing trees and bushes within the 150 feet Jolly Pond Road vegetative buffer and along the water and sewer extension corridors, except as shown on the approved site plan. Trees and bushes damaged during construction shall be replaced with a tree or bush of equal type as approved by the Planning Director or his designee.
- 6. *Water Conservation.* The Water Conservation Regulations for Residential properties applicable to the Colonial Heritage development shall be implemented and enforced for the Deer Lake Estates development.
- 7. *Archaeology.* Prior to issuance of a land-disturbing permit for any portion of the Property, the *applicant* shall provide written evidence to the Planning Director which demonstrates that the recommendations of a professional archaeologist have been implemented in a manner consistent with the preservation objectives of the Board of Supervisors Archaeological Policy, as determined by the Planning Director or his designee.
- 8. *Master Stormwater Plan.* A Master Stormwater Plan shall be submitted with the development plan for the alternative which is submitted for review and approval by the Director of Engineering and Resource Protection. The Master Stormwater Plan should specifically address how Deer Lake will be utilized as a primary Best Management Practices (by use of drawings/narratives), whether additional onsite structural or non-structural practices are necessary and whether there is a better site design/low-impact development component proposed for stormwater compliance.
- 9. *Steep Slopes.* Any plan of development for Deer Lake Estates shall maintain a separation of at least 35 feet between the top of 25% and steeper slopes and any structure and a 20-foot separation from the limits of grading to the top of 25% and steeper slopes. This is intended to apply to the larger, contiguous areas of steep slopes, not isolated areas, as determined by the Director of Engineering and Resource Protection. The Director of Engineering and Resource Protection shall have the ability to grant variances from this criteria to provide flexibility in application of this condition.
- 10. *RPA/Perennial Stream.* The applicant shall conduct a perennial stream evaluation which shall receive approval from the Director of Engineering and Resource Protection prior to preliminary approval being granted for any plan of development for Deer Lake Estates. If perennial streams are present on the site, a 100-foot buffer shall be required around them and any wetlands contiguous to and connected by surface flow to the stream. Any plan of development for Deer Lake Estates shall also maintain a structural separation of 35 feet from any Resource Protection Area on the property.
- 11. *Pedestrian Accommodations.* In accordance with the adopted Pedestrian Accommodations Master and Regional Bicycle Facilities plans, sidewalk and a shoulder bike lane shall be provided along the Property's Jolly Pond Road frontage. This requirement may be waived by the Planning Director should the Owner

demonstrate that existing pavement width or section, drainage or other engineering constraints would restrict the ability of the Owner to install the bike lane or sidewalk in a manner that would meet Virginia Department of Transportation requirements. Such analysis shall be submitted prior to or concurrent with the initial site plan submission. If a bike lane and/or can be installed, it shall be completed prior to the issuance of a Certificate of Occupancy for any of the 50 lots approved under James City County Case No. SUP-21-04, unless otherwise approved by the Planning Director. In the event that the Planning Director disapproves the waiver, the applicant may appeal the decision to the Development Review Committee, which shall forward a recommendation to the Planning Commission.

12. *Severability.* This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.


Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:


Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
JONES	☒	☐	☐
MC GLENNON	☐	☒	☐
ONIZUK	☒	☐	☐
KENNEDY	☒	☐	☐
HIPPLE	☒	☐	☐

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of November, 2015.

SUP03-2015DeerLakeEstates-res