

**TOWN COUNCIL OF CENTREVILLE
ORDINANCE NO. 09-2022**

**AN ORDINANCE OF THE TOWN COUNCIL OF CENTREVILLE GRANTING THE
APPLICATION OF GREEN DEVELOPMENT, INC. FOR GROWTH ALLOCATION
UNDER THE PROVISIONS OF THE CENTREVILLE TOWN CODE**

WHEREAS, the Town Council has the authority under Section 5-213 of the Local Government Article of the Annotated Code of Maryland to adopt zoning regulations;

WHEREAS, the Town Council of Centreville has adopted a zoning ordinance, which is Chapter 170 of the Centreville Town Code;

WHEREAS, § 170-31.7 of the Centreville Town Code authorizes the Centreville Town Council to consider and to grant applications for growth allocation;

WHEREAS, Green Development, Inc. (the “Applicant”) is the contract purchaser of a parcel of land consisting of 46.869 acres of land located at 408 Chesterfield Avenue in the Town of Centreville, described as Parcel 1288 in Queen Anne's County Tax Map 351 (the “Property”);

WHEREAS, the Applicant has applied to the Town Council for an award of 40.372 acres of the Town’s existing growth allocation to the Property to reclassify a portion of the Property from a Limited Development Area (“LDA”) to an Intensely Developed Area (“IDA”) to permit the subdivision and development of a residential community currently known as “Carter Farm at Chesterfield Avenue”;

WHEREAS, the Property and the plans for the development of the Property (the “Development Plans”) are shown in detail on a series of conceptual development plans, which are enumerated by Exhibit “A” to this Ordinance;

WHEREAS, the Town Council received from the Centreville Planning and Zoning Commission a favorable recommendation on the growth allocation request;

WHEREAS, the Town Council and the Centreville Planning and Zoning Commission held hearings to receive public comment on the growth allocation request; and

WHEREAS, for the reasons expressed in the findings of fact of the Town Council of Centreville which are attached to this Ordinance as Exhibit “B”, the Town Council concludes that the request for growth allocation should be granted.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Centreville:

1. The Development Plans enumerated by Exhibit “A” and the Findings of Fact attached hereto as Exhibit “B” are hereby incorporated into this Ordinance by reference.

2. The application of Green Development, Inc. for 40.372 acres of IDA growth allocation is approved subject to the conditions set out in the findings of fact which are attached hereto as Exhibit “B”.

3. This Ordinance shall become effective on the twenty-first day after its adoption.

ATTEST:

THE TOWN COUNCIL OF CENTREVILLE

Carolyn M. Brinkley, Town Clerk

Steven K. Kline, President

First Reading: _____

Ashley H. Kaiser, Esquire, Vice President

Second Reading: _____

Enacted: _____

Effective: _____

(21st calendar day after enactment)

Eric B. Johnson, Jr., Member

Daniel B. Worth, Member

Jim A. Beauchamp, Member

EXHIBIT “A” TO ORDINANCE 09-2022

The “Development Plans” include the following plans or drawings:

1. “Preliminary Site Plan”, Sheet L200, dated March 28, 2022;
2. “Open Space Plan”, Sheet OSP1, dated March 18, 2022;
3. “Preliminary Site Plan”, Sheet L200 (rendered), dated March 10, 2022;
4. “Carter Farm at Chesterfield Avenue, Stormwater Concept Plan”, Sheet SWM1, dated October 1, 2021
5. “Conceptual Critical Area Major Buffer Management Plan on the Lands of Chesterfield, LLC”, dated September 30, 2021;
6. “Environmental Features Plan on the Lands of Chesterfield, LLC”, dated September 30, 2021; and
7. “Buffer Improvements Plan”, dated June 16, 2022.

In the event of conflicts between drawings, the most recent plans shall control.

COPIES ARE ON FILE AT THE TOWN OFFICE

EXHIBIT “B” TO ORDINANCE 09-2022

IN THE MATTER OF

BEFORE THE

THE APPLICATION OF

CENTREVILLE TOWN COUNCIL

GREEN DEVELOPMENT, INC.

FINDINGS OF FACT

At a meeting of the Centreville Town Council held on May 19, 2022, a public hearing was held on the application of Green Development, Inc. (the “Applicant”) for an award of growth allocation to convert 40.372 acres of the Carter Farm - Chesterfield property (the “Subject Property” or the “Property”) from a Limited Development Area (“LDA”) to an intensely Developed Area (“IDA”). The Town Council further deliberated and discussed the application at its June 2, 2022 meeting.

The Subject Property is a 46.869+ acre parcel of land located on the northeast side of Chesterfield Avenue and on the southwest bank of Yellow Bank Stream in the Town of Centreville, described as Parcel 1288 on Queen Anne's County Tax Map Number 351. The Subject Property is more particularly shown on a plan entitled, “Environmental Features Plan on the Lands of Chesterfield, LLC”, dated September 30, 2021, which was introduced as an exhibit in the hearing on this matter and is referenced by Exhibit A to Ordinance 09-2022.

The Property is zoned Traditional Neighborhood Development (“TND”) under the Centreville Zoning Ordinance and an application for Planned Unit Development (“PUD”) zoning overlay is pending and has been conditionally approved by the Town Council. The Property is located in the Chesapeake Bay Critical Area and, as such, is subject to the Town's Chesapeake Bay Critical Area overlay zoning regulations.

The Applicant proposes to subdivide the Property to create 126 dwelling units, comprised of a mix of single-family attached and detached dwellings and multifamily units. The development project, as designed features substantial use of privately owned and maintained streets, which do not meet conventional Centreville street design standards meaning future residents will be required to provide and maintain basic services, facilities, and infrastructure for public health and safety at their own cost through a Homeowners Association including the distribution and conveyance of water and sewer services and trash removal. More specifically, the Applicant proposes 36 single-family homes lots, 44 cottage lots, 27 townhome lots and 19 multifamily dwelling units. Throughout the project, the proposed design of individual lots, rights-of-way, and open spaces reflect the use of regulatory flexibility to modify the standard lot size, bulk, and other requirements of the Centreville Zoning Ordinance. The community would be developed as an agrihood, with development organized around a central area of agricultural production. The land use pattern will include components that reflect traditional neighborhood design consisting of alleys, grid pattern streets and buildings oriented toward the street, together with other components organized as pocket neighborhoods that include centralized common parking areas and landscaped woonerfs to

require principally pedestrian access to the homes. The community will feature village greens, open spaces, and pedestrian trails. The Applicant is also planning a commercial component for the Project. The specific details of the proposed development are set forth on the Concept Plan and associated plans that are exhibits to the application and incorporated herein as Exhibit A. The proposed project is known as “Carter Farm.”

The Applicant is the contract purchaser and developer of the Property.

The Growth Allocation Application

A. Background

As a political subdivision exercising land use controls over land located within 1,000 feet of tidal waters of the Chesapeake Bay or its tributaries, the Town is required by the State of Maryland to administer regulations limiting the use and development of such land; these regulations are known under the rubric of the “Chesapeake Bay Critical Area Regulations.” The Town's Critical Area regulations are found in Article IIIA of the Town Zoning Ordinance, which is Chapter 170 of the Town Code. Among other things, the Town's Critical Area regulations impose an additional zoning classification (the “Critical Area Overlay District” or “CAOD”) on all properties located within the Town which lie within 1,000 feet of tidal waters of the Bay or its tributaries. The Property is currently classified as an LDA. The Applicant is seeking to reclassify a portion of the Property¹ from LDA to IDA, to permit the proposed development. Specifically, the Applicant is requesting to convert 40.372 acres of the Property, which is the Town portion of the Property that is not in tidal wetlands, from LDA to IDA.

The growth allocation award process is as follows: the application is first reviewed by the Planning and Zoning Commission and the State Critical Area Commission technical staff. The Town Planning and Zoning Commission holds a public hearing and makes recommendations to the Town Council. The Town Council then holds a public hearing on the matter, considers the comments made to it, and decides to grant or deny the application. If approved, the application must then be submitted to the State Critical Area Commission for approval.

The Planning and Zoning Commission considered the growth allocation application at its April 20, 2022 and voted to transmit its favorable recommendation on the application along with the staff memorandum prepared by the Centreville Town Planner for Town Council consideration. The Planning and Zoning Commission memo dated April 22, 2022 and the staff memorandum are attached hereto. The Planning and Zoning Commission advised two conditions: (1) the area along the Yellow Bank stream should be dedicated to the Town as open space per the adopted Centreville Community Plan which specifically identifies this area as a Greenway to be dedicated to the Town upon development approval and that approval of Growth Allocation should include an agreement providing for this dedication; and (2) the applicant satisfy the criteria in § 170-31.6.D(1) of the Code which provides that in addition to meeting the minimum requirements of the Critical Area regulations, the project shall enhance habitat value or improve water quality. The Planning and

¹ The Property is actually 46.869 acres, but a small portion of the Property lies outside of the Town boundaries. The Town portion of the Property is 44.757 acres.

Zoning Commission added the following additional notes: (1) assurances are needed that the Carter farmhouse is preserved through a preservation agreement and the Chesterfield Avenue site line toward the Carter farmhouse is maintained; (2) further discussion should take place regarding the location, scale, amount and impact of the commercial component of the project; (3) how the agricultural component will integrate with the residential and commercial components needs to be defined; and (4) the Commission remains concerned about the viability of sewer capacity and the state and condition of the wastewater treatment plant itself and wants the Council to ensure that there remain enough allocations to serve the full needs of the PUD.

At this point, the application has addressed comments provided by the Critical Area Commission staff, received a conditional favorable recommendation from the Town's Planning and Zoning Commission, and is now before the Town Council on its request.

B. Centreville Zoning Ordinance Standards for Growth Allocation

Section 170-31.6.C. of the Town Code includes standards for locating new intensely developed or limited development areas:

(1) A new intensely developed area shall only be located in a limited development area or adjacent to an existing intensely developed area.

The Property is currently, a limited development area, and is adjacent to existing intensely developed areas to the east and west.

(2) A new limited development area shall only be located adjacent to an existing limited development area or existing intensely developed area.

This provision is not applicable to this request.

(3) New intensely developed areas shall be at least 20 acres in size unless: They are contiguous to an existing IDA or located in an LDA; or they are a grandfathered commercial or industrial use, which existed as of August 3, 1989. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.

The Property is 46.869 acres, and the area for growth allocation conversion to IDA is 40.372 acres.

(4) No more than one-half of the Town's growth allocation may be located in resource conservation areas (RCAs) except as provided in Subsection C(9) below;

This provision is not applicable to the request to convert existing LDA to IDA.

(5) A new limited developed area or intensely developed area shall be located in a manner that minimizes impacts to habitat protection areas as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;

The Maryland Department of Natural Resources Wildlife Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the Property. No impacts are proposed to any Habitat Protection Areas on the Property other than construction of a trail, overlooks, and two shoreline access points through portions of the shoreline buffer. The open water that are adjacent to or part of the site are known historic waterfowl concentration areas.

A concept stormwater management plan and report were submitted with the application that addresses the Critical Area Commission's 10 Percent Rule requirements and calls for a variety of Environmental Site Design (ESD) features to the Maximum Extent Practical (MEP) to optimize the benefits to water quality. Engineering and construction plans for stormwater management and a complete stormwater management report will be reviewed and approved by the Town, County and Critical Area Commission staff as a condition of final development approval

(6) A new intensely developed area shall only be located where they minimize their impacts to the defined land uses of the resource conservation areas (RCA);

This provision is not applicable to this request because it is not a resource conservation area, nor does it have any direct impact on any other resource conservation area.

(7) A new intensely developed area or a limited development area in a resource conservation area should be located at least 300 feet beyond the landward edge of tidal wetlands and tidal waters.

This standard is not applicable to this request.

(8) New intensely developed or limited development areas to be located in resource conservation areas shall conform to all criteria of the Town of Centreville for such areas, shall be so designated on the Town's Critical Area maps and shall constitute an amendment to this article subject to review and approval by the Town Council and the Critical Area Commission as provided herein.

This standard is not applicable to this request.

(9) If the Town is unable to utilize a portion of its growth allocation as set out in Subsections C(1) and C(2) above within or adjacent to existing intensely developed or limited development areas, then that portion of the growth allocation which cannot be so located may be located in the resource conservation areas in addition to the expansion allowed in Subsection C(4) above.

This standard is not applicable to this request.

Section 170-31.6.D. of the Town Code includes additional standards for growth allocation that must be met or exceeded by the proposed project:

(1) In addition to meeting the minimum requirements of the Critical Area regulations, the project design shall enhance the habitat value or improve water quality in the area. For example, afforestation may exceed the 15% requirement or best management practices for stormwater management may be installed on portions of the site to remain in agricultural use.

The Applicant proposes to plant and maintain native herbaceous vegetation, within designated planting areas shown on the Concept Plan, such as native grasses and pollinator friendly wildflowers within parts of the green space outside of the Critical Area buffer area. This would be in addition to afforestation within and along the expanded Critical Area buffer.

(2) For residential development, a community pier shall be provided rather than individual private piers.

No piers are proposed to be provided as part of the development.

(3) Open space requirements as specified in the Town Zoning Ordinance, Subdivision Regulations, or through the site plan review process.

The proposed open space plan meets the minimum standards of the PUD regulations recognizing that more detailed review will occur during the future stages of PUD plan review and approval.

Section 170-31.6.E. of the Town Code includes additional factors for growth allocation that the Town shall consider:

(1) Consistency with the Town's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to the following items in the comprehensive plan:

(a) Policies;

(b) Timing of the implementation of the plan, of development, and of rezoning;

(c) Development patterns;

(d) Land uses; and

(e) Densities and intensities.

This application is consistent with and furthers the following objectives of the Land Use chapter of the Community Plan, provided the conditions set forth in Subsection D of this document are satisfied:

1. Promote a land use pattern both within the existing Town and beyond current boundaries into future growth areas that is consistent with a traditional small town. Recognize the

need to preserve historic elements and economic vitality of the Town by linking the Town center to surrounding areas with an efficient system of roads, pedestrian walkways, community open space, and public utilities. (p. 4-1)

2. Encourage quality development and redevelopment of vacant or substandard properties within the Town through the use of design standards, adequate building codes, and coordination with the development community. Create incentives to encourage developers to rehabilitate existing buildings and build new buildings in keeping with the architectural style, desired features, and pattern of the existing Centreville Business District (CBD). (p. 4-2)

4. Ensure that future development and redevelopment within the Town and surrounding lands is consistent with the Land Use Concept in this Centreville Community Plan. (p. 4-2)

5. Ensure that future land use patterns are supported by transportation networks, utility systems, open space, and community facilities. (p. 4-2)

The Community Plan also directly addresses this Property and states:

“An example of a location where a TND form of development is appropriate is the historic Chesterfield property on Chesterfield Avenue. If developed, this parcel could provide a TND form of development that would relate to the surrounding community as well as the nearby Central Business District.

This property is the location of ‘Chesterfield’, the 17th century land grant from which Centreville was carved. The original house and remaining property are on the banks of the Yellow Bank Stream, which joins the Corsica River immediately to the west. The property around the historic site of Chesterfield provides a glimpse of the origins of Centreville. Approximately 43 gross acres of land make up the potential area, of which 26 acres are exclusive of the Chesterfield house and areas associated with Yellow Bank Stream. Any future development of the property presents a unique opportunity for replicating historic land patterns found within the Town of Centreville while preserving a special piece of Town history.” (p. 4-5).

The Community Plan also highlights Planned Unit Developments as a recommended approach to development. One PUD area was identified at that time (in the southwest portion of Centreville adjoining MD Route 18), but with the passage of new zoning amendments in 2021, PUDs are now applicable to TND zones if approved by the Town Council. The Community Plan goes on to say that the form of development envisioned for a PUD is primarily residential development with significant open space, a variety of housing types, and a limited number of nonresidential uses. Connections to the Town would be by proposed streets, local roads, and proposed greenways.

Regarding greenways, the Future Town Land Use Map, Figure 11, in the Community Plan shows a proposed greenway along the shoreward perimeter of the subject property, the Yellow Bank Stream Greenway. It is described on page 5-6 where the Plan says, “As the undeveloped parcels along the path of the greenway are developed, the area along the Yellow Bank Stream should be dedicated to the Town as Open Space.”

The proposed development, together with the conditions attached hereto furthers the vision for the Property as articulated in the Community Plan, provided the conditions set forth in Subsection D of this document are satisfied.

(2) For a map amendment or refinement involving a new limited development area, whether the development is:

(a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

(b) A completion of an existing subdivision;

(c) An expansion of an existing business; or

(d) To be clustered.

This standard is not applicable to this request because this is not a new limited development area.

(3) For a map amendment or refinement involving a new intensely developed area, whether the development is:

(a) To be served by a public wastewater system;

(b) If greater than 20 acres, to be located in a designated Priority Funding Area;
and

(c) To have a demonstrable economic benefit.

The proposed development will be served by a public wastewater system. The Property is over 20 acres and is located in a designated Priority Funding Area. The applicant's preliminary assessment of the direct economic benefits to the Town indicates that, at build-out, the project would provide annual property tax revenue in excess of \$300,000. Additionally, the project would provide nearly \$2 million in water and sewer allocation fees, which can be applied to the Town's cost of the anticipated wastewater treatment plant upgrade or other enterprise fund investments.

(4) The use of existing public infrastructure, where practical;

The proposed project will extend and use existing water and sewer infrastructure and connect to existing public roads. Notably, the project provides for public ownership of the shoreline buffer and construction of a public trail that implements a material recreational infrastructure goal of the Comprehensive Plan.

(5) Consistency with state and regional protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;

The Maryland Department of Natural Resources Wildlife Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the Property. No impacts are proposed to any Habitat Protection Areas on the Property other than construction of a trail, overlooks, and two shoreline access points through portions of the shoreline buffer. The open waters that are adjacent to or part of the site are known historic waterfowl concentration areas. Database review and a site visit by Critical Area Commission staff also confirmed that the project site does not include Forest Interior Dwelling (FID) bird habitat. Recent Virginia Institute of Marine Sciences (VIMS) mapping does not indicate any submerged aquatic vegetation in waters adjacent to this property. The record contains no information suggesting the presence of any threatened or endangered species or species in need of conservation in the vicinity of the project site.

(6) Impacts on a priority preservation area;

Map ESA-10 of the Queen Anne's County Comprehensive Plan depicts all Priority Preservation Areas of the County. The Carter Farm site is shaded white, which indicates it is a "Non-Priority Preservation Area", which is consistent with the explanatory note in the map's legend that indicates that all Non-Priority Preservation areas include "Planning Areas, Incorporated Town Boundaries and Future Annexation Areas" (emphasis added).

(7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and

Wastewater flows from the proposed development will be treated by the Town of Centreville's municipal sewer system and discharged at ENR quality consistent with the Town's wastewater treatment requirements and discharge limitations. Stormwater management will be provided on-site to comply with applicable Town and State environmental site design standards. The stormwater management features proposed include micro infiltration, non-rooftop disconnection, bioswales, permeable pavers, rain gardens and grass swales. The record includes a stormwater management report that demonstrates that the quality of stormwater runoff will comply with the Critical Area 10% pollutant reduction standards. Accordingly, water quality leaving the site following development of the proposed project will contribute less nutrients to the tidal waters and wetlands than pre-development conditions.

(8) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

The Carter Farm project site is not located in a coastal hazard area, and no structures are proposed to be developed within the 100-year floodplain (AE elevation 6 ft) other than potential water-dependent structures associated with riparian access. The elevations in the open field portions of the site range from 55 feet to 16 feet above sea level. Direct stormwater discharges

to tidal water are not required to provide quantity management because such drainage conveyances do not result in an increased risk of flooding of any severity.

C. Application of the COMAR Requirements to this Application.

The Critical Area Commission established requirements for awarding growth allocation. See Code of Maryland Regulations (“COMAR”) 27.01.02.06-3. The Town's standards set forth in the Zoning Ordinance and discussed above are almost identical to COMAR 27.01.02.06-3.E. Specifically, the extent to which the application meets the requirements of (1)-(4) of COMAR 27.01.02.06-3.E are all addressed above. The only requirement not addressed above is COMAR 27.01.02.06-3.E(5) which states:

(5) For a growth allocation application for a residential subdivision, comply with the requirements and procedures under Environment Article, § 9-206, Annotated Code of Maryland, and Land Use Article, Title 1, Subtitle 5, and § 5-104, Annotated Code of Maryland.

This application complies with the Sustainable Growth & Agricultural Preservation Act of 2012, which is codified in part in Environment Article, § 9-206, Annotated Code of Maryland, and Land Use Article, Title 1, Subtitle 5, and § 5-104, Annotated Code of Maryland. Although the Town of Centreville has not adopted a growth tier map, the Property is in a designated growth area and is designated as an S-1 sewer service area, for service by public sewer system, which complies with the Act requirements.

D. Town Council Decision

It seems to the Town Council that there is no more logical place to apply growth allocation than in designated growth areas within the Town boundaries. Accommodating growth within the Town boundaries will minimize growth pressures in the more rural and environmentally sensitive parts of Queen Anne's County, much of which is designated RCA.

After carefully considering the evidence presented at the hearing, the Town Council finds that the application, together with the conditions imposed herein, complies with the guidelines set out by the Critical Area Commission, as well as the provisions for growth allocation contained in the Centreville Zoning Ordinance and hereby APPROVES the requested growth allocation to redesignate 40.372 acres from LDA to IDA.

The Town Council believes that it is appropriate to condition the granting of the application upon the following conditions:

Buffer:

1. Establishment and Management of Buffer:
 - a. The developer shall prepare and obtain approval of a Buffer Management (“BMP”) Plan that provides for establishment of the 100’ Shoreline Buffer (“Buffer”) and management of invasive vegetation within the Buffer

- b. The BMP shall be implemented at the developer's expense prior to transfer of ownership of the portion of the Buffer to the Town, as required by Condition No. 3.

2. Buffer Improvements

- a. The developer shall construct the Yellow Bank Stream Trail ("Perimeter Trail"), overlooks, and shoreline access paths as depicted by Exhibit A-Buffer Improvements Plan (collectively, the "Buffer Improvements") prior to dedication of a portion of the Buffer to the Town as required by Condition No. 3.
- b. The Buffer Improvements will include access paths to the water in two locations for paddle craft launch/landing ("Water-Trail Connections").
- c. Improvements constructed within the Buffer shall be limited to those improvements depicted or described by Exhibit A-Buffer Improvements Plan.

3. Ownership:

- a. Within three (3) years following recordation of the subdivision plat(s) creating at least sixty (60) residential lots in the Carter Farm, the land area extending from mean high water to the landward edge of the Perimeter Trail plus two (2) feet for maintenance of the trail ("Dedicated Buffer") shall be offered for dedication to the Town, subject to applicable Critical Area Commission regulations and restrictions. The location and configuration of the Perimeter Trail will be substantially consistent with Exhibit A-Buffer Improvements Plan, and the final Perimeter Trail alignment will be confirmed during final engineering of the subdivision improvement plans for the initial phase of Carter Farm.
- b. All remaining portions of the Buffer other than the Dedicated Buffer ("HOA Buffer") will be owned and maintained by the HOA. The developer shall also dedicate to the Town two (2) easements for pedestrian access between the Carter Farm public road right-of-way and the Dedicated Buffer ("Overlook/Trail Access Easements").

4. Maintenance:

- a. The vegetation of the Dedicated Buffer shall be maintained by the Town consistent with the BMP. The vegetation of the Overlook/Trail Access Easements shall be maintained by the HOA.
- b. The vegetation of the HOA Buffer shall be maintained by the HOA consistent with the BMP.
- c. The Buffer Improvements shall be maintained, repaired or replaced by the Town following transfer of ownership consistent with quality of the initial construction.

Similarly, the improvements within the Overlook/Trail Access Easements shall be maintained, repaired and replaced by the Town following dedication and acceptance of such easements.

- d. If the Town fails to perform Buffer vegetation maintenance to the level described by the BMP and/or fails to maintain the Buffer Improvements to the condition desired by the HOA, the HOA shall have the right, but not the obligation, to enter the Dedicated Buffer and perform such supplemental maintenance as it determines appropriate, provided the HOA performs such work in accordance with all applicable laws and regulations and at no expense to the Town.

5. Operation

- a. Trash: The Town will provide trash collection and cleanup along the Perimeter Trail.
- b. Security: Violations of use will be reported to the local authorities for response
- c. The Perimeter Trail shall be limited to pedestrian use only.
- d. Operation: Use of the Dedicated Buffer and Buffer Improvements shall be subject to the Town's rules and regulations for parks and trails throughout the Town. However, at a minimum, the Dedicated Buffer and Buffer Improvements shall not be open to the public before dawn or after dusk.

6. Public access areas:

- a. Public access to the Dedicated Buffer from the land is limited to the Overlook/Trail Access Easements or the Chesterfield Avenue connection of the Perimeter Trail.
- b. Public access to the Dedicated Buffer from the water is limited to short-term shore pull-out only. No camping or extended use of the water's edge is allowed. Public access to the trail from the water and vice versa is only permitted at the public Water-Trail Connection.
- c. To protect habitat values and minimize impacts to riparian slopes and vegetation, public access to and use of the Dedicated Buffer will be limited to the Buffer Improvements.

Board of Education Connection:

7. The development plans show the main access road approaching the neighboring Board of Education property with a turnaround included. Simultaneously with the recordation of the subdivision plat for the property, the developer shall dedicate the additional land necessary to connect fully to the Board of Education property and pay to the Town the

anticipated cost to extend the road and make the connection to the Board of Education property when the Town determines that such connection is appropriate.

HOA Governance and Costs:

8. An HOA shall be established through legal documents that bind the lots and future owners and residents of the Property (“HOA Documents”). The HOA Documents shall provide for perpetual maintenance (which includes necessary replacements as may be required and compliance thereof with governmental requirements and standards) of the Community Space and private infrastructure and may establish reasonable rules and regulations for the use of the Community Space. The HOA Documents shall be in a form acceptable to the Town Attorney and shall provide that if the HOA fails to maintain the Community Space and private infrastructure in a proper manner and in compliance with governmental requirements and standards which may change over time, then the Town shall have the right, but not the obligation, to undertake the maintenance at the sole cost, risk and expense of the HOA and the individual property owners thereof. The HOA Documents shall further provide that if the costs are unpaid within 30 days of a bill from the Town, then the unpaid amount shall be assessed against the property owners as a lien collectible in the same manner as real estate taxes. The HOA shall be required to remain active and the provisions of the HOA Documents establishing the maintenance obligation shall not be modified without the express written consent of the Town.
9. The HOA Documents shall establish and provide for implementation of a comprehensive set of architectural guidelines, which shall require, among other things, a mix of facades and colors on each block to ensure visual diversity and the architecture to be “human scale”, of excellent design and to use high quality building materials. The Developer shall prepare a pattern book to provide detailed renderings of proposed architectural models, including housing types and community amenities. The architectural guidelines and pattern book shall incorporate the design concepts presented to the Planning and Zoning Commission as part of the Sketch Plan approval and shall be subject to approval of the Planning and Zoning Commission.
10. The HOA Documents shall provide for an Architectural Review Committee to establish mechanisms and procedures for ensuring compliance with the architectural guidelines.
11. The HOA Documents shall provide for the protection of environmentally sensitive areas on the Property. Such covenants shall be subject to the review and approval of the Planning and Zoning Commission and the Town Attorney.
12. The developer shall ensure that the HOA is adequately funded at its inception to address anticipated maintenance costs.

Archaeological Assessment:

13. Prior to a final subdivision plat approval for each phase of development, the developer shall prepare and submit to the Town a Phase I archaeological survey of the project site,

excluding the Buffer, farm field, and any other areas of the site in which excavation will not be performed. It is understood that the results of the study may affect the layout and design of the PUD plan and any subdivision plat for the property

Marketability Study:

14. Within 60 days of the Town Council's approval of this Ordinance, the developer shall prepare and submit to the Town a marketability study that studies the short and long-term marketability of the project.

Substantial Completion:

15. Pursuant to § 170-31.6(F)(10) of the Town Code, all public improvements shall be substantially completed within 3 years of the date of the last to occur of: (i) Critical Area Commission approval of this growth allocation award, or (ii) allocation of sewer capacity for the establishment of all residential lots within Phase 1 of the Carter Farm project. The public improvements required to be substantially completed shall be the public loop road including the extension to and turn around towards the Board of Education property, the sewer and water mains within the public loop road and the extension to and turn around towards the Board of Education property, the two pump stations, the perimeter trail, and the internal trail, in addition to the infrastructure necessary to serve Phase 1 of development. If the improvements are not substantially completed, then the growth allocation shall be null and void, unless an extension of time is granted by the Town Council as provided in § 170-31.6(F)(10) of the Town Code.

Miscellaneous:

16. All undeveloped lands outside of the Buffer, including the lots, shall be stabilized and maintained in vegetative cover and regularly mowed until construction begins to prevent erosion. Following grading, each lot shall be reseeded and landscaped prior to the issuance of an occupancy permit for such lot. All lots shall have sufficient topsoil for establishing and growing vegetative ground cover.
17. All reasonable and customary professional fees (including but not limited to planning, engineering, architectural, legal, etc.) incurred by the Town in any phase of the project shall be reimbursed by the developer.
18. The conditions set forth herein shall be more fully detailed and articulated in a Development Rights and Responsibilities Agreement pursuant to Chapter 45 of the Town Code.

SIGNATURES ON FOLLOWING PAGE

ATTEST:

THE TOWN COUNCIL OF CENTREVILLE

Carolyn M. Brinkley, Town Clerk

Steven K. Kline, President

Ashley H. Kaiser, Esquire, Vice President

Eric B. Johnson, Jr., Member

Daniel B. Worth, Member

Jim A. Beauchamp, Member

DRAFT