

ORANGE COUNTY
BOARD OF ZONING APPEALS

ANDY HUTCHISON, DISTRICT 1
JERRY BLEDSOE, DISTRICT 2
R. DUFF GREEN, DISTRICT 3
ROBERT M. ROSS, DISTRICT 4
SERGE OGRANOVITCH, DISTRICT 5



MAILING ADDRESS:
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960

PLANNING & ZONING:
OFFICE: (540) 672-4347
FAX: (540) 672-0164
ORANGECOUNTYVA.GOV

JOSH FREDERICK, AICP
DIRECTOR OF PLANNING & ZONING

Regular Meeting
Gordon Building Meeting Room
112 W. Main St, Orange, VA, 22960
Wednesday, January 18th, 2017
AGENDA
7:00 pm

1. Call to order and determination of quorum
2. Election of chair and vice chair; appointment of secretary
3. Approval of minutes:
 - A. January 21st, 2015 regular meeting
4. Public hearings:
 - A. AP 16-01: Yates - Greg Yates, on behalf of Yates Properties of Madison County LLC, has appealed a letter of determination from the Orange County Zoning Administrator, dated November 8th 2016, regarding the validity of a site plan approved on February 15th, 2008. Said site plan shows two additional storage unit buildings and related improvements located on county tax parcel 57-12B, and otherwise identified as 13236 Liberty Rd. The Zoning Administrator determined that the site plan was not valid for three distinct reasons; the applicant has appealed that decision to the BZA.
5. New Business:
 - A. Review of bylaws
6. Adjourn

Orange County Board of Zoning Appeals

January 18th, 2017 Regular Meeting

Agenda Item 3A

**Orange County Board of Zoning Appeals
Gordon Building Meeting Room
112 West Main Street
January 21, 2015
7:00 p.m.
Minutes**

Present: Jonathan Chasen, Andy Hutchison, R. Duff Green, Jerry Bledsoe

Absent: Serge O'Granovitch

Staff Present: Josh Frederick, Acting Director; Susan Crosby, Senior Administrative Assistant and BZA Secretary

All discussion and comment made during this meeting was captured via digital audio recording. The minutes as written below are intended to be a summary of this discussion and comment. Anyone desiring detailed information about comment or discussion made during the meeting is referred to the recording.

1. Call to Order and Determination of Quorum

Chairman Chasen called the meeting to order at 7:00 p.m. and stated a quorum was present to conduct business.

2. Election of officers for 2015

Chairman Chasen calls for the election of officers. Mr. Green made a motion for Chairman Chasen to remain as chairman. Motion was seconded by Mr. Bledsoe. Motion carried 3-0, Chairman Chasen abstained.

Mr. Green made a motion for Mr. Hutchison to remain as Vice Chairman. Motion was seconded by Mr. Bledsoe. Motion carried 3-0, Mr. Hutchison abstained.

3. Approval of Agenda

Chairman Chasen asked if there were any additions to or deletions from the agenda. A motion was made by Mr. Bledsoe, seconded by Mr. Hutchison that the agenda be approved as presented. Motion carried 4-0. Agenda approved.

4. Approval of Minutes

A motion was made by Mr. Green, seconded by Mr. Hutchison to approve the minutes of December 17, 2014 as presented. Motion carried 4-0. Minutes approved.

5. Public Hearing: AV 14-04

a. Application was withdrawn for AV 14-04: David Waddill, on behalf of Rivendell Holdings LLC.

6. New Business

There was no new business.

7. Old Business

a. Action deferred from the December 17, 2014 meeting (public hearing closed) – AV 14-03: Robin Canard-Lovett, on behalf of Foxview Properties LLC, applied for an administrative variance for the property referenced by tax map 54-64.

Tom Lacheney came forward for the County. He stated he had hoped the ownership issue would have been settled through the county but it has taken longer than he thought it would so he feels the need to move forward. Mr. Lacheney stated he doesn't know how long it will take to get that part of things straightened out and instead of continuing to defer the decision and keep having meetings, he believes the BZA can go ahead and make a decision because he sees no legal grounds to approve the application. He had done a considerable amount of research on this case. He recited several examples from the Virginia Board of Zoning Appeals and their findings based on the standards set by the Supreme Court of Virginia. The Supreme Court of Virginia states in order to grant a variance the BZA acts only in an administrative capacity. The legal standard is a variance is only granted if there was an unconstitutional taking of the property. Mr. Lacheney further gave many examples of when the Virginia Supreme Court has denied the variance.

Mr. Lacheney stated that on the basis of a hardship case, Foxview purchased the property for \$100 at a tax sale. They are not losing money therefore it is not a hardship case. He also stated that after they purchased the property they started clearing the property. When the Planning and Zoning Dept. contacted them to tell them they needed an E&S permit in order to clear for a house. The Lovett's said they were not clearing it for a house but for agricultural purposes. Mr. Lacheney handed the members a copy of the letter received by Foxview stating this. Mr. Lacheney stated it was not until after the clearing was done did they then state they wanted to now build a house on the property. Mr. Green stated it did not make sense to him on why this can't be done. Mr. Lacheney explains that regarding agricultural, the Virginia Supreme Court standard is unconstitutional taking, if you have no other use for the property. That is the legal standard. They themselves said they had an agricultural use for it and if there is another use for the property you cannot come back later and say I need a variance for a house. Discussion ensued.

Mr. Lacheney stated the only authority the BZA has by law is without the variance the owner loses their right to use the property in any meaningful way. The Lovett's have already stated there is an agricultural use for the property. If you have another use for the property you do not get a variance. Discussion ensued.

Mr. Bledsoe stated the BZA cannot make a determination based on what they want, they have to follow code. If there are too many lots that are not buildable, the only way to change the zoning laws are the Board of Supervisors. Mr. Green voiced his objection and doesn't see why the BZA cannot grant approval. Discussion ensued. Mr. Hutchison commented that if the BZA can't issue variances then why are they even there, Mr. Green agreed. Mr. Lacheney read from a Circuit Court proceeding. The Virginia Supreme Court reaffirmed the principle that variances are not to be routinely granted. The BZA only has authority to grant variances in order to avoid an unconstitutional result. A variance may only be granted when application of the zoning ordinance interferes with all reasonable beneficial uses of the property when taken as a whole. He states that is the test. The test is whether without the variance the owner loses

all right to use the property in any other meaningful way. That is the extent of what the BZA can and can't determine.

Applicant was asked to come forward. Mrs. Lovett handed out some additional information and wanted to reiterate why they used it as agricultural. Mrs. Lovett stated that clearing of a lot is allowed for a single family dwelling and that the ordinance states that a single family dwelling is listed in the agriculturally zoned district therefore it is an agricultural use. She does not feel they did anything out of context. Mrs. Lovett stated they were never asked if they were clearing to build a house and had no idea there was still an active violation. She stated she never heard anything back from the county.

In the packet she handed out it shows an aerial photo from 1937 that shows a house. Mrs. Lovett stated the property is assessed as a buildable lot but has not been assessed with a house on it for some time. She gives examples of cases where variances have been granted. She states it will cause no detriment to the surrounding lots and reads what previous Zoning Administrators have said about variances, which was if the board found the setback to cause an undue hardship and it would not be detrimental to the adjoining property owners then a variance was granted. She stated that at one time the BZA was allowed to grant variances and agrees with Mr. Hutchison that if BZA cannot grant a variance then why are they there. Mrs. Lovett explained some of the items in the packet. She stated that the Federal Supreme Court says you cannot deny any economically viable use of the land because of a government taking. Mr. Bledsoe asked if agricultural use for the property was not economically viable. Mrs. Lovett replied no not really because it was only .9 ac. Chairman Chasen spoke of how he feels that it is economically viable because they only spent \$100 for the property. Discussion ensued. Mrs. Lovett quotes from the Bill of Rights some of the principles of our Constitution and what this country is built on. She directs Commissioners to the bottom part where it states people will not be deprived of life, liberty and property without due process of law and property will not be taken for public use without just compensation. Mrs. Lovett stated she was notified on Dec. 9th by Mr. Henry Lee Carter that he thought there was an issue with the property and that he basically wanted her to give it back. Mrs. Lovett goes on to explain why she feels the county has done nothing to try to help. She also stated that the property at this time is not viable.

Mr. Hutchison asked some questions concerning the original agricultural use for the property. Discussion ensued on whether the original intent was to skirt county ordinance. Mrs. Lovett stated that because they cleared trees and used it for firewood that it was agricultural use and no attempt was made to skirt the ordinance. Mr. Lacheney read from the county ordinance on what constitutes agricultural use and what the Lovett's did was not agricultural use. He also stated how the land is economically viable and they knew what they were buying, they are investors / developers they should know the laws and what can and cannot be done on this lot. Mr. Green voiced his disagreement over the whole thing and is going to vote to grant it.

Chairman Chasen closed public hearing.

Mr. Green made a motion to grant the variance. Motion died due to lack of a second.

Mr. Hutchison made a motion to deny variance, seconded by Mr. Bledsoe.
In favor: Hutchison, Chasen & Bledsoe
Opposed: Green

Motion carried, variance denied.

8. Adjourn

A motion was made by Mr. Hutchison, seconded by Mr. Bledsoe, that the meeting be adjourned. The meeting adjourned at 8:00 p.m.

Jonathan Chasen, Chairman

Susan Crosby, Secretary

DRAFT

Orange County Board of Zoning Appeals

January 18th, 2017 Regular Meeting

Agenda Item 4A

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

MEMORANDUM

TO: Orange County Board of Zoning Appeals
FROM: Josh Frederick, Director of Planning & Zoning
DATE: December 29th, 2016
RE: AP 16-01: Yates administrative appeal

Summary

Greg Yates, on behalf of Yates Properties of Madison County LLC, has appealed a letter of determination from the Orange County Zoning Administrator, dated November 8th 2016, regarding the validity of a site plan approved on February 15th, 2008. Said site plan shows two additional storage unit buildings and related improvements located on county tax parcel 57-12B, and otherwise identified as 13236 Liberty Rd. The Zoning Administrator determined that the site plan was not valid for three distinct reasons; the applicant has appealed that decision to the BZA. A public hearing on the matter has been scheduled for January 18th, 2017.

Property Map



ORANGE COUNTY

DEPARTMENT OF PLANNING AND ZONING

Facts Pertaining to the Application

- The property was rezoned to the General Commercial (C-2) zoning district in 1983.
- Since at least 1979 the Zoning Ordinance has required a min. 100' building setback from the right-of-way of primary highways (e.g. US 15).
- A variance was granted by the BZA in 1984 (see exhibit #3) "to construct a commercial building" with a 50' setback from the US 15 right-of-way and a 20' setback from the Route 718 right-of-way. This allowed the existing structure to be permitted and built in 1986.
- The site plan in question, showing the construction of two new structures, was approved on February 15th, 2008, by a [then] Code Compliance Inspector for the county.
- Between that point and the date of appeal, no permits were issued or applications received for construction of the buildings shown on the site plan (i.e. the site plan was not acted upon).
- The property owner's agent requested a letter of determination regarding the site plan validity via email on November 3rd, 2016. That letter was drafted by the Zoning Administrator on November 8th, 2016 and emailed to the requestor (see exhibit #1).
- The appeal application was received by the department on December 7th, 2016.

Justification of Zoning Administrator's Decision

Following the determination that was made and upon further research, the property owner's agent was informed that § 15.2-2261 of the Code of Virginia specifies that matters of site plan validity should be appealed to the Circuit Court rather than the BZA. The Zoning Administrator contends that the BZA does not have the authority under state law to hear or render a decision on this matter.

Regardless, the November 8th determination letter details the three primary reasons for the decision to determine that the site plan in question is void:

- The site plan never had a valid approval; the person who signed the site plan (Code Compliance Inspector Jake Haught) did not have the authority to give such an approval. Although the site plans states that his approval signature is "for David B Grover – Director of Community Development," there is an absence of written, express authority to act on Mr. Grover's behalf. This statement on the site plan therefore has no meaning and does not confer onto Mr. Haught the power to act as the Zoning Administrator.
- The "approved" site plan shows the location of 2 new structures, 1 of which is clearly in violation of the 100' primary highway setback requirement. The county cannot grant the ability to build something that is clearly in violation of the Zoning Ordinance. Furthermore, Sec. 70-37 of the Zoning Ordinance would prohibit the approval of permits to construct the encroaching building since it is in violation of the Ordinance.
- The property owner did not act on the "approved" site plan within the 5-year window specified by state law (§ 15.2-2261(A)), thus rendering the "approval" void. The Zoning Administrator contends that the provisions of § 15.2-2209.1 ("*Extension of approvals to address housing crisis*"), which states that any "final site plan valid under § 15.2-2261 and outstanding as of January 1, 2011, shall remain valid until July 1, 2017," only applies to residential projects and not commercial projects such as this.

The 2nd bullet above is the most salient. The 2008 site plan "approval" improperly relied on an interpretation that the 1984 variance applied to the whole property, when in fact it explicitly states that the variance was granted for "a building." This by itself should cause for the 2008 site plan to be void. If permits had been obtained and construction began on either structure shown on the 2008 site plan, a vested rights claim could be substantiated. That however is not the case, and since

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

the 5-year approval window has lapsed, no vested right to the 2008 site plan exists. Furthermore, the county cannot permit implementation of a site plan that is blatantly in violation of the Zoning Ordinance.

BZA Action

Should the BZA decide to render a decision on this appeal, it may affirm or reverse, in whole or in part, and may modify the Zoning Administrator's decision by a majority vote. To guide your consideration, § 15.2-2309 of the Code of Virginia provides: *"The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision."*

Cc: R. Bryan David, County Administrator
Tom Lacheney, County Attorney
Mark Johnson, District 1 Supervisor
File

Att: Exhibit 1 – The Zoning Administrator determination letter dated November 8th, 2016
Exhibit 2 – County Attorney's interpretation email dated October 4th, 2016
Exhibit 3 – Pertinent documents from the BZA 84-9 variance file
Exhibit 4 (by reference) – The site plan approved on February 15th, 2008 as included in the applicant's exhibits

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

EXHIBIT 1

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540)
FAX: (540) 672-0164
orangecountyva.gov

November 8th, 2016

VIA EMAIL

Walsh, Colucci, Lubeley, & Walsh, PC
ATTN: John Foote (jfoote@thelandlawyers.com)
4310 Prince William Pkwy, Suite 300
Woodbridge, VA 22192-5199

RE: Zoning Determination – tax parcel 57-12B; Waugh Self Storage property

John,

This letter is an official determination in response to your 11/3/16 letter regarding the Waugh Self Storage property in Orange County (tax parcel 57-12B – 13236 Liberty Rd). You have asserted that the site plan (final date 12/24/07) “approved” on 2/15/08, showing two additional storage unit buildings on the property, is a validly-approved site plan. My determination is that the “approval” of that site plan is void for the following reasons:

1. The plan was signed by a representative of the county (a code inspector) that did not have the authority to give such approval. Only the Zoning Administrator may give such approvals, thus the plan never had a valid approval.
2. The site plan showed the 2 proposed storage unit buildings clearly encroaching into the minimum 100’ setback required from the Route 15 right-of-way, pursuant to the Zoning Ordinance at that time and currently. Even if the site plan had a valid approval signature, the county cannot approve something that is blatantly in violation of the county code.
3. No action has been taken on behalf of the owner or another party in pursuit of this site plan, thus there are no vested rights with regards to the plan.

Any future construction on the property must obtain new site plan approval.

Please be advised that § 15.2-2311 of the Code of Virginia allows for any person aggrieved by a decision of the Zoning Administrator to appeal that decision by filing a petition in this department with the Board of Zoning Appeals (BZA) specifying the grounds for appeal. This petition must be filed within 30 days of the date of this determination or the decision shall be considered final and unappealable. Should you proceed with an appeal, there is a fee as well as an application available upon request.

Sincerely,

Josh Frederick
Director of Planning & Zoning

Cc: File

Josh Frederick

From: Thomas E. Lacheny <tlacheny@orangecountyva.us>
Sent: Tuesday, October 04, 2016 10:53 AM
To: 'Marvin Hinchey'; Josh Frederick
Cc: Thomas Wysong; Susan Crosby
Subject: RE: Waugh Self Storage

Marvin:

It is my understanding that a "variance" was granted in 1984 to allow for the construction of a building. It is my opinion that the 1984 variance was not legally granted, but that is non-issue at this point. Nonetheless, the 1984 variance was limited to the construction of "a building" and not a series of buildings.

However, the new site-plan that was ostensibly approved back in 2008 was not valid as a matter of law because it did not comply with the county's zoning ordinance. Because the 2008 site-plan did not comply with the county zoning ordinance, the provisions of VA Code 15.2-2209.1 are inapplicable because your client cannot have a vested right in a site plan that was impermissible under the zoning ordinance in force at that time. See Norfolk 102, LLC v. City of Norfolk, 285 Va. 340, 738 S.E.2d 895, 2013 Va. LEXIS 31, 2013 WL 749401 (2013).

Please feel free to give me a call if you want to discuss the matter further.

Thomas E. Lacheny
Deal & Lacheny P.C.
County Attorney for Orange County
P.O. Box 111
Orange, Virginia 22960
(540) 300-5299 (Telephone)
(888) 871-1976 (Facsimile)

From: Marvin Hinchey [mailto:marvin@hincheybaines.com]
Sent: Monday, October 03, 2016 4:30 PM
To: 'Josh Frederick'
Cc: 'Thomas Wysong'; 'Susan Crosby'; 'Thomas Lacheny'
Subject: RE: Waugh Self Storage

Josh,
I've never had this opinion in any other jurisdiction.
Could we get a written opinion on this?

Marvin T. Hinchey, P.E.
HINCHEY & BAINES, PLC
125 E. Davis Street, Suite 201
Culpeper, VA 22701
540-829-2220 (Office)
540-718-5329 (Cell)

From: Josh Frederick [mailto:jfrederick@orangecountyva.gov]
Sent: Thursday, September 22, 2016 12:00 PM



ORANGE COUNTY
BOARD OF ZONING APPEALS

BOX 111
ORANGE, VIRGINIA 22960

A. T. BASKERVILLE
COUNTY ADMINISTRATOR
PH. (703) 672-3313

May 24, 1984

Donald E. & Marcelline E. Waugh
P. O. Box 467
Orange, Virginia 22960

Re: BZA#84-9
Parcel 57-12B

Dear Mr. & Mrs. Waugh:

I am pleased to inform you the Orange County Board of Zoning Appeals approved you above referenced application May 22, 1984 to construct a commercial building at a setback of 50 feet from US Route 15 in lieu of the required 100 feet and at a setback of 20 feet from the side lot line in lieu of the required 50 feet.

Good luck in your new endeavor.

Please bring a copy of this letter when you apply for your building permit.

Sincerely,

A. Terrell Baskerville
County Administrator

ATB/jcc

cc: Breckenridge Ingles



**WALSH COLUCCI
LUBELEY & WALSH PC**

Michael Kalish
(703) 680-4664 Ext. 5161
mkalish@thelandlawyers.com
Fax: (703) 680-2161

December 6, 2016

Via Federal Express

Mr. Josh Frederick, Director
Orange County Board of Zoning Appeals
128 West Main Street
Orange, Virginia 22960

Re: Application for Appeal

Dear Mr. Frederick:

Enclosed please find an Application for Appeal of a Zoning Administrative Determination for Yates Properties of Madison County, L.C., as well as a check in the amount of \$200 representing the Application Fee. I have also included 6 copies as required.

Should you have any questions, please do not hesitate to contact me at 703-680-4664.

Sincerely,

WALSH, COLUCCI,
LUBELEY & WALSH, P.C.


Michael Kalish

Enclosures

ATTORNEYS AT LAW

703 680 4664 ■ WWW.THELANDLAWYERS.COM
4310 PRINCE WILLIAM PARKWAY ■ SUITE 300 ■ WOODBRIDGE, VA 22192-5199

ARLINGTON 703 528 4700 ■ LOUDOUN 703 737 3633

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WALSH, COLUCCI, LUBELEY & WALSH, PC

OPERATING ACCOUNT
4310 PRINCE WILLIAM PARKWAY, SUITE 300
PRINCE WILLIAM, VA 22192
PHONE: (703) 680-4664

WALSH COLUCCI
LUBELEY & WALSH, PC

200 DOLLARS CTS

EXPLANATION

Application Fee

10820

68-884/560

DOLLARS

CHECK AMOUNT

200

PAY

DATE

TO THE ORDER OF

MEMO

11-5-10 Orange County Dept. of Planning & Zoning

9567.2

OPERATING ACCOUNT



CARDINAL BANK, N.A.
VIRGINIA

Steven M. Walsh



ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

APPLICATION FOR APPEAL
OF A ZONING ADMINISTRATOR DETERMINATION

Applicant Name: Yates Properties of Madison County, L.C. Phone: 540-212-1775
Mailing Address: c/o Greg Yates 13166 Deer Ridge Road, Culpeper, VA 22701
Email Address: greg@yatesproperties.com

Application must be made by the Landowner or with his/her permission. If the Applicant is not the Landowner, please complete and attach: (1) a completed Authorized Agent Affidavit, OR (2) a letter of permission from the landowner.

Landowner Name: Yates Properties of Madison County, L.C. Phone: 540-212-1775
Mailing Address: 13166 Deer Ridge Road, Culpeper, VA 22701
Please also notice: John Forte, Esq. 4310 Prince William Pkwy #300, Woodbridge, VA 20171

Property Information:

Property Address / Location: 13236 Liberty Road / Intersection of Routes 15 and 718
Tax Parcel #(s): 57-12B Acreage of Parcel(s): 2.52
Zoning: C2 Subject to Proffers or SUP Conditions? Yes No

Nature of the Appeal / Grievance:

Appeal of Zoning Determination of November 8, 2016 issued by
Sesh Frederick, Orange County Director of Planning & Zoning.
Owner seeks confirmation that Site Plan approved February 15, 2008
remains valid and a reversal of Zoning Determination that holds
otherwise.

(attach additional sheets as necessary)

Date of Zoning Administrator's Decision or Determination: November 8, 2016

Application Fee: \$200
Mailing and advertising fees are billed to you separately (application fee is nonrefundable once application is advertised)

Name of Applicant: Greg Yates for Yates Properties of Madison County
Applicant Signature: [Signature]
Application Date: 12/5/16

- Required accompaniments:
- The application fee
 - Landowner authorization (if applicable)
 - The written decision or determination being appealed (6 copies)
 - Materials related to the appeal (6 copies of each material)

VIRGINIA :

BEFORE THE BOARD OF ZONING APPEALS FOR ORANGE COUNTY

IN RE: APPEAL OF THE NOVEMBER 8, 2016)
ZONING DETERMINATION OF THE)
DIRECTOR OF PLANNING & ZONING)
REGARDING TAX PARCEL 57-12B,)
A/K/A WAUGH SELF STORAGE PROPERTY)

STATEMENT OF JUSTIFICATION
IN SUPPORT OF YATES PROPERTIES OF MADISON, L.C.’S
APPEAL TO THE ORANGE COUNTY BOARD OF ZONING APPEALS

Yates Properties of Madison, L.C., and its Manager Gregory Yates (collectively “Yates”) respectfully appeal the November 8, 2016, Zoning Determination issued to Yates by Josh Frederick, Orange County Director of Zoning and Planning and its Zoning Administrator, attached hereto and incorporated herein as Exhibit 1, and in support thereof state the following:

Introduction

Yates Properties is a Virginia limited liability company¹ and the owner of real property located in Orange County, identified by its mailing address as 13236 Liberty Road, and as Parcel Number 0570000000012B, Tax Map parcel identifier 57-12B. The property is also known as the “Waugh Self Storage” property, located at the intersection of U. S. Route 15 and State Route 718, Liberty Road (hereinafter “Waugh Self Storage Site”).²

¹ Exhibit 2, Virginia State Corporation Commission LLC Data Summary for Yates Properties of Madison, L.C.

² Exhibit 3, Orange County GIS image of the Waugh Self Storage Site and Orange County Parcel Information.

Yates asks the Board of Zoning Appeals to reverse the November 8, 2016, Zoning Determination rendered by the Zoning Administrator (the “Zoning Determination”). That Determination concluded that a Site Plan submitted for the Waugh Self Storage Site (the “Waugh Site Plan”) – on its face bearing the written notation, “Approved for Construction,” and dated February 15, 2008 – is void.

Yates contends that the Waugh Site Plan remains in full force and effect.

Factual Background

In 2007, Gregory Yates³ submitted a Site Plan Application on behalf of Yates to the Orange County Department of Zoning and Planning (the “Waugh Site Plan Application”). As described in greater detail in that Application, it was Yates’ intention to improve the Waugh Self Storage Site by constructing additional buildings on the site to expand the self-storage facilities already on the property. When the 2007 Waugh Self Storage Site Plan was filed, the County Administrator was William C. “Bill” Rolfe, and the Director of the Department of Community Development was David Grover. Marvin Hinchey then of Huntley Nyce & Associates, Ltd., was, and remains, the professional engineer employed by Yates, and the professional who prepared and stamped the Waugh Site Plan that was the subject of the Waugh Site Plan Application.

On February 15, 2008, following County review, the Waugh Site Plan was endorsed “Approved for Construction” and signed by “Jake C. Haught, Jr., For David B. Grover – Director of Community Development.”⁴ As is indicated on the Site Plan, Jake C. Haught was at the time a

³ Gregory Yates was also an authorized officer with Madison, LLC, the title owner of the Waugh Self Storage Property in 2007. Title to the Waugh Self Storage Site was conveyed to the current owner, Yates Properties of Madison, on May 2, 2008.

⁴ Exhibit 4 is a true copy of the approved Site Plan.

County Code Inspector. Mr. Haught was directly involved in the review and processing of the Site Plan.

Thanks to the Recession that had already commenced by 2008, Yates did not initiate construction of the new storage facilities. But on March 16, 2016, Mr. Hinchey, now with the firm of Hinchey & Baines, PLC, e-mailed Mr. Josh Frederick, the current Orange County Director of Planning & Zoning, seeking confirmation that the Waugh Site Plan was still valid pursuant to Virginia Code § 15.2-2209.1 (discussed further below). Yates intended to commence construction in the Fall of 2016.⁵ On March 17, Mr. Frederick responded confirming that the “property owner [of the Waugh Self Storage Site] has a vested right to what was approved” on the Site Plan, that survived until July 1, 2017.⁶

On September 22, 2016, more than 60 days following his March email to Mr. Hinchey, however, Mr. Frederick sent a further email to Mr. Hinchey reversing his prior determination, and stating for the first time that the County no longer considered § 15.2-2209.1 applicable to the Waugh Site Plan, because it was for a non-residential site.⁷ He therefore considered the Waugh Site Plan to have expired. Because Mr. Frederick’s interpretation of § 15.2-2209.1 is contrary to a plain reading of that statute and with his experience in other Virginia jurisdictions, Mr. Hinchey contacted the Orange County Attorney, Thomas E. Lacheney, seeking additional insight. Mr. Lacheney, in a response dated October 4, 2016, wrote that the Waugh Site Plan

⁵ Exhibit 5, emails between Marvin Hinchey and Josh Frederick.

⁶ Exhibit 5.

⁷ Exhibit 5. Mr. Frederick appears to have thought originally that § 15.2-2209.1 applied only to residential site plans, but that is plainly incorrect. It applies to all site and subdivision plans.

“ostensibly approved in 2008 was not valid as a matter of law because it did not comply with the county’s zoning ordinance.” Mr. Lacheney did not say why he believed the Waugh Site Plan did not comply with the ordinance. Nonetheless, on that basis Mr. Lacheney stated that he did not believe § 15.2-2209.1 applied and that construction pursuant to the Waugh Site Plan could not proceed.⁸

As of October 4th, therefore, Mr. Hinchey and Yates had received three inconsistent opinions from Orange County officials regarding the validity of the Waugh Site Plan. Accordingly, on November 3, 2016, Yates, by counsel, sought a formal Determination from the Zoning Administrator for Orange County confirming the validity of the Waugh Site Plan.⁹

On November 8, 2016, Mr. Frederick issued an official determination in response to counsel’s request, determining the Waugh Site Plan void for three reasons as is evident from Exhibit 1:

1. The plan was signed by a representative of the county (a code inspector) that did not have the authority to give such approval. Only a Zoning Administrator may give such approvals, thus the plan never had a valid approval.
2. The site plan showed the 2 proposed storage unit buildings clearly encroaching into the minimum 100’ setback required from the Route 15 right-of-way, pursuant to the Zoning Ordinance at that time and currently. Even if the site plan had a valid approval signature, the county cannot approve something that is blatantly in violation of the county code.
3. No action has been taken on behalf of the owner or another party in pursuit of this site plan, thus there are no vested rights with regards to the plan.

Yates has filed this Appeal in response to the Determination Letter.

⁸ Exhibit 6.

⁹ Exhibit 7. This Determination was sought despite the earlier ruling from Mr. Frederick that the Waugh Site Plan was valid, because of the intervening change of position, and because only the Zoning Administrator, and not the able County Attorney, could make the Determination sought.

GROUNDS OF APPEAL

The Zoning Administrator has incorrectly concluded in his Determination Letter that the individual who signed the Waugh Site Plan lacked authority to endorse it as “Approved for Construction.” Contrary to this contention, conversations with Mr. Haught indicate although it was not routine that he had on occasion specific authority from the then Director of Community Development, and the County Administrator, to sign site plans on their behalf. There were indeed occasions on which he was so authorized. In this case, he would simply not have signed a site plan on behalf of Mr. Grover without instruction and authorization. Thus, Yates maintains that the site plan was indeed properly approved.

Assuming that the Waugh Site Plan was approved in contravention of any portion of the County’s Zoning Ordinance, pursuant to Virginia Code § 15.2-2311(C), Yates has obtained a specific form of a vested right in the Waugh Site Plan site plan that cannot now be rescinded and pursuant to other statutes remains alive and well. The basic and controlling conclusions of fact and their application to the requirements of law in this matter as set forth in the Determination Letter are in error and must be overturned by the Board of Zoning Appeals.

I. THE SITE PLAN WAS ENDORSED BY A COUNTY OFFICIAL WITH AUTHORITY TO APPROVE AND SIGN IT.

As noted above, the Waugh Site Plan was “Approved For Construction” and signed by “Jake C. Haught, Jr. For David B. Grover – Director of Community Development” on February 15, 2008, when Mr. Haught was a Code Inspector for Orange County.¹⁰ As part of his duties as Code Inspector Mr. Haught assisted the Community Development Department in its review of submitted site plans for conformance with County Code requirements including those of the

¹⁰ All information herein regarding Mr. Haught was learned by the undersigned via a telephone call with Mr. Haught on December 1, 2016.

Zoning Ordinance. He was aware that he did not have general approval authority for site plan submissions, but he was also aware that Mr. Grover, the then Director of Community Development, and Mr. Rolfe, the then County Administrator, did have site plan approval authority. Mr. Haught will further testify that, in fact, he signed several site plans in his time with Orange County, but only after having been given direct authority and instruction to do so by either Mr. Grover or Mr. Rolfe. While Mr. Haught does not recall the specifics of the Waugh Site Plan after these eight years, he confirmed to counsel for Yates that if a site plan was signed “For David B. Grover,” it means that it was signed on the basis of Mr. Grover’s delegated authority, or it would not have been signed. Both David Grover and Mr. Rolfe will confirm that, on occasion, they would grant Mr. Haught authority to sign site plans on their behalf.¹¹

It is not necessary that any written order, requirement, decision or determination, such as the approval of a site plan, be accomplished by the Zoning Administrator personally. Rather, Va. Code Ann. § 15.2-2311(C) says that

In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical errors.

Thus, as is indicated on the Site Plan itself, and as confirmed by those involved, the evidence is compelling that the Site Plan was signed by Mr. Haught, a County “administrative officer” with approval authority in some, if not all, cases, who would not have signed the Waugh

¹¹ All information herein regarding Messer’s Grover and Rolfe was obtained via correspondence or by telephone with them on December 1, 2016.

Site Plan as an independent action not authorized by his superiors. Mr. Haught was directed to mark the site plan as approved for construction. Given that Mr. Haught signed the Waugh Site Plan in the form and as he did, the evidence is compelling that he did so only with authority.

Therefore, the Waugh Site Plan was validly approved, contrary to the Determination Letter.

II. THE TIME PERIOD FOR THE COUNTY TO OVERTURN A DECISION OF AN AUTHORIZED OFFICIAL RAN ON APRIL 16, 2008.

The approval of the 2008 Waugh Site Plan carried significant legal consequences, and by itself created a vested property right in the owner of the Waugh Self Storage Site that cannot be altered by any county official more than 60 days after it was made, or April 16, 2008. After that time the Waugh Site Plan became a final “written order, requirement, decision or determination made by the zoning administrator or other administrative officer” irrespective of whether it should have been approved under the then (or current) Orange County Zoning Ordinance. As the County took no action to reverse it within 60 days of the Order, county officials are now barred from challenging it. The very purpose of Va. Code Ann. § 15.2-2311(C) was to protect property owners from ex post facto redeterminations of their rights once a reasonable period of time had passed, and was specifically worded to create a vested right in a property owner even in those circumstances where the locality had made a mistake.

Notably, when asked for confirmation as to the Waugh Site Plan’s continuing validity, Mr. Frederick initially concurred that it was indeed valid in March of 2016. Assuming for a moment that the original Site Plan approval was not a vesting act, this concurrence would itself qualify under the statute as a decision not subject to reversal after 60 days. Indeed, both the Waugh Site Plan and Mr. Frederick’s email of March 17, 2016, are unchallengeable determinations made in writing, authorized by County officials, which create vested rights in the

validity of the plan submitted. Having been twice deemed valid effective February 15, 2008, pursuant to Virginia Code § 15.2-2209.1, the Waugh Site Plan continues in full validity and any Determination to the contrary is in error.

III. YATES PROPERTIES' RELIANCE ON THE ACTIONS OF THE COUNTY OFFICIALS IS SUFFICIENT UNDER VIRGINIA CODE § 15.2-2311(C).

The third and final reason provided in the Zoning Determination for declaring the Waugh Site Plan Void is that “[n]o actions have been taken on behalf of the owner or other party in pursuit of the site plan.” This statement is both inaccurate and legally insufficient for a declaration that the site plan is void. Pursuant to Virginia Code § 15.2-2311(C), vested rights attach to a decision or determination of an authorized official where the “aggrieved has materially changed his position in good faith reliance on the action[.] Unlike the requirements of §15.2-2307, which requires the landowner to “incur extensive obligation or substantial expenses in diligent pursuit of the specific project” for rights to vest, 15.2-2311(C) merely requires good faith reliance upon the act of the county official with authority. Yates has, in good faith, relied on the approval of the Site Plan. After holding the property through the ‘Great Recession’ Yates Properties intends to push forward with improvement, having re-engaged its engineer and taken material steps toward improvement.¹²

Still further, the provisions of Va. Code Ann. § 15.2-2209.1, discussed below, render immaterial whether there had been any kind of diligent pursuit of the Waugh Site Plan following its unchallengeable approval. That statute, as described, protects certain previously approved site plans and extends their validity as a matter of law.

¹² In City of Suffolk v. Board of Zoning Appeals, 266 Va. 137 (2003) the Virginia Supreme Court found that adverse economic conditions form a valid reason for delay in the commencement of a project that has vested. Financial difficulties are a justification for such delay.

IV. THE VIRGINIA GENERAL ASSEMBLY HAS BY LAW EXTENDED THE VALIDITY OF ANY SITE PLAN THAT WAS VALID AS OF JANUARY 1, 2009, UNTIL JULY 1, 2017, TO INCLUDE THE WAUGH SITE PLAN.

Because the Waugh Site Plan is now an unchallengeable determination made in writing by an authorized County official, then it is vested. This is of great significance because that Site Plan is also subject to the provisions of §15.2-2209.1, which statutorily – and mandatorily – extends the validity of site and subdivision plans.

That statute was originally enacted at the 2009 session of the General Assembly and extended the lifetime of any site plan that was valid as of January 1, 2009, to July 1, 2014. The statute was amended further at the 2011 session, in nonmaterial ways, but in 2012 the legislature again amended that statute to provide that any site or subdivision plan that had been valid on January 1, 2011 remains valid until July 1, 2017.

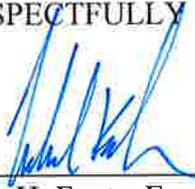
The Waugh Site Plan, because approved in February 2008, and as set forth above became a vested property right in April of that year, was in fact valid on January 1, 2009. Thanks to the amendments to § 15.2-2209.1 the validity of that site plan was yet further extended until next summer. Construction may therefore commence consistently with that site plan at any time during its validity.¹³

¹³ To extent necessary, Yates denies that any issues raised by either Mr. Frederick or Mr. Lacheney other than those in the Determination Letter have any bearing on the validity of the Waugh Site Plan. For example, there was a 1984 variance granted to the property, but its validity is not now subject to challenge (having been subject to a 30 day appeal period that passed without appeal), nor can the County now seek to apply its zoning ordinance retroactively to the Waugh Site Plan in attempt to bar construction by refusal to issue applicable building permits or certificates of occupancy. Finally, while it appears that the Zoning Administrator may have withdrawn a previously stated position on this issue, there is no question that Virginia Code § 15.2-2209.1 applies to all site and subdivision plans, and not just residential ones.

Conclusion

For the reasons stated herein, Yates Properties of Madison, L.C. respectfully requests that the BZA reverse the Zoning Determination of November 8, 2016, and confirm the validity of the February 15, 2008, Final Site Plan for the Waugh Self Storage Site.

RESPECTFULLY SUBMITTED,



John H. Foote, Esq., VSB No. 14336
Michael J. Kalish, Esq., VSB No.
Walsh, Colucci, Lubeley & Walsh, PC
4310 Prince William Parkway, Suite 300
Prince William, Virginia 22192
(o) 703-680-4664
(f) 703-680-2161
jfoote@thelandlawyers.com
mkalish@thelandlawyers.com

*Counsel for Yates Properties of Madison, LC
and Gregory Yates*

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 2016, this Appeal to the Orange County Board of Appeals was sent via FedEx to the following:

Orange County Board of Zoning Appeals
c/o Josh Frederick, Director
128 West Main Street
Orange, Virginia 22960



Michael Kalish

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

November 8th, 2016

VIA EMAIL

Walsh, Colucci, Lubeley, & Walsh, PC
ATTN: John Foote (jfoote@thelandlawyers.com)
4310 Prince William Pkwy, Suite 300
Woodbridge, VA 22192-5199

RE: Zoning Determination – tax parcel 57-12B; Waugh Self Storage property

John,

This letter is an official determination in response to your 11/3/16 letter regarding the Waugh Self Storage property in Orange County (tax parcel 57-12B – 13236 Liberty Rd). You have asserted that the site plan (final date 12/24/07) “approved” on 2/15/08, showing two additional storage unit buildings on the property, is a validly-approved site plan. My determination is that the “approval” of that site plan is void for the following reasons:

1. The plan was signed by a representative of the county (a code inspector) that did not have the authority to give such approval. Only the Zoning Administrator may give such approvals, thus the plan never had a valid approval.
2. The site plan showed the 2 proposed storage unit buildings clearly encroaching into the minimum 100’ setback required from the Route 15 right-of-way, pursuant to the Zoning Ordinance at that time and currently. Even if the site plan had a valid approval signature, the county cannot approve something that is blatantly in violation of the county code.
3. No action has been taken on behalf of the owner or another party in pursuit of this site plan, thus there are no vested rights with regards to the plan.

Any future construction on the property must obtain new site plan approval.

Please be advised that § 15.2-2311 of the Code of Virginia allows for any person aggrieved by a decision of the Zoning Administrator to appeal that decision by filing a petition in this department with the Board of Zoning Appeals (BZA) specifying the grounds for appeal. This petition must be filed within 30 days of the date of this determination or the decision shall be considered final and unappealable. Should you proceed with an appeal, there is a fee as well as an application available upon request.

Sincerely,

Josh Frederick
Director of Planning & Zoning

Cc: File



Alert to corporations regarding unsolicited mailings from VIRGINIA COUNCIL FOR CORPORATIONS is available from the Bulletin Archive link of the Clerk's Office website.

SCC Home
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Site Map
Search



Virginia.gov



12/04/16

12:24:23

LLCM3220 LLC DATA INQUIRY

LLC ID: S024933 - 6 STATUS: 00 ACTIVE STATUS DATE: 11/18/98
LLC NAME: YATES PROPERTIES OF MADISON, L.C.

DATE OF FILING: 12/22/1997 PERIOD OF DURATION: 01/01/2050 INDUSTRY CODE: 00
STATE OF FILING: VA VIRGINIA MERGER INDICATOR:

CONVERSION/DOMESTICATION INDICATOR:

P R I N C I P A L O F F I C E A D D R E S S

STREET: 13166 DEER RIDGE RD

CITY: CULPEPER STATE: VA ZIP: 22701-0000

R E G I S T E R E D A G E N T I N F O R M A T I O N

R/A NAME: GREGORY M YATES

STREET: 13166 DEER RIDGE RD

RTN MAIL:

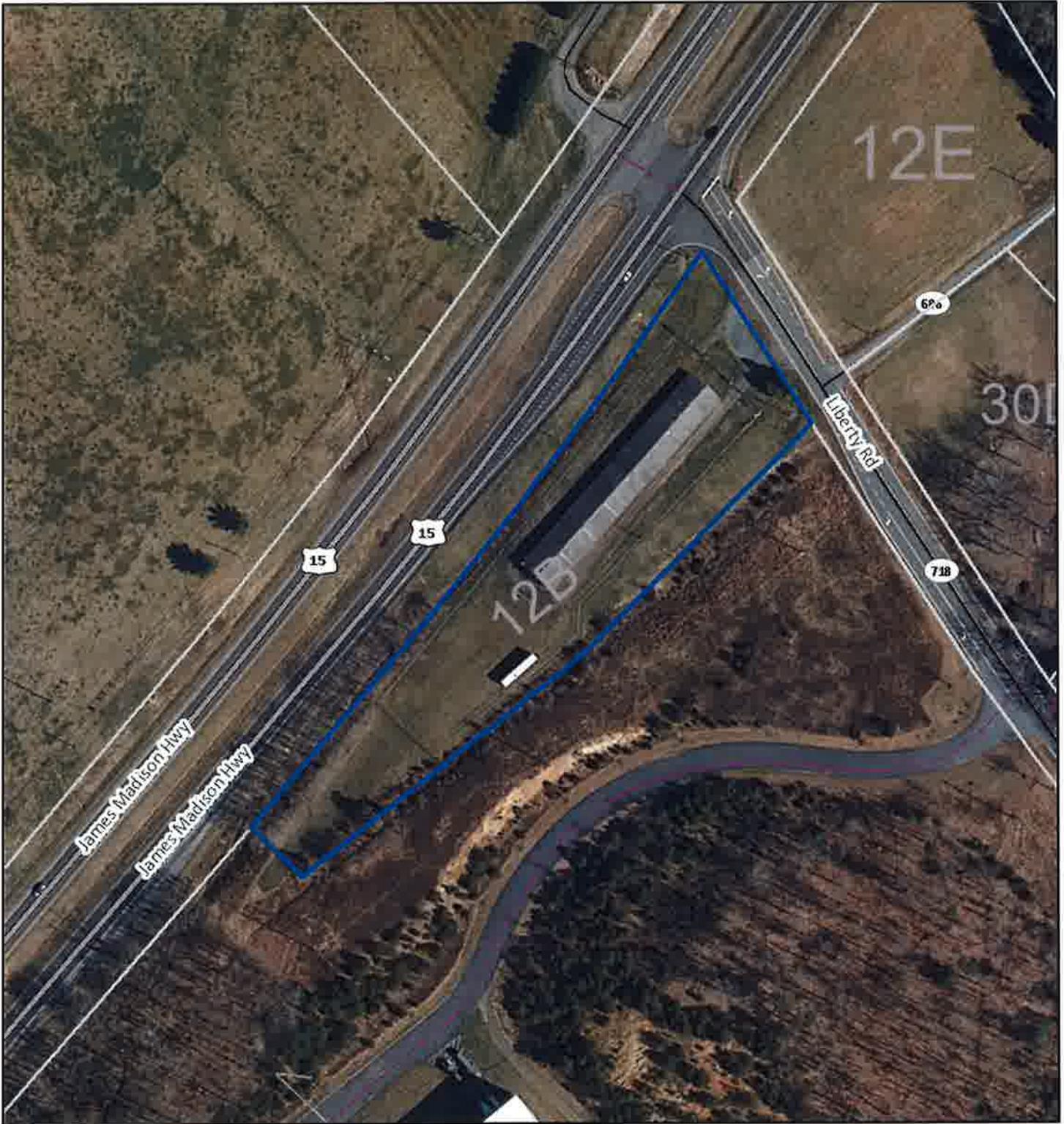
CITY: CULPEPER STATE: VA ZIP: 22701-0000

R/A STATUS: 1 MEMBER/MANAGER EFF DATE: 12/22/97 LOC: 123 CULPEPER COUNTY

YEAR	FEES	PENALTY	INTEREST	BALANCE
16	50.00			

(Screen Id:/LLC_Data_Inquiry)





December 4, 2016

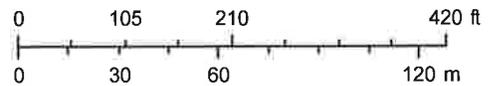
1:2,257

polygonLayer

- Override 1
- Tax Parcel
- Driveway
- USGS Waterbodies
- USGS Flowlines (Streams)

Roads

- Primary
- Secondary
- Private
- Annotation Polygon
- Annotation Polyline
- Subdivision Boundary

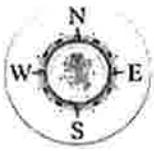


Source: Esri, DigitalGlobe, GeoEye, Earthstar DS, USDA, USGS, AeroGRID, IGN, and the GIS

EXHIBIT

3

tabbles



N/A

Parcel Information

Parcel Number: 0570000000012B	Structure Address: N/A
Owner Name: YATES PROPERTIES OF MADISON LC N/A	Description 1: 57-12B BREEDEN
Owner Address: 13166 DEER RIDGE RD N/A	Description 2: PC C-170
Owner City: CULPEPER	Description 3: DB#080003742
Owner State: VA	Description 4: N/A
Owner Zip: 22701	Parcel Size: 3.000
	Zoning: C2

Valuation Information

Assessed Improvements Value: \$166,200	Last Sale Date: 05/02/2008
Assessed Land Value: \$170,700	Last Sale Price: N/A
Land Use Value*: N/A	
Total Property Value: \$336,900	
C.O.R. Comments: WAUGH SELF STORAGE N/A	
C.O.R. Comments: N/A N/A SEE NOTES	

** If the Land Use Value is less than the Assessed Land Value, the property is enrolled in the Use Value Taxation Program.
Contact the Orange County Commissioner of the Revenue for the complete valuation information.*

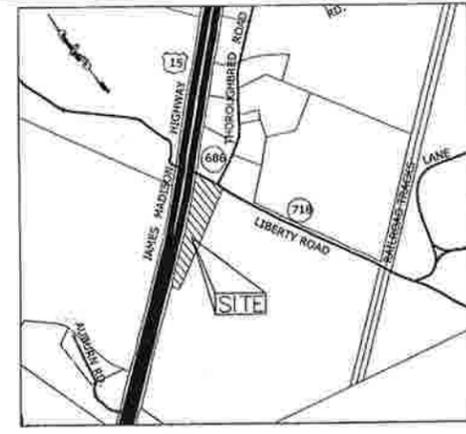
Building Information

Structure Type: Commercial	Basement: None
Year Built: 1986	Basement, % Finished: N/A
Square Footage: 10720	Interior Wall Type: Unfinished
# of Bedrooms: N/A	Flooring Type: N/A
# of Full Baths: N/A	Heat Type: N/A
# of Half Baths: N/A	Heat Source: N/A
Total # of Rooms: N/A	# of Fireplaces: N/A
# of Stories: 1	Air Conditioning? (Y/N):
Roof Type: Gable	Garage Type; # of Bays:
Roof Material: Comp. Shingle-Asph	Carport: None
Foundation Type: Slab	Water: None
Exterior Wall Type: Cinderblock	Sewer: None

Approved For Construction
 DAVID B. GRAYNER - Director of Community Development
 2-15-08

SITE PLAN FOR WAUGH'S SELF STORAGE

DISTRICT 2 WEST PRECINCT
 ORANGE COUNTY, VIRGINIA



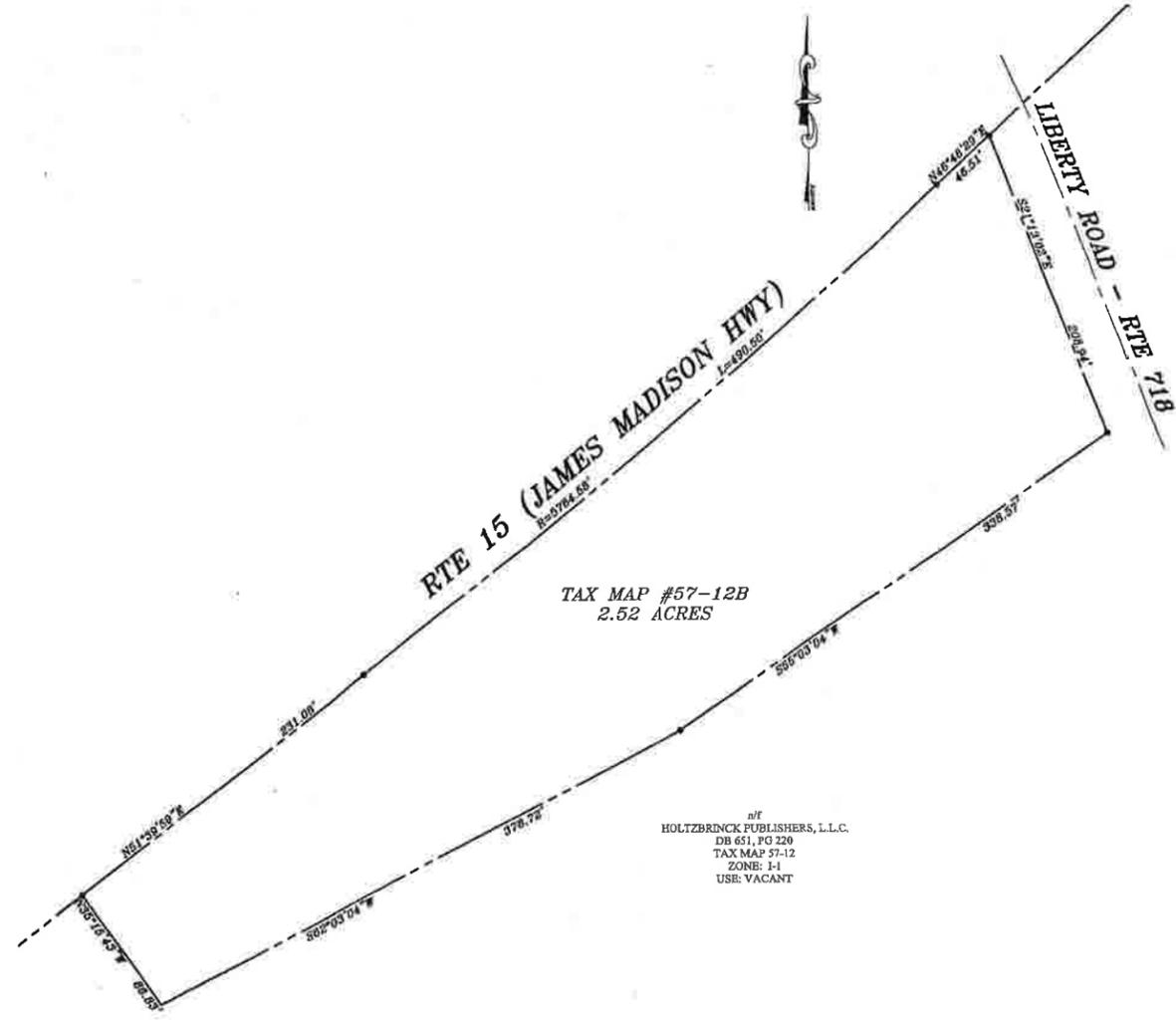
VICINITY MAP
 1" = 500'

Huntley, Nyce & Associates, Ltd.
 SURVEYING - CIVIL ENGINEERING - LAND PLANNING
 400 SOUTH MAIN STREET
 SUITE 302
 LEESBURG, VIRGINIA 22701
 540-825-0305
 703-779-4016



GENERAL NOTES

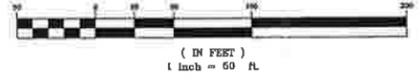
- All construction shall conform to existing State and County building codes. It is the contractor's responsibility to be aware of all applicable standards and specifications as well as required methods of construction. The contractor shall furnish all materials, labor, and equipment to perform all work, including restoration, for the completed installation of all improvements shown hereon or implied as necessary to complete the proposed improvements.
- The contractor or his agent shall be responsible for digging test pits to determine the exact location of any existing underground utilities prior to the beginning of construction. In particular, test pits adjacent to existing high pressure gas mains shall be performed in the presence of a gas company representative and shall be hand dug according to their instruction. Utilities shown hereon are based on available information.
- No title report was furnished. However, this property is subject to any existing easements, covenants and servitudes of record.
- All erosion and sediment control practices shall be constructed and maintained in accordance with the minimum standards and specifications of the latest Virginia Erosion and Sediment Control Handbook and county ordinances. Removal of said controls shall be authorized by County Inspector but, at least, shall not be removed until permanent vegetative cover is established on all disturbed areas.
- Construction should be sequenced so that grading operations can begin and end as quickly as possible. Sediment trapping measures, such as silt fences, shall be installed and made functional before any land disturbing activity begins.
- Prior to development, the limits of clearing shall be clearly marked on the property and suitable protective barriers shall be erected five (5) feet outside the dripline of any tree or stand of trees to be preserved within 100 feet of the construction footprint. The barriers shall remain erected throughout all phases of construction. The storage of equipment, materials, debris or fill shall not be allowed within the area protected by the barrier.
- Engineered fill and backfill shall be approved select materials and shall be placed in six to eight inch layers and compacted to optimum moisture, plus or minus two percent, to a density of not less than 95 percent in accordance with A.A.S.H.T.O. T-99 or A.S.T.M. D-698.
- No subsurface investigation has been performed by Huntley, Nyce & Associates Ltd. to attest to the soil conditions or the presence of toxic or contaminated waste.
- It shall be the responsibility of the contractor or developer to have sufficient soils and foundation testing performed to determine that the support values and C.B.R.'s are adequate for the standards shown on this plan.
- All construction involving problem soils must be performed under the full-time inspection of a professional geotechnical engineer.
- The contractor shall perform necessary grading to preclude the ponding of water on vehicular travelways and buildable areas.
- There are no known gravesites on this site. In the event gravesites are discovered during construction, the County Planning Office should be notified immediately. All activities must cease and shall not resume until authorization to proceed is granted by the County Planning Office. Gravesites shall be protected in accordance with state law.
- Prior to clearing and grading on slopes 25% or greater, all surface drainage will be routed away from the area to be graded.
- All fill materials and their subgrade will be approved by the soils engineer for this site.
- No portion of the land hereon is located in any of the F.I.R.M. special floodplain zones, as indicated on Flood Insurance Rate Map (FIRM) number 5102030035B, effective date: September 10, 1984. The project sits within zone "C", "areas of minimal flooding"
- All wetland permits required by federal, state, and local laws and regulations shall have been obtained prior to initiating grading or any other on-site land disturbing activity.
- The developer shall be responsible for the relocation of any utilities which is required as a result of this project. The relocation should be done prior to construction.
- The developer shall be responsible for any damage to the existing streets and utilities which occurs as a result of this project within or contiguous to the existing right-of-way.
- Road improvements, if required, shall be in conformance with standards and specifications of the Virginia Department of Transportation and County of Orange.
- There are no known historic buildings or features on site.
- At the time of this submission, it is the applicant's intent to utilize wall mounted site lighting as shown on the architectural plans. They shall consist of full cut-off lighting fixtures mounted horizontal to the ground. All outdoor lighting shall be contained on the site and not spill over onto adjacent properties or streets. All outdoor lighting shall be shielded, recessed or flush - mounted to eliminate glare. All outdoor lighting shall achieve an incandescent effect.



TAX MAP #57-12B
 2.52 ACRES

HOLTZBRINCK PUBLISHERS, L.L.C.
 DB 651, PG 226
 TAX MAP 57-12
 ZONE: I-1
 USE: VACANT

BOUNDARY AND ADJOINER
 INFORMATION
 1" = 50'
 GRAPHIC SCALE



THE PROPERTY SHOWN HEREON IS NOW IN THE NAME OF MADISON, LLC (TAX MAP PARCEL 57-12B) AND WAS ACQUIRED AND RECORDED AT INSTRUMENT #07063166 IN THE LAND RECORDS OF ORANGE COUNTY, VIRGINIA.
 ENGINEER: [Signature] LICENSE NUMBER: P677596 DATE: 1-30-08

SITE PLAN NOTES

- SITE IDENTIFICATION - TAX MAP 57-12B
- TOTAL SITE AREA = 2.52 ACRE
 DISTURBED AREA = 1.29 ACRE
- OWNER: MADISON LLC
 13166 DEER RIDGE ROAD
 CULPEPER, VA, 22701
- APPLICANT: GREGORY M. YATES
 13166 DEER RIDGE ROAD
 CULPEPER, VA, 22701
- PROPOSED DEVELOPMENT: SELF STORAGE FACILITIES
- TOPOGRAPHICAL INFORMATION FROM A SURVEY BY HUNTLEY, NYCE & ASSOCIATES, LTD.
- BOUNDARY INFORMATION FROM A SURVEY BY HUNTLEY, NYCE & ASSOCIATES, LTD.
- ZONING: C2
 PROPOSED USE: SELF STORAGE
 SETBACKS: FRONT: 50' FROM ROW (RTE 15 SOUTH OF ORANGE) (WAIVER OBTAINED)
 SIDE: 35' (SECONDARY ROAD)
 REAR: 20' (INDUSTRIAL DISTRICT)
- MAXIMUM BUILDING HEIGHT: 100' ALLOWED
 10' PROPOSED
- PARKING REQUIRED: N/A
 PARKING PROVIDED: 12 STANDARD PARKING SPACES
 TOTAL = 12
- PROPOSED BUILDING: 1-6000 SF
 1-6900 SF
 TOTAL: 12,900 SF SELF STORAGE BUILDING.
- NO WATER AND SANITARY SEWER SERVICES ARE PROPOSED FOR THIS SITE.

PREPARED FOR:
 YATES PROPERTIES
 13116 DEER RIDGE ROAD
 CULPEPER, VA 22701
 540-825-7500

SHEET INDEX

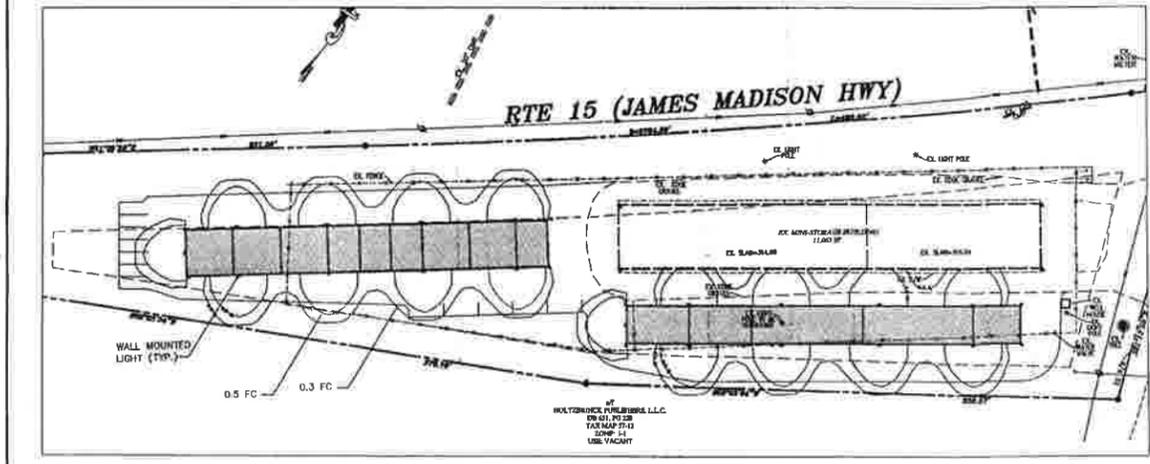
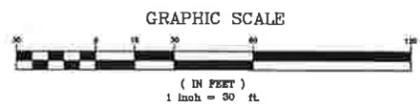
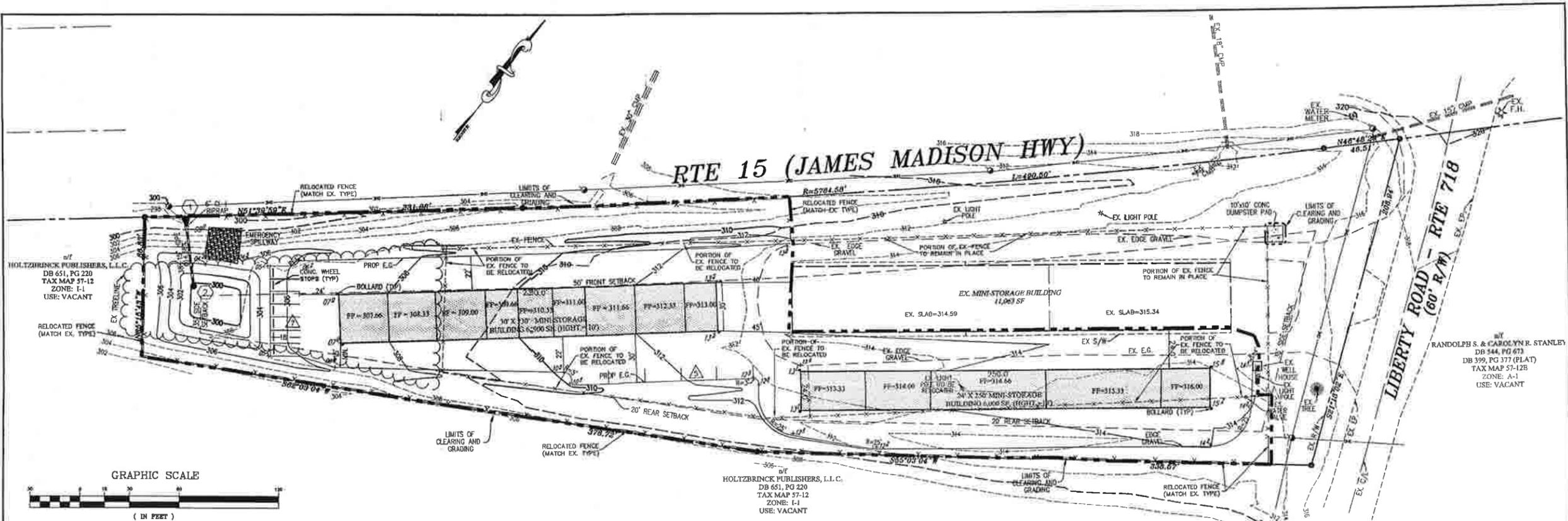
- COVER SHEET
- GRADING PLAN AND PROFILES
- EROSION AND SEDIMENT CONTROL PLAN - PHASE I
- EROSION AND SEDIMENT CONTROL PLAN - PHASE II
- EROSION AND SEDIMENT NOTES AND DETAILS
- DRAINAGE AREA MAPS AND SOILS MAP
- STORM WATER MANAGEMENT COMPUTATIONS
- STORM WATER MANAGEMENT NOTES AND DETAILS

RECEIVED
 FEB - 1 2008
 County of Orange
 Planning & Zoning Department

SCALE:	AS SHOWN
DATE:	07-16-2007
REVISIONS:	
ADDRESS COMMENTS:	12-24-07

WAUGH'S SELF STORAGE
 TAX MAP 57-12B
 DISTRICT 2 WEST PRECINCT, ORANGE COUNTY, VA
 COVER SHEET

EXHIBIT
 4



LIGHTING DIAGRAM
SCALE: 1"=50'

8" (203 mm) PERIMETER CUTOFF

EFFICIENCY = 98.8%

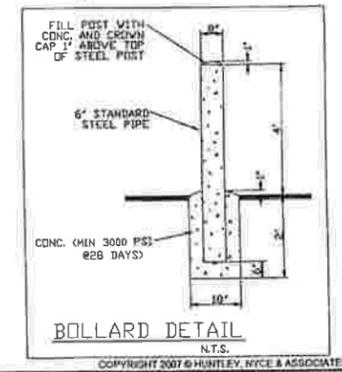
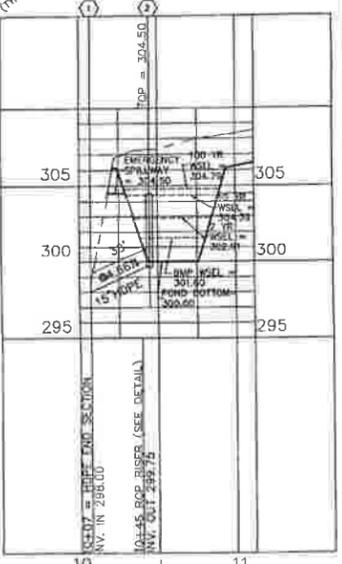
RUUD LIGHTING

8" (203 mm) PERIMETER CUTOFF

Maximum Allowable Mounting Height (ft.)

Mounting Height (ft.)	Efficiency (%)
10	98.8
12	98.8
14	98.8
16	98.8
18	98.8
20	98.8
22	98.8
24	98.8
26	98.8
28	98.8
30	98.8
32	98.8
34	98.8
36	98.8
38	98.8
40	98.8
42	98.8
44	98.8
46	98.8
48	98.8
50	98.8

RUUD LIGHTING



Huntley, Nye & Associates, Ltd.
SURVEYING - CIVIL ENGINEERING - LAND PLANNING
ADDRESS: VIRGINIA
400 SOUTH MAIN STREET
SUITE 302
CULPEPER, VIRGINIA 22701
703-774-1600
940-662-0886

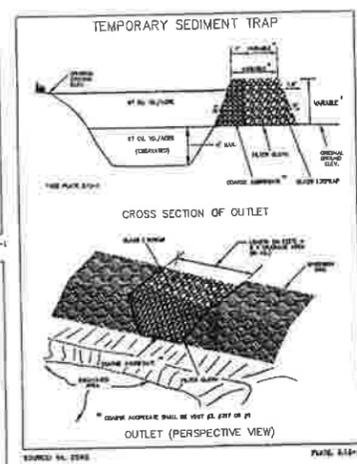
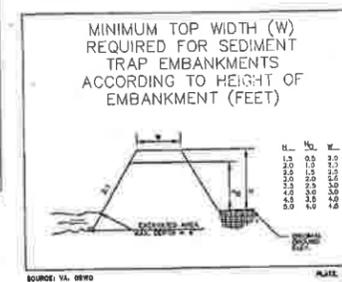
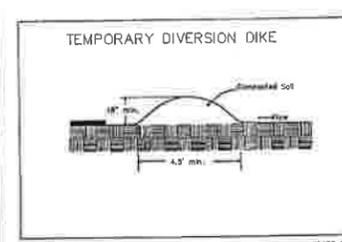
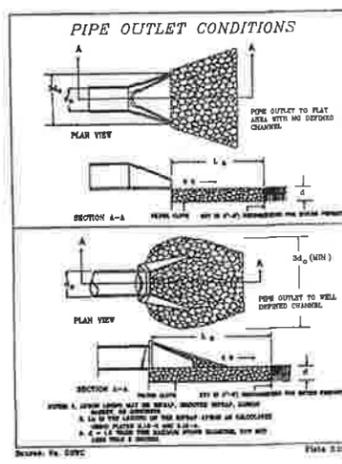
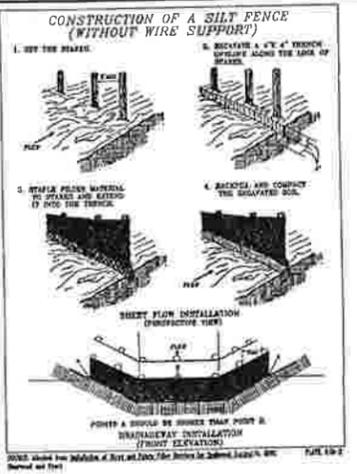
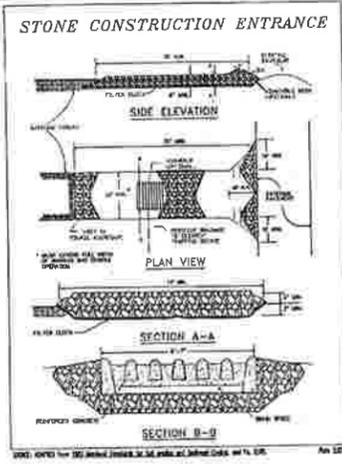
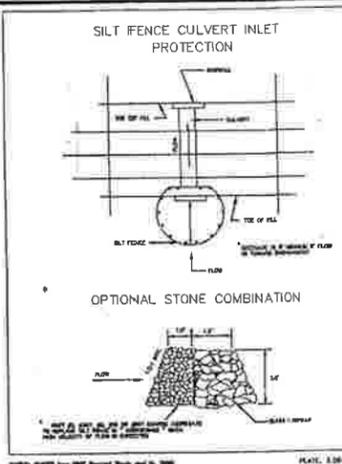


WAUGH'S SELF STORAGE
TAX MAP 57-12B
DISTRICT 2 WEST PRECINCT, ORANGE COUNTY, VA
GRADING PLAN

SCALE: 1"=30'
DATE: 07-16-2007
REVISIONS:
ADDRESS COMMENTS:
01-30-08
SHEET 2 OF 8
FILE NO. 7477

VESCH MINIMUM STANDARDS

- PERMANENT OR TEMPORARY SOIL STABILIZATION SHALL BE APPLIED TO DENUDED AREAS WITHIN SEVEN DAYS AFTER FINAL GRADE IS REACHED ON ANY PORTION OF THE SITE. TEMPORARY SOIL STABILIZATION SHALL BE APPLIED WITHIN SEVEN DAYS TO DENUDED AREAS THAT MAY NOT BE AT FINAL GRADE BUT WILL REMAIN DORMANT FOR LONGER THAN 30 DAYS. PERMANENT STABILIZATION SHALL BE APPLIED TO AREAS THAT ARE TO BE LEFT DORMANT FOR MORE THAN ONE YEAR.
- DURING CONSTRUCTION OF THE PROJECT, SOIL STOCKPILES AND BORROW AREAS SHALL BE STABILIZED OR PROTECTED WITH SEDIMENT TRAPPING MEASURES. THE APPLICANT IS RESPONSIBLE FOR THE TEMPORARY PROTECTION AND PERMANENT STABILIZATION OF ALL SOIL STOCKPILES ON SITE AS WELL AS BORROW AREAS AND SOIL INTENTIONALLY TRANSPORTED FROM THE PROJECT SITE.
- A PERMANENT VEGETATIVE COVER SHALL BE ESTABLISHED ON DENUDED AREAS NOT OTHERWISE PERMANENTLY STABILIZED. PERMANENT VEGETATION SHALL NOT BE CONSIDERED ESTABLISHED UNTIL A GROUND COVER IS ACHIEVED THAT IS UNIFORM, MATURE ENOUGH TO SURVIVE AND WILL INHIBIT EROSION.
- SEDIMENT BASINS AND TRAPS, PERIMETER DIKES, SEDIMENT BARRIERS AND OTHER MEASURES INTENDED TO TRAP SEDIMENT SHALL BE CONSTRUCTED AS A FIRST STEP IN ANY LAND-DISTURBING ACTIVITY AND SHALL BE MADE FUNCTIONAL BEFORE UPSLOPE LAND DISTURBANCE TAKES PLACE.
- STABILIZATION MEASURES SHALL BE APPLIED TO EARTHEN STRUCTURES SUCH AS DAMS, DIKES, AND DIVERSIONS IMMEDIATELY AFTER INSTALLATION.
- SEDIMENT TRAPS AND SEDIMENT BASINS SHALL BE DESIGNED AND CONSTRUCTED BASED UPON THE TOTAL DRAINAGE AREA TO BE SERVED BY THE TRAP OR BASIN.
 - The minimum storage capacity of a sediment trap shall be 134 cy per acre of drainage area and the trap shall only collect drainage areas less than three acres.
 - Surface runoff from disturbed areas that is comprised of flow from drainage areas greater than or equal to three acres shall be controlled by a sediment basin. The minimum storage capacity of a sediment basin shall be 134 cy per acre of drainage area. The outfall system shall, at a minimum, maintain the structural integrity of the basin during a twenty-five year storm of 24-hour duration.
- CUT AND FILL SLOPES SHALL BE DESIGNED AND CONSTRUCTED IN A MANNER THAT WILL MINIMIZE EROSION. SLOPES THAT ARE FOUND TO BE ERODING EXCESSIVELY WITHIN ONE YEAR OF PERMANENT STABILIZATION SHALL BE PROVIDED WITH ADDITIONAL SLOPE STABILIZING MEASURES UNTIL THE PROBLEM IS CORRECTED.
- CONCENTRATED FLOW SHALL NOT FLOW DOWN CUT OR FILL SLOPES UNLESS CONTAINED WITHIN AN ADEQUATE TEMPORARY OR PERMANENT CHANNEL, FLUME OR SLOPE DRAIN STRUCTURE.
- WHENEVER WATER SEEPS FROM A SLOPE FACE, ADEQUATE DRAINAGE OR OTHER PROTECTION SHALL BE PROVIDED.
- ALL STORM SEWER INLETS THAT ARE MADE OPERABLE DURING CONSTRUCTION SHALL BE PROTECTED SO THAT SEDIMENT-LOADED WATER CANNOT ENTER THE CONVEYANCE SYSTEM WITHOUT FIRST BEING FILTERED OR OTHERWISE TREATED TO REMOVE SEDIMENT.
- BEFORE NEWLY CONSTRUCTED STORMWATER CONVEYANCE CHANNELS OR PIPES ARE MADE OPERATIONAL, ADEQUATE OUTLET PROTECTION AND ANY REQUIRED TEMPORARY OR PERMANENT CHANNEL LINING SHALL BE INSTALLED IN BOTH THE CONVEYANCE CHANNEL AND RECEIVING CHANNEL.
- WHEN WORK IN A LIVE WATERCOURSE IS PERFORMED, PRECAUTIONS SHALL BE TAKEN TO MINIMIZE ENCROACHMENT, CONTROL SEDIMENT TRANSPORT AND STABILIZE THE WORK AREA TO THE GREATEST EXTENT POSSIBLE DURING CONSTRUCTION. NONERODIBLE MATERIAL SHALL BE USED FOR THE CONSTRUCTION OF CAUSEWAYS AND COFFERDAMS. EARTHEN FILL MAY BE USED FOR THESE STRUCTURES IF ARMORED BY NONERODIBLE COVER MATERIALS.
- WHEN A LIVE WATERCOURSE MUST BE CROSSED BY CONSTRUCTION VEHICLES MORE THAN TWICE IN ANY SIX-YEAR PERIOD, A TEMPORARY VEHICULAR STREAM CROSSING CONSTRUCTED OF NON-ERODIBLE MATERIAL SHALL BE PROVIDED.
- ALL APPLICABLE FEDERAL, STATE AND LOCAL REGULATIONS PERTAINING TO WORKING IN OR CROSSING LIVE WATERCOURSES SHALL BE MET.
- THE BED AND BANKS OF A WATERCOURSE SHALL BE STABILIZED IMMEDIATELY AFTER WORK IN THE WATERCOURSE IS COMPLETED.
- UNDERGROUND UTILITY LINES SHALL BE INSTALLED IN ACCORDANCE WITH THE STANDARDS SET FORTH IN THE VESCH, CHAPTER 9, PG.22.
- WHERE CONSTRUCTION VEHICLE ACCESS ROUTES INTERSECT PAVED OR PUBLIC ROADS, PROVISIONS SHALL BE MADE TO MINIMIZE THE TRANSPORT OF SEDIMENT BY VEHICULAR TRACKING ONTO THE PAVED SURFACE. WHERE SEDIMENT IS TRANSPORTED ONTO A PAVED OR PUBLIC ROAD SURFACE, THE ROAD SURFACE SHALL BE CLEANED THOROUGHLY AT THE END OF EACH DAY. SEDIMENT SHALL BE REMOVED FROM THE ROADS BY SHOVELING OR SWEEPING AND TRANSPORTED TO A SEDIMENT CONTROL DISPOSAL AREA.
- ALL TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES SHALL BE REMOVED WITHIN 30 DAYS AFTER FINAL SITE STABILIZATION OR AFTER THE TEMPORARY MEASURES ARE NO LONGER NEEDED, UNLESS OTHERWISE AUTHORIZED BY THE LOCAL PROGRAM AUTHORITY. TRAPPED SEDIMENT AND THE DISTURBED SOIL AREAS RESULTING FROM THE DISPOSITION OF TEMPORARY MEASURES SHALL BE PERMANENTLY STABILIZED TO PREVENT FURTHER EROSION AND SEDIMENTATION.
- PROPERTIES AND WATERWAYS DOWNSTREAM FROM DEVELOPMENT SITES SHALL BE PROTECTED FROM SEDIMENT DEPOSITION, EROSION AND DAMAGE DUE TO INCREASES IN VOLUME, VELOCITY AND PEAK FLOW RATE OF STORMWATER RUNOFF FOR THE STATED FREQUENCY STORM OF 24-HOUR DURATION IN ACCORDANCE WITH THE STANDARDS SET FORTH IN THE VESCH, CHAPTER 9 (MINIMUM STANDARDS) PG. 23.



NOTE: THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE INSTALLATION OF ANY EROSION CONTROL MEASURES NOT SHOWN ON THIS PLAN THAT ARE DEEMED NECESSARY BY THE APPROVING AUTHORITY AND OR SITE INSPECTOR.

PHASE ONE - EROSION AND SEDIMENT CONTROL
12/24/2007
TEMPORARY SEDIMENT TRAP DESIGN SCHEDULE
(Proposed)

WER No.	DRAINAGE AREA	STORAGE REQUIRED		STORAGE PROVIDED		WET STORAGE DIMENSIONS (LxWxH)			H HEIGHT OF BERM	H ₀ WEIR HEIGHT	W TOP WIDTH	L WEIR LENGTH	DRY STORAGE DIMENSIONS (LxWxH)			AREA @ BERM OUTLET HEIGHT	ELEV. TOP OF WEIR	OUTLET ELEV.	ELEV. TOP OF BERM
		WET (CY)	DRY (CY)	WET (CY)	DRY (CY)	L (ft)	W (ft)	DEPTH (ft)					L (ft)	W (ft)	DEPTH (ft)				
1	1.20	80	80	83	111	55.00'	40.00'	1.20'	2.2	1.2	2.5	7	61.00'	48.00'	1.20'	2806	305.70	304.50	306.70

EROSION & SEDIMENT CONTROL NARRATIVE

PROJECT DESCRIPTION: THE SITE, CONSISTING OF 2.52 ACRES TOTAL, IS LOCATED IN ORANGE COUNTY WITH ROAD FRONTAGE ALONG THE SOUTH SIDE OF V.A. ROUTE 15 (JAMES MADISON HWY.) AND THE WESTERN SIDE OF RTE. 718 (LIBERTY RD.) THIS PROJECT WILL DISTURB APPROXIMATELY 1.20 ACRES.

EXISTING SITE CONDITIONS: THE PROPERTY IS PREDOMINANTLY OPEN WITH SOME MIXED EVERGREENS & HARDWOODS. THE MAJORITY OF THE TOPOGRAPHY IS MODERATE WITH SLOPES RANGING FROM 1.5% TO 50%. THERE IS AN EXISTING SELF STORAGE BUILDING WITH ASSOCIATED GRAVEL TRAVEL AREAS, ALL OF WHICH APPEAR TO BE IN STABLE CONDITION.

ADJACENT PROPERTY: THE SITE IS BOUNDED BY RTE. 718 & RTE. 15 TO THE EAST AND NORTH RESPECTIVELY, AND EXISTING INDUSTRIAL ZONED PROPERTY TO THE SOUTH AND WEST WHICH IS VACANT, ALL WHICH APPEAR TO BE IN STABLE CONDITION.

SOILS DATA: SEE SOILS MAP ON SHEET 6 OF THE PLANS.

CRITICAL EROSION AREAS: THERE ARE NO KNOWN CRITICAL EROSION AREAS ASSOCIATED WITH THIS PROJECT, ALTHOUGH SPECIAL ATTENTION SHOULD BE GIVEN TO ALL FILL SLOPES TO ENSURE IMMEDIATE STABILIZATION UPON COMPLETION OF FILL OPERATIONS.

EROSION AND SEDIMENT CONTROL MEASURES: SUITABLE EROSION CONTROL MEASURES WILL BE EXERCISED DURING THE COURSE OF CONSTRUCTION AS SPECIFIED HEREON. SILT FENCES HAVE BEEN SHOWN DOWNSLOPE FROM DISTURBED AREAS. SOIL STOCKPILES ESTABLISHED IN THE FIELD DURING CONSTRUCTION SHALL BE STABILIZED AND PROTECTED BY SILT FENCE.

TEMPORARY AND PERMANENT SOIL STABILIZATION: ALL CUT AND FILL SLOPES ARE TO BE STABILIZED IMMEDIATELY UPON COMPLETION IN ACCORDANCE WITH MINIMUM STANDARD NO. 5. AREAS NOT TO BE PAVED SHALL RECEIVE PERMANENT SEEDING AND MULCHING IN ACCORDANCE WITH SPEC 3.32. DISTURBED AREAS THAT WILL NOT BE BROUGHT TO FINAL GRADE FOR A PERIOD OF MORE THAN 30 DAYS SHALL RECEIVE TEMPORARY SEEDING AND MULCHING IN ACCORDANCE WITH SPEC 3.31. SEE SEEDING REQUIREMENTS, THIS SHEET.

PHASING OF LAND DISTURBING ACTIVITIES:

- PHASE 1**
- INSTALL CONSTRUCTION ENTRANCE, SILT TRAP AND PERIMETER CONTROLS.
 - COMMENCE CLEARING AND GRADING FOR THE SITE.
 - TEMPORARY SEEDING AND MULCH SHALL BE ADDED TO ALL AREAS NOT COVERED BY STONE BASE FOR TRAVELWAYS, PARKING & STORAGE AREAS.
- PHASE 2**
- BRING TRAVELWAYS AND PARKING AREAS TO FINAL GRADE AND APPLY STONE BASE.
 - ONCE THE SITE HAS BEEN STABILIZED, THE TEMPORARY SEDIMENT TRAP MAY BE REMOVED AND CONVERTED INTO THE PERMANENT SWM POND.
 - ONCE A SOIL TEST HAS BEEN COMPLETED, LIME, FERTILIZER, PERMANENT SEEDING AND MULCH SHALL BE ADDED TO ALL AREAS NOT COVERED BY STONE BASE FOR VEHICULAR TRAVELWAYS, PARKING AREAS, OR WITHIN PROPOSED BUILDING FOOTPRINTS.

ALL CONTROLS SHALL REMAIN IN PLACE UNTIL ALL DISTURBED AREAS ARE STABILIZED UPON COMPLETION OF ALL GRADING ACTIVITIES, THE ESTABLISHMENT OF VEGETATION, AND WITH THE APPROVAL OF THE LOCAL APPROVING AUTHORITY THE EROSION AND SEDIMENT CONTROL MEASURES SHALL BE REMOVED.

MAINTENANCE PROGRAM: ALL MEASURES ARE TO BE INSPECTED DAILY BY THE SITE SUPERINTENDENT. ANY DAMAGED STRUCTURAL MEASURE SHALL BE REPAIRED BY THE CLOSE OF DAY. THE SILT TRAP AND SILT FENCE SHALL ALSO BE CHECKED FOR SEDIMENT BUILD-UP, UNDERMINING AND DETERIORATION AND THE SEDIMENT SHALL BE REMOVED IF IT REACHES HALF WAY TO THE TOP OF THE BARRIER. THE SEEDED AREAS SHALL BE CHECKED REGULARLY TO ENSURE THAT A GOOD STAND IS MAINTAINED. AREAS SHALL BE SEEDING AND RE-FERTILIZED AS NEEDED.

TEMPORARY SEEDING REQUIREMENTS:

50/50 MIX OF ANNUAL RYEGRASS AND CEREAL (WINTER) RYE @ 50-100 LBS/ACRE (SEPT. 1 - FEB. 15)
OR
ANNUAL RYEGRASS @ 60-100 LBS/ACRE (FEB. 15 - APR. 30)
OR
GERMAN MILLET @ 50 LBS/ACRE (MAY 1 - AUG. 31)

FERTILIZER: 10/20/10 MIX @ 600 LBS/ACRE
LIME: AGRICULTURAL LIMESTONE @ 2 TONS/ACRE
STRAW MULCH: APPLIED @ 1.5-2.0 TONS/ACRE

PERMANENT SEEDING REQUIREMENTS:

COMMERCIAL/RESIDENTIAL MIXTURE @ 175-200 LBS/ACRE:
KENTUCKY 31 OR TURF TYPE TALL FESCUE (95-100%)
IMPROVED PERENNIAL RYEGRASS (0-5%)
KENTUCKY BLUEGRASS (0-5%)

FERTILIZER: 10/20/10 MIX @ 600 LBS/ACRE
LIME: AGRICULTURAL LIMESTONE @ 2 TONS/ACRE
STRAW MULCH: APPLIED @ 1.5-2.0 TONS/ACRE

Huntley, Nye & Associates, Inc.
SURVEYING - CIVIL ENGINEERING - LAND PLANNING

MEMPHIS, TENNESSEE
727-532-4824
CHARLOTTE, VIRGINIA
703-762-3440
LEESBURG, VIRGINIA
703-719-4660

400 SOUTH MAIN STREET
CULPEPER, VIRGINIA 22701
540-885-4065



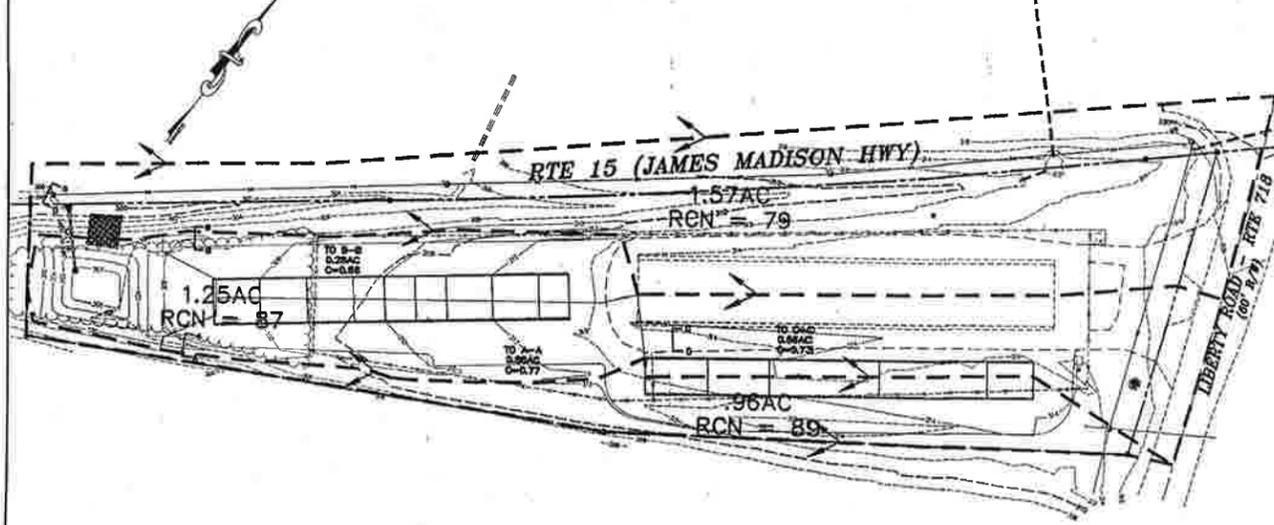
WAUGH'S SELF STORAGE
TAX MAP 57-12B
DISTRICT 2 WEST PRECINCT, ORANGE COUNTY, VA

EROSION AND SEDIMENT CONTROL NOTES & DETAILS

SCALE: AS SHOWN
DATE: 07-16-2007
REVISIONS: ADDRESS COMMENTS
12-24-07

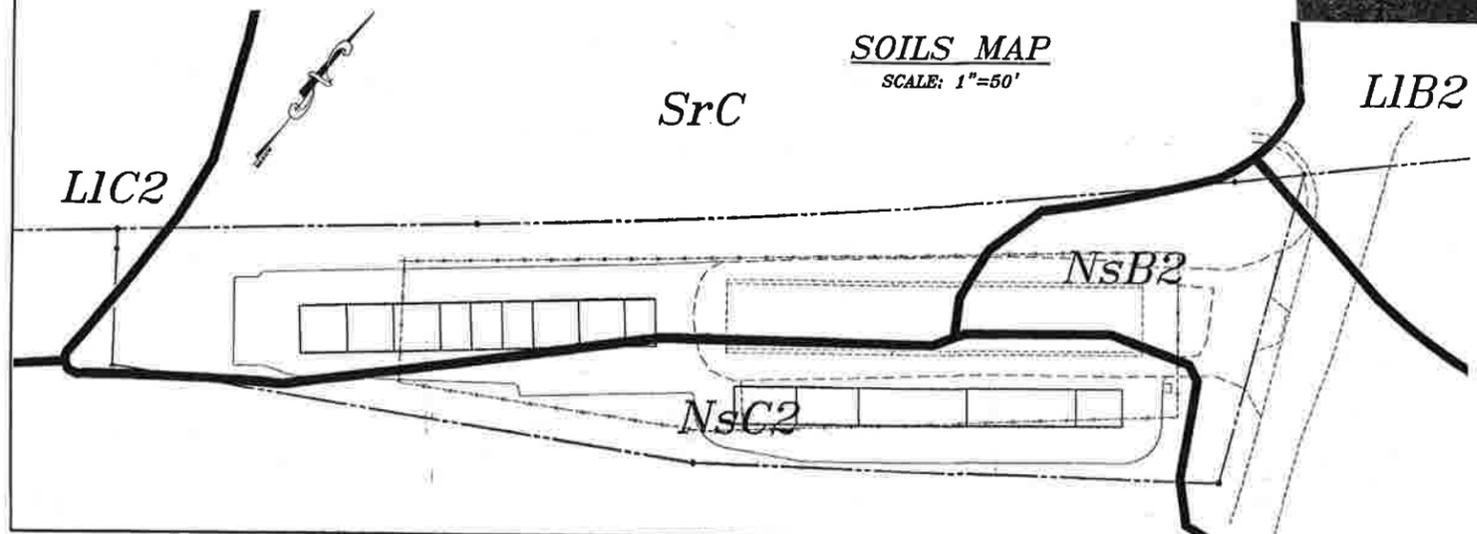
SHEET 5 OF 8

POST-DEVELOPMENT DRAINAGE AREA MAP
SCALE: 1"=50'



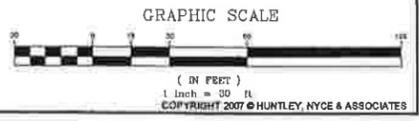
PRE-DEVELOPMENT DRAINAGE AREA MAP
SCALE: 1"=100'

SOILS MAP
SCALE: 1"=50'



Map Unit Legend Summary
Orange County, Virginia

Map Unit Symbol	Map Unit Name	Hydrologic soil group
LIB2	Lloyd loam, 2 to 7 percent slopes, eroded	C
LIC2	Lloyd loam, 7 to 15 percent slopes, eroded	C
NsB2	Nason silt loam, 2 to 7 percent slopes, eroded	C
NsC2	Nason silt loam, 7 to 15 percent slopes, eroded	C
SrC	Starr silt loam, 8 to 10 percent slopes	C



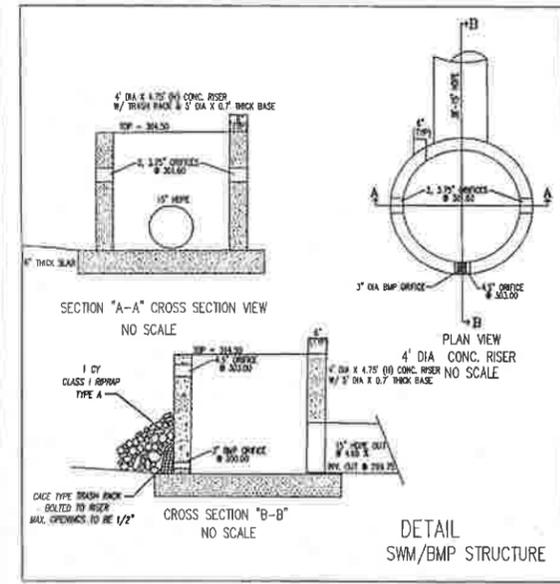
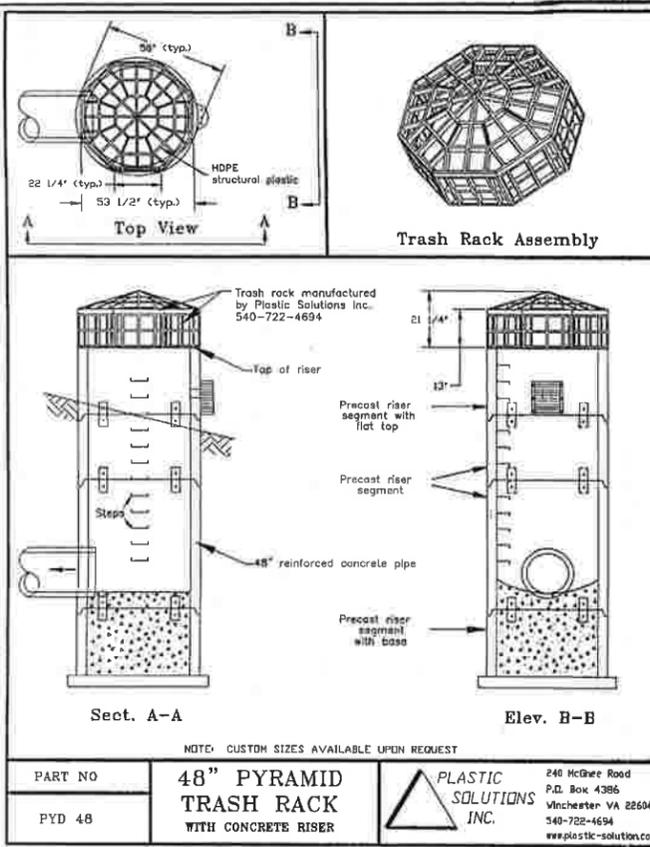
Huntley, Nyce & Associates, Ltd.
SURVEYING - CIVIL ENGINEERING - LAND PLANNING
ARLINGTON, VIRGINIA 703-532-4854
CHARLOTTE, VIRGINIA 703-532-4840
CULPEPER, VIRGINIA 540-942-4600
100 SOUTH MAIN STREET
HUNTERTON, VIRGINIA 22701
940-NEW-5055



WAUGH'S SELF STORAGE
TAX MAP 57-12B
DISTRICT 2 WEST PRECINCT, ORANGE COUNTY, VA
DRAINAGE AREA MAP AND SOILS MAP

SCALE:
1"=50'
DATE: 07-16-2007
REVISIONS:
ADDRESS COMMENTS
12-24-07

SHEET
6 OF 8
FILE NO.
7477



POND REPORT

Hydroflow Hydrographs by Intuitive
 Pond No. 1 - POND 1
 Pond Data
 Pond storage is based on known contour areas. Average end area method used.

Stage / Storage Table

Stage (ft)	Elevation (ft)	Contour area (sqft)	Incr. Storage (cuft)	Total storage (cuft)
0.00	300.00	724	0	0
1.00	301.00	1,080	356	356
1.50	301.50	1,288	208	564
2.00	302.00	1,502	214	778
2.50	302.50	1,724	226	1,004
3.00	303.00	1,952	228	1,232
3.50	303.50	2,188	236	1,468
4.00	304.00	2,432	244	1,712
4.50	304.50	2,684	252	1,964

Cutvert / Orifice Structures

Rise (ft)	[A]	[B]	[C]	[D]
15.00	3.00	3.75	4.50	4.50
15.00	3.00	3.75	4.50	4.50
1	1	2	1	1
205.75	300.00	301.00	303.00	303.00
30.00	0.00	0.00	0.00	0.00
4.50	0.00	0.00	0.00	0.00
.013	.013	.013	.013	.013
0.50	0.50	0.50	0.50	0.50
Yes	Yes	Yes	Yes	Yes

Weir Structures

Crust Len (ft)	[A]	[B]	[C]	[D]
12.00	0.00	0.00	20.00	20.00
304.00	9.00	0.00	304.00	304.00
3.23	0.00	2.81	2.81	2.81
Flare	—	—	Board	Board
Yes	No	No	No	No

Exfiltration = 0.000 in/hr (Constant) Tolerable Elev. = 0.00 ft

Stage / Storage / Discharge Table

Stage (ft)	Storage (cuft)	Elevation (ft)	Civ A cfs	Civ B cfs	Civ C cfs	Civ D cfs	Wp A cfs	Wp B cfs	Wp C cfs	Wp D cfs	Ediff cfs	Total cfs
0.00	0	300.00	0.00	0.00	0.00	0.00	—	—	—	0.00	—	0.00
1.00	356	301.00	0.31	0.22	0.00	0.00	—	—	—	0.00	—	0.53
1.50	564	301.50	0.31	0.26	0.00	0.00	—	—	—	0.00	—	0.57
2.00	778	302.00	0.31	0.29	0.00	0.00	—	—	—	0.00	—	0.60
2.50	1,004	302.50	0.30	0.32	0.00	0.00	—	—	—	0.00	—	0.62
3.00	1,232	303.00	0.23	0.45	1.11	0.48	0.00	—	—	0.00	—	2.03
3.50	1,468	303.50	0.03	0.08	0.06	0.06	13.75	—	—	95.53	—	109.49

STORMWATER MANAGEMENT FACILITY MAINTENANCE PLAN

- GENERAL DESCRIPTION.** THIS FACILITY WILL PROVIDE STORMWATER MANAGEMENT FOR THE SITE. STORMWATER RUNOFF GENERATED BY THE ASSOCIATED DRAINAGE AREA INCLUDING PORTIONS OF THIS SITE, WILL BE STORED IN THE FACILITY AND RELEASED AT A RATE EQUAL TO OR LESS THAN THE PREDEVELOPMENT RATE AT THAT PARTICULAR OUTFALL LOCATION.
- MOWING.** ALL GRASSES SHALL BE MOWED AT LEAST TWICE EACH YEAR. COOL SEASON GRASSES SUCH AS TALL FESCUE SHOULD BE MOWED IN EARLY SUMMER AFTER EMERGENCE OF THE SEEDS AND AGAIN IN EARLY FALL TO PREVENT SEEDS OF ANNUAL WEEDS FROM MATURING. LEGUMES SUCH AS BERBERIS, LINDERA, AND CLOVER WEEDS CAN BE MOWED LESS FREQUENTLY. TREES AND SHRUBS SHOULD NOT BE PERMITTED TO GROW ON THIS DAM.
- LANDING AND FERTILIZING.** THE SOIL SHOULD BE SAMPLED ACCORDING TO RECOMMENDED PROCEDURES AT LEAST ONCE EVERY 4 YEARS. TESTING OF THE SAMPLES SHOULD BE PERFORMED BY A QUALIFIED SOIL TESTING LABORATORY (SUCH AS VESILCO). LIMBS AND FERTILIZERS SHOULD BE APPLIED IN ACCORDANCE WITH RECOMMENDATIONS BASED ON THESE TESTS.
- VEGETATION AND VEGETATION.** IF VEGETATION COVERS LESS THAN 40% OF THE SOIL SURFACE, THE APPLICATION OF LIMBS, FERTILIZERS, AND HERBICIDES SHALL BE IN ACCORDANCE WITH CURRENT RECOMMENDATIONS FOR NEW SEEDINGS. IF VEGETATION COVERS MORE THAN 40% BUT LESS THAN 70% OF THE SOIL SURFACE, THE APPLICATION OF LIMBS, FERTILIZERS, AND HERBICIDES SHALL BE IN ACCORDANCE WITH CURRENT OVERSEEDING RECOMMENDATIONS.
- REMOVING TRASH AND DEBRIS.** TRASH, LITTER AND DEBRIS WILL BE REMOVED AS NEEDED TO PREVENT OBSTRUCTION TO THE FLOW OF WATER AND MOVEMENT OF TRASH AND LITTER TO DOWNSTREAM PROPERTIES, TO MAINTAIN THE INTEGRITY OF THE STRUCTURE, TO PROVIDE AN ATTRACTIVE APPEARANCE, AND TO MINIMIZE WATER POLLUTION.
- REMOVING SEDIMENT.** SOIL MATERIALS (INCLUDING CLAY, SILT, SAND, AND GRAVEL) WILL BE REMOVED AND DISCHARGE CAPACITY OF THE POND SHALL BE RESTORED WHEN THE DETENTION POOL OR THE BMP STORAGE CAPACITY HAS BEEN REDUCED BY 10%.
- SEDIMENT DISPOSAL.** SEDIMENT DISPOSAL SHOULD BE IN ACCORDANCE WITH CURRENT PROCEDURES FOR DISPOSAL OF SEDIMENT. WHEN DISPOSAL IS NECESSARY OR DESIRABLE, SEDIMENT WILL BE TESTED FOR APPROPRIATE POLLUTANTS PRIOR TO ITS DISPOSAL.
- REPAIRS.** REPAIR RUBBER SLINGS, AND BROKEN AREAS PROMPTLY AND IN A WORKMANLIKE MANNER. TRASH RACKS, FENCE, HEADWALLS, ETC. WILL BE MAINTAINED, REPAIRED, AND/OR REPLACED AS NEEDED TO MAINTAIN THE INTEGRITY OF THE STRUCTURE EXPOSED METAL SURFACES WILL BE PAINTED TO MINIMIZE DAMAGE DUE TO RUST.
- MAINTENANCE OPERATIONS.** THE OWNER OR OWNER'S REPRESENTATIVE SHALL INSPECT THE STORMWATER MANAGEMENT POND AND OUTFALL STRUCTURE WITHIN 24 HOURS AFTER EACH RAINFALL EVENT OF ONE INCH OR MORE. ADDITIONALLY, THE OWNER OR THE OWNER'S REPRESENTATIVE AND A COUNTY REPRESENTATIVE SHALL JOINTLY INSPECT THE STRUCTURE ONCE EACH YEAR. APPROPRIATE ACTION SHALL BE TAKEN TO REMOVE NECESSARY REPAIRS ARE PERFORMED IN A TIMELY MANNER. MAINTENANCE COSTS SHALL BE BORNE SOLELY BY THE OWNER. KEYS FOR LOCKED ACCESS PORTS SHALL BE AVAILABLE TO COUNTY PERSONNEL UPON REQUEST.
- MAINTENANCE RECORDS.** THE OWNER OR OWNER'S DESIGNER SHALL KEEP WRITTEN RECORDS OF ALL INSPECTIONS FOR THE POND AND OUTFALL STRUCTURE. THESE RECORDS SHALL BE PROVIDED TO THE COUNTY UPON REQUEST.
- MODIFICATIONS.** THE DETENTION POND SHALL NOT BE MODIFIED WITHOUT PRIOR APPROVAL BY THE COUNTY.

STORMWATER MANAGEMENT NARRATIVE

PROJECT DESCRIPTION. THIS PROJECT CONSISTS OF ADDITIONS TO AN EXISTING SELF STORAGE FACILITY. THE PROJECT IS LOCATED IN ORANGE COUNTY. THE SITE IS OPEN. DRAINAGE ACROSS THE PROPERTY IS DIVIDED ALONG A LINE THAT RUNS APPROXIMATELY EAST TO WEST NEAR THE MIDDLE OF THE SITE. THIS RUNOFF CURRENTLY LEAVES THE SITE TO THE SOUTH BY SHEET FLOW AND TO THE NORTH VIA A ROADSIDE DITCH ALONG ROUTE 13. SLOPES ARE SLIGHT TO MODERATE.

HYDROLOGIC ANALYSIS. HYDROLOGIC ANALYSIS FOR THIS PROJECT HAS BEEN PREPARED USING THE SCS METHOD. NO OFFSITE DRAINAGE ENTERS THIS SITE.

PRE-DEVELOPMENT AREA FLOWING TO THE SOUTHERN SIDE IN SHEET FLOW HAS AN AREA OF 1.34 ACRES AND AN RCP OF 7%. THE PRE-DEVELOPMENT AREA FLOWING TO THE NORTH IN SHEET FLOW AND EXTENDING THE VICINITY VIA THE ROADSIDE DITCH ALONG ROUTE 13 HAS AN AREA OF 0.9 ACRES AND AN RCP OF 10%. THESE AREAS WERE ANALYZED FOR THE 2-YEAR, 10-YEAR, AND 100-YEAR STORMS TO DETERMINE MAXIMUM RELEASE RATES.

POST-DEVELOPMENT AREAS CONSIST OF AN AREA FLOWING TO THE SOUTH UNMANAGED (0.34 ACRES, RCP = 10, 7% SLOPE), AN AREA FLOWING TO THE NORTH UNCONTROLLED (1.97 ACRES, RCP = 7% TO 10 SLOPE), AND A MANAGED AREA FLOWING TO THE SOUTH BY A MANAGED POND AND THEN BEING DITCHED INTO THE ROADSIDE DITCH TO THE NORTH OF THE SITE (1.47 ACRES, RCP = 14, 7% SLOPE).

TIME OF CONCENTRATION. THE DEVELOPMENT TIME OF CONCENTRATION WAS CALCULATED USING THE SCS METHOD ALONG THE LONGEST FLOW PATH, AND THEN CONSERVATIVELY ROUNDED UP TO 10 MIN. POST DEVELOPMENT TIMES OF CONCENTRATION WERE CALCULATED AS STATED ABOVE.

HYDROLOGIC ANALYSIS. A COMPARISON OF THE PRE- AND POST-DEVELOPMENT RUNOFF VOLUMES AND PEAK RATES WAS MADE USING HYDROFLOW 2005. CALCULATIONS PERFORMED BY HYDROFLOW 2005 HAVE BEEN PROVIDED HEREON. THIS POND WAS DESIGNED TO DETAIN THE INCREASED VOLUME OF RUNOFF AND TO PROVIDE EXTENDED DETENTION FOR THE REQUIRED WATER QUALITY VOLUME. THIS SUBSIDIARY STRUCTURE WAS DESIGNED TO RELEASE THE EXCESS RUNOFF AT A RATE EQUAL TO OR LESS THAN PREDEVELOPMENT RATES FOR THE 2 AND 10 YEAR DESIGN STORM, AND TO ALLOW FOR 1 FOOT OF FREEBOARD IN THE 100 YEAR STORM. THESE CRITERIA WERE ACHIEVED AT W.S. 304.91 FOR THE 2-YEAR EVENT, W.S. 304.39 FOR THE 10-YEAR EVENT, AND W.S. 304.79 FOR THE 100-YEAR EVENT.

THE PROPOSED GRADES OF THE POND PROVIDE ADEQUATE STORAGE (IN ADDITION TO THE WATER QUALITY VOLUME) FOR EXCESS RUNOFF.

THIS BMP VOLUME FOR THIS SITE (12' OVER THE IMPERVIOUS AREA FLOWING TO THE SWM POND) IS 134.2 CF (14 ACRES ROOFTOP AREA, AND 34 ACRES OF GRAVEL PARKING TAKEN TO BE 50% IMPERVIOUS). THIS VOLUME IS RETAINED FOR AN EXTENDED TIME AND RELEASED VIA A 4" ORIFICE FOR WATER QUALITY CONTROL.

A VOLUME OF 402.3 CF OF STORAGE WAS REQUIRED FOR THE 2-YEAR STORM. A VOLUME OF 711.6 CF WAS REQUIRED FOR THE 10-YEAR STORM. A VOLUME OF 815.5 CF WAS REQUIRED FOR THE 100-YEAR STORM. A TOTAL USABLE POND VOLUME OF 1287 CF WAS PROVIDED. A COMBINATION OF A 3" ORIFICE (ELEV 304.00) TO RELEASE THE WATER QUALITY VOLUME, A 2, 3.75" ORIFICES (ELEV 303.00) FOR THE 2-YEAR STORM, A 4.5" ORIFICE (ELEV 302) FOR THE 10-YEAR STORM, A 10" EMERGENCY FLOWWAY (ELEV 304.00) FOR THE 100-YEAR STORM WAS UTILIZED TO CONTROL PEAK RATE. A PEAK RATE OF 1.14 CFS WAS PROVIDED FOR THE 2-YEAR STORM. A PEAK RATE OF 2.33 CFS WAS PROVIDED FOR THE 10-YEAR STORM. NO REQUIREMENT EXISTS TO CONTROL THE RELEASE RATE FOR THE 100-YEAR STORM EVENT. A PEAK RATE OF 16.51 CFS WAS PROVIDED FOR THE 100-YEAR STORM EVENT.

THE MAXIMUM REQUIREMENT FOR THE 2-YEAR TOTAL OUTFALL TO THE SOUTH WAS 2.81 CFS, THE UNMANAGED AREA FLOWING TO THE SOUTH HAS A PEAK RATE OF 1.43 CFS (SEE HYDROGRAPH REPORTS FOR HYDROGRAPH #1 AND #4, SHEET #6).

THE MAXIMUM REQUIREMENT FOR THE 10-YEAR TOTAL OUTFALL TO THE SOUTH WAS 5.72 CFS, THE UNMANAGED AREA FLOWING TO THE SOUTH HAS A PEAK RATE OF 2.86 CFS (SEE HYDROGRAPH REPORTS FOR HYDROGRAPH #1 AND #4, SHEET #6).

THE MAXIMUM REQUIREMENT FOR THE 2-YEAR TOTAL OUTFALL TO THE NORTH WAS 4.72 CFS, THIS AREA WAS ANALYZED BY HYDROGRAPH ADDITION BETWEEN THE UNMANAGED AREA AND THE SWM POND A PEAK RATE OF 4.61 CFS (SEE HYDROGRAPH REPORTS FOR HYDROGRAPH #9, SHEET #5).

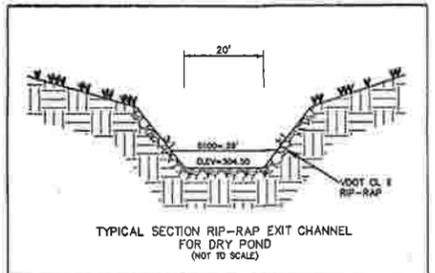
THE MAXIMUM REQUIREMENT FOR THE 10-YEAR TOTAL OUTFALL TO THE NORTH WAS 9.45 CFS, THIS AREA WAS ANALYZED BY HYDROGRAPH ADDITION BETWEEN THE UNMANAGED AREA AND THE SWM POND A PEAK RATE OF 9.30 CFS (SEE HYDROGRAPH REPORTS FOR HYDROGRAPH #9, SHEET #5).

WATER QUALITY ANALYSIS. THE REQUIRED STORAGE VOLUME TO ACCOMMODATE WATER QUALITY CONTROL IS 0.5 INCHES OF RUNOFF OVER THE TOTAL OF ALL IMPERVIOUS AREAS IN THE WATER SHED.

THE IMPERVIOUS AREA IS 29400 SF, THE BMP VOLUME REQUIRED IS 1222 CF. A BMP VOLUME OF 1000 CF IS PROVIDED.

ADEQUATE OUTFALL ANALYSIS. TO THE SOUTH, POST DEVELOPMENT OFFPEAK RATES ARE SIGNIFICANTLY LESS THAN THE PREDEVELOPMENT CONDITION. TO THE NORTH, HYDROGRAPH ADDITION BETWEEN THE RELEASE FROM THE SITE (MANAGED AND UNMANAGED AREAS) AND THE OFFSITE AREAS FLOWING TO THE ROADSIDE DITCH HAS BEEN PERFORMED (SEE HYDROGRAPH REPORTS FOR HYDROGRAPH #12, SHEET #4) AND ADEQUATE CHANNEL COMPUTATIONS PERFORMED (SEE SHEET 4).

THE 24 HOUR RAINFALL DEPTHS USED FOR THIS ANALYSIS WERE TAKEN FROM THE SCS 24 HOUR RAINFALL EVENT CHARTS FOR ORANGE COUNTY VIRGINIA, PER VDOT HYDRAULIC DESIGN ADVISORY 05-04 REVISED AUGUST 24, 2005.



CHANNEL CALCULATIONS

SECTION	Area acres	c value	Tc min.	Q (2yr) cfs	Q (10yr) cfs	LINING	n Value	Rip-rap Class (VDOT)	H ft	BW ft	RS x:1	LS x:1	SLOPE ft/ft	Depth of Flow, ft (10yr)	VELOCITY fps (2yr)	Remarks
A-A	0.88	0.77	5	3.66	4.79	GRASS	0.030	N/A	1	0	3	3	0.02	0.69	3.12	
B-B	0.26	0.68	5	0.95	1.25	GRASS	0.030	N/A	1	0	3	3	0.02	0.42	2.23	
C-C	0.56	0.73	5	2.21	2.89	GRAVEL	0.015	N/A	0.25	0	34	18	0.01	0.23	2.03	

SUMMARY

Hyd. No.	Hydrograph type (origin)	Inflow Hyd(4)	Peak Outflow (cfs)								Hydrograph description
			4-Yr	2-Yr	2-Yr	5-Yr	10-Yr	25-Yr	50-Yr	100-Yr	
1	SCS Runoff	---	---	2.81	---	---	5.72	---	---	11.34	back pre
2	SCS Runoff	---	---	4.72	---	---	9.45	---	---	16.49	Front pre
4	SCS Runoff	---	---	1.43	---	---	2.86	---	---	4.83	POST UNDETAINED BACK
6	SCS Runoff	---	---	3.58	---	---	7.24	---	---	14.38	Front post undetained
7	SCS Runoff	---	---	5.18	---	---	9.30	---	---	18.87	post to pond 2
8	Reservoir	7	---	1.18	---	---	2.25	---	---	16.51	post2
9	Combine	5, 6	---	4.62	---	---	9.30	---	---	30.83	front total outfall
11	SCS Runoff	---	---	27.41	---	---	57.17	---	---	115.40	OFFSITE TO SEC D
12	Combine	8, 11	---	28.28	---	---	60.81	---	---	121.84	SECTION D-D FLOW

2 YR HYDROGRAPH SUMMARY

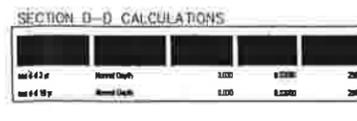
Hyd. No.	Hydrograph type (origin)	Peak flow (cfs)	Time interval (min)	Time to peak (min)	Volume (cuft)	Inflow Hyd(4)	Maximum elevation (ft)	Maximum storage (cuft)	Hydrograph description
1	SCS Runoff	2.81	1	720	8,307	---	---	---	back pre
2	SCS Runoff	4.72	1	720	10,698	---	---	---	Front pre
4	SCS Runoff	1.43	1	716	2,609	---	---	---	POST UNDETAINED BACK
6	SCS Runoff	3.58	1	720	8,049	---	---	---	Front post undetained
7	SCS Runoff	5.18	1	716	10,576	---	---	---	post to pond 2
8	Reservoir	1.18	1	726	15,574	7	302.91	4,023	post2
9	Combine	4.62	1	720	10,622	6, 8	---	---	front total outfall
11	SCS Runoff	27.41	1	732	111,805	---	---	---	OFFSITE TO SEC D
12	Combine	28.28	1	731	130,227	6, 11	---	---	SECTION D-D FLOW

10 YR HYDROGRAPH SUMMARY

Hyd. No.	Hydrograph type (origin)	Peak flow (cfs)	Time interval (min)	Time to peak (min)	Volume (cuft)	Inflow Hyd(4)	Maximum elevation (ft)	Maximum storage (cuft)	Hydrograph description
1	SCS Runoff	5.72	1	718	12,988	---	---	---	back pre
2	SCS Runoff	9.45	1	718	21,628	---	---	---	Front pre
4	SCS Runoff	2.86	1	717	5,938	---	---	---	POST UNDETAINED BACK
6	SCS Runoff	7.24	1	718	18,538	---	---	---	Front post undetained
7	SCS Runoff	9.30	1	717	18,383	---	---	---	post to pond 2
8	Reservoir	2.25	1	728	18,588	7	304.39	7,518	post2
9	Combine	9.30	1	720	30,047	6, 8	---	---	front total outfall
11	SCS Runoff	57.17	1	731	228,219	---	---	---	OFFSITE TO SEC D
12	Combine	60.81	1	731	294,285	6, 11	---	---	SECTION D-D FLOW

100 YR HYDROGRAPH SUMMARY

Hyd. No.	Hydrograph type (origin)	Peak flow (cfs)	Time interval (min)	Time to peak (min)	Volume (cuft)	Inflow Hyd(4)	Maximum elevation (ft)	Maximum storage (cuft)	Hydrograph description
1	SCS Runoff	11.34	1	718	26,473	---	---	---	back pre
2	SCS Runoff	16.49	1	718	43,349	---	---	---	Front pre
4	SCS Runoff	4.83	1	717	10,873	---	---	---	POST UNDETAINED BACK
6	SCS Runoff	14.38	1	718	33,519	---	---	---	Front post undetained
7	SCS Runoff	18.87	1	717	36,977	---	---	---	post to pond 2
8	Reservoir	16.51	1	716	36,973	7	304.79	6,655	post2
9	Combine	30.83	1	718	70,491	6, 8	---	---	front total outfall
11	SCS Runoff	115.40	1	731	484,778	---	---	---	OFFSITE TO SEC D
12	Combine	121.84	1	730	535,289	8, 11	---	---	SECTION D-D FLOW



Huntley, Nyce & Associates, Ltd.
 SURVEYING - CIVIL ENGINEERING - LAND PLANNING

ALBANY, VIRGINIA 703-532-4694
 CHARLOTTE, VIRGINIA 703-760-3480
 LEESBURG, VIRGINIA 703-776-4405

400 SOUTH MAIN STREET
 CULPEPER, VIRGINIA 22701
 540-657-6055



WAUGH'S SELF STORAGE
 TAX MAP 57-12B
 DISTRICT 2 WEST PRECINCT, ORANGE COUNTY, VA

STORM WATER MANAGEMENT NOTES AND DETAILS

SCALE: AS SHOWN
 DATE: 07-16-2007
 REVISIONS:
 ADDRESS COMMENTS
 12-24-07

NOTE: POSTDEVELOPMENT FLOW FROM THE SITE UNDER DEVELOPMENT IS LESS THAN PREDEVELOPMENT TO THIS CROSS SECTION, THEREFORE MS-19 REQUIREMENTS ARE MET FOR THESE PURPOSES.

SHEET 8 OF 8
 FILE NO. 7477

Foote, John

From: Greg Yates <greg@yatesproperties.com>
Sent: Tuesday, October 04, 2016 2:05 PM
To: Foote, John
Subject: Fwd: Waugh Self Storage

#2

Begin forwarded message:

From: "Marvin Hinchey" <marvin@hincheybaines.com>
Date: September 22, 2016 at 2:19:22 PM EDT
To: "Greg Yates" <greg@yatesproperties.com>
Subject: FW: Waugh Self Storage

Greg,

I got the following email from Josh Frederick stating your site plan has expired. Their attorney's interpretation of state code section (15.2-2209.1) is not consistent with any other I have heard. I don't know what prompted this as I have not spoken to Josh about this since March.

Marvin T. Hinchey, P.E.
HINCHEY & BAINES, PLC
125 E. Davis Street, Suite 201
Culpeper, VA 22701
540-829-2220 (Office)
540-718-5329 (Cell)

From: Josh Frederick [<mailto:jfrederick@orangecountyva.gov>]
Sent: Thursday, September 22, 2016 12:00 PM
To: Marvin Hinchey <marvin@hincheybaines.com>
Cc: Thomas Wysong <twysong@orangecountyva.gov>; Susan Crosby <scrosby@orangecountyva.gov>; Thomas Lacheney <tlacheney@orangecountyva.us>
Subject: RE: Waugh Self Storage

Marvin,

I wanted to give you a courtesy follow-up on this in case you were still working on the project. After consulting with the county attorney, the below-referenced state code section actually does not apply to commercial site plans. Accordingly, the site plan for the Waugh self-storage facility that was approved on 2-15-08 has expired. If the property owner wishes to construct the new buildings, a new site plan submittal will be needed. However, please be advised that the variance granted in 1984 only applied to the existing building; future buildings must adhere to the current setback requirements.

Please let me know if you'd like to discuss further.

Kind regards,

Josh Frederick | Director of Planning & Zoning



Orange County, Virginia | 128 W Main St | Orange, VA 22960

(540) 672-4347 (P) | (540) 672-0164 (F)

[Click here to visit our department's webpage](#)

From: Josh Frederick

Sent: Thursday, March 17, 2016 12:04 PM

To: 'Marvin Hinchey' <marvin@hincheybaines.com>

Subject: RE: Waugh Self Storage

Marvin,

You are correct. The plan was still within the 5-year approval window in 2011, so VA Code 15.2-2209.1 extends its approval up to July 1st, 2017.

I should add that the previous zoning administrator erred in her interpretation of the variance that was granted, which specifically permits the variance for "a building" (not multiple buildings) as shown on the site plan submitted with the 1984 variance application. However, since the site plan was approved, albeit wrongfully, showing 2 new buildings, the property owner has a vested right to what was approved (VA Code 15.2-2307). This vesting will become void on July 1st, 2017 if construction on the new units has not begun, so if the owner wishes to still build these additional units, I would advise he get started sooner rather than later.

Regards,

Josh Frederick | Director of Planning & Zoning

Orange County, Virginia | 128 W Main St | Orange, VA 22960

(540) 672-4347 (P) | (540) 672-0164 (F)

[Click here to visit our department's webpage](#)



From: Marvin Hinchey [<mailto:marvin@hincheybaines.com>]

Sent: Wednesday, March 16, 2016 4:34 PM

To: Josh Frederick <jfrederick@orangecountyva.gov>

Subject: Waugh Self Storage

Josh,

I worked on the referenced site plan back in 2007 when I was with Huntley Nyce & Associates for a self-storage site on Tax Map parcel 57-12B. I believe the plan was approved 2-15-2008. The plan was also approved with a setback variance obtained in 1984. I've attached the zoning variance approval and an email of Debbie Kendall's interpretation.

I believe the State code amendment 15.2-2209.1 in 2011 extended the approval of valid site plans as of that date to July 1, 2017.

Could you verify this site plan is valid until then?

Thank you,

Marvin T. Hinchey, P.E.

HINCHEY & BAINES, PLC

125 E. Davis Street, Suite 201

Culpeper, VA 22701

540-829-2220 (Office)

540-718-5329 (Cell)

Foote, John

From: Greg Yates <greg@yatesproperties.com>
Sent: Tuesday, October 04, 2016 2:08 PM
To: Foote, John
Subject: Fwd: Waugh Self Storage

Begin forwarded message:

From: "Marvin Hinchey" <marvin@hincheybaines.com>
Date: October 4, 2016 at 12:15:50 PM EDT
To: "'Thomas E. Lacheney'" <tlacheney@orangecountyva.us>, "'Josh Frederick'" <jfrederick@orangecountyva.gov>
Cc: "'Thomas Wysong'" <twysong@orangecountyva.gov>, "'Susan Crosby'" <scrosby@orangecountyva.gov>, "Greg Yates" <greg@yatesproperties.com>
Subject: RE: Waugh Self Storage

Mr. Lacheney,
Thank you for the explanation. I am forwarding to my client.

Marvin T. Hinchey, P.E.
HINCHEY & BAINES, PLC
125 E. Davis Street, Suite 201
Culpeper, VA 22701
540-829-2220 (Office)
540-718-5329 (Cell)

From: Thomas E. Lacheney [<mailto:tlacheney@orangecountyva.us>]
Sent: Tuesday, October 4, 2016 10:53 AM
To: 'Marvin Hinchey' <marvin@hincheybaines.com>; 'Josh Frederick' <jfrederick@orangecountyva.gov>
Cc: 'Thomas Wysong' <twysong@orangecountyva.gov>; 'Susan Crosby' <scrosby@orangecountyva.gov>
Subject: RE: Waugh Self Storage

Marvin:

It is my understanding that a "variance" was granted in 1984 to allow for the construction of a building. It is my opinion that the 1984 variance was not legally granted, but that is non-issue at this point. Nonetheless, the 1984 variance was limited to the construction of "a building" and not a series of buildings.

However, the new site-plan that was ostensibly approved back in 2008 was not valid as a matter of law because it did not comply with the county's zoning ordinance. Because the 2008 site-plan did not comply with the county zoning ordinance, the provisions of VA Code 15.2-2209.1 are inapplicable because your client cannot have a vested right in a site plan that was impermissible under the zoning ordinance in force at that time. See Norfolk 102, LLC v. City of Norfolk, 285 Va. 340, 738 S.E.2d 895, 2013 Va. LEXIS 31, 2013 WL 749401 (2013).



Please feel free to give me a call if you want to discuss the matter further.

Thomas E. Lacheny
Deal & Lacheny P.C.
County Attorney for Orange County
P.O. Box 111
Orange, Virginia 22960
(540) 300-5299 (Telephone)
(888) 871-1976 (Facsimile)

From: Marvin Hinchey [<mailto:marvin@hincheybaines.com>]
Sent: Monday, October 03, 2016 4:30 PM
To: 'Josh Frederick'
Cc: 'Thomas Wysong'; 'Susan Crosby'; 'Thomas Lacheny'
Subject: RE: Waugh Self Storage

Josh,
I've never had this opinion in any other jurisdiction.
Could we get a written opinion on this?

Marvin T. Hinchey, P.E.
HINCHEY & BAINES, PLC
125 E. Davis Street, Suite 201
Culpeper, VA 22701
540-829-2220 (Office)
540-718-5329 (Cell)

From: Josh Frederick [<mailto:jfrederick@orangecountyva.gov>]
Sent: Thursday, September 22, 2016 12:00 PM
To: Marvin Hinchey <marvin@hincheybaines.com>
Cc: Thomas Wysong <twysong@orangecountyva.gov>; Susan Crosby <scrosby@orangecountyva.gov>;
Thomas Lacheny <tlacheny@orangecountyva.us>
Subject: RE: Waugh Self Storage

Marvin,
I wanted to give you a courtesy follow-up on this in case you were still working on the project. After consulting with the county attorney, the below-referenced state code section actually does not apply to commercial site plans. Accordingly, the site plan for the Waugh self-storage facility that was approved on 2-15-08 has expired. If the property owner wishes to construct the new buildings, a new site plan submittal will be needed. However, please be advised that the variance granted in 1984 only applied to the existing building; future buildings must adhere to the current setback requirements.

Please let me know if you'd like to discuss further.

Kind regards,

Josh Frederick | Director of Planning & Zoning
Orange County, Virginia | 128 W Main St | Orange, VA 22960
(540) 672-4347 (P) | (540) 672-0164 (F)



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From: Josh Frederick
Sent: Thursday, March 17, 2016 12:04 PM
To: 'Marvin Hinchey' <marvin@hincheybaines.com>
Subject: RE: Waugh Self Storage

Marvin,

You are correct. The plan was still within the 5-year approval window in 2011, so VA Code 15.2-2209.1 extends its approval up to July 1st, 2017.

I should add that the previous zoning administrator erred in her interpretation of the variance that was granted, which specifically permits the variance for "a building" (not multiple buildings) as shown on the site plan submitted with the 1984 variance application. However, since the site plan was approved, albeit wrongfully, showing 2 new buildings, the property owner has a vested right to what was approved (VA Code 15.2-2307). This vesting will become void on July 1st, 2017 if construction on the new units has not begun, so if the owner wishes to still build these additional units, I would advise he get started sooner rather than later.

Regards,

Josh Frederick | Director of Planning & Zoning
Orange County, Virginia | 128 W Main St | Orange, VA 22960
(540) 672-4347 (P) | (540) 672-0164 (F)

[Click here to visit our department's webpage](#)



From: Marvin Hinchey [<mailto:marvin@hincheybaines.com>]
Sent: Wednesday, March 16, 2016 4:34 PM
To: Josh Frederick <jfrederick@orangecountyva.gov>
Subject: Waugh Self Storage

Josh,

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I believe the State code amendment 15.2-2209.1 in 2011 extended the approval of valid site plans as of that date to July 1, 2017.

Could you verify this site plan is valid until then?

Thank you,

Marvin T. Hinchey, P.E.
HINCHEY & BAINES, PLC
125 E. Davis Street, Suite 201
Culpeper, VA 22701
540-829-2220 (Office)
540-718-5329 (Cell)



**WALSH COLUCCI
LUBELEY & WALSH PC**

John H. Foote
(703) 680-4664 Ext. 5114
jfoote@thelandlawyers.com
Fax: (703) 680-2161

November 3, 2016

Mr. Josh Frederick
Orange County Director of Planning and Zoning
128 West Main Street
Orange, Virginia 22960

Re: Waugh Self Storage / Yates Properties

Dear Mr. Frederick:

We represent Yates Properties of Madison County, LLC, in connection with its development of the Waugh Self Storage facility at the intersection of Routes 15 and 718 in Orange. It is our understanding from emails that we have seen that the County Attorney has written to you and Marvin Hinchey, among others, to the effect that the 2008 Site Plan that the County approved for the construction of additional self-storage units on that property is no longer valid, if it ever was, for two reasons. I understand it is first thought that the 1984 variance was not legally granted. This, however, is expressly stated to be “a non-issue at this point.”

More importantly, perhaps, it is suggested that the 2008 site plan is invalid because it did not comply with the County’s zoning ordinance then in effect. Because of this, the extension of validity of approved site plans under Va. Code § 15.2-2209.1 does not apply. We respectfully disagree and maintain that the 2008 site plan remains valid.

We concur with the County Attorney that the 1984 variance is a nonissue. Any period of appeal that might have applied to that variance whether for the County or a third party with standing has long since run and its validity cannot now be challenged.

Far more importantly, however, the approval of the 2008 Site Plan carries significantly more legal consequence than has been assigned to it. It is in the very nature of a site plan and its review that a jurisdiction evaluates the conformance of a proposed site plan with existing zoning. This particular site plan is, in fact, signed as “Approved for Construction” by a County code inspector on behalf of David Grover, who I believe was the Director of Community Development at the time, and it is my understanding that in Orange the Director also serves as the Zoning Administrator. As we know, an approved site plan constitutes a significant

ATTORNEYS AT LAW

703 680 4664 • WWW.THELANDLAWYERS.COM
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affirmative governmental act pursuant to §15.2-2307 (and even prior to that statute pursuant to common law, Board of Supervisors of Fairfax County v. Cities Service Oil Co., 213 Va. 359, 193 S.E.2d 1 (1972)). We would further suggest that under Supreme Court case law a delay in construction between 2008 and today does lead to the conclusions that a landowner has failed to pursue that SAGA diligently. In City of Suffolk v. Bd. of Zoning Appeals for Suffolk, 266 Va. 137 (2003) a far longer gap existed between such approvals and claims of right, and the Court, among other things, recognized that adverse economic conditions are a legitimate reason not to commence development in order to preserve a vested right. Since the site plan was approved as the world was going into the Great Recession, this would be a compelling and prudent basis for reasonable delay.¹

We understand that the County Attorney has asserted that one cannot obtain a vested right in a use that was illegal at the time approved, and relies for this proposition on Norfolk 102, LLC v. City of Norfolk, 285 Va. 340 (2013). This is accurate so far as it goes, but that case concluded that the plaintiffs had no right in their site plan under §15.2-2307 essentially because they had not obtained rights under §15.2-2311(C). This is a statute that provides that a “written order, requirement, decision or determination made by the zoning administrator or other administrative officer” is final and binding on the world after 60 days from the date of that action. Thus, as Norfolk 102 also recognizes, one can obtain rights that are not consistent with an applicable Zoning Ordinance, under facts such as these, even assuming that it is correct that the Site Plan somehow violated that Ordinance. We submit that the unchallenged approval of the Site Plan is a determination of compliance with the Zoning Ordinance that cannot now be revisited so long after the fact.

Because the Site Plan is, in our view, an unchallengeable determination made in writing (on the face of the Site Plan) by an authorized County official, then it is vested and subject to the extension provisions of §15.2-2209.1. That statute was originally enacted at the 2009 session of

¹ The County requires a zoning compliance certificate pursuant to §70-119 (f) of its Zoning Ordinance prior to the issuance of certificates of occupancy. Such a certificate is not, therefore, required prior to the issuance of building permits, or commencement of actual construction, but only after substantial sums have been expended. It is a precondition to occupancy. We submit this is unsurprising because a review of zoning compliance has already occurred, and the purpose of the zoning compliance certificate would be to assure that what has been constructed is consistent with what was approved.

I know that a zoning review of a proposed site plan prior to its approval is performed in all of the jurisdictions in which we work. The suggestion that the County may perpetually revisit site plans until construction is complete and a certificate of occupancy is sought, despite facial evidence of site plan approval means that no landowner, including one that has in good faith pursued applicable requirements and obtained written approval for construction based on a submitted and reviewed site plan, may rest in peace. We do not think this is Virginia law.

Mr. Josh Frederick

November 3, 2016

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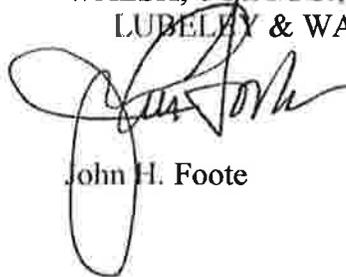
the General Assembly and extended the lifetime of any site or subdivision plan (without distinction between commercial and residential site or subdivision plans) valid as of January 1, 2009, to July 1, 2014. The statute was amended further at the 2011 session, in nonmaterial ways. In 2012, it again amended to provide that any site or subdivision plan valid on January 1, 2011 (as we submit the Waugh Self Storage was) would remain valid until July 1, 2017. This means that the Waugh Self Storage Site Plan does not expire until next summer.

Finally, we would suggest that the only County official authorized to render an opinion as to the validity of any aspect of this matter is the Zoning Administrator. While we fully understand that he would consult with the County Attorney, and meaning no disrespect to the County Attorney, that official is not empowered to render binding opinions as to the matters raised with respect to the Waugh Self Storage Site Plan. Having served as a County Attorney myself for many years, I think I speak with some knowledge and experience. We would, therefore, request that the Zoning Administrator provide a formal opinion that the 2008 Waugh Self Storage Site Plan remains valid until July 1, 2017. We find on the County's website no fee associated with this request, only with an appeal of a Zoning Administrator's Determination, but if there is such a fee, please let me know. Although we believe that the proper result is a determination of continuing validity, to the extent that the County maintains its position, our client has advised us that it cannot simply accede to that without further proceedings.

We thank you very much for your kind assistance, and look forward to speaking with you about this.

Very truly yours,

WALSH, COLUCCI,
LUBELLY & WALSH, P.C.

A handwritten signature in black ink, appearing to read "John H. Foote", is written over the typed name below. The signature is stylized with a large loop at the beginning.

John H. Foote

JHF/jf

cc: Greg Yates
Marvin Hinchey
Thomas Lacheney, Esq.

Orange County Board of Zoning Appeals

January 18th, 2017 Regular Meeting

Agenda Item 5A

Bylaws



Orange County Board of Zoning Appeals

**Adopted by the Orange County Board of Zoning Appeals
on August 19, 1998**

Amended May 19, 1999
Amended September 15, 1999
Amended December 20, 2000
Amended February 20, 2002
Amended May 21, 2008
Amended July 14, 2010
Amended December 2, 2014

BYLAWS
ORANGE COUNTY BOARD OF ZONING APPEALS¹

ARTICLE 1 – OBJECTIVES

- 1-1. This Board of Zoning Appeals (“BZA” or “Board”), established pursuant to Section 70-61 of the Orange County Code of Ordinances and pursuant to § 15.2-2308, VA Code Ann., has adopted these Bylaws in order to facilitate its powers and duties in accordance with the provisions of Title 15.2, Chapter 22, Article 7, VA Code Ann.

ARTICLE 2 – OFFICERS

- 2-1. The BZA shall elect a Chairman and a Vice-Chairman during the first meeting held each calendar year. Nomination of officers shall be made from the floor. Election of officers shall follow immediately. A candidate receiving a majority vote of the membership of the Board present and voting shall be declared elected. The elected Chairman and Vice-Chairman shall serve through the remainder of the calendar year, unless otherwise motioned during the nomination.
- 2-2. The County Administrator will appoint a staff member to serve as Secretary pursuant to Sec. 70-64.1 of the Orange County Zoning Ordinance. The Secretary shall not be a voting member.
- 2-3. Vacancies in office shall be filled immediately by the same procedure to serve until the next annual election.
- 2-4. The Chairman shall:
- 2-4-1 Preside at all meetings and hearings of the BZA.
 - 2-4-2 Appoint committees as necessary.
 - 2-4-3 Administer oaths and compel the attendance of witnesses.
 - 2-4-4. Decide all points of order or procedure.
- 2-5. The Vice-Chairman shall:
- 2-5-1. Act in the absence or inability of the Chairman to act.
- 2-6. The Secretary shall:
- 2-6-1. Prepare official correspondence on behalf of the BZA.
 - 2-6-2. Keep the minutes and records of the BZA’s proceedings.
 - 2-6-3. Maintain other BZA records.

¹ Where these Bylaws refer to a person in the masculine, it is intended that the reference also include the feminine.

- 2-6-4. Keep a file of all cases which come before the BZA.
- 2-6-5. Prepare and be responsible for the publishing of advertisements relating to meetings and public hearings in accordance with State law.
- 2-6-6. Send out notices required by these By-laws, the Orange County Zoning Ordinance, and the Code of Virginia.
- 2-6-7. Notify the Court of any vacancy on the BZA.

ARTICLE 3 - MEETINGS

- 3-1. A regular meeting of the BZA for the hearing of cases shall be held on the third (3rd) Wednesday as needed each month. Each regular meeting shall begin at 7:00 p.m. If no cases are pending, no meeting shall be held. When a meeting date falls on a legal holiday, the meeting shall be held on the day following unless otherwise designated by the BZA or the Chairman acting in the absence of a meeting.
- 3-2. Special meetings of the BZA may be held at the call of the Chairman and at such other times as a quorum of the BZA may determine, provided that notice of such meeting is given each member pursuant to the Virginia Freedom of Information Act, § 2.2-3707 *et seq.* VA Code Ann.
- 3-3. All meetings of the BZA shall be open to the public unless a closed meeting is held pursuant to the Virginia Freedom of Information Act, § 2.2-3707 *et seq.* VA Code Ann.
- 3-4. A quorum in attendance shall be at least three (3) members.
- 3-5. The BZA may recess a regular meeting if all applications or other matters scheduled for hearing cannot be disposed of on the day set, and no further public notice shall be necessary for a continuation of any such adjourned meeting.
- 3-6. The Chairman, or the Secretary in the absence of the Chairman, may call an adjournment in the event of bad weather, in the opinion of such officer calling the adjournment. The Secretary shall attempt to notify each member of the Board and the press of a bad-weather adjournment.
- 3-7. Members shall be responsible to determine whether they have a conflict of interest and otherwise act in accordance with the State and Local Government Conflict of Interests Act §§ 2.2-3100 *et seq.* VA Code Ann.

ARTICLE 4 – ORDER OF BUSINESS

- 4-1. The order of business for a meeting of the BZA shall be:
 - 4-1-1. Call to order.
 - 4-1-2. Determination of a quorum.

- 4-1-3. Approval of minutes.
 - 4-1-4. Public hearing of scheduled, continued and deferred decision items.
 - 4-1-5. New business.
 - 4-1-6. Old business
 - 4-1-7. Adjournment.
- 4-2. The BZA shall keep minutes of all meetings in accordance with FOIA and include:
- 4-2-1. The date, time and location of the meeting.
 - 4-2-2. The members of Board recorded as present or absent.
 - 4-2-3. A summary of the discussion on matters proposed, deliberated or decided.
 - 4-2-4. A record of all votes taken.
- 4-3. The BZA may also record the meetings.
- 4-4. These minutes and any recording shall become a matter of public record.

ARTICLE 5 – POWERS AND DUTIES

- 5-1. The BZA shall have the powers and duties set forth in § 15.2-2309 VA Code Ann and Sec. 70-61 *et. seq.* of the Orange County Zoning Ordinance.

ARTICLE 6 – APPLICATIONS TO THE BZA

- 6-1. Procedures for matters before the BZA shall follow those set forth in the Orange County Zoning Ordinance Secs. 70-66 and 70-68.
- 6-2. All applications shall include all of the information required by the Zoning Ordinance and all fees required by the Zoning Ordinance shall be paid before the matter will be scheduled for public hearing.
- 6-3. The applicant may appear in his own behalf at the public hearing, or be represented by counsel or an agent.
- 6-4. The Chairman of the BZA may establish time limits on presentations at public hearings.
- 6-5. No cross-examination of speakers testifying shall be permitted, except by members of the BZA, without the permission of the Chairman.
- 6-6. The Chairman or his designee shall summarize the matter before the BZA. The zoning administrator shall then make a staff report followed by the applicant or agent's statement. The Chairman shall then hear from any citizen in favor of the application, followed by any citizen opposed to the application. He shall also accept written statements and other documentation pertinent to the matter. The applicant shall be given an opportunity for final rebuttal.

ARTICLE 7 – AMENDMENTS

- 7-1. These by-laws may be amended by an affirmative vote of a majority of those present at any meeting at which a quorum is present after 30 days prior notice, or if there is unanimous consent in open meeting (at which all members of the Board are present) to a waiver of the 30 – day notice requirement.

ARTICLE 8 – FUNDING

- 8-1. The BZA may employ or contract for, within the limits of funds appropriated by the Board of Supervisors, secretaries, clerks, legal counsel, consultants and other technical and clerical services.

ARTICLE 9 – VALIDITY

- 9-1. If any word, clause, sentence, article, section, subsection or other part or parts of these Bylaws shall be held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining parts of these By-laws, nor shall it affect any application of these By-laws that may be given effect without the unconstitutional or invalid parts, and to this end, all provisions of these By-laws are hereby declared to be severable.
- 9-2. The BZA shall be governed by the requirements of Title 15.2, Chapter 22, Article 7, VA Code Ann., and the Orange County Zoning Ordinance Sec. 70-61 *et seq.* Should any provision of these Bylaws be found to be in conflict with said requirements, the Code of Virginia and the Orange County Zoning Ordinance shall take precedence.