

CASE NUMBER: 21AN0112
APPLICANT: Michael W. Watts

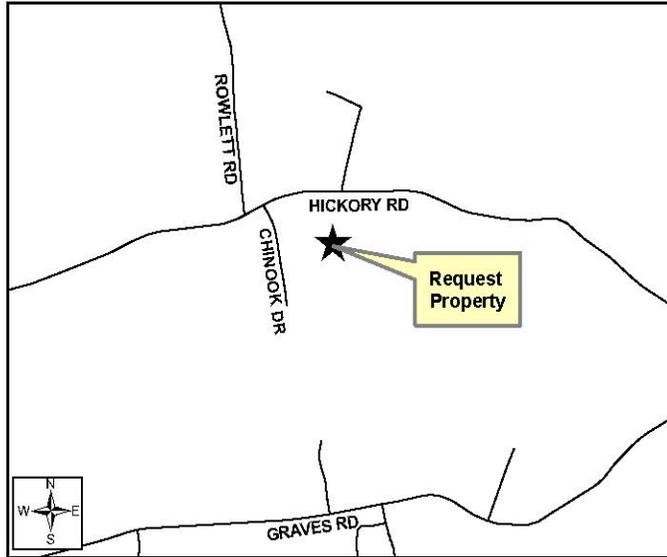


**STAFF'S ANALYSIS
AND
RECOMMENDATION**

Board of Zoning Appeals (BZA)
 90 DAYS
Public Hearing Date:
 NOVEMBER 4, 2020

Applicant's Contact:
 MICHAEL WATTS
 (804-586-4925)
Planning Department Case Manager:
 AMY SOMERVELL
 (804-748-1970)

CHESTERFIELD COUNTY, VIRGINIA
 Magisterial District: **Matoaca**



2.0 acres – 9015 Hickory Road

REQUEST

A variance to use a parcel of land which has no public road frontage for dwelling purposes in an Agricultural (A) District.

Note:

Recommended conditions are located in Attachment 1.

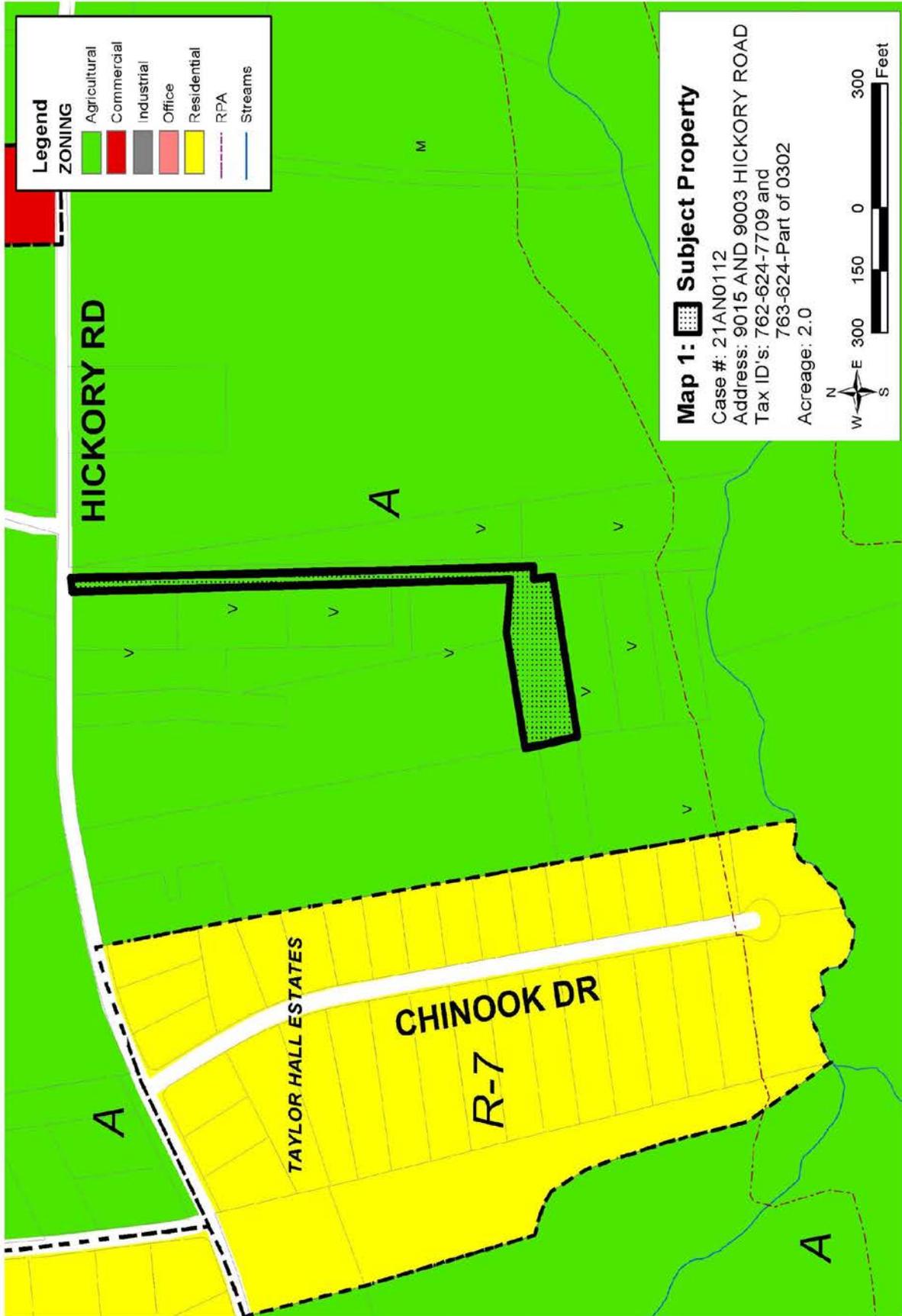
RECOMMENDATION

STAFF

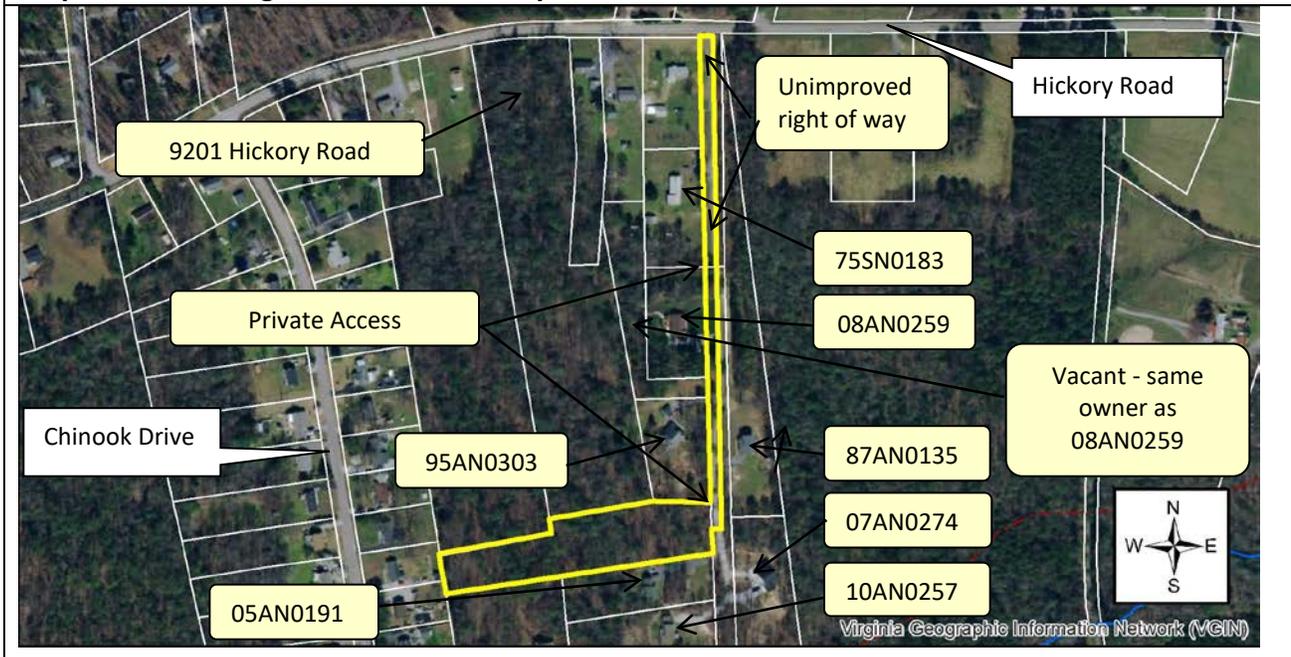
RECOMMEND APPROVAL

- Strict application of the Ordinance requirements for public road frontage would unreasonably restrict use of the property.
- Approval would not reduce or impair the value of the surrounding property nor impair area's character.
- No practical alternatives exist that would eliminate the need for this variance.

SUMMARY OF IDENTIFIED ISSUES	
Department	Issue
PLANNING	<ul style="list-style-type: none"> • Seven (7) single-family dwellings utilize this private easement and dedicated right of way as their access to Hickory Road. • Development of area property using the private ingress/egress and unimproved right of way is similar to a private road subdivision.
CDOT	<ul style="list-style-type: none"> • Traffic generated by this development will access Hickory Road via a dedicated but unimproved county right of way (i.e., not in the State Highway System for maintenance). • A license agreement must be obtained to use the dedicated but unimproved right of way. • Although a license agreement requires private maintenance agreement, the County often is requested to preform road maintenance without budgeted funds.
ENVIRONMENTAL ENGINEERING	Any driveway culverts which will be installed to cross any natural channel must be sized to adequately pass the 100-year storm peak discharge without overtopping the driveway. In addition, the 100-year backwater created from the installation of any culverts cannot negatively impact adjacent property.



Map 2: Surrounding Land Uses & Development



PLANNING

Staff Contact: Amy Somervell (804-748-1970) somervella@chesterfield.gov

BACKGROUND

- The Board of Zoning appeals hears request for no public road frontage for parcels meeting one of the following criteria:
 - Recorded prior to April 1976
 - Subdivided for a member of the property owner's immediate family
 - Recorded through the plat validation process
- The Zoning Ordinance requires a property being used for dwelling purposes to have a minimum of fifty (50) feet of public road frontage.
- The dedicated but unimproved right of way was dedicated June of 1976 and extends approximately 580 feet.
- The subject property was recorded in March 1995 without County approval and deficient in required road frontage for parcel division. If this request is granted, a Validated Plat application will be required to bring the property into conformance with the Subdivision Ordinance.
- The applicant purchased the subject property in July 2020 with the intent to construct one (1) single family dwelling.
- Seven (7) variance requests for no public road frontage have been approved for properties using the same unimproved right of way and private ingress/egress (Cases: 75SN0183 approved by the Board of Supervisors September 24, 1975, 87AN0135 approved on November 4, 1987, 95AN0303 approved on August 2, 1995, 05AN0191 approved on February 2, 2005, 07AN0274 approved on April 4, 2007, 08AN0259 approved on July 2, 2008, , and 10AN0257 approved on April 4 2010 by the Board of Zoning Appeals).

- The applicant approached the landowner of 9201 Hickory Road to discuss a possible Parcel Line Modification; however, they were not amenable to the property modification.
- The lack of public road frontage may be rectified by either receiving a variance for no public road frontage or modifying the property to meet Subdivision and Zoning Ordinance requirements.

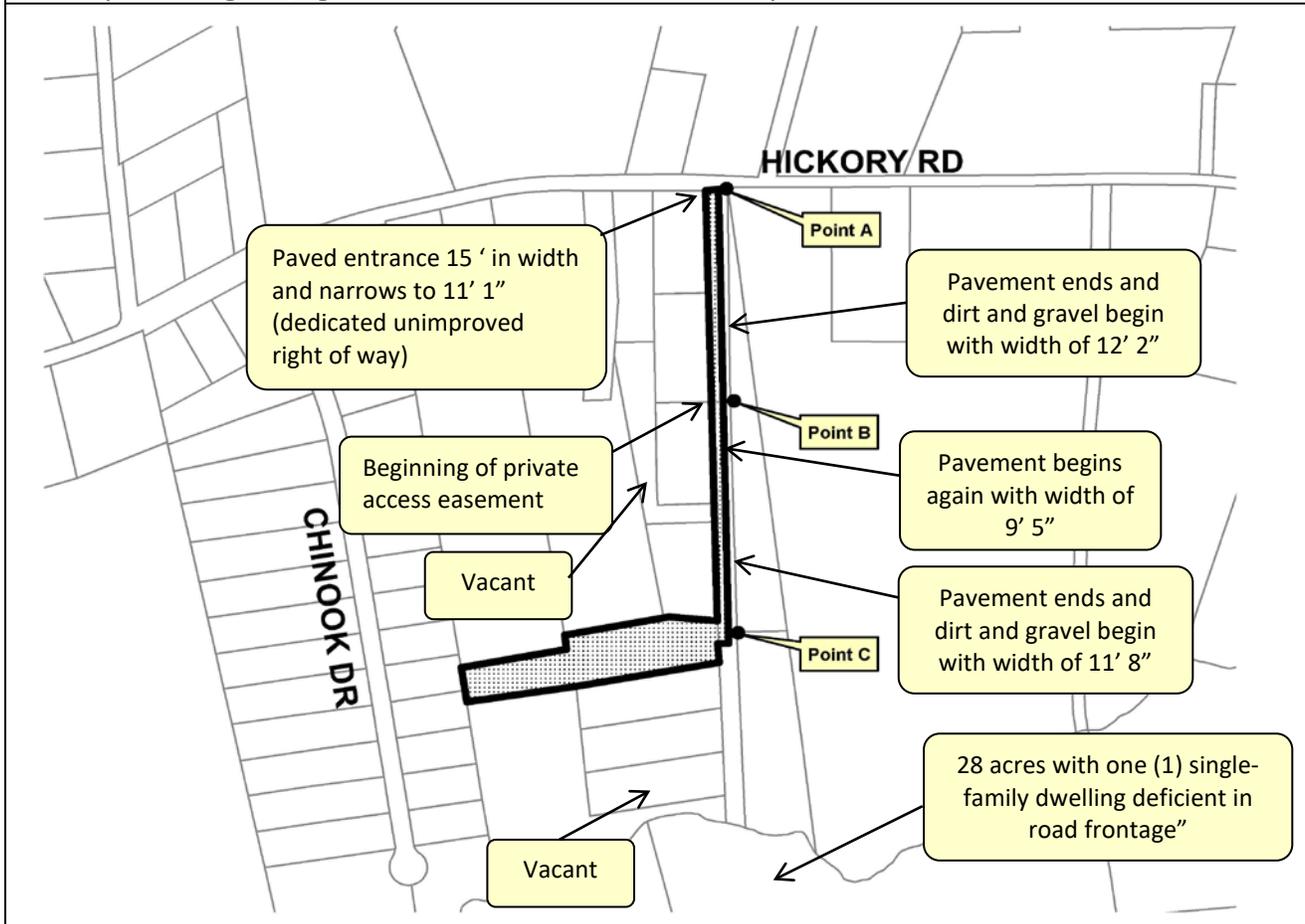
PROPOSAL

The applicant desires to build one (1) single-family dwelling on the subject property. As justification, the applicant indicates the following:

“The reason for the request is to provide access to 9015 Hickory Road and construct a single-family dwelling. There are currently seven (7) homes along this right of way and have been built between 1976 and 2016. I was not aware a variance would be needed upon purchasing the property. I was told since the land was deeded with an ingress and egress right of way that there was nothing else that would need to be done with the land to allow construction. The request property has no other allowances for ingress or egress to a public road such as Hickory Road.”

Map 3: Access Plan

The access is proposed over a dedicated but unimproved right of way from Point A to Point B and over a private ingress/egress to Point C as shown on the map.



ACCESS

Staff's inspection of the property revealed the following:

- Private access currently serves seven (7) single-family dwellings all of which received variances for no public road frontage (Map 2).
- The unimproved right of way extends approximately 580 feet, and the private access extends approximately 720 feet serving the subject property.
- The unimproved right of way and private access easement consists of pavement, dirt and gravel ranging from fifteen (15) foot to nine (9) foot five (5) inches in width (Map 3).
 - The unimproved right of way begins with pavement and is approximately fifteen (15) feet in width at the entrance from Hickory Road and tapers to approximately eleven (11) foot one (1) inch shortly thereafter.
 - The unimproved right of way transitions from pavement to dirt and gravel with a width of twelve (12) foot two (2) inches and continues the same material through to the first portion of the private access. Some potholes exist and the required three (3) foot clear area beyond the fifteen (15) foot driveway is deficient within the dirt and gravel portion of this access.
 - The private access continues with the dirt and gravel material and transitions to pavement with a width of nine (9) foot five (5) inches before it transitions back to dirt and gravel with a width of eleven (11) foot eight (8) inches that continues to the subject property.
 - The existing base appears to be good.
- Majority of the access does not meet standards typically imposed with similar requests relative to construction.

Conditions ensure compliance with minimum access road standards from Point A to Point C (Access Plan) to support fire equipment and/or ambulances, as requested by the Chesterfield County Fire Department.

EXAMINATION OF ALTERNATIVES

Staff evaluated several alternatives to this variance request. The first involved the possible Parcel Line Modification with an adjacent property, 9201 Hickory Road, to achieve required road frontage on Hickory Road (Map 2). Typically, Staff encourages modifications to property lines when the adjoining property has ample area and road frontage that could accommodate rectifying the deficiencies of the subject property thus, eliminating the need for the variance request. In this case, the applicant discussed this modification with the landowner, and they were not amenable to the request.

Secondly, staff identified rezoning and subdivision approval as the only other alternative to alleviate the need for this variance request. Although, rezoning and subdivision approval would provide for orderly development with assurance that infrastructure such as State roads are in place to serve new single-family dwellings, the zoning and construction costs would fall on the applicant and two (2) other possible landowners (Map 3). Staff identified seven (7) properties with approved variance requests for no public road frontage all utilizing the existing dedicated but unimproved right of way and/or private ingress/egress as their access to Hickory Road. Essentially, those properties would enjoy the benefit of the improvements without contributing to the

infrastructure. Furthermore, the applicant is not in control of the private access; therefore, the landowner of the private access would be required to participate in the zoning and subdivision process. The strict application of the Zoning Ordinance requirements for road frontage would unreasonably restrict the use of the property. As such, a practical alternative is not available that would alleviate the need for this variance request.

COUNTY DEPARTMENT OF TRANSPORTATION

Staff Contact: Steve Adams (804-748-1037) adamsSt@chesterfield.gov

Traffic generated by this development will access Hickory Road via a dedicated but unimproved county right of way (i.e., not in the State Highway System for maintenance). To use county rights of way, a license agreement must be obtained from the county. The license agreement usually requires the applicant to maintain the access road within the right of way. In similar situations throughout the county, residents often request the county to perform maintenance on the right of way even though a private maintenance agreement exists. County funds are not budgeted for this service.

FIRE SERVICE

Staff Contact: Anthony Batten (804-717-6167) BattenA@chesterfield.gov

The Fire Department recommends the owner provide a 15 foot all-weather road capable of supporting 75,000 lbs in order to provide access for fire apparatus and ambulances. This road should extend from the improved public road to the proposed dwelling.

Nearby Fire and Emergency Medical Service (EMS) Facilities

Fire Station	The Phillips Fire Station, Company Number 13
EMS Facility	The Ettrick-Matoaca Volunteer Rescue Squad

ENVIRONMENTAL ENGINEERING

Staff Contact: Rebeccah Rochet (804-748-1028) RochetR@chesterfield.gov

Geography

The subject property generally drains from north to south to Locust Branch which is a tributary of Franks Branch. Franks Branch is a tributary of Swift Creek. The property and access are located within the Lower Swift Creek Watershed.

Access

The property owner should obtain a license agreement from Chesterfield County to use the unimproved but dedicated right-of-way. The license agreement will include a condition to obtain a land disturbance permit if greater than 2,500 square feet of total land will be disturbed within the county right-of-way.

Erosion and Sediment Control

The building permit will serve as the land disturbance permit for the house and driveway within the limits of the parcel. A separate land disturbance permit must be obtained from the Department of Environmental Engineering if greater than 2,500 square feet of total land will be disturbed as a result of any necessary driveway improvements and/or construction outside the limits of the parcel.

Natural Resources

A Resource Protection Area (RPA) Designation must be submitted to and confirmed by the Department of Environmental Engineering – Water Quality Section prior to issuance of a building permit. All new construction shall have a minimum 25-foot setback from all RPA.

In addition, any driveway culverts which will be installed to cross any natural channel must be sized to adequately pass the 100-year storm peak discharge without overtopping the driveway. In addition, the 100-year backwater created from the installation of any culverts cannot negatively impact adjacent property.

HEALTH DEPARTMENT

Staff Contact: Richard Michniak - Richard.Michniak@vdh.virginia.gov

The use of private utilities will require approval from the Health Department.

VIRGINIA DEPARTMENT OF TRANSPORTATION

Staff Contact: Jonathan Phillippe (804-674-2800) Jonathan.Phillippe@VDOT.Virginia.gov

UTILITIES

Staff Contact: Jamie Bland (804-751-4439) blandj@chesterfield.gov

The proposed request will have minimal impact these facilities.

CONDITIONS

1. Prior to the approval of a building permit, the property owner shall provide a copy of the approved license agreement with the County to use the dedicated and unimproved County right-of-way from Point A to Point B, as shown on the plat attached to the staff report. (P)
2. Prior to the approval of a building permit, the property owner shall provide a copy of a recorded instrument from Point B to Point C which will include the following:
 - (a) A thirty (30) foot private access easement from Point B to Point C, as shown on the plan attached to the staff report.
 - (b) A condition that shall require that no structure or fence shall be constructed to block the access which shall extend to the proposed house location.
 - (c) A condition that shall require the landowner of the subject property to be responsible for maintenance of the access which shall extend to the proposed house location. (P)
3. A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point C extending to the proposed house location once the location has been determined in accordance with the following standards:
 - (a) This roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone, if an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight and shall be maintained to this standard. The roadway shall not be approved if it is rutted or potholed.
 - (b) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
 - (c) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
 - (d) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.
 - (e) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.
 - (f) Any cross drains shall be designed in accordance with Environmental Engineering standards. (P)

4. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine compliance as set forth above. (P)
5. The house number shall be installed on the mailbox or a pole and located at the driveway entrance of the State maintained road as well as at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers. (P)
6. The subject property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided. (P)