



Local Roots, Global Reach

ISLE OF WIGHT COUNTY, VIRGINIA

OFFICE OF THE COUNTY ATTORNEY

MEMORANDUM

TO: Richard Rudnicki, Asst. Director, Planning and Zoning

FROM: Mark C. Popovich, County Attorney

DATE: February 12, 2018

RE: Brewer's Station Application to Amend Proffered Conditions

CC: Randy Keaton, County Administrator
Amy Ring, Director, Planning and Zoning

I am in receipt of the materials you provided related to the above-referenced matter. While I cannot speak to the methodologies and assumptions used to generate the potential financial impact this development may have on County resources, I do want to specifically note one important legal point.

This application seeks to amend a set of proffered conditions previously approved by the Isle of Wight County Board of Supervisors in March of 2014. The basis upon which the applicant is requesting a reduction in his previous cash proffer is the new statutory language of Section 15.2-2303.4 of the Code of Virginia (1950, as amended) which sets limits on how to calculate the costs for public school facility improvement proffers. This new statutory scheme was enacted by the General Assembly in 2016 and is applicable to all conditional rezoning proffers filed after July 1, 2016.

The enabling legislation that was adopted by the General Assembly specifically states, however, that ***“[t]his act is prospective only and shall not be construed to apply to any application for rezoning filed prior to July 1, 2016 or to any application for a proffered condition amendment amending a rezoning for which the application was filed prior to that date”***. It is my legal opinion that this provision specifically provides that the applicability of the new statutory framework is only applicable to new rezoning applications submitted after July 1, 2016. Since this rezoning was made and approved prior to that date, the provisions of Section 15.2-2303.4 do not apply.

Please feel free to contact me should you wish to discuss this further.

P. O. Box 80
17090 Monument Circle, Suite 128
Isle of Wight, VA 23397
(757) 365-1641
FAX: (757) 365-1643

www.co.isle-of-wight.va.us