


MEMORANDUM

TO: Board of Zoning Appeals
FROM: Jordan Mitchell, Planner 
DATE: June 10, 2014
SUBJECT: *Variance Application #VP140002: Bedford Regional Water Authority*

SYNOPSIS

The Bedford Regional Water Authority (BRWA) is requesting a variance to reduce the minimum required front and side yard setback along with an increase in the maximum lot coverage requirement of the R-2 (Medium Density Residential) zoning district for Tax Map 232A2-3-30A. Additionally, the BRWA is requesting a variance from a general standard for the "Utility Services, Major" use that requires a major utility service to be a minimum of 100 feet from an existing residence.

BACKGROUND

APPLICANT

The applicant is the Bedford Regional Water Authority, 1723 Falling Creek Road, Bedford, VA 24523.

OWNER

The owner of the subject property is the High Point Property Owners Association, 308 Lakewood Drive, Huddleston, VA 24104.

LOCATION

The subject property is located at 308 Lakewood Drive, Huddleston, VA 24104.

USE(S) OF PROPERTY

The property is currently being used for a parking area/boat serving the High Point subdivision as well as a raw water intake/pump station facility owned by the BRWA through an agreement with the High Point Property Owners Association.

VARIANCE REQUEST

The applicant is requesting the following variances in order to proceed with a special use permit application for the construction of a new pump station ("Utility Services, Major" use):

- Section 30-42-3(B1), Minimum Setback Requirements (Front Yard) – reduce the minimum required 30 foot principal structure setback by 27 feet (3 foot minimum principal structure setback).
- Section 30-42-3(B2), Minimum Setback Requirements (Side Yard) – reduce the minimum required 10 foot principal structure setback by 6 feet (4 foot minimum principal structure setback).
- Section 30-42-3(D2), Maximum Coverage (Lot Coverage) – increase the 50% maximum allowable total lot coverage by 37% (87% maximum allowable lot coverage).
- Section 30-83-12(A4), Utility Services, Major use – decrease the 100 foot minimum distance between a major utility and a residence to 46 feet (from the residence to the north) and 22 feet (from the residence to the south).

Please see the attached application and concept plan for justification of requested variances.

ANALYSIS

Zoning Ordinance

The applicant is asking for variances from several sections of the Zoning Ordinance. Section 30-42-3 of the Zoning Ordinance outlines the site development regulations for the R-2 (Medium-Density Residential) zoning district. The applicant has requested variances from the minimum required front yard (30 feet to 3 feet) and side yard (10 feet to 4 feet) setbacks.

In addition to the setback variance requests from Section 30-42-3, the applicant has requested to increase the maximum allowable lot coverage from 74.16% to 87% (a 12.84% increase). The site development regulations for the R-2 zoning district will only allow for a maximum lot coverage of 50% of the total lot area. The subject parcel currently has a legal non-conforming lot coverage amount of 74.16%.

Section 30-83-12 outlines the general standards for the "Utility Services, Major" use (special use permit is required in the R-2 zoning district). If an applicant is unable to meet all of the general standards for a use, the applicant must seek a variance prior to submitting a special use permit application for such use. The applicant is unable to meet general standard #4 requiring a major utility service to be located a minimum of 100 feet from an existing

residence. The applicant has requested a variance to reduce the required 100 foot minimum distance between a major utility service and a residence to 46 feet (from the residence to the north) and 22 feet (from the residence to the south).

Adjacent/Surrounding Uses

The subject parcel is zoned R-2 as are the adjoining parcels along Lakewood Drive. All of the adjoining parcels have residential uses (single family dwellings).

CONCLUSIONS

Issues for Consideration

In accordance with Section 15.2-2309 of the Code of Virginia and Section 30-24-2 of the Zoning Ordinance, a variance can be legally granted with the following findings:

- a. That the strict application of the ordinance would produce undue hardship relating to the property;
- b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

The applicant must demonstrate that "by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property." No variance shall be authorized unless the BZA finds that the condition of the property concerned is not so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

In authorizing a variance, the BZA may also impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

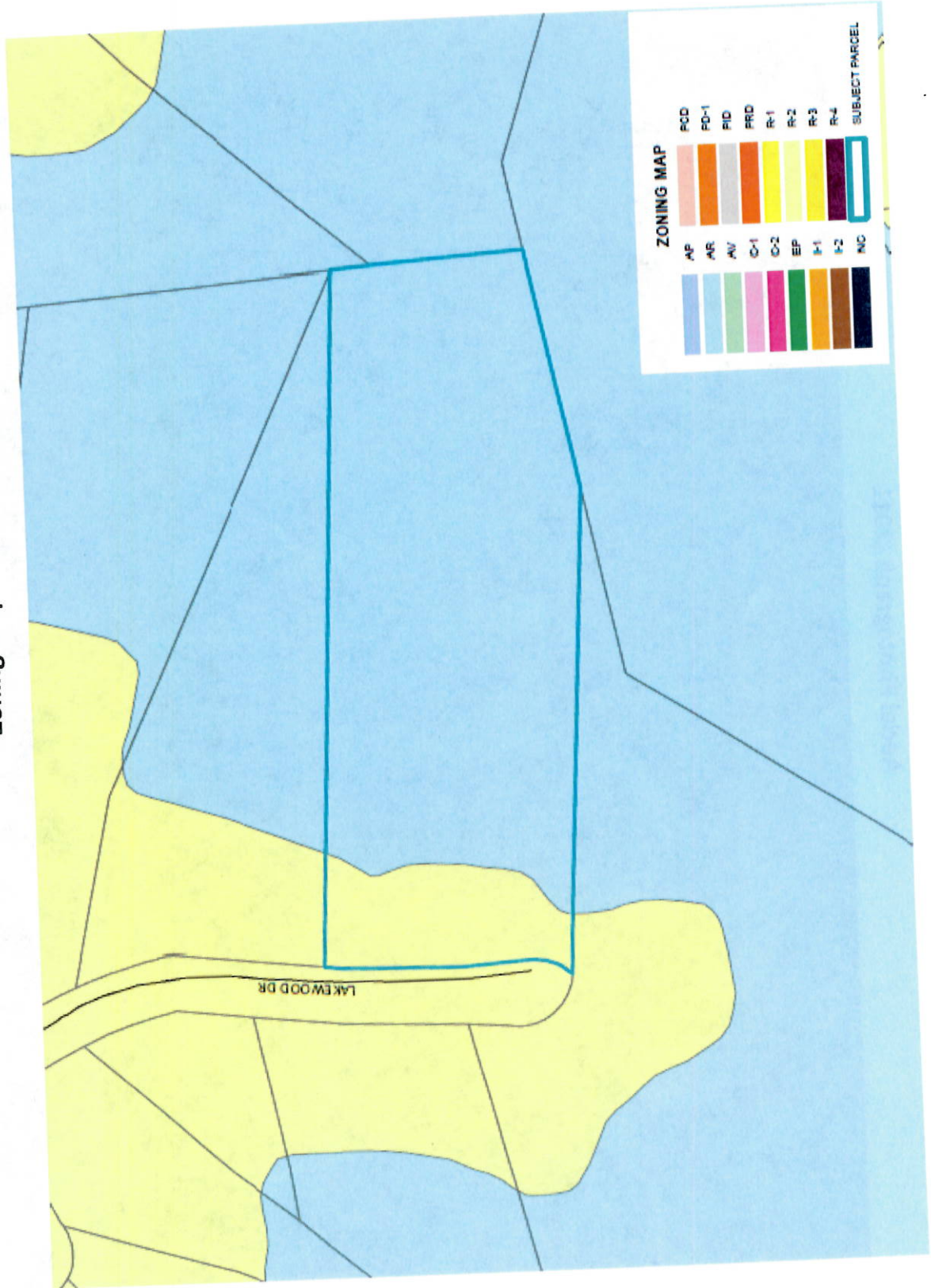
Planning Commission

Section 15.2-2310 of the Code of Virginia and Section 30-24-3 of the Bedford County Zoning Ordinance provide that copies of variance applications first be transmitted to the Planning Commission prior to hearing by the BZA. The Planning Commission is not required to take any action on variance applications, but at its discretion may send a recommendation to the BZA or even appear as a party at the hearing. The Planning Commission will receive a copy of the application for review at their June 17, 2014 meeting.

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Variance Application w/ concept plan
4. Article III, Section 30-42, R-2 (Medium Density Residential District)
5. Article IV, Section 30-83-12, Utility Services, Major

Zoning Map



Aerial Photograph (2011)





Bedford County
Department of Community Development
Division of Planning
122 E. Main Street, Suite G-03
Bedford, VA 24523
(540) 586-7616 • Fax (540) 586-2059
www.bedfordcountyva.gov/planning

For staff use only

Date received: 5/9/14

Received by: [Signature]

Fee Paid: \$ 200

BZA Date:

Application No.: VP140002

Project No.: PR14093

Received

Application for Variance

Community Development

GENERAL INFORMATION:

Section 30-24: The Board of Zoning Appeals shall have the power and duty to authorize (upon appeal or original application in specific cases) a variance from the terms of the Zoning Ordinance that will not be contrary to the public interest when a literal enforcement of the ordinance will result in unnecessary hardship.

Applications for variances may be made by any property owner, tenant, government official, department, board or bureau of the county. No such application shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia, as amended.

APPLICATION PROCEDURE:

- **Consultation with Planning Staff:** You are required to meet with a planner to discuss feasibility of request prior to submission.
- **Application Submittal:** Submittal shall include a completed application and a survey of the property showing requested changes. The application fee is due upon submittal.
- **Staff Review of the Application:** Staff will review the application for completion and notify the applicant of any necessary correction(s). Staff will also visit the site as part of the review and prepare a report for the Board of Zoning Appeals.
- **Board of Zoning Appeals:** The Board of Zoning Appeals (BZA) will hold a public hearing and review the application in order to make a decision to uphold, reverse, table or defer the application. The BZA will request the applicant be present and may ask questions of the applicant and those speaking at the public hearing (proponents or opponents).
- A decision of the BZA may be appealed to the Circuit Court. The appeal may be made by the applicant, a citizen or an officer of the County. Any appeal to the Circuit Court must be filed with that Court within 30 days of the BZA action.

Please make sure the following items are included BEFORE the application is submitted:

- ☐ **Staff Consultation:** The applicant is required to meet with a staff member to discuss the variance process and feasibility of the request prior to submission.
- ☐ **Application Fee:** \$200.00 (checks made payable to Bedford County). Applicant is also responsible for the costs of all public notifications including mailings and legal advertisements.

The applicant and Planning Staff Attendant have met and reviewed the requirements for this variance.

Applicant Signature

[Signature]

Date

5/8/2014

Staff Signature

[Signature]

Date

MAY 09 2014



Bedford County Application for Variance

Please print in blue or black ink or typewrite. If not applicable, write N/A.

APPLICANT INFORMATION

Applicant Name: Bedford Regional Water Authority

Address: 1723 Falling Creek Road, Bedford, VA 24523

Phone: (540) 586-7679

Fax: (540) 586-5805

Email: brwa@brwa.com

Owner Name: High Point Property Owners Association

Address: 308 Lakewood Drive, Huddleston, VA 24104

Phone: _____

Fax: _____

Email: _____

Primary Contact for Variance: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

PROPERTY INFORMATION

Tax Map Number(s): 232A2-3-30A

Deed Book: Instrument 980010984, 980010985

Page: _____

Survey of Property Available? _____

Current Zoning: R-2

Current Land Use: Parking, raw water intake facility

Overlay District (if applicable): _____

Magisterial District: Lakes

Election District: District 2

Potable Water Source: BRWA

Sewer System: N/A

Directions to the property upon which the variance is being filed (directions from Bedford County Administration Building): Drive west on Main St from the County Administration Building and turn left on Crenshaw Street. Crenshaw St turns into Burks Hill Rd, then turns into Moneta Rd. Follow Moneta Rd towards Smith Mountain Lake and turn left on Hendricks Store Rd, right onto Hickory Cove Lane, right on High Point Rd, then left onto Lakewood Dr. Property is at the end of Lakewood.

Please describe the purpose for this request (attach additional sheets if necessary). See attached coverage calculations, specific variance requests, and site figure.

Applicable Zoning Ordinance Section(s): See attached for specific variance requests.

JUSTIFICATION FOR VARIANCE

Please answer the following (attach additional sheets if necessary).

1. The strict application of the ordinance would effectively prohibit or unreasonably restrict the use of the property.
See attached.

2. Describe and/or show the topography or the unique conditions of the site that are not generally shared by other properties in the same zoning district.
See attached.

3. Will the granting of this variance have a negative impact on neighboring properties or will the character of the zoning district be changed? Please explain your answer.
See attached.

CERTIFICATION

I hereby certify that this application is complete and accurate to the best of my knowledge, and I authorize County representatives entry onto the property for purposes of reviewing this request.

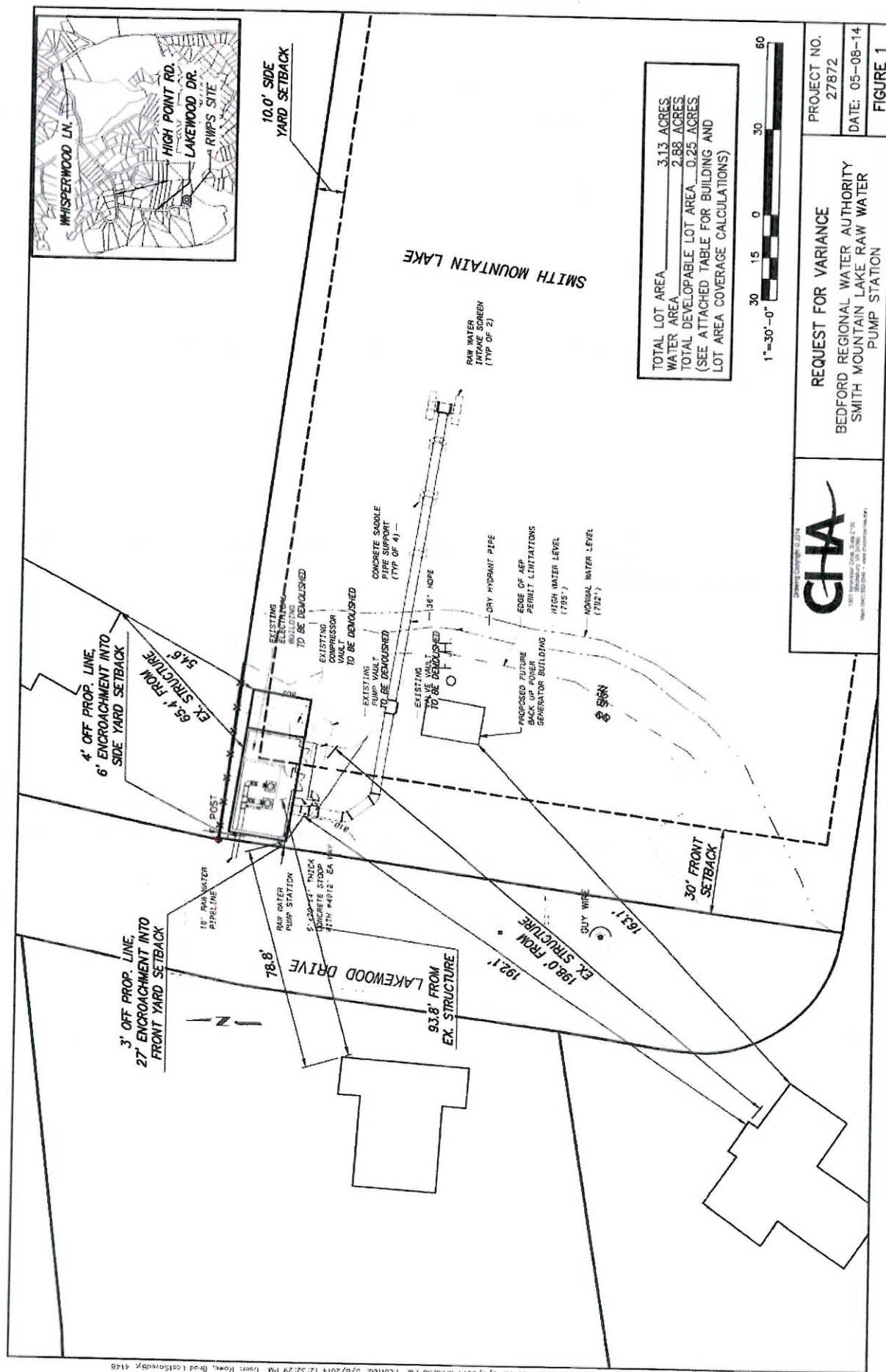
Applicant Signature:



Date:

5/8/2014

Print Name:



**BRWA SMITH MOUNTAIN LAKE RAW WATER INTAKE AND PUMP STATION
LOT COVERAGE CALCULATIONS AND VARIANCE REQUESTS**

<u>PARCEL DATA</u>	AREA (SF)	PERCENTAGE OF LOT AREA (%)
ZONED R2	-	-
EXISTING LOT AREA	136,442.61	-
EXISTING WATER COVERAGE	125,452.80	-
<u>DEVELOPABLE LOT AREA</u>	10,989.81	-
<u>EXISTING PRE DEVELOPMENT LOT COVERAGE</u>		
BUILDINGS	230.00	2.09%
STRUCTURES	100.00	0.91%
PAVEMENT	7,820.00	71.16%
<u>TOTAL EXISTING LOT COVERAGE</u>	8,150.00	74.16%
<u>PROPOSED LOT COVERAGE</u>		
BUILDINGS	800.00	7.28%
STRUCTURES	300.00	2.73%
PAVEMENT	300.00	2.73%
<u>TOTAL PROPOSED LOT COVERAGE</u>	1,400.00	12.74%
<u>FUTURE LOT COVERAGE</u>		
BUILDINGS	300.00	2.73%
STRUCTURES	-	-
PAVEMENT	-	-
<u>TOTAL FUTURE LOT COVERAGE</u>	300.00	2.73%
<u>EXISTING STRUCTURES TO BE DEMOLISHED</u>		
EXISTING ELECTRICAL BUILDING	-230.00	-2.09%
EXISTING PUMP VAULT, VALVE VAULT AND COMPRESSOR VAULT	-100.00	-0.91%
<u>TOTAL LOT COVERAGE TO BE DEMOLISHED</u>	-330.00	-3.00%
<u>POST DEVELOPMENT LOT COVERAGE</u>		
BUILDINGS	1,100.00	10.01%
STRUCTURES	300.00	2.73%
PAVEMENT	8,120.00	73.89%
<u>TOTAL POST DEVELOPMENT LOT COVERAGE</u>	9,520.00	86.63%

SPECIFIC VARIANCE REQUESTS:

1. SEC. 30-42:3.B.1 – Minimum Front Yard Setback: variance requested for a 27 ft. encroachment into the setback (3 ft. minimum front yard setback requirement).
2. SEC. 30-42:3.B.2 – Minimum Side Yard Setback: variance requested for a 6 ft. encroachment into the setback (4 ft. minimum side yard setback requirement).
3. SEC. 30-42:3.D.2 – Maximum Lot Coverage: variance requested for approximately 37% over the required 50%. Current/pre-development lot coverage is approximately 74% (24% over the maximum allowable).
4. SEC. 30-83-12.A.4 – Utility Service Within 100 ft. of Existing Residence: variance requested for approximately 46 ft. from residence to the north and 22 ft. from residence to the south.

JUSTIFICATION FOR VARIANCE (from application):

1. *The strict application of the ordinance would effectively prohibit or unreasonably restrict the use of the property for the following reasons:*
 - a. Although the overall site has an area of 3.13 acres, 2.88 acres of this are water.
 - b. Existing facilities on this site are currently encroaching allowable front yard and side yard setbacks. New facilities will be constructed in the same relative location as existing facilities and will have similar impacts to neighboring sites and will minimally increase encroachments. Specific variance requests are listed above for both the front and side yard setbacks.
 - c. Using the existing site from which the BRWA withdraws drinking water is critical. The Authority currently uses a portion of the site for withdrawing drinking water from the Lake. The proposed improvements for the intake location has been approved by both the Virginia Department of Health and AEP.
 - d. Utilizing the existing site allows the Authority to take advantage of existing infrastructure already in the ground and will minimize disturbance in other areas of the project related to pipeline construction.
 - e. The pump station must be constructed at the approved withdrawal site per the permit with VDH and AEP, and must be in close proximity, both vertically and horizontally, to the Lake site in order to operate.
2. *Describe and/or show the topography or the unique conditions of the site that are not generally shared by other properties in the same zoning district:*
 - a. The site is owned by the High Point Property Owner's Association and was designated by the original subdivision plat to be a lot used for parking. The existing site is currently used as a public parking area/boat dock access for the subdivision as well as existing raw water intake/pump station facilities owned by the BRWA through an agreement with the High Point POA.
 - b. The developable site area is bound by water to the east/south, by existing paved roads and residences to the west, and by an existing residence to the north. Due to the lack of available developable site area, use as parking area/boat dock access, steep grades, and location of water, the BRWA's ability to develop another portion of the site is nearly

impossible. Specifically, the 30 ft. front yard setback would push any development onto steep grades which are not suitable for building construction or into the water and the side yard setback of 10 ft. would push proposed facilities into the existing parking area. Specific variances for both the front and side yard setbacks are requested as part of this application.

3. *Will the granting of this variance have a negative impact on neighboring properties or will the character of the zoning district be changed? Please explain your answer.*
 - a. Granting of the variance will allow the continued public use of the property as a parking area/boat dock access and raw water intake/pumping facility for the BRWA. Any above ground facilities constructed on the site will have an appealing architectural façade that coordinates with neighboring residential architecture of the subdivision. As stated, new facilities will be constructed in the same general location as existing facilities and will not impact use by the High Point POA. Granting of the variance will not have a significant impact of the character of the zoning district.

Sec. 30-42. R-2 Medium density residential district.

Sec. 30-42-1. Purpose.

The purpose of the R-2, Medium density district is to establish areas in the county within the urban service area where existing low-middle to middle density residential development (typically three (3) to six (6) units per acre) is primarily located and land areas which appear generally appropriate for such development. The R-2 district is intended to provide reasonable protection to existing single-family residential neighborhoods, while accommodating a diversity of alternative housing options. R-2 areas are designated based on access to roads, sewer and water, and schools with suitable capacity to accommodate development at the stated density. Older neighborhoods where smaller platted lot sizes exist are also included where opportunities exist for additional in-fill development.

Sec. 30-42-2. Permitted uses.

Permitted uses shall be as listed in [section 30-79](#).

Sec. 30-42-3. Site development regulations.

General standards. For additional, modified, or more stringent standards for specific uses, see article IV, Use and Design Standards.

(a) *Minimum lot requirements:*

(1) All lots served by private well and sewage disposal systems:

- a. Area: One (1) acre (forty-three thousand five hundred sixty (43,560) square feet).
- b. Frontage: One hundred (100) feet on a publicly owned and maintained street.
- c. Lot width: One hundred (100) feet.

(2) Lots served by either public sewer or water:

- a. Area: Twenty thousand (20,000) square feet.
- b. Frontage: Seventy-five (75) feet on a publicly owned and maintained street.
- c. Lot width: Seventy-five (75) feet.

(3) Lots served by both public sewer and water:

- a. Area: Ten thousand (10,000) square feet.
- b. Frontage: Sixty (60) feet on a publicly owned and maintained street.
- c. Lot width: Sixty (60) feet.

(b) *Minimum setback requirements:*

(1) Front yard:

- a. Principal structures: Thirty (30) feet.
- b. Accessory structures: Thirty (30) feet or behind the front building line, whichever distance is less.

(2) Side yard:

- a. Principal structures: Ten (10) feet.
- b. Accessory structures: Ten (10) feet when between front and rear building lines and three (3) feet when behind the rear building line and ten (10) feet when in front of the front building line.

(3) Rear yard:

- a. Principal structures: Twenty-five (25) feet.
- b. Accessory structures: Three (3) feet.

(4) Where a lot fronts on more than one (1) street, front yard setbacks shall apply to all

streets.

- (5) The expansion of a legally established nonconforming structure into the required side or rear yard shall be permitted provided the expansion does not encroach into the required yard any greater than the existing encroachment.
 - (c) *Maximum height of structures:*
 - (1) Height limitations:
 - a. Principal structures: Thirty-five (35) feet
 - b. Accessory structures: Thirty-five (35) feet.
 - (d) *Maximum coverage:*
 - (1) Building coverage: Thirty (30) percent of the total lot area for all buildings and seven (7) percent for accessory buildings.
 - (2) Lot coverage: Fifty (50) percent of the total lot area.
- (Ord. of 2-26-2001, App. A; Ord. of 6-10-2013, pt. II)

Sec. 30-83-12. Utility services, major.

(a) *General standards:*

- (1) In considering an application for a special use permit, the planning commission and board of supervisors shall consider the justification for the location of the proposed utility service and any alternative locations which maybe available.
- (2) The minimum lot size may be reduced as part of approval of the special use permit provided all setback and yard requirements are met and all other dimensional requirements are achieved.
- (3) The height limitation contained in each district may be increased as part of the approval of the special use permit, subject to any other height limitation contained in article III.
- (4) No major utility service shall be located within one hundred (100) feet of an existing residence.
- (5) Except in the I-1 and I-2 districts, outdoor storage of materials and equipment, except during construction of the utility facility, shall be prohibited in association with a major utility service, unless specifically requested and approved as part of the special use permit. In the I-1 and I-2 districts outdoor storage areas shall comply with the screening provisions contained in article V.
- (6) Buildings and facilities shall be designed and constructed to be compatible with the surrounding area, so that these facilities or structures will not adversely affect nearby properties.
- (7) Except in the I-1 and I-2 districts, Type D screening and buffering consistent with article V of this ordinance shall be required, unless specifically modified as a part of the approved special use permit.
- (8) All sewer and water utility services shall be publicly owned and operated by a government agency unless otherwise recommended by the public service authority and approved by the board of supervisors.
- (9) Sewer and water utility services shall be designed with a service area and capacity consistent with the purposes of the respective zoning district and the recommendations of the comprehensive plan.

(Ord. of 2-26-2001, App. A; Ord. of 3-7-2005; Ord. No. O 0307-64, 3-26-2007; Ord. No. O-0508-111(R), 5-27-2008; Ord. No. O-0508-112(R), 5-27-2208; Ord. No. O-1108-241, 11-12-2008; Ord. of 6-10-2013, pt. IX)