

Attachment D - Staff Analysis

STAFF PERSON: Rebecca Ragsdale, Planning Manager
BOARD OF SUPERVISORS: February 1, 2023
PROJECT: ACSA202200001
PROPERTY OWNER: Peter Pitsiokos
LOCATION: 531 James River Road, Scottsville
PARCEL ID: 13600-00-00-02700
MAGISTERIAL DISTRICT: Scottsville

APPLICANT'S PROPOSAL:

Application to amend the Albemarle County Service Authority Jurisdictional Area (ACSAJA) to authorize water service to an existing structure that contains a barn on the first level and an apartment on the second level ("barn/apartment").

CHARACTER OF THE AREA:

The subject parcel is zoned Rural Areas (RA), contains 92.92 acres, and includes a barn/apartment (531 James River Rd.) and a cottage (535 James River Rd.), along with a sheep farm and the owner's residence at 9067 Valmont Lane. Floodplain is located along the eastern portion of the parcel that abuts the James River. The barn/apartment is located within an identified buffer area for a leaking underground storage tank that is approximately 1,000 feet away from the structure.

Surrounding parcels to the south and west are zoned RA, and consist of a mix of residential, agricultural, and wooded properties. To the east, the parcel abuts the James River, with Buckingham County across the river. To the north are other RA parcels and the Town of Scottsville, including a property used for industrial purposes.

ZONING AND PLANNING HISTORY:

The ACSAJA designation of "*water service to existing structures*" was established for Parcel ID 13600-00-00-02700 in 1983. Though that parcel has been subdivided, at the time of this designation, existing structures included six houses, a hay barn, two storage buildings, shed, a cattle barn with equipment storage, four harvest storage buildings, a slurry storage building, a feed building, a calf barn, a milking parlor, a gathering shed, and two loafing sheds. However, these structures either no longer exist or are now located on adjacent parcels.

The subject barn/apartment was constructed sometime between 2014 and 2017. A permit was issued in 2014 for the barn, classified as a farm building permit. Upon site inspection in 2017, a compliance issue was discovered, as the structure included an unpermitted apartment. To address the issue, the building permit was amended to a single-family dwelling. Following the permit amendment, because the applicant did not complete all required inspections, the permit expired, and the structure never received a certificate of occupancy. Furthermore, the owner connected the barn/apartment structure to the existing water line that runs along James River Road.

In 2021, during the County's proactive efforts to bring homestays into compliance, the County discovered not only the barn/apartment listed for homestay rental, but another rental structure on the parcel. That structure, referred to as the cottage, was added to the parcel without a building permit, inspections, or a certificate of occupancy. The cottage structure is served by a

well. Upon this discovery, the Building Official visited the parcel to ensure the structures were vacated of any occupants, then posted against future occupancy. Along with these compliance issues, staff discovered the water line connection, a farm building constructed without a farm building permit, and unpermitted construction additions to the applicant's home at 9067 Valmont Lane.

Since that time, the applicant was advised of all necessary steps and options to bring the parcels and structures into compliance. Applications for building permits for all structures without a building permit, or additions to other structures, have been submitted. The cottage now has a certificate of occupancy. With the building permit application for the barn/apartment, the owner applied to amend the ACSAJA boundary to bring the unauthorized water service into compliance. The request was originally scheduled for a public hearing on May 18, 2022, but the owner requested a deferral to confirm whether there were contamination issues. Since the initial ACSAJA request, Parcel 13600-00-00-02700 (with the barn/apartment and cottage) was combined with the adjacent Parcel 13600-00-00-027D0, where the owner resides.

This application has been reviewed the Albemarle County Service Authority (ACSA). If approved, the applicant would need to pay all necessary tap fees and undergo proper permitting and inspections for the water line. Because the existing meter was used for the additional non-compliant line that serves the barn/apartment, the applicant is being billed by ACSA for the water usage. ACSA issued a compliance notice on January 4, 2023 with final deadlines.

COMPREHENSIVE PLAN:

The Community Facilities chapter of the Comprehensive Plan addresses where public water and sewer service is to be provided:

Objective 9: Provide public water and sewer in the Development Areas. Water and sewer services are essential for the County to achieve its growth management goals. Having adequate facilities in the Urban Service Area is also very important if the densities recommended in the Land Use Plan are to be realized. Available water supply and wastewater treatment capacities can limit the ultimate number of connections that can be made to either system. The strategic location and sizing of necessary water storage facilities, water distribution, and wastewater collection lines are more important to the effective use of these capacities for future growth. Providing water with adequate pressure to support necessary fire flows is equally important. Coordination of utilities and land use planning also requires the provision of utilities where they are needed....

Strategy 9a: Continue to provide public water and sewer in jurisdictional areas. Water and sewer jurisdictional areas ensure the County's Growth Management Policy, Land Use Plan, and Develop Area Master Plans are implemented by guiding the direction of public utility placement. The areas also permit these services to be provided in a manner that can be supported by the utility's physical and financial capabilities. The jurisdictional areas are those portions of the County that can be served by water or sewer service, or both, and generally follow the Development Areas boundaries.

Delineation and adoption of utility project jurisdictional areas by a local governing body is provided for in Virginia Code §15.2-5111.

The boundaries of the Development Areas are to be followed in delineating jurisdictional areas. **Change to these boundaries outside of the Development Areas should only**

be allowed when: (1) the area to be included is adjacent to existing lines; and (2) public health and/or safety is in danger.

STAFF ANALYSIS

Staff has analyzed the application based on the criteria in Strategy 9a of the Community Facilities chapter of the Comprehensive Plan:

1. Whether the area to be included is adjacent to existing lines

The parcel is adjacent to an existing water line that serves adjoining parcels. The owner's residence at 9067 Valmont Lane is legally connected to public water. ACSA water is being consumed in the apartment and provides water to farm animals on the parcel. If the ACSAJA were amended to authorize continued water service, the applicant would need to pay for tap fees and proper permitting and inspections and to comply with all Building Code requirements. If the ACSAJA amendment were not approved, the applicant would need to comply with ACSA and the Building Code to remove the connection.

2. Whether public health and/or safety is in danger

While the parcel is within a Leaking Underground Storage Tank buffer area, no documentation of contamination has been provided. The parcel has a well that was approved by the Health Department and serves the existing cottage outside the buffer area. Albemarle County Code § 5-504 does not prohibit wells within the buffer area, but additional water testing (BTEX) is required before a building permit can be issued. There appear to be viable options for water service available on the 92.97-acre parcel other than connecting to public water. The existing cottage is served by a well outside the buffer area. Only in documented cases of a public health or safety issue has the ACSAJA been amended to allow water service outside the Development Areas and where approved, that service was authorized for existing lawful dwellings. There have been no instances where water service has been approved to structures that have connected unlawfully to public water. It is not uncommon for wells to be located in a buffer area, including a number of residences near the subject parcel that are served by wells with no contamination issues.

Strategy 9a addresses the fact that public water and sewer systems are a potential catalyst for growth, and that capacities need to be efficiently and effectively used and reserved to serve the Development Areas. Continued connections of properties in the Rural Area should be the exception, as the further extension of lines into the Rural Area could strain limited water resources and capacity. Though this parcel is adjacent to lines and already has an unauthorized connection, no health or safety issue has been documented.

RECOMMENDED ACTION:

Based on the staff analysis, staff recommends denial of the proposed amendment to the ACSAJA.

Suggested Motion: I move to adopt the attached resolution to deny ACSA202200001 the for the reasons outlined in the staff report.