



## **PLANNING COMMISSION**

AGENDA for March 11<sup>th</sup> 2025

### AGENDA

#### **REGULAR MEETING**

**Call to Order by Chairman and Roll Call**

**Public Comment on Items Not on the Agenda**

**Review and Adoption of Minutes**

- 1) Minutes of March 11<sup>th</sup> 2025

**Old Business**

None

**New Business**

- 1) Conditional Use Permit, Certificate of Appropriateness, and ROW Abandonment – Blocks 25 & 31, Section 5 (SVU)
- 2) Staff report on Code of Virginia changes to site plan approval process

**Report of Secretary**

**Adjournment**

**Members and Term Expirations**

Dennis Hawes, Chairman, 7/31/2028

Harold Kidd, 6/30/2026

Justin Wiseman, 8/31/2025

Marolyn Cash, 6/30/2028

Sarah Henson, 9/30/2027

Melvin Henson, City Council Representative,  
9/30/2027

Bryson Adams, 12/31/2028

Timothy Petrie, 12/31/2028

Jason Tyree, Ex Officio member

**Staff**

Tom Roberts, Director of Community Development

City Hall, 2039 Sycamore Avenue, Buena Vista VA 24416

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**Meetings**

Members of the Buena Vista Planning Commission meet in Council Chambers, 2039 Sycamore Avenue, at 7:00 p.m. on the 2<sup>nd</sup> Tuesday of each month, unless otherwise announced. Meetings may be held and business conducted without a quorum, but no votes may be taken unless a quorum is present. A majority of members constitutes a quorum. A motion passes with a majority vote; a tie constitutes defeat of the motion.



## PLANNING COMMISSION

MINUTES of March 11<sup>th</sup> 2025

Meeting location: City Council Chambers

Meeting time: 7:00 PM

**Members Present:**

Dennis Hawes, Chairman

Bryson Adams

Sarah Henson

Harold Kidd

Marolyn Cash

Justin Wiseman

Timothy Petrie

**Members Absent:**

Jason Tyree, Ex Officio member

Melvin Henson, City Council Representative

**Staff Present:**

Tom Roberts, Director of Community Development

Meeting is called to order.

**Public Hearing**

*Zoning Map Amendment, Conditional Use Permit, Site Plan, ROW Abandonment – 600 block Magnolia Ave*

Mr. Roberts noted that there had been no substantive changes in the proposal since the meeting last month in February. It is a two acre site with 22 townhouses and two internal driveways. He reviewed the different aspects of the proposal. Mr. Hawes asked Mr. Adams, who is both on the Commission and the representative of the developer, if he wished to speak about the project. Mr. Adams directed specific questions to Mr. Hunter Young, engineer for the project, who was in the audience.

Mr. Hawes asked about the utility relocations. Mr. Young responded that there was three phase power overhead and a significant gas line running through the site close to the alley, and they were working with both Columbia Gas and Dominion Energy on this. The developer will pay for the relocations. Mr. Hawes asked about vehicular line of sight, and Mr. Young explained that the one-way design of the driveway was to account for better sight distances turning on Magnolia, and that the buildings are set back far enough to avoid sight distance problems.

Mr. Hawes opened the public hearing. Mr. Lester Wheeler, 575 Magnolia Ave, spoke. He does not like the project in general, but if it is there, he thinks it should be set back 25' in the front.

Next Mr. David Hawes (spelling?), 536 Magnolia Ave spoke. He is concerned about the visibility of turning from 6<sup>th</sup> Street onto Magnolia Ave looking south. He is also concerned about more vehicles using the alley between 5<sup>th</sup> St and 6<sup>th</sup> St, which is gravel and can't support more traffic. Mr. Hawes closed the hearing.

Mrs. Cash began discussion by stating her support for the project because it will bring life to Buena Vista. Mr. Petrie asked about the traffic control and vehicular safety for the project especially at 6<sup>th</sup> St and Magnolia Ave. Mr. Adams rose to speak and noted that vehicles sometimes speed down Magnolia Ave, but if they added a turn lane this would narrow the lanes and slow down vehicles.

Discussion of the turn lane brought up street parking. It was noted there is street parking on the west side of the street but no one typically parks there. Mr. Hawes suggested that parking on the east side be prohibited. Mr. Kidd stated that he is concerned that people will turn from Magnolia Ave onto 6<sup>th</sup> Street and try to turn, against the one way traffic, into the development. He is also concerned that residents will not park in their garages, but will fill them with stuff, and this will push residents parking on Magnolia Ave and nearby streets. He also believes that in the future the private street will eventually become public. Mr. Adams noted that there are a total of 61 parking spaces on the site, including garages, which is almost three per unit.

Mr. Kidd also stated that he is concerned that the developer does not yet have agreements with the utility companies, and that the FEMA floodplain changes are not finalized. In general, he thinks that more third party approvals should be completed before zoning approval. He stated he thinks this is a good site for housing.

Mr. Hawes asked about the floodplain changes to clarify whether any proposed buildings are in the current floodplain. Mr. Young responded that yes, a corner of a building is, but more importantly the site grading and stormwater features are in the floodplain and relocating the line is essential to the design.

Mr. Hawes and Mr. Wiseman asked to clarify about the front setback. The building wall is 20' set back and the stoops are within the setback but are uncovered. Mr. Hawes then went through some of the concerns that had been raised about the project. He noted that the site distance issues had been resolved in his opinion by the setback and the one-way drive. He appreciates the aesthetics of the project. He believes that in conjunction with this project parking on the east side of Magnolia Ave should be prohibited.

Mr. Kidd asked about the water lines and water meters. Mr. Roberts clarified that there will be private lines on the site going to the units, but individual City meters. Meters are radio read so meter readers don't need to go on the property, and there will probably be an access agreement for installation and maintenance of the meters. The City at this point has paid for a new main extension across Magnolia Ave at 6<sup>th</sup> Street to serve the townhouse development

because the existing line on that side of the street is undersized. The main extension will benefit the whole neighborhood if there is a future extension down the alley.

Mrs. Cash motioned to recommend approval of the zoning map amendment from R3 to R4 with the condition that there be no parking on the east side of Magnolia Ave in front of the project. All voted yes except Mr. Kidd no, and Mr. Adams abstain.

Mr. Petrie motioned to recommend the conditional use permit for reduced setbacks and maximum height. At this point Mr. Kidd noticed an error in the staff report, which call the front stoops covered and not uncovered. Mr. Roberts stated clearly that this is an error, confirmed by Mr. Adams, and apologized. Mrs. Cash seconded, and all voted yes except Mr. Kidd no and Mr. Adams abstain.

Mr. Petrie asked about the process for changes to the site plan after approval, and Mr. Hawes and Mr. Roberts explained that minor changes did not need to come back to Planning Commission but major changes do. Mr. Petrie motioned to approve the site plan, Mrs. Cash seconded, and all voted yes except Mr. Kidd no and Mr. Adams abstain.

Mr. Wiseman motioned to recommend approval of the ROW abandonment. Mrs. Henson seconded and all voted yes.

Mr. Hawes asked Mr. Roberts to convey to City Council that the reasons the Planning Commission recommends approval are that the project looks attractive and will be an asset to the City; it will generate meaningful tax revenue; and it provides important additional housing options; and the project is well-engineered and designed. Mr. Kidd added to this that he believes the project is good but zoning approval is premature.

### **Minutes**

For minutes of 2/11/2025 meeting:

Corrections: typo on 2<sup>nd</sup> page – spelling of “site”

Motion to approve: 1st by Mr. Petrie, 2nd by Mrs. Henson

Abstentions: none

### **New Business**

*None*

### **Secretary’s Report**

- The City is creating a Tree Board as part of the tree canopy master plan. Mr. Petrie has indicated interest in the board.

### **Adjournment 8:10 PM**

Approved: \_\_\_\_\_





**PLANNING COMMISSION Staff Report**

Conditional Use Permit, Certificate of Appropriateness, and ROW  
 Abandonment  
 SVU Blocks 25 and 31 Residence Hall  
 7/1/2025

**Synopsis**

SVU proposes a new 600-bed residence hall with associated demolition of existing structures, site work, infrastructure, and new parking.

**Site Information**

<b>Address/Tax Map:</b>	Blocks 25 and 31 of Section 5, 2700 blocks of Magnolia Ave and Sycamore Ave; <u>tentative</u> address 2727 Magnolia Ave	
<b>Zoning:</b>	INST Institutional	
<b>Existing land use:</b>	University housing and parking	
<b>Proposed land use:</b>	University housing and parking (same)	
<b>Size:</b>	Approximately 1 acre of land disturbance, new building approximately 215,000 sf	
<b>Staff Recommendation:</b>		
<b>Tentative Timeline</b>	Preliminary Commission Discussion	<b>7/8/2025</b>
	Planning Commission Public Hearing	8/12/2025
	City Council Public Hearing	9/7/2025
	City Council Adoption	9/21/2025

**Overview**

To accommodate recent and future enrollment growth, SVU proposes transforming the western end of their campus by construction of a 600-bed residence hall. The site of the proposed building and associated parking is currently occupied by a wooded area, gravel parking lots, one single-family home, one administrative/residential building, and five modular student residence buildings (“the Mods”).

**Elements Under Review**

This is a major project but is a by-right use in the Institutional Zone. The following aspects require review and approval by Planning Commission and/or City Council:

- 1) Conditional Use Permit for single large building – Section 506 of the Land Development Regulations requires that single large buildings exceeding certain thresholds obtain a conditional use permit. In the INST zone that threshold is 25,000 sf.

- 2) Certificate of Appropriateness – this project is located within the Seminary Hill District (SHD). Review by the Planning Commission acting as the Architectural Review Board is required for both demolition and new construction for compliance with the SHD section as well as the Design Standards for the City of Buena Vista (Appendixes A-F).
- 3) Right of Way Abandonment – the project site is crisscrossed with multiple public streets and alleys. SVU proposes abandonment of these.

In addition to these City staff will conduct site plan review and Erosion & Sediment Control/Storm Water Management review.

### **Project Overview**

1. Layout
  - a. The proposed building will transform the western end of the campus. It will replace seven existing one-story buildings and erase the remaining street grid west of Magnolia Ave. The 215,000 sf five-story building is oriented more or less east-west, in line with the City's overall street grid. It is surrounded by a fire lane and new parking lots.
2. Setbacks and Height
  - a. The INST zone does not have setbacks.
  - b. The height of the building from the main entrance level (east end of the building) to the roof is 60'. The false gables at the end of the building add approximately 10-12', and the west end of the building is approximately 11' below the main level, resulting in a max height of about 71-73'. It is five stories.
  - c. The SHD regulates height thus:
    - i. *...In the institutional district new buildings located to the east of Beech Avenue to the West side of Chestnut Avenue and to the North Side of Park and 25th Streets to the south side of 28th Street buildings may be not greater in height than six stories if the base of the building is located at the foot of the ridge and the height of the building does not exceed 1,000 feet above mean sea level (48 feet above the base elevation of Main Hall) without a conditional use permit granted by the city council. In no event shall any building or structure be built that would materially obstruct the view of Main Hall from the south looking northward....*
  - d. The syntax of the text above is a bit confusing, but the intent is clearly that new buildings should not obstruct the view of Main Hall from the downtown area, should be no more than six stories, and should not exceed 1,000' absolute elevation. The ground elevation on the east end of the proposed building is approximately 920' above sea level (ASL), resulting in an absolute building height of 990' +/- a few feet.
3. Vehicular Circulation and Parking

- a. Currently, Magnolia Avenue runs north-south at the east end of the project site, and 27<sup>th</sup> Street runs roughly east-west through the heart of the site. 27<sup>th</sup> Street cuts through the apex of the ridge down to 28<sup>th</sup> Street. This cut through runs partly in a platted alley and partly crosses SVU private property, and the travel way is very narrow. At the entrance to 28<sup>th</sup> Street, it is also steep. There is a partial block of Sycamore Ave, but this functions more like a “jog” of 27<sup>th</sup> Street and is not labeled as Sycamore.
- b. As proposed, the 27<sup>th</sup> Street alignment will remain a travel way, extending westward from Magnolia in front of the library then forming the aisle of a parking lot on the south side of the new building. The Sycamore Ave alignment will cap the west end of the building, then a fire lane will wrap around the north side of the building and connect at the intersection of Magnolia Ave and Ridge Ave. The 27<sup>th</sup> St connection to 28<sup>th</sup> St will remain roughly in its current alignment.
- c. The existing site has an two gravel parking lots and street parking along Magnolia, 27<sup>th</sup> St, and Sycamore Ave. The spots are not all marked or well defined, but there are roughly 100 existing spaces that will be eliminated. The proposal calls for 99 new spaces in a lot to the south of the building (plus four handicap spaces near the entrance), and an additional 93 spaces two future parking lots to the northwest of the building. All of these spaces would be private off-street spaces.
  - i. The off-street parking requirement for dormitories (703.03) is one space per bedroom, which would be 600 spaces required. However, this requirement is not binding in the CUP process; the project may be approved with fewer spaces.
  - ii. Typically, off-street parking must be provided on the same lot as the given use. However, Section 703.01-2.2 reads: *For uses located in the Institutional zoning district, required off-street parking may be provided at any location within the Institutional district regardless of proximity to the associated use. Location of off-street parking for uses located in the Institutional zoning district shall not require a conditional use permit. Off-site parking located in a zoning district other than Institutional, for a use located within the Institutional district, must be within 600 feet of the district or receive a conditional use permit as provided in 703.01-2.1.* The school has other parking lots on campus, including a new parking lot at the Fields.

#### 4. Pedestrian Circulation

- a. The site currently has no sidewalk. Pedestrians use the roadway or informal pathways in the grass to reach the Mods buildings.
- b. The proposed building will have sidewalks around it. The main entrance is in the center of the building on the east side, in the courtyard. There are secondary

entrances on both the east and west ends. There are no connections shown to the surround pedestrian network.

5. Landscaping and Screening

- a. The draft proposals submitted do not show landscaping or screening, other than representative trees in the renderings.

6. Trash Collection

- a. The university uses a commercial trash service. The dumpsters will be in an enclosure on the south side of the building, accessed from the parking lot.

7. Water, Sewer, and Stormwater

- a. The engineers are working with the City to determine how to connect to the City system and what upgrades to public infrastructure might need to be made. Those details are not available at this time. This project is subject to an SWM permit and will go through the full review. SWM design will be done after zoning approval.

**Right of Way Abandonment**

SVU owns the majority of the land on this ridge, and the project is crisscrossed with developed and undeveloped streets and alleys (see exhibit). The project will require the abandonment of some streets and alleys. Although 27<sup>th</sup> Street will still function as a thoroughfare around the building and connecting down to 28<sup>th</sup> Street, the portion through the project site is proposed for abandonment. Consolidating the parcels under single, SVU ownership will simplify design and construction. Staff support the proposed abandonments shown. The proposed abandonments are intended to limit the number of adjacent property owners affected. The total area to be abandoned is approximately two acres.

**Analysis**

1. *Zoning*

Dormitories are a by right use in INST (617.02-3.3). However, “Single large buildings meeting or exceeding the size limits set forth below must receive a conditional use permit in accordance with article 8 of these regulations prior to construction” (INST limit is 25,000). This section does not supply any criteria on which it is to be considered, however, staff interprets the intent of this to be consideration for overall appropriates of the scale of construction in a given context. In other words, is the building too big for the location? This consideration is very similar to the Certificate of Appropriateness considerations.

While the use of the building is not explicitly a consideration for the CUP, staff believe construction of on-campus single student housing will be positive for the City’s housing market, aside from any benefits to the students themselves or the university. Affordable rental housing is a critical need for workers in the Rockbridge region, and availability of housing is one of the primary constraints to manufacturing attraction. Additionally,

there may be slightly less incentive for investors to purchase houses to rent to groups of single students.

## 2. Seminary Hill District

The Seminary Hill District requires a Certificate of Appropriateness (COA) for both demolition and new construction. The intent of the SHD is

*...to protect the Seminary Hill Neighborhood to preserve the unique historical, architectural, cultural and archaeological resources in this portion of the city and their settings, in order to protect the quality of life of the city's residents, to strengthen the city's economy by promoting and enhancing business and tourism, and to protect property values.*

The criteria for consideration of COAs are the following (Sec 615.10):

*615.10-1 Exterior architectural features, which are subject to public view from a public street, way or place.*

*615.10-2 Design, arrangement and relative size or mass.*

*615.10-3 The relation of the proposed construction to buildings and structures in the immediate surroundings.*

*615.10-4 The extent to which the building or structure would be harmonious with or obviously incongruous to the historic aspect of the surroundings.*

*615.10-5 In the case of a building to be razed or moved, a primary consideration shall be the extent to which its continued existence would tend to protect irreplaceable historic places and preserve the general historic atmosphere of the city.*

*615.10-6 The extent to which the proposed construction or demolition will promote the general welfare by maintaining and increasing real estate values, generating business, creating new positions, attracting tourists, and making the city a more attractive and desirable place in which to live.*

*615.10-7 The extent to which the proposal adheres to the design district guidelines for the City of Buena Vista adopted by the city council and incorporated herein by reference.*

Staff have reviewed the proposal and have identified the following particular issues to consider and recommendations:

- a. The seven buildings proposed for demolition, in the opinion of staff, are not of historical or architectural merit. The two oldest buildings to be demolished are a mid-twentieth century brick ranch single family dwelling (212 W 27<sup>th</sup> St) and a mid-twentieth ranch-style building that has housed a variety of university uses over the decades (115 Ridge Ave). The other five buildings are one-story modular student residence buildings erected in the mid-2000's. These modular buildings are architecturally plain and not of high quality construction. As such, staff recommend approval of demolition of these buildings.
- b. The building is very large and very tall and will be highly visible from the City, both from the south (downtown) and the north (29<sup>th</sup> Street corridor). The appearance of the building from the City, and not just from on the ground on campus, should be factored into the design. For this reason, staff request images

or renderings that superimpose the proposed building on the current view, as seen from different perspectives.

- c. Although the SHD is a large area with a wide range of time periods and styles, the SVU campus is a more cohesive unit, although it too exhibits multiple periods and styles: Queen Anne, Georgian Revival, Neoclassical, etc.. One of the most difficult tasks for contemporary architects is to echo and relate to historical buildings in a given context while making a new building architecturally true to itself. Staff note that the architects made an effort to reference some of the existing campus buildings in their choice of Doric order for the pilasters and frieze, Adamesque fanlights over entrances, brick arches with cement keystones, and decorative panels in window bays on some sections of the elevation. Staff are concerned about the architectural styling and its coherence with the campus, specifically:
  - i. The faux gables at the ends of the building will be very obviously fake from all angles except looking dead-on. In particular, they will be obviously fake when viewed from a distance from most of the City. Staff recommend they be eliminated entirely and the flat roof embraced. If a gabled pediment feature (which is found on a number of buildings on campus) is strongly desired, staff recommend modeling the north elevation of the Kimball Student Center, which has a flat roof but a gabled pediment topping a pilastered central bay. The pediment is scaled appropriately for the bay, but is barely tall enough to peek over the parapet wall on the flat roof. This approach could easily be adopted on the proposed residence hall, which already has central bays on the end walls delineated by pilasters. This approach may reduce the total height of the building by a few feet also. (Of course another option would be putting a gable roof on the entire building—this would be fantastic and look better than a flat roof—but staff assume cost/maintenance drove the choice and accept that.)
  - ii. The balustrades on top of the entrance porticos on the ends of the building have an X shaped. Staff could not find this style elsewhere on campus and recommend copying the balustrade on the Kimball Student Center north elevation, which uses classic rounded balusters.
  - iii. Most windows on campus are multi-pane double-hung. Staff strongly recommend this appearance (e.g. 6 over 6 or 8 over 8) because it will be more consistent with other buildings and add visual detail to the building. Staff do not think true (exterior) divided light windows are necessary, and divisions inside the double-pane sandwich are sufficient to achieve the visual effect.
  - iv. Staff appreciate the use of cement keystones in the brick lintels on the first and second floors of the building, and the stucco lintels with keystones on the upper floors, but this detail is not found elsewhere on campus. Could any money be saved by using plain brick flat arches on the lower levels, and plain stucco flat lintels on the upper levels? If multi-

pane windows are used, there should still be enough visual interest on the elevations.

3. *Buena Vista Design Standards (Appendices)*

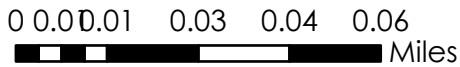
Per 615.04-4 of the Seminary Hill District section, “New buildings must comply with appendix B of the Buena Vista Land Development Regulations.” This section addresses building and urban design and promulgates design choices that are human scale and pedestrian-friendly. They are written primarily for downtown contexts rather than institutional campuses and not all of the principles transfer, however, there are a few items staff have identified. These overlap some with the COA items.

- a. Because of the slope of grade down from east to west, there are long stretches of bare wall below the first floor. Have the architects considered a basement level, which could increase the number of rooms or provide other space? It appears that the northwest corner of the building might be as much as 15’ below the first floor level. The best case would be a use in this space that has multiple entrances and windows on the exterior (i.e., high pedestrian activity), such as student activities space or offices or even classrooms. If a basement is not an option, could there be some blind windows in the brickwork? (This is not ideal but may help.)
- b. Another idea to increase permeability of the building and interactivity at the pedestrian scale would be to give some or all first-floor units direct exterior access, like “regular” apartments. Staff recognize this may not be an option because of security/access control but something to consider.

4. *Other Site Design Analysis Items*

- a. 27<sup>th</sup> Street connection - this connection to 28th Street is critical to maintain (or improve), as it is a key alternate route off Seminary Hill in the event one of the other streets were blocked. Currently, this project does not propose improvements to the entrance from 28th St and it would remain a narrow secondary/emergency route, but could be improved in the future. Going forward, this street will be labeled and given a street sign indicating it is 27<sup>th</sup> Street. Staff recommend designing the site to accommodate a 50’ ROW for the street in the future along the current alignment (which may require some non-SVU private property), or designing a new alignment.
- b. Parking – As noted in the site design overview, the number of spaces to be provided in the new parking is far less than the number required in the off-street parking regulations. Additionally, the project will eliminate roughly 100 spaces. If only the parking lots to the south of the building are built, and not the lots marked “future parking lots,” there will no net gain of parking spaces. However, the large new parking lots at the Fields will soon be completed. The new lots at the Fields will add 113 spaces. A key question to ask is what, if any, policies SVU has or will have about car ownership and use for the students living in the proposed building. If parking availability is a concern, the CUP could include requirements about parking policies for residents.
- c. Pedestrian circulation and connectivity – the current plans show very limited pedestrian connectivity.

- i. Crosswalks at the intersection of (what is now) 27<sup>th</sup> St and Magnolia Ave, and at the intersection of Ridge Ave and Magnolia Ave, will be required. These will tie into new sidewalk shown on the proposal and existing campus pathways, and are essential as large numbers of students will be crossing this public street.
- ii. Sidewalk on the north side of the building, either on the building side or north side of the fire lane, will be required. This will provide a route for pedestrians coming up from 28<sup>th</sup> Street or from the future parking lots to the northwest of the building.
- iii. Stairs/path from the building down to 28<sup>th</sup> Street will be required to provide pedestrian access north of Seminary Hill. This would be a fairly short run down from the proposed fire lane on the north of the building. The only existing stairs to 28<sup>th</sup> St from the hill are in very poor condition.
- iv. Stairs/path from the parking lots south of the building down to University Hill Dr will be required to provide a logical route for pedestrians going to and from downtown. The preferred location for these would be from the southwest corner of the parking lots, so they take pedestrians closer to the intersection of University Hill Dr and Park Ave, but there are other potential locations.



2025

# Block 25 & 31, Section 5 SVU Residence Hall Site



Looking north from Sycamore Ave & Park Ave toward project site.



Kimball Student Center - architectural reference



Library - architectural reference



Modular dorms, looking northwest from 27th St near Magnolia Ave



115 Ridge Ave, to be demolished



Intersection of Ridge Ave & Magnolia Ave, from Ridge Ave, looking west;  
new building will be straight ahead



Modular dorms to be demolished, looking from behind 115 Ridge Ave west; new building will be straight ahead



115 Ridge Ave rear, to be demolished



Modular dorms, looking north from 27th Street near Sycamore Ave  
new building will be right here



27th Street looking west; new building will be immediately to the right



Parking lot at western end of 27th St, looking northwest; Sycamore Ave to the right



212 W 27th St, to be demolished, looking west



27th St connection looking east; new building will be straight ahead



27th St connection looking west, 28th St is ahead around the corner



**View toward Residence Hall from East**

June 30, 2025





**View toward Residence Hall from West**

June 30, 2025



**Aerial of Residence Hall from Northwest**

June 30, 2025



**Aerial of Residence Hall from Southwest**

June 30, 2025





**Aerial of Residence Hall from Northeast**

June 30, 2025





**Aerial of Residence Hall from Southeast**

June 30, 2025

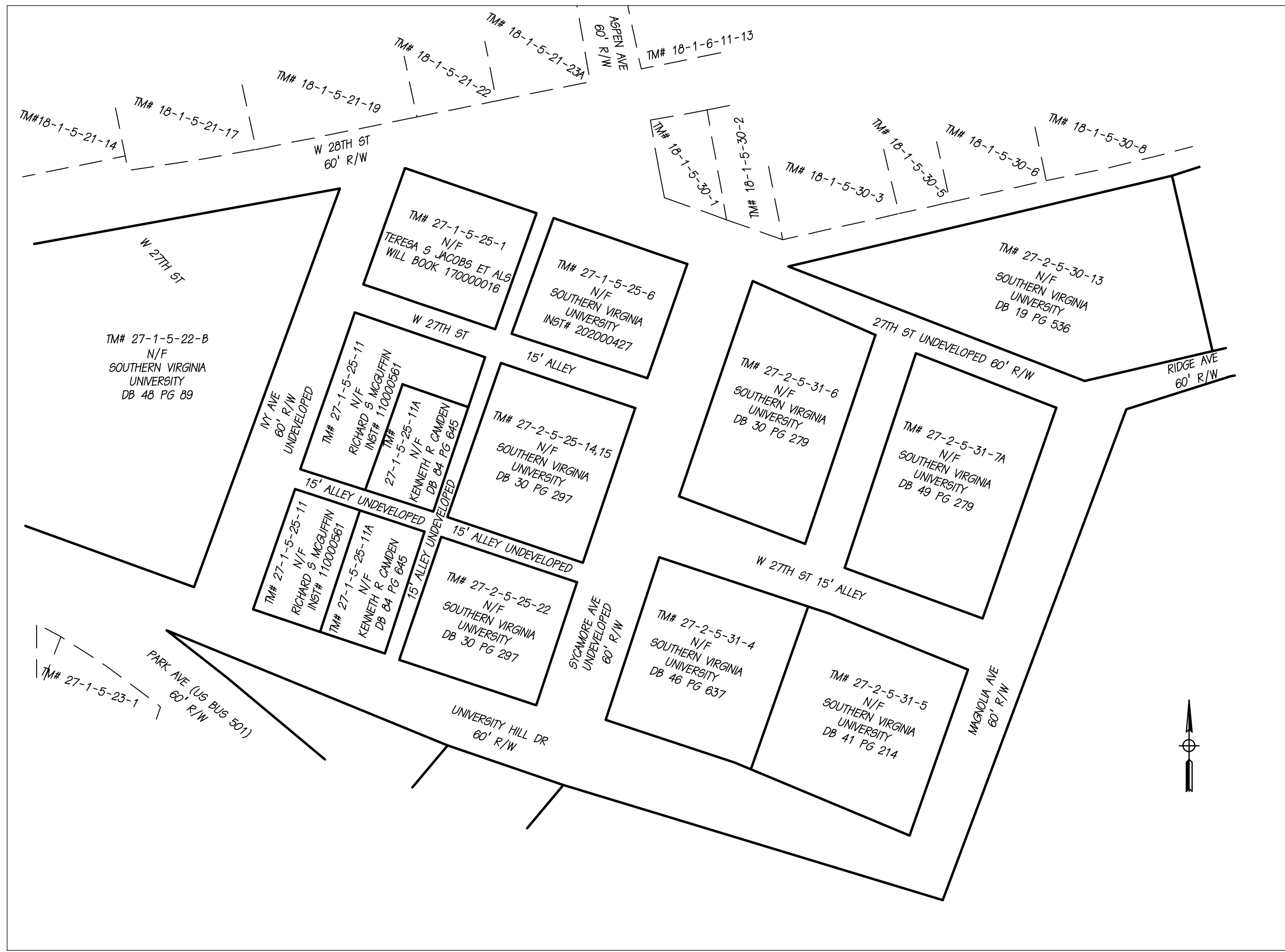


**SITE INFORMATION:**  
**TAX MAP#:** 27-1-5-22-B, 27-1-5-25-6, 27-2-5-25-14, 27-2-5-25-22, 27-2-5-30-13, 27-2-5-31-6, 27-2-5-31-7A, 27-2-5-31-4 & 27-2-5-31-5  
**OWNER:** SOUTHERN VIRGINIA UNIVERSITY  
 1 UNIVERSITY HILL DRIVE DRIVE  
 BUENA VISTA, VA 24416  
 ATTN: JAMES BALLSTADT  
 PHONE NUMBER: 435-901-0638  
 EMAIL: JAMES.BALLSTADT@SVU.EDU

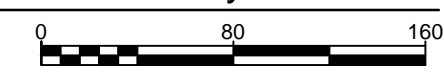
**GENERAL NOTES:**  
 (61.) THE EXISTING UNDERGROUND UTILITIES SHOWN HEREON ARE BASED UPON AVAILABLE INFORMATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING THE EXACT LOCATION OF ALL UTILITIES BEFORE COMMENCING WORK AND FOR ANY DAMAGES THAT OCCUR BY HIS/HER FAILURE TO LOCATE OR PRESERVE THESE UTILITIES. IF, DURING CONSTRUCTION, THE CONTRACTOR SHOULD ENCOUNTER UTILITIES OTHER THAN THOSE SHOWN ON THE PLANS HE/SHE SHOULD NOTIFY THE ENGINEER AND TAKE NECESSARY AND PROPER STEPS TO PROTECT THE FACILITY AND ASSURE THE CONTINUANCE OF SERVICE.  
 (62.) ANY DISCREPANCIES FOUND BETWEEN THE DRAWINGS AND SITE CONDITIONS OR ANY DISCREPANCIES OR AMBIGUITIES IN THE DRAWINGS SHALL BE IMMEDIATELY REPORTED TO THE ENGINEER. WORK DONE BY THE CONTRACTOR WITHOUT DIRECTION AFTER THE DISCOVERY OF SUCH INCONSISTENCIES SHALL BE DONE AT THE CONTRACTOR'S RISK.  
 (63.) ALL CONSTRUCTION SHALL CONFORM TO THE CITY OF BUENA VISTA AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION STANDARDS AND SPECIFICATIONS, CONSTRUCTION OF SANITARY SEWER AND WATER SERVICES SHALL CONFORM TO THE VIRGINIA DEPARTMENT OF HEALTH AND CITY OF BUENA VISTA PUBLIC WORKS STANDARDS AND SPECIFICATIONS. ALL CONSTRUCTION SHALL CONFORM TO DEQ'S CONSTRUCTION GENERAL PERMIT CONDITIONS (WHERE APPLICABLE), VIRGINIA DEQ STORMWATER DESIGN SPECIFICATIONS (WHERE APPLICABLE), AND THE VIRGINIA EROSION & SEDIMENT CONTROL HANDBOOK.  
 (64.) ALL CONSTRUCTION SHALL COMPLY WITH THE AMERICANS WITH DISABILITIES ACT (ADA) REQUIREMENTS & WITH THE 2015 UNIFORM STATEWIDE BUILDING CODE (USBC) AND ICC/ANSI A117.1 2017.  
 (65.) CONSTRUCTION LIMITS SHALL BE PROPERTY LINES OR AS INDICATED ON THE PLAN.  
 (66.) ALL FINAL GRADING, SEEDING, SOODING AND/OR PAVING SHALL BE DONE IN SUCH A MANNER TO PRECLUDE FLOODING OF WATER ON THE SITE.  
 (67.) THE CONTRACTOR SHALL BE RESPONSIBLE FOR ACQUIRING ALL NECESSARY PERMITS BEFORE THE START OF CONSTRUCTION.  
 (68.) THE CONTRACTOR SHALL NOTIFY M&B UTILITY (1-800-552-7001) 48 HOURS PRIOR TO EXCAVATION.  
 (69.) THE CONTRACTOR SHALL COORDINATE INSTALLATION OF ELECTRICAL, TELEPHONE AND CATV SERVICES.  
 (70.) DISPOSE OF TREES, STUMPS AND OTHER DEBRIS OFF-SITE.  
 (71.) ALL MATERIALS USED FOR FILL SHALL BE FREE OF UNSUITABLE MATERIALS SUCH AS WOOD, ROOTS, FROZEN MATERIAL, ROCKS OR BOULDERS OF UNACCEPTABLE SIZE OR ANY OTHER NON-COMPACTING SOIL MATERIALS.  
 (72.) A PERMIT MUST BE SECURED FROM THE VIRGINIA DEPARTMENT OF TRANSPORTATION BEFORE ANY WORK IS PERFORMED IN A STATE RIGHT-OF-WAY.  
 (73.) THE CONTRACTOR SHALL PROVIDE ADEQUATE MEANS OF CLEANING TRUCKS AND/OR OTHER EQUIPMENT OF MUD PRIOR TO TRAVELING ON A PUBLIC RIGHT-OF-WAY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO CLEAN STREETS AND TO ALLAY DUST AND TAKE ALL MEASURES NECESSARY TO ENSURE THAT THE ROAD IS MAINTAINED IN A CLEAN, MUD AND DUST FREE CONDITION AT ALL TIMES DURING CONSTRUCTION.  
 (74.) DIMENSIONS ARE FROM THE FACE OF CURB UNLESS OTHERWISE NOTED.  
 (75.) PAINT HANDICAPPED SYMBOL ON PARKING SPACES WHERE SHOWN ON DRAWINGS. TRAFFIC MARKINGS FOR HANDICAP PARKING SPACES AND ACCESSIBLES SHALL BE BLUE. TRAFFIC MARKINGS SHALL BE IN CONFORMANCE WITH THE LATEST VIRGINIA DEPARTMENT OF TRANSPORTATION AND THE MANUAL FOR UNIFORM TRAFFIC CONTROL DEVICES STANDARDS AND SPECIFICATIONS.  
 (76.) TRAFFIC CONTROL SIGNS SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE VIRGINIA WORK AREA PROTECTION MANUAL AND THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES.  
 (77.) ALL FILLS TO BE COMPACTED IN 6" LOOSE LIFTS TO 98% STD. PROCTOR.  
 (78.) EXISTING SLOPES GREATER THAN 4:1 SHALL BE BENCHED PRIOR TO PLACEMENT OF FILL.  
 (79.) CONTRACTOR WILL COMPLETE ALL SITE WORK: FINAL GRADING, LANDSCAPING, SEEDING, PAVING, AND REMOVAL OF DEBRIS.  
 (80.) THIS PLAN HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.  
 (81.) ARCHITECTURAL PLANS, SIGNAGE PLANS, AND LIGHTING PLANS SHALL BE SUBMITTED BY OTHERS UNDER SEPARATE COVER. ALL ARCHITECTURAL, SIGNAGE, AND LIGHTING INFORMATION SHOWN ON THIS PLAN IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY.  
 (82.) BOUNDARY INFORMATION FROM AVAILABLE RECORDS.  
 (83.) TOPOGRAPHIC INFORMATION FROM A FIELD SURVEY BY PERKINS & ORRISON.  
 (84.) PIPE BEDDING SHALL BE PER VDOT STANDARDS UNLESS OTHERWISE NOTED.  
 (85.) HDPE PIPE SHALL BE DOUBLE WALL TYPE "S" WITH SMOOTH INTERIOR AND MEET M&BHTO REQUIREMENTS M294. HDPE PIPE BEDDING SHALL BE PER MANUFACTURER'S SPECIFICATION. ALL JOINTS SHALL BE WATER TIGHT.

# CONDITIONAL USE PERMIT FOR SVU RESIDENCE HALL

CITY OF BUENA VISTA, VIRGINIA



Location Map and Boundary Insert



VICINITY MAP  
NO SCALE

EXISTING	DESCRIPTION	NEW	FUTURE
[Symbol]	BUILDING WALL	[Symbol]	[Symbol]
[Symbol]	CONC. WALKS	[Symbol]	[Symbol]
[Symbol]	CONTOURS	[Symbol]	[Symbol]
[Symbol]	SPOT ELEVATION	[Symbol]	[Symbol]
[Symbol]	STORM SEWER	[Symbol]	[Symbol]
[Symbol]	SANITARY SEWER & MANHOLES	[Symbol]	[Symbol]
[Symbol]	WATER LINE, VALVE & FIRE HYDRANT	[Symbol]	[Symbol]
[Symbol]	WATER METER	[Symbol]	[Symbol]
[Symbol]	DUAL WATER METER	[Symbol]	[Symbol]
[Symbol]	FENCE	[Symbol]	[Symbol]
[Symbol]	UNDERGROUND ELECTRIC LINE	[Symbol]	[Symbol]
[Symbol]	OVERHEAD ELECTRIC LINE	[Symbol]	[Symbol]
[Symbol]	GAS LINE	[Symbol]	[Symbol]
[Symbol]	GAS METER	[Symbol]	[Symbol]
[Symbol]	UNDERGROUND COMMUNICATION LINE	[Symbol]	[Symbol]
[Symbol]	EDGE OF PAVEMENT	[Symbol]	[Symbol]
[Symbol]	CURB (CG-2)	[Symbol]	[Symbol]
[Symbol]	CURB AND GUTTER (CG-6)	[Symbol]	[Symbol]
[Symbol]	REVERSE CURB AND GUTTER (CG-6R)	[Symbol]	[Symbol]
[Symbol]	TRANSITION CURB	[Symbol]	[Symbol]
[Symbol]	PROPERTY LINE	[Symbol]	[Symbol]
[Symbol]	TREELINE	[Symbol]	[Symbol]
[Symbol]	EXISTING TREES TO BE PROTECTED & PRESERVED	[Symbol]	[Symbol]
[Symbol]	KEYNOTE	[Symbol]	[Symbol]
[Symbol]	STORM SEWER ID	[Symbol]	[Symbol]
[Symbol]	SANITARY SEWER ID	[Symbol]	[Symbol]
[Symbol]	AREA DRAIN ID	[Symbol]	[Symbol]

### ABBREVIATIONS

AB	ANCHOR BLOCK	MAX	MAXIMUM
AD	AREA DRAIN	MECH	MECHANICAL
ADD'L	ADDITIONAL	MI	MANHOLE
BFF	BASEMENT FINISHED FLOOR	MIN	MINIMUM
BLDG	BUILDING	MON	MONUMENT
BW	BOTTOM OF WALL	NC	NOT IN CONTRACT
BIO	BIORETENTION	OC	ON CENTER
BM	BENCHMARK	PL	PROPERTY LINE
CL	CENTERLINE	PROP	PROPOSED
CL	CLASP	PRVT	PRIVATE
CMP	CORRUGATED METAL PIPE	PVC	BEGIN VERTICAL CURVE
CO	CLEANOUT	PVC	POLYVINYL CHLORIDE
CONC	CONCRETE	PVT	END VERTICAL CURVE
CY	CUBIC YARDS	PMT	PAVEMENT
DI	DROP INLET	RCP	REINFORCED CONCRETE PIPE
DM	DWIMETER	SD	STORM DRAINAGE
DP	DUCTILE IRON PIPE	SF	SQUARE FOOTAGE
EA	EACH	SHT	SHEET
EC	EROSION CONTROL	SEWR	SANITARY SEWER
EO	EDGE OF CONCRETE	STR	STRUCTURE
EL	ELEVATION	STBM	STORM SEWER
ELEV	ELEVATION	SW	SIDEWALK
EP	EDGE OF PAVEMENT	SWM	STORMWATER MANAGEMENT
ES	END SECTION	TAN	TANGENT
EX	EXISTING	TB	CONCRETE THRUST BLOCK
FB	FACE OF BUILDING	TBA	TO BE ABANDONED
FF	FINISHED FLOOR ELEVATION	TBM	TEMPORARY BENCHMARK
FI	FIRE HYDRANT	TBR	TO BE REMOVED
GSF	GROSS SQUARE FOOTAGE	TBR*	TO BE REMOVED OR RELOCATED
GV	GATE VALVE	TF	TOP OF FOOTER
HB	HORIZONTAL BEND	TC	TOP OF CURB
HD	HEAVY DUTY	TSW	TOP OF SIDEWALK
HDPE	HIGH DENSITY POLYETHYLENE PIPE	TW	TOP OF WALL
HP	HIGH POINT	TP	TELEPHONE POLE
HOR	HORIZONTAL	TR	TOP OF RM
IN	INVERT	TYP	TYPICAL
IN	INVERT IN	VB	VERTICAL BEND
IPF	IRON PIN FOUND	VDOT	VIRGINIA DEPARTMENT OF TRANSPORTATION
IPS	IRON PIN SET	WL	WATER LINE
IO	INVERT OUT	WM	WATER METER
I.S.	INLET SHAPING	WWR	WELDED WIRE REINFORCEMENT
LF	LINEAR FEET	W	WITH
LP	LOW POINT	WV	WATER VALVE

**SHEET LIST**

NUMBER	NAME
C100	COVER SHEET
C101	EXISTING CONDITIONS
C102	DEMOLITION PLAN
C200	SITE PLAN



## CONDITIONAL USE PERMIT FOR SVU RESIDENCE HALL

1 University Hill Dr.  
 Owner:  
 Southern Virginia University  
 1 University Hill Dr.  
 Buena Vista, VA 24416

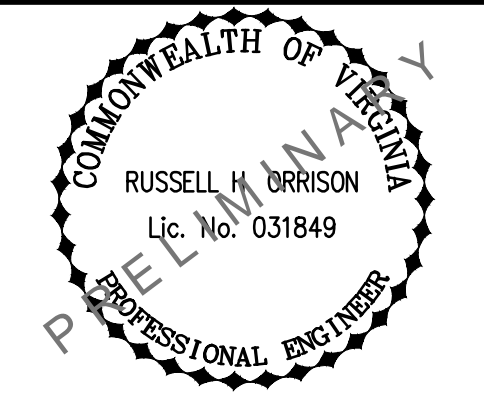
Architect:  
 Parkway C&A  
 1000 Civic Circle  
 Lewisville, TX 75057

MEP Engineer:  
 Salas O'Brien  
 106 Decker Drive, Suite 200  
 Irving, TX 75062

Structural Engineer:  
 Salas O'Brien  
 12655 N. Central Expy, Suite 720  
 Dallas, TX 75243

Civil Engineer:  
 Perkins & Orrison, LLC  
 17 West Nelson St.  
 Lexington, VA 24450

Landscape Architect:  
 Perkins & Orrison, LLC  
 17 West Nelson St.  
 Lexington, VA 24450



NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION.  
 Architect: Bill Pounds

No.	Description	Date
1	SUBMITTAL TO CITY	06/30/25

Drawn by: P. Snyder  
 Checked by: G. Worley  
 Project Number: 04-00000

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### COVER SHEET

# C100

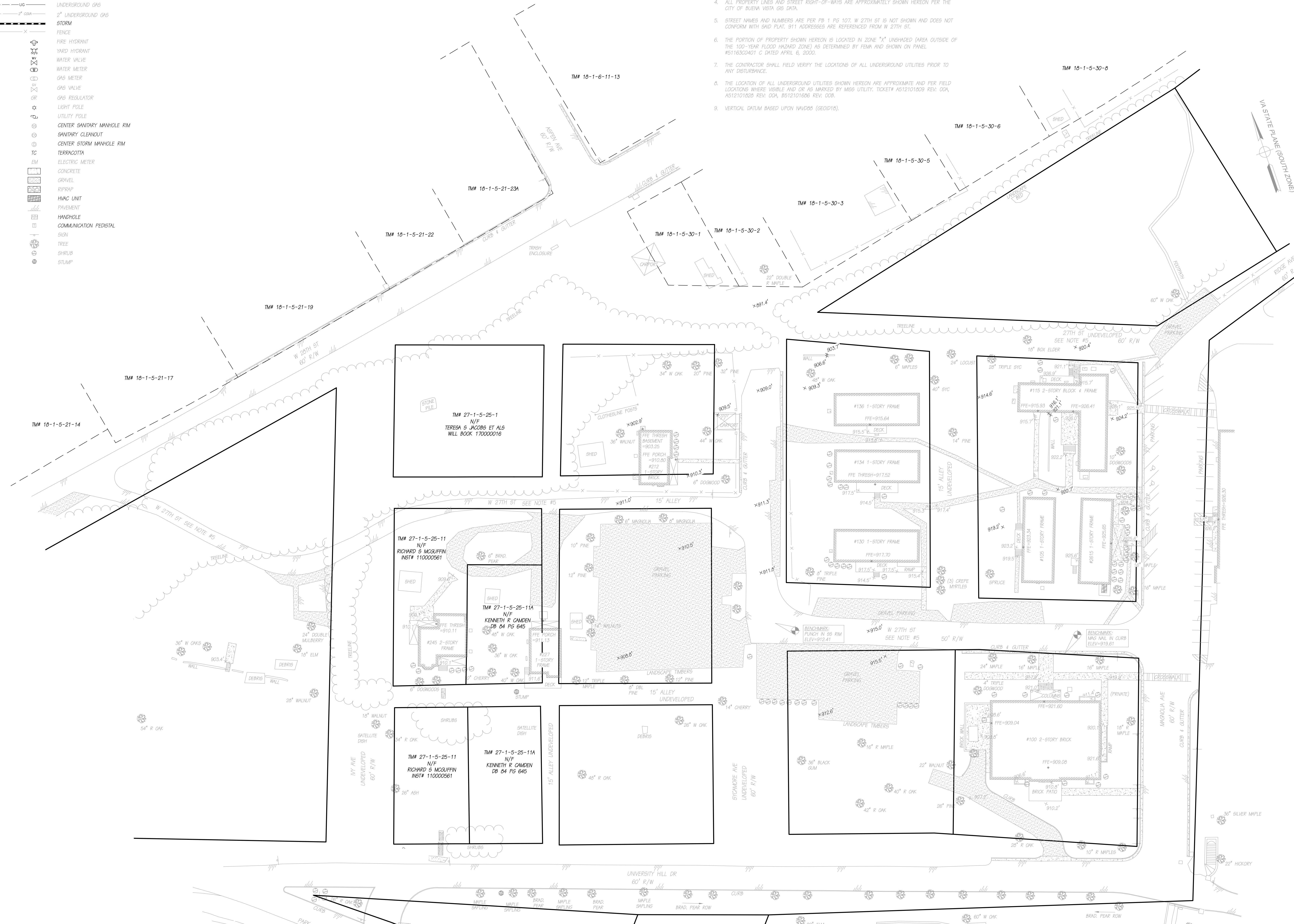
LEGEND:

- SS SANITARY SEWER
- W WATERLINE
- UNDERGROUND COMMUNICATIONS
- OVERHEAD ELECTRIC
- UNDERGROUND ELECTRIC
- UNDERGROUND GAS
- 2" UNDERGROUND GAS
- STORM
- FENCE
- FIRE HYDRANT
- YARD HYDRANT
- WATER VALVE
- WATER METER
- GAS METER
- GAS VALVE
- GAS REGULATOR
- LIGHT POLE
- UTILITY POLE
- CENTER SANITARY MANHOLE RIM
- SANITARY CLEANOUT
- CENTER STORM MANHOLE RIM
- TERRAZZOTA
- ELECTRIC METER
- CONCRETE
- GRAVEL
- RIPRAP
- HVAC UNIT
- PAVEMENT
- HANDHOLE
- COMMUNICATION PEDISTAL
- SIGN
- TREE
- SHRUB
- STUMP

NOTES:

1. THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT INDICATE ALL ENCUMBRANCES UPON THE PROPERTY. SOURCE OF TITLE AND ADJOINING INFORMATION OBTAINED THROUGH THE CITY OF BUENA VISTA TAX RECORDS.
2. THIS PLAT HAS BEEN PREPARED FROM A CURRENT FIELD SURVEY PER THE DATE OF THIS PLAT.
3. THIS IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY.
4. ALL PROPERTY LINES AND STREET RIGHT-OF-WAYS ARE APPROXIMATELY SHOWN HEREON PER THE CITY OF BUENA VISTA GIS DATA.
5. STREET NAMES AND NUMBERS ARE PER PB 1 PG 107, W 27TH ST IS NOT SHOWN AND DOES NOT CONFORM WITH SAID PLAT, 911 ADDRESSES ARE REFERENCED FROM W 27TH ST.
6. THE PORTION OF PROPERTY SHOWN HEREON IS LOCATED IN ZONE "X" UNSHADOWED (AREA OUTSIDE OF THE 100-YEAR FLOOD HAZARD ZONE) AS DETERMINED BY FEMA AND SHOWN ON PANEL #511630491 C DATED APRIL 6, 2000.
7. THE CONTRACTOR SHALL FIELD VERIFY THE LOCATIONS OF ALL UNDERGROUND UTILITIES PRIOR TO ANY DISTURBANCE.
8. THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND PER FIELD LOCATIONS WHERE VISIBLE AND OR AS MARKED BY MISS UTILITY. TICKET# A512101809 REV. 00A, A512101828 REV. 00A, A512101836 REV. 00B.
9. VERTICAL DATUM BASED UPON NAVD83 (GEOID18).

THIS TOPOGRAPHIC SURVEY WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF FARRIS P. HOTCHKISS, JR. LS FROM AN ACTUAL GROUND SURVEY MADE UNDER MY SUPERVISION, THAT THE IMAGERY AND/OR ORIGINAL DATA WAS OBTAINED ON 06/16/2025; AND THAT THIS PLAT, MAP, OR DIGITAL GEOSPATIAL DATA INCLUDING METADATA MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.



**CONSTRUCTION • ARCHITECTURE**

**PARKWAY**

Parkway C&A, LP  
1000 Civic Circle  
Lewisville, TX 75067  
pkwycon.com (972) 221-1979

Project Manager: Construction PM  
Contact: 214-111-1111

Architect: Project Architect  
Contact: 214-111-1111



**CONDITIONAL USE PERMIT FOR SVU RESIDENCE HALL**

1 University Hill Dr.  
**Owner:**  
 Southern Virginia University  
 1 University Hill Dr.  
 Buena Vista, VA 24416

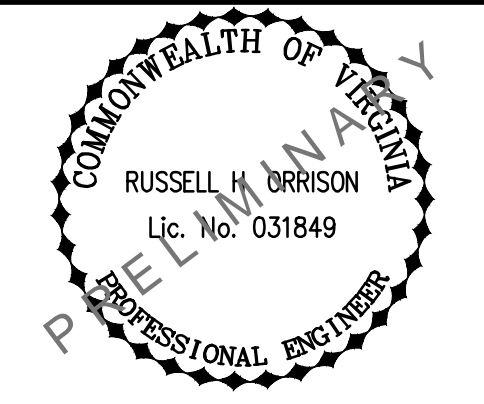
**Architect:**  
 Parkway C&A  
 1000 Civic Circle  
 Lewisville, TX 75067

**MEP Engineer:**  
 Salas O'Brien  
 106 Decker Drive, Suite 200  
 Irving, TX 75062

**Structural Engineer:**  
 Salas O'Brien  
 12655 N. Central Expy, Suite 720  
 Dallas, TX 75243

**Civil Engineer:**  
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 Lexington, VA 24450

**Landscape Architect:**  
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NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION.  
 Architect: Bill Pounds

No.	Description	Date
1	SUBMITTAL TO CITY	06/30/25

Drawn by: P. Snyder  
 Checked by: G. Worley  
 Project Number: 04-00000  
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**EXISTING CONDITIONS**

**C101**

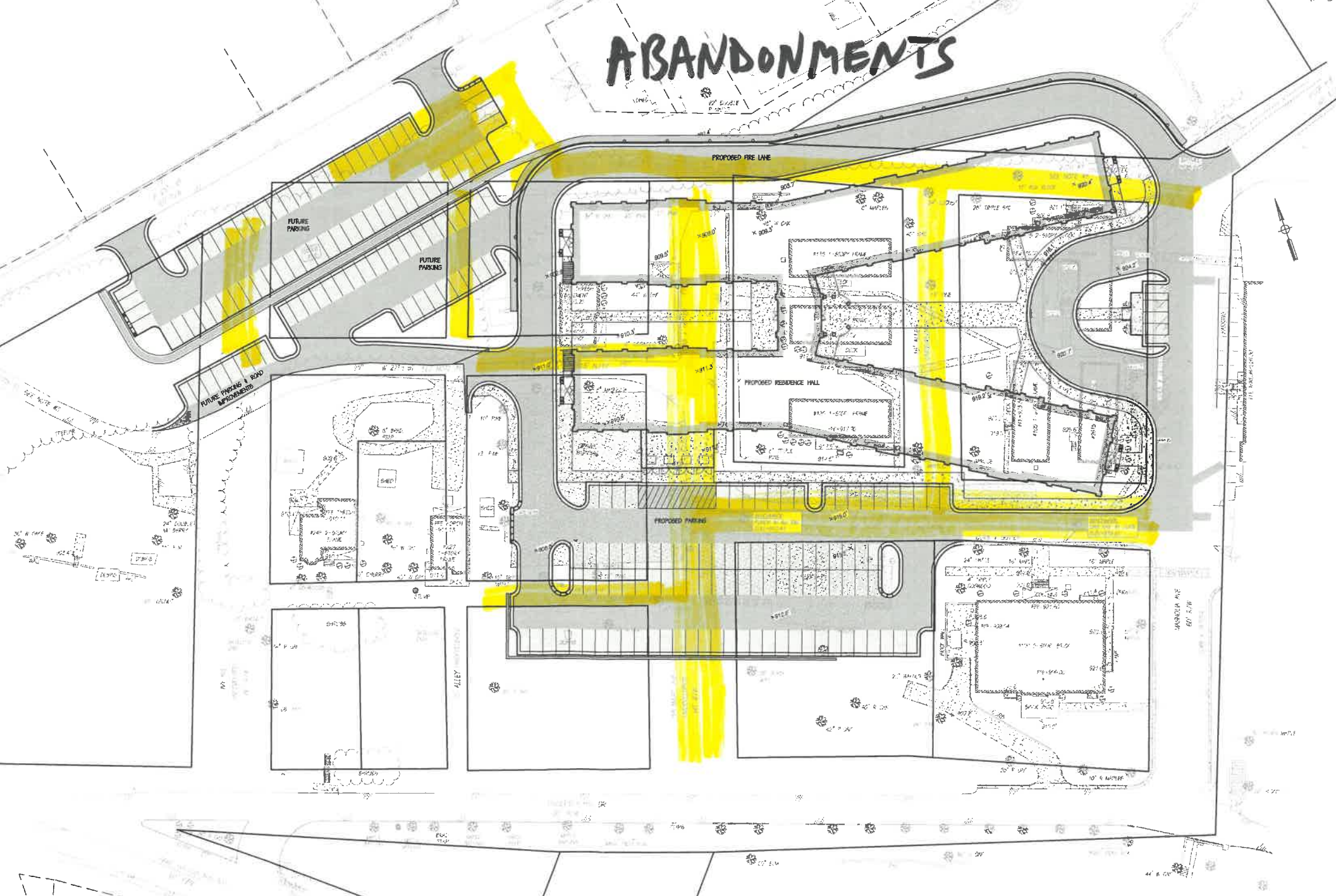








# ABANDONMENTS







1 Overall North Elevation  
1/16" = 1'-0"



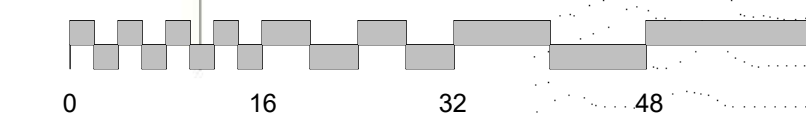
2 Overall South Elevation  
1/16" = 1'-0"



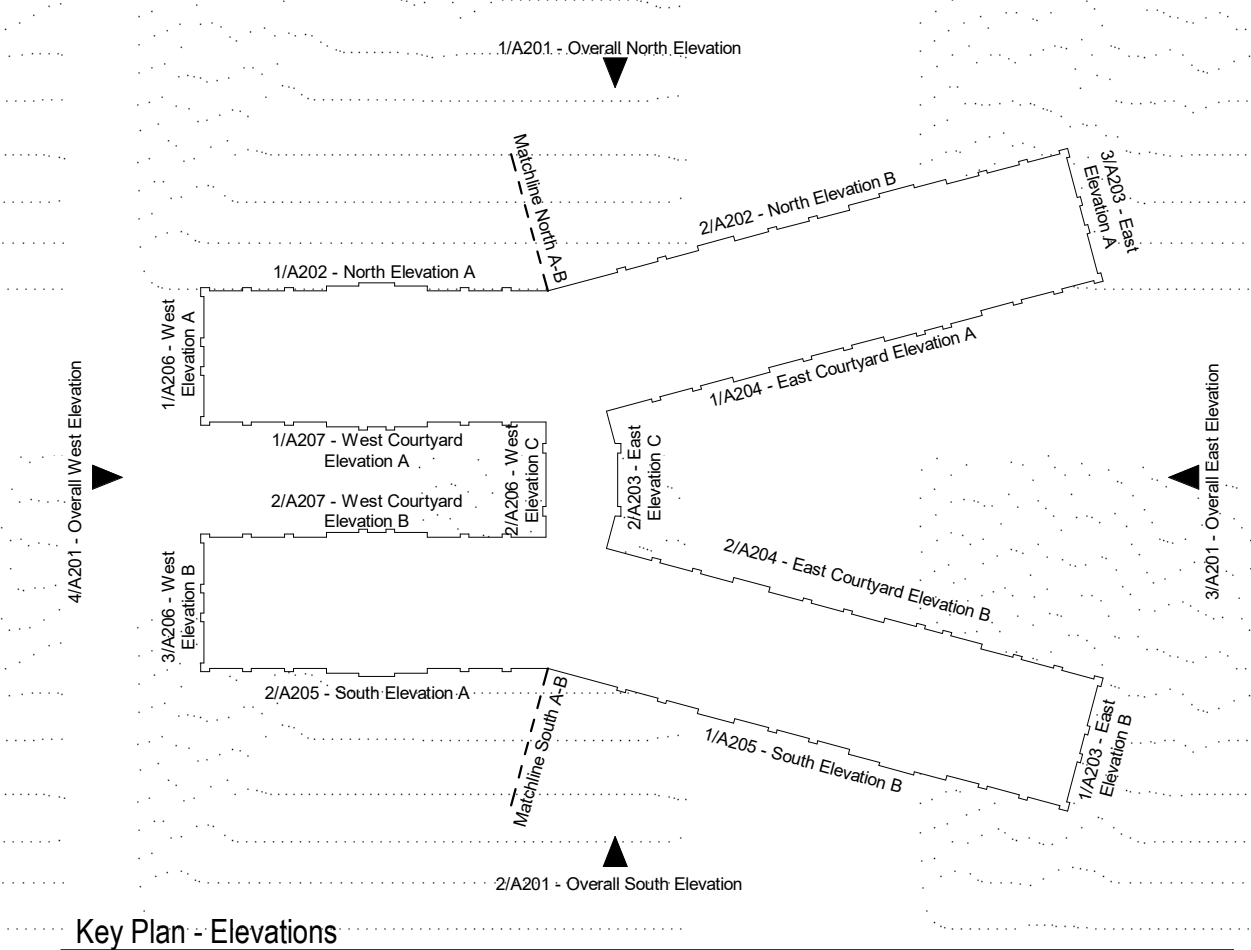
3 Overall East Elevation  
1/16" = 1'-0"



4 Overall West Elevation  
1/16" = 1'-0"



Exterior Finish Schedule					
Mark	Item	Manufacturer	Style	Color / Finish	Remarks
	Wall Veneer				
BRK-1	Wall Veneer		Brick Veneer		
STC-1	Wall Veneer		Stucco		



**SVU RESIDENCE HALL**  
 1 University Hill Dr.

**Owner:**  
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 1 University Hill Dr.  
 Buena Vista, VA 24416

**Architect:**  
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 1000 Civic Circle  
 Lewisville, TX 75067

**MEP Engineer:**  
 Salas O'Brien  
 12655 N. Central Expy, Suite 72-  
 Dallas, TX 75243

**Structural Engineer:**  
 Salas O'Brien  
 12655 N. Central Expy, Suite 72-  
 Dallas, TX 75243

**Civil Engineer:**  
 Perkins & Orrison, LLC  
 17 West Nelson St.  
 Lexington, VA 24450

**Landscape Architect:**  
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 17 West Nelson St.  
 Lexington, VA 24450

NOT FOR REGULATORY  
 APPROVAL, PERMITTING OR  
 CONSTRUCTION.  
 Architect: Bill Pounds

No.	Description	Date
	Owner Review	06/20/2025
	Drawn by: Author	
	Checked by: Checker	
	Project Number: 04-00000	
	COPYRIGHT PARKWAY C&A, LP © 2024	

Overall Exterior Elevations



**2 Overall South Elevation**  
 1/16" = 1'-0"



**3 Overall East Elevation**  
 1/16" = 1'-0"



## PLANNING COMMISSION Staff Report

Legal Update – Site Plan Review

6/30/2025

### Synopsis

Effective July 1, Planning Commission is no longer the site plan review authority. The Code of Virginia was updated to assign the authority for site plan and subdivision review solely to a staff person, in this case the Zoning Administrator.

### Detail

There are two three types of land use review: judicial, legislative, and ministerial. Judicial, which is done by the Board of Zoning Appeals, is review of whether a land use decision was properly made in accordance with the law. Legislative is typically done by the City Council and takes the form of a zoning text amendment, zoning map amendment, or conditional use permit. Council has wide latitude in what factors it considers and what it can decide because they are elected representatives and they are essentially making new “laws” when they approve a zoning action. Ministerial review is checking to see if the law was followed, as in reviewing a site plan to make sure that the required improvements were made.

Most localities in Virginia assign ministerial review to staff persons. Buena Vista has traditionally assigned site plan review to the Planning Commission, meaning a site plan is not valid unless it is approved by the Commission. (Sec 1504.01 of Land Development Regulations “All site plans ... shall be approved by the zoning administrator and planning commission...”, underline added). The City had authority to assign this duty to the Planning Commission because of multiple references in the Code of Virginia chapter on Planning, Subdivision of Land, and Zoning to submittal of plans and review of plans and plats by “the planning commission or other designated agent of the locality...” or similar wording. Buena Vista has assigned approval of subdivision plats ultimately to City Council.

In the most recent session of General Assembly, a bill was passed into law that amended these references to (in almost all cases) limit them solely to a “designated agent.” In other words, it consolidated authority to the designated agent, who is defined thus:

*“Designated agent” means any agent employed or authorized by a locality and designated by the governing body to review and act on subdivision plats, site plans, and plans of development. “Designated agent” does not include the local planning commission. However, the local planning commission may serve as the designated agent of any locality with a population of 5,000 or less.*

Very little attention was given to this bill and I have not read news coverage or commentary on it, however, I expect the purpose of this was to streamline development approval and limit the influence of “politics.” From a developer perspective, any review by a public body of multiple people introduces room for delay, changes, and unpredictability.

The full text of the code changes, showing new language and repealed words struck through, is included.

### **Impact**

Essentially, site plans will no longer need to go to Planning Commission for approval. As the designated agent I can choose to bring them to Planning Commission for your consultation but cannot unreasonably delay approval solely to wait for PC's input. There may be a developer who submits a site plan and wants approval ASAP and I am able to review and complete within a week, and it is the 20<sup>th</sup> of the month, for example—I could proceed with issuing the site plan approval. There may be standalone site plans for review that I desire Planning Commission's consultation on, and there may be some that are simpler and I do not feel the need for it.

Typically, site plan review is paired with a zoning map amendment or a conditional use permit, and sometimes with a certificate of appropriateness or a ROW abandonment. In these cases, the project would still come to Planning Commission, and the staff reports will generally continue to address the same items they do now. For example, provision of adequate parking is a site plan consideration, but it is also a legitimate consideration for a zoning map amendment or conditional use permit. For this reason, I do not believe the number of projects coming to Planning Commission will not change much.

In my tenure with the City there has never been a subdivision action that met the definitions and thresholds for a subdivision that needed to go to Council (except one small one which was withdrawn before going to Council). Based on the new Virginia law, in the future I will review proposed subdivisions.

### **City Code Updates**

The subdivision ordinance was already on my list for rewriting. In fact, the consultant who worked on the regional housing study was given a follow-up task of reviewing and making recommendations for the City's subdivision ordinance. I hope to get that in the next couple months. The current language is tuned to stereotypical 50-home greenfield residential subdivisions, but does not work well for smaller projects where a developer may want to squeeze five houses at the end of a new cul de sac. Additionally, the language on the process is outdated and cumbersome.

The site plan review section will also need revision, focused more on process than substance.

## CHAPTER 594

*An Act to amend and reenact §§ 15.2-2201, 15.2-2241, 15.2-2245, 15.2-2254, 15.2-2258, 15.2-2259, 15.2-2260, 15.2-2261, 15.2-2269, 15.2-2270, 15.2-2271, and 15.2-2307 of the Code of Virginia, relating to subdivision ordinance; plan review by designated agent.*

[S 974]

Approved March 24, 2025

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-2201, 15.2-2241, 15.2-2245, 15.2-2254, 15.2-2258, 15.2-2259, 15.2-2260, 15.2-2261, 15.2-2269, 15.2-2270, 15.2-2271, and 15.2-2307 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 15.2-2201. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

*"Designated agent" means any agent employed or authorized by a locality and designated by the governing body to review and act on subdivision plats, site plans, and plans of development. "Designated agent" does not include the local planning commission. However, the local planning commission may serve as the designated agent of any locality with a population of 5,000 or less.*

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line agreement with one another so long as such agreement is only used to resolve a bona fide property line dispute, the boundary adjustment does not move by more than 250 feet from the center of the current platted line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size, and

such agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater street frontage, or interfere with a recorded easement, and such agreement shall not result in any nonconformity with local ordinances and health department regulations. Notice shall be provided to the zoning administrator of the locality in which the parcels are located for review. For any property affected by this definition, any division of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by more than 20 percent. A copy of the final decree shall be provided to the zoning administrator of the locality in which the property is located.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

"Working waterfront" means an area or structure on, over, or adjacent to navigable waters that provides access to the water and is used for water-dependent commercial, industrial, or governmental activities, including commercial and recreational fishing; tourism; aquaculture; boat and ship building, repair, and services; seafood processing and sales; transportation; shipping; marine construction; and military activities.

"Working waterfront development area" means an area containing one or more working waterfronts having economic, cultural, or historic public value of such significance as to warrant development and repair.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

#### **§ 15.2-2241. Mandatory provisions of a subdivision ordinance.**

A. A subdivision ordinance shall include reasonable regulations and provisions that apply to or provide:

1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.);
2. For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions;
3. For adequate provisions for drainage and flood control, for adequate provisions related to the failure of impounding structures and impacts within dam break inundation zones, and other public purposes, and for light and air, and for identifying soil characteristics;
4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed;
5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency,

and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities or, at the option of the local governing body, presents evidence satisfactory to the governing body that the time for recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the ~~governing body or its~~ designated ~~administrative agency agent~~; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the ~~governing body or its~~ designated ~~administrative agency agent~~, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the ~~governing body or its~~ designated ~~administrative agency agent~~ as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 10 percent of the estimated construction costs. If the owner or developer defaults on construction of such facilities, and such facilities are constructed by the surety or with funding from the aforesaid check, cash escrow, bond or letter of credit, the locality shall be entitled to retain or collect the allowance for administrative costs to the extent the costs of such construction do not exceed the total of the originally estimated costs of construction and the allowance for administrative costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five years from the recordation date of any section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the Department of Transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then such governing body may, if so provided by its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the ~~governing body or its~~ designated ~~administrative agency agent~~, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the ~~governing body or its~~ designated ~~administrative agency agent~~ may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the ~~governing body or its~~ designated ~~administrative agency agent~~ as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage:

~~As used in this section, "designated administrative agency" means the planning commission of the locality or an agent designated by the governing body of the locality for such purpose as set forth in §§ 15.2-2258 through 15.2-~~

6. For conveyance of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Once a developer conveys an easement that will permit electric, cable or telephone service to be furnished to a subdivision, the developer shall, within 30 days after written request by a cable television operator or telephone service provider, grant an easement to that cable television operator or telephone service provider for the purpose of providing cable television and communications services to that subdivision, which easement shall be geographically coextensive with the electric service easement, or if only a telephone or cable service easement has been granted, then geographically coextensive with that telephone or cable service easement; however, the developer and franchised cable television operator or telephone service provider may mutually agree on an alternate location for an easement. If the final subdivision plat is recorded and does not include conveyance of a common or shared easement as provided herein, the ~~local planning commission or agent designated by the governing body to review and act on submitted subdivision plats~~ *designated agent* shall not be responsible to enforce the requirements of this subdivision;

7. For monuments of specific types to be installed establishing street and property lines;

8. That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the ~~governing body or its designated administrative agency agent~~, or where the developer has furnished surety to the ~~governing body or its designated administrative agency agent~~ by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the ~~governing body or its designated administrative agency, whichever is greater~~ *agent*;

9. For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated;

10. For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with the provisions of § 15.2-2244; ~~and~~

11. For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of § 15.2-2245;

*12. For the review of plats, site plans, and plans of development solely involving parcels of commercial or residential real estate as set forth in §§ 15.2-2259 and 15.2-2260; and*

*13. For the identification of deficiencies, corrections, or modifications of proposed and resubmitted plats and plans as set forth in §§ 15.2-2259 and 15.2-2260.*

B. No locality shall require that any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this chapter apply to, or include the cost of, any facility or improvement unless such facility or improvement is shown or described on the approved plat or plan of the project for which such guarantee is being furnished. Furthermore, the terms, conditions, and specifications contained in any agreement, contract, performance agreement, or similar document, however described or delineated, between a locality or its governing body and an owner or developer of property entered into pursuant to this chapter in conjunction with any

performance guarantee, as described in this subsection, shall be limited to those items depicted or provided for in the approved plan, plat, permit application, or similar document for which such performance guarantee is applicable.

**§ 15.2-2245. Provisions for periodic partial and final release of certain performance guarantees.**

A. A subdivision ordinance shall provide for the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this article within thirty days after receipt of written notice by the subdivider or developer of completion of part or all of any public facilities required to be constructed hereunder unless the ~~governing body or its designated administrative agency agent~~ notifies the subdivider or developer in writing of nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period. Any inspection of such public facilities shall be based solely upon conformance with the terms and conditions of the performance agreement and the approved design plan and specifications for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision or a person who has contracted with the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision.

B. If no such action is taken by the ~~governing body or administrative agency designated agent~~ within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail return receipt to the chief administrative officer of such governing body. The ~~governing body or its designated administrative agency agent~~ shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

C. After receipt of the written notices required above, if the governing body or administrative agency takes no action within the times specified above and the subdivider or developer files suit in the local circuit court to obtain partial or final release of a bond, escrow, letter of credit, or other performance guarantee, as the case may be, the circuit court, upon finding the governing body or its administrative agency was without good cause in failing to act, shall award such subdivider or developer his reasonable costs and attorneys' fees.

D. No ~~governing body or administrative agency designated agent~~ shall refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said bond, escrow, letter of credit or other performance guarantee.

E. Upon written request by the subdivider or developer, the ~~governing body or its designated administrative agency agent~~ shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than ninety percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the ~~governing body or its designated administrative agency agent~~ based upon the percentage of public facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least thirty percent of the public facilities covered by any bond, escrow, letter of credit, or other performance guarantee. The ~~governing body or administrative agency designated agent~~ shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of the public facilities, the ~~governing body or administrative agency designated agent~~ shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

F. For the purposes of this section, a certificate of partial or final completion of such public facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to § 54.1-400, or from a department or agency designated by the locality may be accepted without requiring further inspection of such public facilities.

**§ 15.2-2254. Statutory provisions effective after ordinance adopted.**

After the adoption of a subdivision ordinance in accordance with this chapter, the following provisions shall be effective in the territory to which the ordinance applies:

1. No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of this article and of the subdivision ordinance.

2. No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the ~~local planning commission or by the governing body or its duly authorized~~ *designated* agent, of the locality wherein the land to be subdivided is located; or by the ~~commissions, governing bodies or~~ *designated* agents, as the case may be, of each locality having a subdivision ordinance, in which any part of the land lies.

3. No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and recorded as provided herein, unless the subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto. However, nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

4. Any person violating the foregoing provisions of this section shall be subject to a fine of not more than \$500 for each lot or parcel of land so subdivided, transferred or sold and shall be required to comply with all provisions of this article and the subdivision ordinance. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.

5. No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until the plat has been approved as required herein. The penalties provided by § 17.1-223 shall apply to any failure to comply with the provisions of this subsection.

**§ 15.2-2258. Plat of proposed subdivision and site plans to be submitted for approval.**

Whenever the owner or proprietor of any tract of land located within any territory to which a subdivision ordinance applies desires to subdivide the tract, he shall submit a plat of the proposed subdivision to the ~~planning commission of the locality, or an agent designated by the governing body~~ *designated agent* thereof for such purpose. When any part of the land proposed for subdivision lies in a drainage district such fact shall be set forth on the plat of the proposed subdivision. When any part of the land proposed for subdivision lies in a mapped dam break inundation zone such fact shall be set forth on the plat of the proposed subdivision. When any grave, object or structure marking a place of burial is located on the land proposed for subdivision, such grave, object or structure shall be identified on any plans or site plans required by this article. When the land involved lies wholly or partly within an area subject to the joint control of more than one locality, the plat shall be submitted to the ~~planning commission or other~~ *designated* agent of the locality in which the tract of land is located. Site plans or plans of development required by subdivision A 8 of § 15.2-2286 shall also be subject to the provisions of §§ 15.2-2258 through 15.2-2261, mutatis mutandis.

**§ 15.2-2259. Designated agent to act on proposed final plat.**

A. 1. Except as otherwise provided in subdivisions 2 and 3, the ~~local planning commission or other~~ *designated* agent shall act on any proposed plat within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The ~~Commission or~~ *designated* agent shall thoroughly review the plat and shall make a good faith effort to identify all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat by a state agency or public

authority authorized by state law is necessary, the ~~commission or~~ *designated* agent shall forward the plat to the appropriate state agency or ~~agencies authority~~ for review within ~~10~~ *five* business days of receipt of such plat. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the ~~local planning commission or other~~ *designated* agent, as set forth in subsection B. Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat. The ~~local planning commission or other~~ *designated* agent shall act on any proposed plat that it has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval.

2. The approval of plats, site plans, and plans of development solely involving parcels of commercial or residential real estate by a ~~local planning commission or other~~ *designated* agent shall be governed by subdivision 3 and subsections B, C, and D. For the purposes of this section, the term "commercial" means all real property used for commercial or industrial uses, and the term "residential" means all real property used for single-family or multifamily use.

3. The ~~local planning commission or other~~ *designated* agent shall act on any proposed plat, site plan or plan of development within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The ~~local planning commission or other~~ *designated* agent shall not delay the official submission of any proposed plat, site plan, or plan of development by requiring presubmission conferences, meetings, or reviews. The ~~Commission or~~ *designated* agent shall thoroughly review the plat or plan and shall in good faith identify, to the greatest extent practicable, all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat or plan by a state agency or public authority authorized by state law is necessary, the ~~commission or~~ *designated* agent shall forward the plat or plan to the appropriate state agency or agencies for review within ~~10 business~~ *five business* days of receipt of such plat or plan. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the ~~local planning commission or other~~ *designated* agent, as set forth in subsection B. Specific reasons for disapproval shall be contained either in a separate document or on the plat or plan itself. The reasons for disapproval shall identify deficiencies in the plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plat or plan.

In the review of a resubmitted proposed plat, site plan or plan of development that has been previously disapproved, the ~~local planning commission or other~~ *designated* agent shall consider only deficiencies it had identified in its review of the initial submission of the plat or plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. In the review of the resubmission of a plat or plan, the ~~local planning commission or other~~ *designated* agent shall identify all deficiencies with the proposed plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations or policies and shall identify modifications or corrections that will permit approval of the plat or plan. Upon the second resubmission of such disapproved plat or plan, the ~~local planning commission or other~~ *designated* agent's review shall be limited solely to the previously identified deficiencies that caused its disapproval.

The ~~local planning commission or other~~ *designated* agent shall act on any proposed plat, site plan or plan of development that it has previously disapproved within 45 days after the plat or plan has been modified, corrected and resubmitted for approval. The failure of a ~~local planning commission or other~~ *designated* agent to approve or disapprove a resubmitted plat or plan within the time periods required by this section shall cause the plat or plan to be deemed approved.

Notwithstanding the approval or deemed approval of any proposed plat, site plan or plan of development, any deficiency in any proposed plat or plan, that if left uncorrected, would violate local, state or federal law, regulations,

mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been approved by the ~~local planning commission or other~~ *designated* agent. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the ~~local planning commission or other~~ *designated* agent's review shall not be limited to only the previously identified deficiencies identified in the prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

B. Any state agency or public authority authorized by state law making a review of a plat forwarded to it under this article, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A, with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies and other agencies, the ~~local~~ *designated* agent shall act upon a plat within 35 days.

C. If the ~~commission or other~~ *designated* agent fails to approve or disapprove the plat within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response pursuant to subsection B, the subdivider, after 10-days' written notice to the ~~commission, or~~ *designated* agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located, to decide whether the plat should or should not be approved. The court shall give the petition priority on the civil docket, hear the matter expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and make and enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

D. If a ~~commission or other~~ *the designated* agent disapproves a plat and the ~~subdivider~~ *applicant* contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the ~~commission or other~~ *designated* agent.

#### **§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.**

A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its ordinance for the mandatory submission of preliminary subdivision plats for tentative approval for plats involving more than 50 lots, provided that any such ordinance provides for the submission of a preliminary subdivision plat for tentative approval at the option of the landowner for plats involving 50 or fewer lots. The ~~local planning commission, or an~~ *designated* agent ~~designated by the commission or by the governing body to review preliminary subdivision plats~~ shall complete action on the preliminary subdivision plats within 60 days of submission. However, if approval of a feature or features of the preliminary subdivision plat by a state agency or public authority authorized by state law is necessary, the ~~commission or~~ *designated* agent shall forward the preliminary subdivision plat to the appropriate state agency or ~~agencies~~ *authority* for review within ~~40~~ *five* business days of receipt of such preliminary subdivision plat.

B. Any state agency or public authority authorized by state law making a review of a preliminary subdivision plat forwarded to it under this section, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the

preliminary subdivision plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time period set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A of § 15.2-2259 with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the ~~local~~ *designated* agent shall act upon a preliminary subdivision plat within 35 days.

C. ~~If a commission has the responsibility of review of preliminary subdivision plats and conducts a public hearing, it~~ *The designated agent* shall act on the plat within 45 days after receiving approval from all state agencies. If the ~~local designated agent or commission~~ does not approve the preliminary subdivision plat, the ~~local designated agent or commission~~ shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by ~~such the designated agent or commission~~. With regard to plats involving commercial or residential property, as those terms are defined in subdivision A 2 of § 15.2-2259, the review process for such plats shall be the same as provided in subdivisions A 2 and A 3 of § 15.2-2259. However, no ~~commission or designated~~ agent shall be required to approve a preliminary subdivision plat in less than 60 days from the date of its original submission to the ~~commission or designated~~ agent, and all actions on preliminary subdivision plats shall be completed by the *designated agent or commission* and, if necessary, state agencies, within a total of 90 days of submission to the ~~local designated agent or commission~~.

D. If the ~~commission or other designated~~ agent fails to approve or disapprove the preliminary subdivision plat within 90 days after it has been officially submitted for approval, the subdivider after 10 days' written notice to the ~~commission, or designated~~ agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located to enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

E. If a ~~commission or other designated~~ agent disapproves a preliminary subdivision plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the ~~commission or other designated~~ agent.

F. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the ~~commission or other designated~~ agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

G. Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to § 15.2-2261, the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. The five year period of validity shall extend from the date of the last recorded plat.

#### **§ 15.2-2261. Recorded plats or final site plans to be valid for not less than five years.**

A. An approved final subdivision plat which has been recorded or an approved final site plan, hereinafter referred to as "recorded plat or final site plan," shall be valid for a period of not less than five years from the date of approval thereof or for such longer period as the ~~local planning commission or other designated~~ agent may, at the time of

approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A site plan shall be deemed final once it has been reviewed and approved by the locality if the only requirements remaining to be satisfied in order to obtain a building permit are the posting of any bonds and escrows or the submission of any other administrative documents, agreements, deposits, or fees required by the locality in order to obtain the permit. However, any fees that are customarily due and owing at the time of the agency review of the site plan shall be paid in a timely manner.

B. 1. Upon application of the subdivider or developer filed prior to expiration of a recorded plat or final site plan, the ~~local planning commission or other~~ *designated* agent may grant one or more extensions of such approval for additional periods as the ~~commission or other~~ *designated* agent may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

2. If the ~~commission or other~~ *designated* agent denies an extension requested as provided herein and the subdivider or developer contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of land subject to the recorded plat or final site plan, provided that such appeal is filed with the circuit court within sixty days of the written denial by the commission or other agency.

C. For so long as the final site plan remains valid in accordance with the provisions of this section, or in the case of a recorded plat for five years after approval, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the recorded plat or final site plan shall adversely affect the right of the subdivider or developer or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the recorded plat or site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

D. Application for minor modifications to recorded plats or final site plans made during the periods of validity of such plats or plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or plans.

E. The provisions of this section shall be applicable to all recorded plats and final site plans valid on or after January 1, 1992. Nothing contained in this section shall be construed to affect (i) any litigation concerning the validity of a site plan pending prior to January 1, 1992, or any such litigation nonsuited and thereafter refiled; (ii) the authority of a governing body to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; (iii) the application to individual lots on recorded plats or parcels of land subject to final site plans, to the greatest extent possible, of the provisions of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.); or (iv) the application to individual lots on recorded plats or parcels of land subject to final site plans of the provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

F. An approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), or a recorded plat dedicating real property to the local jurisdiction or public body that has been accepted by such grantee, shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action as set forth in §§ 15.2-2270 through 15.2-2278.

#### **§ 15.2-2269. Plans and specifications for utility fixtures and systems to be submitted for approval.**

A. If the owners of any such subdivision desire to construct in, on, under, or adjacent to any streets or alleys located in such subdivision any gas, water, sewer or electric light or power works, pipes, wires, fixtures or systems,

they shall present plans or specifications therefor to the ~~governing body of the locality in which the subdivision is located or its authorized~~ *designated* agent, for approval. If the subdivision is located beyond the corporate limits of a municipality but within the limits set forth in § 15.2-2248, such plans and specifications shall be presented for approval to the ~~governing body of such municipality, or its authorized~~ *designated* agent, if the county has not adopted a subdivision ordinance. The ~~governing body, or~~ *designated* agent, shall have 45 days in which to approve or disapprove the same. In event of the failure of any ~~governing body, or its~~ *designated* agent, to act within such period, such plans and specifications may be submitted, after ten days' notice to the locality, to the circuit court for such locality for its approval or disapproval, and its approval thereof shall, for all purposes of this article be treated and considered as approval by the ~~locality or its authorized~~ *designated* agent.

B. Any state agency or public authority authorized by state law making a review of any plat forwarded to it under this article, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plans, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plan approval. If a state agency or public authority by state law does not approve the plan, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A of § 15.2-2259, with respect to the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the ~~local~~ *designated* agent shall act upon a preliminary subdivision plat within 35 days.

#### **§ 15.2-2270. Vacation of interests granted to a locality as a condition of site plan approval.**

Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to a locality as a condition of the approval of a site plan may be vacated according to either of the following methods:

1. By a duly executed and acknowledged written instrument of the owner of the land which has been or is to be developed in accordance with the site plan, declaring the interest or interests to be vacated, provided the ~~governing body or authorized~~ *designated* agent of the locality where the land lies consents to the vacation. The instrument shall be recorded in the same clerk's office wherein is recorded the written instrument describing the interest in real property to be vacated. The execution and recordation of the instrument shall operate to divest all public rights in, and to reinvest the owner with the title to the interests which formerly were held by the governing body; or

2. By ordinance of the governing body in the locality in which the property which is the subject of an approved site plan lies, provided that no interest shall be vacated in an area in which facilities, for which bonding is required pursuant to §§ 15.2-2241 through 15.2-2245, have been constructed.

The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the circuit court having jurisdiction of the land over which the governing body's interest is located. Upon appeal, the court may nullify the ordinance if it finds that the owner of the property, which has been developed or is to be developed in accordance with the approved site plan, will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the instrument creating the governing body's interest is recorded.

The execution and recordation of an ordinance of vacation shall operate to destroy the effect of the instrument which created the governing body's interest so vacated and to divest all public rights in and to the property and vest title in the streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility as may be described in, and in accordance with, the ordinance of vacation.

**§ 15.2-2271. Vacation of plat before sale of lot therein; ordinance of vacation.**

Where no lot has been sold, the recorded plat, or part thereof, may be vacated according to either of the following methods:

1. With the consent of the ~~governing body, or its authorized~~ *designated* agent; of the locality where the land lies, by the owners, proprietors and trustees, if any, who signed the statement required by § 15.2-2264 at any time before the sale of any lot therein, by a written instrument, declaring the plat to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in the plat; or

2. By ordinance of the governing body of the locality in which the property shown on the plat or part thereof to be vacated lies, provided that no facilities for which bonding is required pursuant to §§ 15.2-2241 through 15.2-2245 have been constructed on the property and no facilities have been constructed on any related section of the property located in the subdivision within five years of the date on which the plat was first recorded.

The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of the property shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the property and reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, and easements for public passage and other public areas laid out or described in the plat.

**§ 15.2-2307. Vested rights not impaired; nonconforming uses.**

A. Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

B. For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the ~~governing body or its~~ designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; (vi) the ~~governing body or its~~ designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property; or (vii) the zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the

permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification or reversal under subsection C of § 15.2-2311.

C. A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever, with respect to the building or structure, the square footage of a building or structure is enlarged, or the building or structure is structurally altered as provided in the Uniform Statewide Building Code (§ 36-97 et seq.). If a use does not conform to the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by the locality for such use and (ii) the holder of such business license has operated continuously in the same location for at least 15 years and has paid all local taxes related to such use, the locality shall permit the holder of such business license to apply for a rezoning or a special use permit without charge by the locality or any agency affiliated with the locality for fees associated with such filing. Further, a zoning ordinance may provide that no nonconforming use may be expanded, or that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

D. Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local government issued a certificate of occupancy or a use permit therefor, (ii) a property owner, relying in good faith on the issuance of a building permit, incurs extensive obligations or substantial expenses in diligent pursuit of a building project that is in conformance with the building permit and the Uniform Statewide Building Code (§ 36-97 et seq.), or (iii) the owner of the building or structure has paid taxes to the locality for such building or structure for a period of more than the previous 15 years, a zoning ordinance shall not provide that such building or structure is illegal and subject to removal solely due to such nonconformity. Such building or structure shall be nonconforming. A zoning ordinance may provide that such building or structure be brought in compliance with the Uniform Statewide Building Code, provided that to do so shall not affect the nonconforming status of such building or structure. If the local government has issued a permit, other than a building permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, the ordinance may provide that the improvements are nonconforming, but not illegal. If the structure is one that requires no permit, and an authorized local government official informs the property owner that the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized government official made such statement.

E. A zoning ordinance shall permit the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions

that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

F. Notwithstanding any local ordinance to the contrary, an owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.

G. Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

H. Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.