



**Planning Commission Meeting
Agenda
Wednesday, October 15, 2025, 6:30 PM**

Work Session, 5:30 PM, Council Chambers Conference Room, City Hall, 114 North Broad Street, Salem, Virginia 24153

Regular Session, 6:30 PM, Council Chambers, City Hall, 114 North Broad Street, Salem, Virginia 24153

WORK SESSION

1. Call to Order
2. New Business
 1. 522 South Market Street rezoning from RSF to HBD
 2. Energy Storage Project Siting Agreement

New Business November PC meeting.

 1. Mrs. Dorsey's Clothes Closet
 2. Dalewood Avenue Cluster Housing Overlay addition
 3. Roanoke Valley - Alleghany Regional Hazard Mitigation Plan
3. Adjournment

REGULAR SESSION

1. Call to Order
 - A. **Pledge of Allegiance**
 - B. Roll Call
2. Consent Agenda
 - A. **Minutes**

Consider acceptance of the minutes from the September 10, 2025, work session and regular meeting.
3. New Business
 - A. **Amendment to the Zoning Ordinance**

Hold a public hearing and consider the request of Pillis Enterprises Inc., property owner, to rezone the property located at 522 South Market Street (Tax Map #s 160 - 4 - 2) from RSF Residential Single Family District to HBD Highway Business District.

B. Energy Storage Project Siting Agreement

Hold public hearing and consider an Energy Storage Project Siting Agreement between the City of Salem and Salem VA BESS 1 LLC proposing a 4-megawatt battery energy storage facility within the existing electric substation located at 407 Electric Road, Tax Map # 150 – 2 – 4. The purpose of the hearing will be to receive public comments in the Planning Commission’s review, per Code of Virginia 15.2-2232, of the proposed facility to confirm it is substantially in accord with the City of Salem Comprehensive Plan.

4. Adjournment



PLANNING COMMISSION MINUTES

Work Session, 5:30 PM, Council Chambers Conference Room, City Hall,
114 North Broad Street, Salem, Virginia 24153
Regular Session, 6:30 PM, City Hall, 114 North Broad Street, Salem, Virginia 24153

WORK SESSION

1. Call to Order

A work session meeting of the Planning Commission of the City of Salem, Virginia, was held in the Council Chambers Conference Room, City Hall, 114 North Broad Street, at 5:30 p.m., on Wednesday, September 10, 2025, there being present the following members of said Commission, to wit: Denise P. King, Reid Garst, Jackson Beamer, Mark Henrickson, and Nathan Routt, constituting a legal quorum, with Chair King, presiding; together with Christopher Dorsey, City Manager and Executive Secretary and, Robert Light, Assistant City Manager and Deputy Executive Secretary, both ex officio members of said Commission, William Simpson, Assistant Director Community Development and City Engineer, Mary Ellen Wines, Planning & Zoning Administrator, Maxwell S. Dillon, Planner, and Jim Guynn, City Attorney; and the following business was transacted:

Chair Denise King reported that this date, place, and time had been set in order for the Commission to hold a work session. The work session meeting was called to order at 5:30 p.m.

2. New Business

A discussion was held regarding the items on the current agenda as well as the October agenda as follows:

- A. "Comprehensive Plan 2045" for the City of Salem
- B. Chapter 78 Subdivisions' code changes
- C. Chapter 106 Zoning Ordinance Code changes
- D. Items on the October agenda
 - 1. 522 South Market Street RSF to HBD

3. Adjournment

Chair King adjourned at 6:19 p.m.

REGULAR SESSION

1. Call to Order

A regular meeting of the Planning Commission of the City of Salem, Virginia, was held in the Council Chambers Conference Room, City Hall, 114 North Broad Street, at 6:30 p.m., on Wednesday, September 10, 2025, there being present the following members of said Commission, to wit: Denise P. King, Reid Garst, Jackson Beamer, Mark Henrickson, and Nathan Routt, constituting a legal quorum, with Chair King, presiding; together with Christopher Dorsey, City Manager and Executive Secretary and, Robert Light, Assistant City Manager and Deputy Executive Secretary, both ex officio members of said Commission, William Simpson, Assistant Director of Community Development and City Engineer, Mary Ellen Wines, Planning & Zoning Administrator, Maxwell S. Dillon, Planner, and Jim Guynn, City Attorney; and the following business was transacted:

Chair Denise King called the September meeting of the City of Salem Planning Commission to order at 7:00 p.m. Chair King reported that this date, place, and time had been set in order for the Commission to hold a public meeting.

A. Pledge of Allegiance

B. Roll call

Mr. Routt - Here
Mr. Henrickson - Here
Mr. Beamer - Here
Vice-Chair Garst - Here
Chair King – Here

2. Consent Agenda

A. Minutes

Consider acceptance of the minutes from August 13th, 2025, regular meeting.

Chair King stated that under the consent agenda, they have the minutes of the August 13th, 2025, Commission work session and regular meeting. Chair King asked the Commission if anyone had any questions, additions, or comments. Hearing none the minutes will be considered accepted.

3. New Business

A. Adopting a Resolution of Recommendation

Consider adopting a resolution of recommendation regarding Salem's Comprehensive Plan "Back to Salem's Future, Plan 2045". The plan addresses housing, redevelopment, open space, city government, transportation, & infrastructure, land use, and other information used to outline the City's long-term vision and goals for development and growth.

Max Dillon, Planner, greeted the Commission and began by providing a high-level recap of the comprehensive plan, explaining that it had been in development for some time. He explained that the Planning and Zoning staff had initiated the process for a new comprehensive plan in October 2023. The goal from the beginning had been to develop a plan that capitalized on the various elements that make Salem unique while recognizing that cities must evolve over time to meet market demands, citizen preferences, and best planning practices. To support this vision, the "Back to Salem's Future" brand was created, encompassing a set of strategies and actions intended to position Salem for a promising future while honoring its historic identity. He elaborated that the plan addressed numerous interconnected topics such as transportation, housing, parks, and commercial redevelopment. It was organized into themes and strategies designed to reflect the natural overlap among these issues. He emphasized that throughout the planning process, staff had conducted extensive community engagement efforts. These included online public polls, regular updates on the city website, social media posts, email subscriptions, and a total of 10 public meetings and open houses. Subcommittees made up of City Council members, Planning Commissioners, and staff also participated in shaping the plan. Mr. Dillon acknowledged that many of the Commission members had been deeply engaged in the process. He remarked that the planning occurred during a particularly challenging period for local governments, where public engagement had become increasingly contentious. Nonetheless, the plan prioritized inclusivity and the diverse needs of the community. Mr. Dillon clarified that the plan encouraged a housing portfolio supportive of various preferences and income levels while rejecting the idea of growth for growth's sake. Instead, it recognized that local realities and political factors shape the future more than broad population projections. He pointed out that the plan would serve as a foundation for future initiatives such as small area planning, a potential housing study, and eventual zoning and subdivision ordinance rewrites. He mentioned that although Salem participates in regional transportation planning through the Roanoke Valley-Alleghany Regional Commission, the city had also requested a review from VDOT to ensure alignment with broader state plans. VDOT confirmed the plan's compatibility in a formal memo. He highlighted that one of the defining strengths of the document was its structure. Many comprehensive plans, he noted, are adopted only to be forgotten because of poor usability. This plan, however, had been deliberately designed to be user-friendly, readable, marketable to businesses, accessible to citizens of various education levels, and actionable by city staff. Mr. Dillon explained that instead of duplicating existing strategic plans, the document referenced them and their sources. It also included an "Action Plan" to help prioritize implementation strategies. He concluded by stating that the plan satisfied Virginia State Code requirements, aligned with VDOT, and most importantly, was based on community input and several rounds of revision. He emphasized that while the current plan was a milestone, it marked the beginning of further planning efforts.

Chair King asked if there were any questions or comments from the Commission. She thanked Mr. Dillon and Ms. Wines, adding that when she first reviewed the comprehensive plan, she had felt it included too many pictures. However, upon comparing it with plans from other localities, she came to realize that visuals were important for conveying Salem's features to those unfamiliar with them. For instance, while locals understand references like "the duck pond," outsiders wouldn't grasp the significance without a photo. She concluded by thanking Max and Mary Ellen for enlightening her throughout the process.

Mr. Dillon responded, "Certainly, and thank you."

Chair King then opened the floor for further comments.

Vice-Chair Garst, Mr. Beamer, Mr. Henrickson, and Mr. Routt all commended Mr. Dillon and Ms. Wines for their work.

Vice-Chair Garst noted that he hoped the "community engagement" summary would include a clear list of the public outreach efforts for the record.

Mr. Dillon agreed, stating that they would ensure those materials were included.

Chair King added that, if citizens questioned the level of public engagement, they could point to the comprehensive summary of outreach efforts as proof.

Mr. Henrickson emphasized the importance of recognizing the citizens and stakeholders who contributed to the process. He said that he and his fellow commissioners had spoken to many people throughout Salem, gathering diverse opinions. While the plan was general in nature, he believed that was by design to allow flexibility in the future. He noted that he had studied the document extensively and could practically recite page 132. He thanked everyone involved again.

Mr. Dillon responded by thanking the citizens, Commission members, board members, and Council members who participated. He gave a special shoutout to Glenn Walters, of Town Studio, who had played a major role early on, even though his involvement lessened toward the end of the process. Mr. Dillon acknowledged the challenges but appreciated Glenn's responsiveness.

Chair King opened the public hearing. She directed the citizens who had signed up to speak to come forward as their names were called and reminded them of the 3-minute speaking limit.

Vice-Chair Garst announced the speakers: Ms. Reinhart, Ms. Crotts, and Mr. Breen.

Ms. Reinhart, 213 N. Broad Street appeared before the Commission raising concerns about the lack of clear zoning information in the plan. She recalled older plans that included specific descriptions of multifamily residential areas and corresponding zoning maps, which she felt were missing from this version. While the presentation was visually

appealing, she wanted assurance that residents would have opportunities to comment during future zoning code revisions. She worried about the possibility of neighboring properties being redeveloped into apartments or short-term rentals without proper community input. She also questioned whether a 60-day review period could be granted to allow further feedback, especially since the latest version was only uploaded to the website on September 5th. She emphasized the importance of translating the plan's language and visuals into policies that benefit and reflect the community.

Ms. Donna Crotts, 307 N. Broad Street, appeared before the Commission stating that her perspective had shifted somewhat after listening to the meeting. She appreciated the diligent work put into the plan but noted a lack of recent citizen meetings since April, particularly after the plan had been revised. She raised concerns about Salem's slow population growth and questioned why young people weren't returning. While Salem was once known for its schools, she believed the quality had declined. She emphasized the need to investigate what younger generations think and want from the city.

Vice-Chair Garst thanked her and added that staff had previously visited the high school to gather student feedback early in the process.

Mr. John Breen, 142 Bogey Lane, appeared before the Commission criticizing the foundation of the comprehensive plan, claiming that the survey used to support it was biased and flawed. He expressed concern that developers were already referencing it and that the plan might lead to additional consulting fees. He believed the city should revisit the original contract to verify whether all deliverables had been met and was alarmed to learn that the documents were owned by Town Studio rather than the City of Salem. Breen suggested that the process be paused, giving citizens who contributed a final opportunity to review the plan.

Chair King asked if anyone else wished to speak. Seeing none, she closed the public hearing. She asked the staff if they had any final comments. Hearing none, Chair King made a point to state that the Commission took citizen input very seriously and regretted that Chris McCart, a citizen and researcher, was not present. McCart had brought VDOT's 2022 guidelines to the Commission's attention, which led Chair King to follow up directly with VDOT. After reviewing the documents, she noted that the language was confusing—at one point requiring VDOT approval and elsewhere making it optional. Following up on McCart's concerns, the city sent the plan to VDOT, which reviewed and approved it. Chair King thanked Ms. McCart and emphasized that citizen concerns were acted upon. She also detailed the extent of public outreach: open houses, events like Pumpkin Fest, outreach at Salem Red Sox games, church visits, business meetings, and engagement with school staff, realtors, and home builders. The city had also distributed a citywide mailer, although not everyone received it due to address records. She emphasized that few other actions could have been taken to ensure public input.

Vice-Chair Garst added that the current draft of the plan was essentially unchanged from six months ago. The September updates were mostly related to VDOT documentation.

Mr. Dillon clarified that the first comprehensive draft was posted in May and earlier sections had been released for review. The September version involved design and

organization tweaks but no significant content changes.

Chair King then asked Mr. Dillon and Ms. Wines to explain the process for future small area plans and potential housing forums involving public participation.

Ms. Wines confirmed that small area plans would include public input through open houses, hearings, and comment opportunities.

Vice-Chair Garst asked if the model would follow the "East Bottom" plan approach.

Ms. Wines confirmed, explaining that meetings would be held in the neighborhoods in question, with broader community access encouraged.

Chair King said that this approach would likely be standard for future planning efforts, and emphasized the goal of engaging residents directly in their neighborhoods.

Vice-Chair Garst noted that the East Bottom plan was referenced in the comprehensive plan as a model for future efforts.

Ms. Wines affirmed this, adding that the zoning rewrite process would include a committee, citizen participation, open houses, and public hearings. The city intended to gather broad input on housing as well.

Chair King asked for any final comments. Hearing none, she called for a motion.

On motion by Commissioner Routt, seconded by Commissioner Beamer, and duly carried, the resolution of recommendation regarding Salem's Comprehensive Plan "Back to Salem's Future, Plan 2045" be hereby adopted and forwarded to City Council

Roll call vote.

Mr. Routt - aye
Mr. Henrickson - aye
Mr. Beamer - aye
Vice-Chair Garst - aye
Chair King - aye

Chair King stated that the Commission is a research and recommending body to City Council, however in this instance it is the responsibility of the Planning Commission to oversee the creation of the comprehensive plan, and this will go on to City Council with the Commission's recommendation to approve it.

B. Chapter 78 – Subdivisions

Consider amending Chapter 78 – Subdivisions – Articles I – Generally, Section 78-103, Article II – Administration, Sections 78-200, 201, 204, and 206, Article III – Definitions, Section 78-300, Article IV – Review of plats, Sections 78-400, 401, 402, 403, 405, 406, 407, 408, 416, 421, and Article V – Security for the

construction of public improvements, Sections, 78-501 and 503, Article VI – Requirements for design standards and public improvements, Sections 78-600, 602, 606, 607, 611, 615, 617, 625, 629, 634, and 642, Article VII – Vacation of plats, Sections 78-701 and 706 of the CODE OF THE CITY OF SALEM, VIRGINIA pertaining to plan review by designated agent and timeframe of local approvals.

Mary Ellen Wines, Planning and Zoning Administrator, appeared before the Commission explaining that, as the Commission was aware, the state legislature, in response to the housing crisis, had made a decision this past year to streamline the development approval process. This change applied specifically to Chapter 78, the subdivision ordinance, and removed the Planning Commission from the development approval process. All the changes referenced by Mr. Light, she continued, essentially indicated that the Planning Commission was now removed from that role. Approval responsibility now rested with the designated agent, who, per Commission bylaws, was determined to be the assistant City Manager and, the Director of Community Development. Staff, as a whole, would continue to review major site subdivision plans and major subdivision plats. These plans would still go through a multi-departmental approval process. By state code, if these plans or plats met code requirements, the City was obligated to approve them. This was not a flexible or variable approval process — it was administrative. The state's intent was to remove barriers for localities, especially those where development approvals took years, in an effort to help address the housing crisis.

Vice-Chair Garst asked, for the benefit of the public, what authority the Planning Commission retained.

Ms. Wines answered that, in regard to major subdivisions and site plans, the Commission retained none.

Chair King added that the removal of the Commission's authority was in response to the housing crisis and acknowledged that several citizens had expressed dissatisfaction with the change. However, she emphasized that the City had no control over the matter — nor did City Council. Concerned citizens were encouraged to contact their state delegate and senator.

Mr. Henrickson reiterated that the change was due to state code and not the City of Salem's own decisions. The changes were aimed at larger municipalities with more complex bureaucracies. In contrast, Salem had historically processed development much more efficiently. Still, he acknowledged that the City was bound to follow the state code.

Ms. Wines noted that Salem had been fortunate and was not experiencing the housing crisis as acutely as other localities.

Mr. Henrickson commented that the tides were beginning to shift.

Ms. Wines responded with agreement.

Chair King opened the public hearing on the matter.

Mrs. Stella Reinhart, 227 North Broad Street, appeared before the Commission stating that she had a few questions. She noted that sometimes the state code required a minimum number of public hearings, such as one by the Planning Commission. Given that this change was recent, she admitted she had not yet researched it fully but wondered whether the City's charter might protect the current development process, similar to other localities like Falls Church, Virginia. In that case, their charter granted them the authority to continue operating under their previous system. She suggested checking Salem's charter. Her second concern involved minimum standards. She questioned whether, even if the state only required a single public hearing, the City could voluntarily add more. She expressed concern that recent development proposals lacked clear information for residents, particularly in regard to site plans. The process had lost transparency when those plans no longer required public hearings. She asked whether public engagement could be incorporated back into the process. She thanked the Commission.

Mr. John Breen, 142 Boogie Lane, appeared before the Commission stating that his concern about the state's imposition on local authority, particularly in Salem. He warned that the new policy concentrated unchecked power in the hands of a designated agent. As a result, an individual — or a very small group — could approve a plat or site plan without public or Commission knowledge. He viewed this as a threat to transparent governance. To address this, Mr. Breen proposed two specific actions: one, modify Section 78-201.1 to require (rather than allow) the designated agent to seek assistance when making decisions and two, amend Section 78 to require the designated agent to notify the City Manager, Planning Commission, City Council, and the public via the city's website within seven days of receiving any new plat or site plan. He added that associated staff reports should also be shared publicly. This, he argued, would ensure that residents and local officials remain informed. He also raised a question about who had the authority to appoint the designated agent, suggesting that the Virginia Code appeared to assign this role to the governing body, not the Planning Commission. He urged the Commission to revisit this point and consider stronger oversight language. He concluded by respectfully asking the Commission to consider these changes to ensure transparency and accountability.

Chair King asked if anyone else wished to speak.

Mr. Alexander Boone, 3934 Electric Road, appeared before the Commission stating he hadn't planned to speak but wanted to offer a different perspective. He appreciated Mr. Breen's comments but spoke from the point of view of a developer and former lawyer. In his view, the plat review process was — and should remain — administrative. He described a frustrating experience in another locality where Planning Commission and City Council approval were required for plats, which delayed development needlessly. In his opinion, if a plan met all zoning and code requirements, it should be approved without delay. Requiring unnecessary review steps only served to delay housing production, which he found counterproductive. While the public could still access plats at the courthouse, the decision to approve them was, in practice, a matter of compliance — not policy. He praised the updated state law for streamlining this process and stated that, from a practical perspective, it was a beneficial change. He thanked the Planning Commission for its consideration.

Mrs. Reinhart reappeared stating that during both the work session and the hearing, it had been stated that the approval process was simply administrative and based on whether requirements were met. However, she had reviewed the applicable legislation and found that there were, in fact, some circumstances under which a plat or site plan could be denied — even if zoning requirements were met. She urged the Commission to explore those exceptions and consider whether they allowed for additional scrutiny or discretion. While she acknowledged the expertise of the Commission, she offered this information as a helpful contribution to the discussion.

Chair King thanked Ms. Reinhart and asked if anyone else wished to speak. Hearing none, she closed the public hearing.

Chair King then asked Mr. Guynn to confirm whether state law superseded the City's charter.

Mr. Guynn confirmed that it did.

Chair King clarified that even if the City's zoning ordinance or charter contained specific requirements, state law took precedence. She reiterated that unless the state code specifically allowed for additional items to be considered in plan denial, the City could not arbitrarily introduce other conditions. She asked if there were any additional comments.

Vice-Chair Garst asked for clarification, noting that while the Planning Commission would no longer review site plans, it would still review significant development proposals such as Steelton Mills.

Mr. Guynn responded that the Commission would not review the site plan but confirmed the overall development would require Commission involvement in certain cases.

Chair King asked Ms. Wines to elaborate.

Ms. Wines explained that projects requesting a Cluster Housing Overlay, rezoning, or Planned Unit Development (PUD) would still come before both the Planning Commission and City Council. Only administrative plan approvals were removed from the Commission's role.

Vice-Chair Garst asked if prior cases like Newman Drive, Simms Farm, and Hope Tree had come before the Commission because they were rezonings or PUDs.

Ms. Wines confirmed that they had.

Vice-Chair Garst concluded that, under the changes, nothing significant that the Commission had reviewed in the past two years would change, apart from the final procedural approval of plats.

Ms. Wines confirmed his understanding.

Chair King asked if there were any more questions or comments. Hearing none, she entertained a motion.

On motion made by Commissioner Routt, seconded by Commissioner Henrickson, and duly carried, the Planning Commission of the City of Salem hereby recommends to City Council that the amendments to the City Code, Chapter 78, Subdivisions, be adopted as presented.

Roll call vote.

Mr. Routt – Aye
Mr. Henrickson – Aye
Mr. Beamer – Aye
Vice-Chair Garst – Aye
Chair King – Aye

Chair King announced that city code change will go on to City Council for adoption.

C. Chapter 106 – Zoning

Consider amending Chapter 106 – Zoning Article II – District Regulations, Section 106 – 232 pertaining to Industrial park overlay district, Article III – Use and design standards, Section 106 – 318 pertaining to Urban agriculture, Article IV – Development standards, Section 106 – 400 pertaining to site plans, 402 pertaining to nonconforming uses and sites, 406 pertaining to plot plans, Article V – Administration, Section 106-520 pertaining to amendments to ordinance, 524 pertaining to special exception permits and use not provided for permits, Article VI – Definitions and Use Types, Section 106 – 600 pertaining to site plans, of the CODE OF THE CITY OF SALEM, VIRGINIA.

Chair King began by asking if any staff member would like to present the next item.

Ms. Wines, addressed the Commission to discuss updates to the city’s zoning ordinance. She began by explaining that the ordinance was originally adopted in 2005, and it requires regular updates to remain effective. A comprehensive rewrite is planned for the future, but in the meantime, she introduced a few targeted changes intended to ensure continued functionality and alignment with sound planning practices and zoning law. She explained that Section 106-232, the Industrial Park Overlay District, currently only applies to Salem Industrial Drive south of the railroad tracks. It provides flexibility for industrial development—particularly in areas like parking and landscaping—though it does not alter stormwater management requirements. She stated that the proposal is to expand this overlay to additional industrial areas, including Salem Industrial Drive, Cook Drive, Midland, and Intervale.

Commissioner Beamer asked if Southside would be included in the expansion.

Ms. Wines confirmed that it would. She also mentioned that several of these industrial areas front major roads like Apperson, Riverside, and Electric Road. To maintain the

visual character of these corridors, lots along those streets would be required to include a substantial evergreen buffer. She continued that the next section of amendments would be Section 106-318, the chicken-keeping regulations, noting that there were no changes to the rules themselves. However, responsibility for inspections would shift from the Police Department to the Community Development team in order to reduce the burden on law enforcement. Next, she discussed proposed revisions to Section 106-400, which addresses site plan requirements. She clarified that the actual process and requirements were not changing—instead, the language would be revised for clarity, making it easier to determine when a site plan is required and what type is applicable. She outlined three types of site plans: a plot plan, typically a certified plat for minor additions or parking space changes; a minor site plan, used for improvements like parking or landscaping that do not involve utilities or stormwater; and a major site plan, which encompasses all aspects including stormwater and utility work. Ms. Wines continued with Section 106-402 pertaining to nonconforming uses. She stated the current rule for legal non-conforming sites is that if interior renovations exceed 25% of a building's fair market value, the property owner must also upgrade parking and landscaping—even if the exterior remains untouched. She stated that this requirement has placed a strain on small businesses. To address this, the proposed change would increase the threshold to 50% of the fair market value before such upgrades would be triggered. Continuing, Ms. Wines explained that also in Section 106-400 was the matter of zoning violations and the timeline for addressing them. Currently, there is no deadline for completing required improvements when a site plan is triggered by a violation. The proposal would establish a 90-day construction deadline, with flexibility to grant extensions when weather or other factors—such as the inability to plant trees in winter—interfere with compliance. She continued that in Section 106-520 and 524 the code states that under current rules, if a lot does not meet minimum frontage or width requirements, even if it is legally buildable, the owner must first obtain a variance from the Board of Zoning Appeals before applying for a rezoning or special exception. Ms. Wines described this as an unnecessary extra step and proposed eliminating that requirement, especially since rezoning and special exception applications are already subject to public hearings. Lastly, Ms. Wines noted that clear definitions for the three site plan types plot, minor, and major—would be added to Section 106-600 to ensure better understanding.

Chair King thanked Ms. Wines for her presentation and asked if there were any questions. Hearing none, she opened the public hearing.

Stella Reinhart of 213 N. Broad Street was the first to speak. She began by questioning a previous assertion regarding state law superseding local charters. After briefly researching the matter on her phone, she indicated that the Virginia Code does not generally override a city charter unless specifically stated, suggesting it might be worth further review. She then shifted her attention to the industrial overlay proposal and asked whether it would apply to both light and heavy manufacturing. Wines responded that it would. Reinhart sought further clarification, pointing out that the city previously had only one industrial park overlay and was now expanding it to areas that were not originally designated as such but already had some industrial use. Chair King confirmed that interpretation, and Vice-Chair Garst added that the areas in question shared the same character, despite not being previously designated. Reinhart shared her observations from biking along the Greenway near Cook Drive, noting the industrial buildings present

in the area. She encouraged the Commission to consider more intentional planning for the future of these spaces. Referencing examples from Roanoke and elsewhere, she highlighted successful conversions of industrial buildings into public spaces like breweries, climbing gyms, and art centers. She suggested that creative reuse, including elements like murals, lighting, seating, and sculptures, could help better integrate these areas into the community and enhance their public appeal. She emphasized that shaping the character of development was as important as permitting it and noted that even small enhancements, such as trees and public art, could make a meaningful difference. Before stepping down, she expressed her trust in the Commission's judgment.

Chair King thanked her and acknowledged the merit of her suggestions, while clarifying that the proposal at hand was limited to applying existing overlay standards to more locations and did not directly address elements like murals or public art.

Ms. Wines added that murals are in fact permitted in industrial areas, along with trees and sculptures.

Chair King asked if there was anyone else here tonight to speak about this matter, seeing none, she closed the meeting to the public.

On motion made by Commissioner Henrickson, seconded by Vice-Chair Garst, and duly carried, the Planning Commission of the City of Salem hereby recommends to City Council that the amendments to the City Code, Chapter 106, Zoning, be adopted as presented.

Roll call vote.

Mr. Routt – Aye
Mr. Henrickson – Aye
Mr. Beamer – Aye
Vice-Chair Garst – Aye
Chair King – Aye

4. Adjournment

Chair King stated there was no additional business for the Planning Commission and the meeting was adjourned at 7:31p.m.

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF SALEM, VIRGINIA held in the Council Chambers of City Hall, 114 North Broad Street Salem, VA 24153

AGENDA ITEM: Amendment to the Zoning Ordinance

Consider the request of Pillis Enterprises Inc., property owner, to rezone the property located at 522 South Market Street (Tax Map # 160 - 4 - 2) from RSF Residential Single Family District to HBD Highway Business District.

SUBMITTED BY: Max Dillon, Planner

SUMMARY OF INFORMATION:

SITE CHARACTERISTICS:

Zoning: RSF Residential Single Family
Land Use Plan Designation: Residential
Existing Use: Vacant
Proposed Use: Overflow Parking Lot for 101 East Fourth Street business operations

The subject property (522 South Market Street) consists of a 0.108-acre tract of land which currently sits within the RSF Residential Single Family zoning designation. The property was previously occupied by a residential structure until its demolition in the late 2010s. The applicant is requesting to rezone the property to HBD Highway Business District in order to facilitate the development of a parking lot that will accommodate vehicle overflow for Pillis Brothers operations.

Section 106-404.11 Construction standards (A) mandates that *all off-street parking areas be constructed of a hard surface consisting of bituminous concrete or concrete.* As a result, any area that is utilized commercially for business operations/employee parking must meet that standard.

If the rezoning request is approved, the site will be subject to site plan requirements to ensure that relevant construction standards (including, but not limited to paving, landscaping, and stormwater management - if applicable) are satisfied prior to development.

The Future Land Use Map (FLUM) identifies this parcel as residential.

STAFF RECOMMENDATION:

Staff recommends approval of this request.

Application Data for Application Number: Z25-30047

Application Type	Zoning		
Application Sub-Type	Rezone		
Applicant	Pillis Enterprises Inc		
Location	522 S MARKET ST SALEM VA 24153		
Applicant Address	101 E 4th Street	Property Owner	PILLIS ENTERPRISES INC
	Salem,VA,24153	Owner Address	1726 AMY LN
Tax Parcel	160-4-2		SALEM, VA,24153

Application Information

Section	Question	Answer
Details and Scope of Work	Please provide a detailed description of the work associated with this application.	Additional fencing if necessary and landscaping.
Existing Structure Info	Year Built	
	Property Description	Vacant Land
	Number of Stories	
	Number of Rooms	
	Number of Bedrooms	
	Number of Bathrooms	
	Type of Roof	
	Type of Exterior	
	Type of Basement	
	Finished Square footage of Primary Building	0.00
Parcel Information	Lot Size Acres	0.11
	Lot Size SQFT	4687.00
	Zoning Classification	RSF
	Legal Description	LT 12 & 1/2 LT 11 SEC 3 SALEM IMPROVEMEN
	PID	2765
Rezoning Details	Please advise current Zoning type	RSF - Residential Single Family District
	Please advise desired future Zoning type	HBD - Highway Business District
	Please advise current use	empty lot
	Please describe in detail the proposed use of the property	The lot will be used as overflow parking for vehicles being serviced at Pillis Brothers.
	Please advise designation from the Future Land Use map	Commercial
	Are there proffers associated with this rezoning application?	No

SALEM VA



COMMUNITY DEVELOPMENT

Rezoning Details	Is the building or parcel in a district currently designated as historic	No
	If yes, describe the proposed measures for meeting the standards of the Department of Historic Resources	
	Is the subject property located within the Floodplain District?	No
	If yes, describe the proposed measures for meeting the standards of the Floodplain Ordinance	
	Have you provided a conceptual plan of the proposed development, including general lot configurations and road locations?	No
	Are the proposed lot sizes compatible with existing parcel sizes in the area?	Yes
	If this is for a commercial rezoning, please answer the following questions	No Data
		No Data
	What provisions will be made to ensure safe and adequate access to the subject property?	Access to this property already exists.
	How will the traffic impact of this development be addressed?	There will be no additional traffic in the use of this property.
	Describe why the proposed use is desirable and appropriate for the area. What measure will be taken to assure that the proposed use will not have a negative impact on the surrounding vicinity?	This property is adjacent to the existing business property of Pillis Brothers. This property will be used to park cars before and after repairs. There is a fence that separates this parcel from the next lot.
	What type of signage is proposed for the site?	There will be no signage needed.
	Have architectural/building elevations been submitted with this application?	No

**AFFIDAVIT OF MAILING PURSUANT TO S15.2-2204
CODE OF VIRGINIA**

**PLANNING COMMISSION
OCTOBER 15, 2025**

ITEM #3A

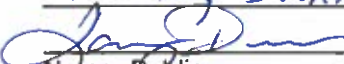
1. This is to certify that I mailed letters in reference to the request Consider the request of Pillis Enterprises Inc., property owner, to rezone the property located at 522 South Market Street (Tax Map # 160 - 4 - 2) from RSF Residential Single Family District to HBD Highway Business District to the following property owners and adjacent property owners on September 29, 2025, in the 2:00 p.m. mail:

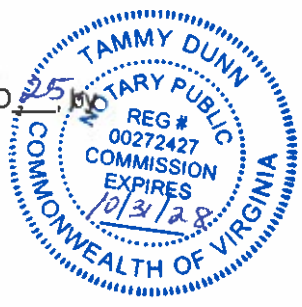
Parcel ID	Owner Name	Address 1	City	State	Zip
145-8-7	513 COLORADO LLC	320 POLAR LN	SALEM	VA	24153
145-8-8	BRIZENDINE, RUSSELL LEE III	517 S COLORADO ST	SALEM	VA	24153
160-3-7	THORNHILL LORRAINE W	PO BOX 711	SALEM	VA	24153
160-4-1	JASS PROPERTIES INC	1239 WILDWOOD RD	SALEM	VA	24153
160-4-2	PILLIS ENTERPRISES INC	1726 AMY LN	SALEM	VA	24153
160-4-3	PILLIS ENTERPRISES INC	1726 AMY LN	SALEM	VA	24153
160-4-4	SCHAAL KATHERINE K	207 EAGLE DR	SALEM	VA	24153
160-4-5	MCNEILL, WILLIAM R III	PO BOX 2575	SALEM	VA	24153
160-4-6	SHAWN SCOTT PROPERTIES LLC	105 E 4TH ST	SALEM	VA	24153
160-4-7	LAMBERT, LORI LEIGH	514 S MARKET ST	SALEM	VA	24153
160-4-8	FEURY, BRANDON FEURY, KAREN FEURY, ROBERT	516 S MARKET ST	SALEM	VA	24153

Signed  Date 9/29/2025

City of Salem
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 29th day of September, 2025

Tammy Dunn

Notary Public
My commission expires: 10/31/2028





Date Created: 9/26/2025
Created By: anonymous

1 inch = 96 feet
|-----|

This map should be used for reference purposes only and should not be considered a legal document. While every effort has been made to ensure the accuracy of this product, the publisher accepts no responsibility for any errors or omissions nor for any loss or damage alleged to be suffered by anyone as a result of the publication of this map and the notations on it, or as a result of the use or misuse of the information provided herein.

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF SALEM, VIRGINIA held in the Council Chambers of City Hall, 114 North Broad Street Salem, VA 24153

AGENDA ITEM: **Public Hearing for Battery Storage project**

Consider an Energy Storage Project Siting Agreement between the City of Salem and Salem VA BESS 1 LLC proposing a 4-megawatt battery energy storage facility within the existing electric substation located at 407 Electric Road, Tax Map # 150 - 2 - 4. The purpose of the hearing will be to receive public comments in the Planning Commission's review, per Code of Virginia 15.2-2232, of the proposed facility to confirm it is substantially in accord with the City of Salem Comprehensive Plan.

SUBMITTED BY: Max Dillon, Planner

SUMMARY OF INFORMATION:

SITE CHARACTERISTICS:

Zoning: HM Heavy Manufacturing
Land Use Plan Designation: Industrial
Existing Use: Substation
Proposed Use: Addition of Battery Storage

The subject property (407 Electric Road) consists of a 2.2-acre tract of land which currently sits within the HM Heavy Manufacturing zoning designation. A portion of that property is currently utilized as a substation, assisting in the distribution of electricity throughout the City. A siting agreement for the development of a 4-megawatt alternating current (MWac) is proposed to assist with enhancing the efficient storage/distribution of energy.

Section 15.2-2232 of the Code of Virginia provides that Planning Commission may hold a public hearing as part of its evaluation of whether the project is substantially in accord with the adopted comprehensive plan or part thereof. Further, the commission is to communicate its findings to the governing body, indicating its approval or disapproval with reasons therefor.

Salem's current Comprehensive Plan, adopted in 2012, includes an objective to *Improve the electric transmission and distribution system to allow safe and reliable operation under normal and contingency loading*. Staff feels that this siting agreement/project advances that initiative.

The Future Land Use Map (FLUM) identifies this parcel as industrial.

STAFF RECOMMENDATION:

Staff supports this project.

ENERGY STORAGE PROJECT SITING AGREEMENT

This Energy Storage Project Siting Agreement (“Agreement”), dated as of _____, 2025 (“Effective Date”), is by and between City of Salem, Virginia, a municipal corporation of the Commonwealth of Virginia (“City”) and Salem VA BESS 1 LLC, a Delaware limited liability company (“Applicant”). The City and Applicant are herein each a “Party” and collectively, the “Parties”.

RECITALS

A. The Applicant has a right to lease certain parcels of land in the City consisting of 2.2 acres, identified as GPIN(s) 15-2-4, and more fully described on the Concept Plan attached hereto as **Exhibit A** (collectively, “Property”).

B. The Applicant intends to develop, install, build, and operate an energy storage project, as defined by Virginia Code Section 15.2-2316.6, with an aggregate energy capacity of 4 MW on the Property (“Project”).

C. The Parties have entered into (i) that certain Energy Storage Services Agreement dated on or about the date hereof (“ESSA”) for the performance by Applicant of certain energy storage services for the benefit of the City, (ii) that certain Lease Agreement (“Lease Agreement”) granting Applicant the right to use the Property for the development, construction and operation of the Project and the performance of services pursuant to the ESSA, and (iii) that certain Interconnection Agreement for Battery Energy Storage Facility (the “Interconnection Agreement”) for the interconnection of the Project to the City’s distribution grid; and

D. Pursuant to Title 15.2, Chapter 22, Article 7.3 of the Code of Virginia, titled “Siting of Solar Projects and Energy Storage Projects,” the Applicant and the City may enter into a siting agreement (“Siting Agreement”) for an energy storage project as such term is defined by Virginia Code § 15.2-2316.6.

E. Pursuant to Virginia Code § 15.2-2316.7, the Project is eligible for a Siting Agreement as it will contain energy storage facilities as described therein.

F. On 3/28/2025, the Applicant gave written notice to the City pursuant to Virginia Code § 15.2-2316.7(A) of Applicant’s intent to locate the Project in the City and requested a meeting to discuss and negotiate a Siting Agreement.

G. After negotiation between the City and the Applicant, the Parties desire to enter into this Agreement so the Applicant can make a voluntary payment to the City above and beyond its tax obligations (“Capital Payment”), as a meaningful way to be a community partner, and to mitigate certain potential impacts of the Project, and to provide financial compensation to the City to address capital needs set out in (a) the City’s capital improvement plan, (b) the City’s current fiscal budget, or (c) the City’s fiscal fund balance policy; and to help the City achieve its goals toward deployment of broadband, all as permitted by Virginia

Code § 15.2-2316.7(B).

H. Pursuant to Virginia Code § 58.1-3660, the energy storage facilities associated with the Project, which are considered “certified pollution control equipment,” are subject to local taxation as provided by state law but are partially exempt from local taxation pursuant to Article X, Section 6(d) of the Constitution of Virginia (“Tax Exemption”). The Tax Exemption relates to personal property (or machinery and tools) taxes on the energy storage facilities only and does not affect the City’s right to collect real estate taxes for the Property. In addition to its real estate tax obligations, which are not affected by this Agreement, the Applicant has agreed to make the Capital Payment set out in **Exhibit C** in order to mitigate the impacts of the Project and for the other reasons stated in Virginia Code § 15.2-2316.7.

NOW, THEREFORE, pursuant to Title 15.2, Chapter 22, Article 7.3 of the Code of Virginia, intending to be legally bound hereby and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the City and Applicant hereby agree as follows:

Article I
Project Features, Conditions, Valuation, Enforcement, and Mitigation

1. **Project Features.** The Project will be composed of an energy storage project with an aggregate energy capacity of 4 MW. The energy storage facilities are expected to consist of 4 units approximately twenty (20) ft in length, eight (8) ft in width and nine and a half (9.5) ft in height and require a foundation. The energy storage facilities will consist of Lithium-ion batteries (or their functional equivalent) with off-site monitoring capabilities. Specific details regarding the Project are contained within the Minor Site Plan package, as shown on **Exhibit A**, submitted to the City on April 18th 2025, as such materials were supplemented and amended prior to the City Council of Salem taking final action on the Application.

2. **Conformance with the Comprehensive Plan.** Upon approval of this Agreement by the City and in accordance with Virginia Code § 15.2-2316.9(C), the Project shall be deemed to be “substantially in accord” with the Salem Comprehensive Plan.

3. **Federal and State Approvals.** City shall cooperate with Applicant in obtaining any state or federal approvals required by law; provided, that such cooperation shall not include City being an applicant or co-applicant for any such approval in the absence of specific authorization by the City Council.

4. **Annual Valuation of Real Property.** Applicant agrees to provide City and the _____ (“Assessor”) with current copies of any real property lease agreements for the Property associated with the Project. Applicant may identify any information deemed confidential tax information or proprietary/trade secrets and may request that it be maintained by the City in a confidential basis for that reason, and that the Salem Commissioner of the Revenue (“Commissioner”) accord it protection in accordance with Virginia Code §58.1-3. However, for any such leases, Applicant shall at the minimum provide the annual lease payment amounts for each parcel being leased for the Project. Thereafter, should the payment

terms be amended in any such lease agreements, the Applicant shall forthwith provide such information to the City and the Assessor. Applicant further agrees to include as a condition in any agreements transferring ownership of the Project entered into by Applicant a requirement that any successor in interest shall provide such information to the City and the Assessor.

5. Annual Valuation of Taxable Equipment; Updates. “Commercial Operation” and “Commercial Operation Date” means “Commercial Operation” and “Commercial Operation Date” as defined under the ESSA. Prior to Commercial Operation Date, Applicant agrees to provide City and the Commissioner with a detailed list of capital equipment, including but not limited to (1) all equipment related to any proposed energy storage facilities, and (2) all other taxable tangible property. Thereafter, on an annual basis no later than January 1 or such other date as the City may prescribe, Applicant shall provide City and the Commissioner with any updates to this information, including but not limited to all new or replacement equipment. The Applicant agrees to provide the City and the Commissioner all information it may in the future provide to the Virginia State Corporation Commission for the Commission’s use in valuing such property for taxation purposes. In addition, prior to the Commercial Operation Date, the Applicant shall provide to the City and the Commissioner proof of payment for all components of the Project installed prior to the Commercial Operation Date. Applicant shall provide to the City and the Commissioner proof of payment for any additional or replacement component installed during the life of the Project, which proof shall be updated annually on or before the anniversary of the Commercial Operation Date. If no such component is installed in any given year, notice of such shall be provided to the City and the Commissioner on or before the anniversary of the Commercial Operation Date. Applicant shall fully cooperate with the Commissioner’s requests for inspection or other site visits to confirm or otherwise assess information the Applicant provides to the City and Commissioner.

6. Decommissioning. Unless the Applicant has elected to abandon the Project in place following a termination of the ESSA arising out of a default by the City as described in Section 11(B)(ii) of the ESSA, Applicant shall remove and decommission the Project in accordance with Section 3.4 of the Lease.

7. Right of Entry for Enforcement. Applicant and the City acknowledge and agree that the City, its personnel and duly authorized agents shall have the express right of entry upon the Project parcels for the purposes of inspecting energy storage facilities and all appurtenant facilities. For non-emergency access, which shall be limited to the hours of 8am to 5pm, Monday through Friday, the City shall provide the Applicant with reasonable advance written notice of no less than forty-eight (48) hours, in any event, prior to making such entry for any inspection or enforcement purposes. No prior notice shall be required to enter the Project in the event of an emergency that constitutes an immediate danger to life or property. Notwithstanding the foregoing, the City agrees to comply with Applicant’s site safety and health requirements when accessing the Project.

Article II
Capital Payment

1. Capital Payment. Upon site plan approval, the Applicant shall make a Capital Payment to the City as set forth in **Exhibit B** attached hereto in the amount and manner stated therein.. The Parties acknowledge that, except as otherwise provided herein, the Applicant’s obligation to make the Capital Payment shall be conditioned upon the Project receiving final site plan approval.

2. Statutory Structure of Capital Payment; Statement of Benefit. The Applicant agrees that by entering into this Agreement, pursuant to Virginia Code § 15.2-2316.6 et seq., the Capital Payment is authorized by statute, and it acknowledges that it is bound by law to make the Capital Payment in accordance with this Agreement. The Parties acknowledge that this Agreement is fair and mutually beneficial to them both. The Applicant acknowledges that this Agreement is beneficial to Applicant in allowing it to proceed with the installation of the Project with clear project design terms, which provide for mitigation of effects on the surrounding properties and the Salem community. Additionally, the Applicant acknowledges that this Agreement provides for a clear and predictable payment to the City in an amount fair to both Parties.

3. Real Estate and Machinery and Tools Taxes. The Capital Payment is separate and distinct from any amounts that are or will be owed by the Applicant to the City for real estate tax, machinery and tools tax, or for any other tax or financial obligations. The Capital Payment shall be in addition to any other tax or financial obligations that may be applicable to the Project or the Applicant. Without limiting the foregoing, nothing in this Agreement shall limit the application of the Code to the Project.

4. Use of Capital Payment by the City. The City shall use the Capital Payment as permitted under Virginia Code § 15.2-2316.7(B) or as otherwise permitted by law.

5. Effect of Agreement. This Agreement shall be binding upon the City pursuant to Virginia Code § 15.2-2316.8(A)(3). This Agreement is expressly conditioned upon the City’s approval of a site plan for the Project in accordance with the Code. If such approvals are not granted, this Agreement shall be void.

Article III
Emergency Response Training

1. Emergency Resources. The Applicant will pay directly for any specialized training the City and the Applicant mutually determine is necessary to prepare for responding to a fire or similar event at the Project. Such training is to be provided by a fire safety expert and include at a minimum Emergency Response Training and an Emergency Response Plan.

Article IV
Compliance, Permits and Approvals

1. Compliance. The Applicant will develop, install, build, operate, and decommission

the Project in compliance with all applicable federal, state, and local laws, regulations, ordinances, licenses, approvals, and permits. In the event that the Applicant is notified of any violation at the Project of any applicable federal, state or local laws, regulations, ordinances, licenses, approvals, and permits, the Applicant shall (a) notify the City of said violation within ten (10) business days, (b) diligently cooperate with the applicable regulatory agency, and (c) take all reasonable and necessary actions to attempt to cure the violation.

2. Approvals. If the Applicant elects to develop, install, build, and operate the Project, the Applicant will apply to all applicable federal, state, and local regulating authorities and will seek to obtain all required licenses, approvals, and permits for the Project. The Applicant agrees that all activities associated with the Project shall be in accordance with the terms of this Agreement, the Code, all other applicable building and zoning regulations, and all other applicable federal, state, and local laws, ordinances, and regulations.

3. Cooperation. As part of the consideration for this Agreement, the City will cooperate fully with the Applicant's efforts to obtain licenses, approvals, and permits as required by federal, state, and local laws, regulations, and ordinances authorizing the Project construction and/or operation, including, but not limited to, the performance of infrastructure studies, traffic studies, environmental studies, and the collection and analysis of other information necessary for those licenses, approvals, and permits. The City will make available to the Applicant, upon request, access to all records and data in its possession or control pertaining to the Project that are not otherwise required to be confidential by law, or subject to attorney-client privilege or other applicable legal privilege or confidentiality requirement. The City will use its best efforts to support and cooperate with the Applicant's efforts to obtain necessary licenses, approvals, and permits, including any necessary amendments thereto, for the Project construction, and for the Project's operation, and will process requests for permits and other approvals required by City ordinances. The City will take no action intended to frustrate or prevent the Applicant from receiving and maintaining any license, approval, or permit that is consistent with the applicable ordinances and zoning. Provided however, nothing herein shall be construed to require the City or the City Council to undertake any action not authorized by law or to exercise any legislative function in favor of the Applicant.

4. Construction. Site construction shall be in accordance with all licenses, approvals, and permits.

Article V Miscellaneous Terms

1. Term; Termination. This Agreement shall commence on the Effective Date and shall expire upon the expiration of all of the ESSA, the Lease and the Interconnection Agreement. The occurrence of the Termination Date shall not limit the Applicant's legal obligation to pay local taxes in accordance with applicable law.

2. Mutual Covenants. The Applicant covenants to the City that it will pay the City the amounts due hereunder when due in accordance with the terms of this Agreement, and will

not seek to invalidate this Agreement, or otherwise take a position adverse to the purpose or validity of this Agreement. So long as Applicant is not in breach of this Agreement during its term, the City covenants to the Applicant that it will not seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement. If after twenty (20) years from the Commercial Operation Date a Termination Date has not occurred, then the Parties covenant to discuss in good faith any ongoing impacts of the Project that need additional mitigation and the acceptable forms of mitigation, including evaluation of additional compensation.

3. No Obligation to Develop. The Applicant has no obligation to develop the Project. It is understood that development of the Project by Applicant is contingent upon a number of factors including, but not limited to, regulatory approvals, availability and cost of equipment and financing, and demand for renewable energy and renewable energy credits. No election by the Applicant to terminate, defer, suspend or modify plans to develop the Project shall be deemed a default of Applicant under this Agreement. Any Capital Payment by the Applicant prior to a decision to suspend or abandon the Project is non-refundable.

4. Successors and Assigns. This Agreement will be binding upon the assigns and successors in interest of the Applicant, and the obligations created hereunder shall be covenants running with the Property upon which the Project is developed. No assignment of this Agreement or any right or obligation accruing under this Agreement shall be made by the Applicant without the express written consent of the City, which consent shall not be unreasonably withheld or delayed. Any assignment, other than as permitted by this Section, without the consent of the City, shall be void. In the event of any approved assignment, the assignee or successor in interest shall assume the liabilities of the Applicant. For the purpose of this Section, an assignment shall occur if the Applicant sells, transfers, leases or assigns all or substantially all of its interest in the Project or the ownership of the Applicant to another individual or entity. The Applicant and any permitted assignee or successor in interest shall execute such documentation as reasonably requested by the City to memorialize the assignment and assumption by the assignee or successor in interest.

5. Memorandum of Agreement. A memorandum of this Agreement, in a form acceptable to the City Attorney, shall be recorded in the land records of the City of Salem Circuit Court. Such recordation shall be at the Applicant's sole cost and expense and shall occur as soon as reasonably practicable after the full execution of this Agreement. If the Applicant chooses to not develop the Project, in its sole discretion, the City shall execute a release of the memorandum filed in the aforementioned Clerk's Office.

6. Notices. Except as otherwise provided herein, all notices required to be given or authorized to be given pursuant to this Agreement shall be in writing and shall be delivered or sent by (1) registered or certified mail, postage prepaid, (2) recognized commercial shipping company, or (3) commercial courier to:

CITY

City Manager
Salem, Virginia

114 N. Broad St
Salem, VA 24153

APPLICANT

Salem VA BESS 1 LLC
c/o Lightshift Energy
1201 Wilson Blvd, 25th Floor
Arlington, VA 22209
Attn: Rory Jones and Michael Herbert

Copy to:
Delorean Power LLC dba Lightshift Energy
1201 Wilson Boulevard, 25th Floor
Arlington, Virginia 22209
Attn: General Counsel

The City and the Applicant, by notice given hereunder, may designate in writing any further or different persons or addresses to which subsequent notices shall be sent without need of a formal amendment to this Agreement. All notices provided as contemplated hereunder shall be deemed received after five (5) calendar days have passed from their mailing/sending date.

7. Governing Law; Jurisdiction; Venue. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to any of its principles of conflicts of laws or other laws which would result in the application of the laws of another jurisdiction. The Parties (a) agree that any suit, action or other legal proceeding, as between the parties hereto, arising out of or relating to this agreement shall be brought and tried only in the Circuit Court or General District Court of Roanoke County located in Salem, VA, as jurisdiction may lie, (b) consent to the jurisdiction of such court in any such suit, action or proceeding, and (c) waive (1) any objection which any of them may have to the laying of venue or any such suit, action, or proceeding in such court and (2) any claim that any such suit, action, or proceeding has been brought in an inconvenient forum. The Parties agree that a final judgment in any such suit, action, or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

8. Confidentiality. This Agreement is a public document, subject to production under the Virginia Freedom of Information Act (“FOIA”). The City understands and acknowledges the Applicant, and as applicable, their associates, contractors, partners and affiliates utilize confidential and proprietary “state-of-the-art” information and data in their operations (“Confidential Information”), and that disclosure of any information, including, but not limited to, disclosures of technical, financial or other information concerning the Applicant or any affiliated entity could result in substantial harm to them and could thereby have a significant detrimental impact on their employees and also upon the City. The City acknowledges that during the development of this Agreement, certain Confidential Information may be shared

with the City by the Applicant. **Applicant agrees to clearly identify any information it deems to be confidential and not subject to mandatory disclosure under the Virginia Freedom of Information Act or other applicable law as Confidential Information at the time it provides such information to the City.** The City agrees that, except as required by law and pursuant to the City's police powers, neither the City nor any employee, agent or contractor of the City will knowingly or intentionally disclose or otherwise divulge any such Confidential Information to any person, firm, governmental body or agency, or any other entity unless the request for Confidential Information is made under a provision of local, state or federal law. Upon receipt of such request but before transmitting any documents or information which may contain Confidential Information, the City will contact Applicant to review the request for information and associated documents to determine if any Confidential Information is at risk of disclosure. If Confidential Information exists, Applicant may intervene on behalf of the City and defend against disclosure of the Confidential Information. The City agrees to cooperate in this defense and to the extent allowed by law, work to protect the Confidential Information of the Applicant.

9. Severability; Invalidity Clause. Any provision of this Agreement that conflicts with applicable law or is held to be void or unenforceable shall be ineffective to the extent of such conflict, voidness or unenforceability without invalidating the remaining provisions hereof, which remaining provisions shall be enforceable to the fullest extent permitted under applicable law. If, for any reason, including a change in applicable law, it is ever determined by any court or governmental authority of competent jurisdiction that this Agreement is invalid then the parties shall, subject to any necessary City Council meeting vote or procedures, undertake reasonable efforts to amend and or reauthorize this Agreement so as to render the invalid provisions herein lawful, valid and enforceable. If the Parties are unable to do so, this Agreement shall terminate as of the date of such determination of invalidity. The Parties will cooperate with each other and use reasonable efforts to defend against and contest any challenge to this Agreement by a third party.

10. Entire Agreement. This Agreement and its exhibits constitute the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof. No provision of this Agreement can be modified, altered or amended except in a writing executed by the Parties. All exhibits to this Agreement are expressly incorporated into this Agreement by reference.

11. Construction. This Agreement was drafted with input by the City and the Applicant, and no presumption shall exist against any Party.

12. Insurance. The Applicant will obtain and maintain all insurance coverage required by applicable law. Pursuant to Section 14.1 of the ESSA, Applicant shall obtain and maintain the insurance coverages attached hereto as **Exhibit C**.

13. Default.

a. In the event of a default under this Agreement, if a Party has not cured, as described by this Agreement, its default after thirty (30) days of receiving written notice of the default from the non-defaulting Party, the non-defaulting Party shall have the right, but not the

obligation, to cure such default and to charge the defaulting Party for the cost of curing such default, including the right to offset said costs of curing the default against any sums due or which become due to the defaulting Party under this Agreement. Such non-defaulting Party shall, in its reasonable judgment, attempt to use the most economically reasonable method of curing any such default.

b. This Agreement may be terminated by the City in the event of a material breach of this Agreement by the Applicant that has not been cured within sixty (60) days of written notice thereof being received by the Applicant. If the Applicant initiates a cure within such period and continues to diligently pursue such cure to completion, the Agreement shall not terminate. A material breach shall mean a failure to comply with (1) any of the provisions of this Agreement, (2) the permits and approvals under which the Project will be operated or built, or (3) applicable federal, state laws or local laws, regulations, ordinances, licenses, approvals, and permits. A material breach shall also include the insolvency of the Applicant or its assignee or successor in interest, such insolvency to be established by the filing of either a voluntary petition in bankruptcy showing the Applicant as the debtor or an involuntary petition that is not dismissed within one hundred eighty (180) days of its filing, a written admission of inability to pay its bills as they come due, entry of receivership, trusteeship, composition, or similar arrangement, or a general assignment for the benefit of creditors. Provided, however, the Applicant's complying or taking action consistent with any governmental or regulatory warning letter, notice of violation, or plan of action shall be deemed a cure if the compliance or the action is initiated by the Applicant within sixty (60) days of the Applicant receiving the warning letter, notice of violation, or action plan. The Applicant's failure after receiving written notice to resolve as soon as practically possible, a material breach that state or federal authorities determine threatens the safety of the public or threatens to cause material environmental damage, shall entitle the City to terminate this Agreement effective immediately upon the Applicant's failure to act as soon as practically possible. Further, the City may terminate this Agreement effective immediately if the Applicant fails to pay an amount due under this Agreement within thirty (30) days of receiving the City's written notice of the failure to pay.

c. In the event of a breach and the appropriate notice thereof to the Applicant by the City, the cure periods noted above may be extended at the sole discretion of the City without the City waiving its right to terminate the Agreement at any time prior to the cure being made by the Applicant.

d. If the City terminates this Agreement as provided herein, the Applicant shall cease operations at the Project and commence decommissioning the Project in accordance with Section 3.4 of the Lease.

e. If the City or the Applicant files a lawsuit, counterclaim, or cross-claim to enforce any provision of this Agreement, the prevailing Party is entitled to all reasonable attorneys' fees, litigation expenses, and court costs.

14. Force Majeure.

A. "Force Majeure Event" means the occurrence of:

(i) an act of war (whether declared or not), hostilities, invasion, act of foreign enemies, terrorism or civil disorder;

(ii) a strike or strikes or other industrial action or blockade or embargo or any other form of civil disturbance (whether lawful or not), in each case affecting on a general basis the industry related to the construction, operation, or maintenance of energy storage facilities and which is not attributable to any unreasonable action or inaction on the part of Applicant or any of its subcontractors or suppliers and the settlement of which is beyond the reasonable control of all such persons;

(iii) specific incidents of typhoons, tornadoes, named storms, flood, drought, lightning, windstorm, unusually adverse weather conditions or other natural catastrophe;

(iv) tempest, earthquake, or any other natural disaster of overwhelming proportions; disruption of operations resulting from any plane crashing into the energy storage facilities to the extent that all or a substantial portion thereof is unable to operate sufficient to meet Applicant's payment obligations hereunder;

(v) discontinuation of electricity supply, or unanticipated termination of a power purchase agreement;

(vi) other unforeseeable circumstances beyond the control of the Parties against which it would have been unreasonable for the affected party to take precautions and which the affected party cannot avoid even by using its best efforts, including quarantines ordered by competent governmental authority in the event of a public health emergency, which in each case directly causes either party to be unable to comply with all or a material part of its obligations under this Agreement.

B. Neither Party will be in breach of its obligations under this Agreement or incur any liability to the other Party for any losses or damages of any nature whatsoever incurred or suffered by that other (otherwise than under any express indemnity in this Agreement) if and to the extent it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure Event except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure Event had not occurred.

C. As soon as reasonably practicable following the date of commencement of a Force Majeure Event, and within a reasonable time following the date of termination of a Force Majeure Event, any Party invoking it will submit to the other Party reasonable proof of the nature of the Force Majeure Event and of its effect upon the performance of the Party's obligations under this Agreement.

D. Applicant will, and will ensure that its Subcontractors will, at all times take all reasonable steps within their respective powers and consistent with Good Operating Practices

(but without incurring unreasonable additional costs) to:

- (i) prevent Force Majeure Events affecting the performance of Applicant's obligations under this Agreement;
- (ii) mitigate the effect of any Force Majeure Event; and
- (iii) comply with its obligations under this Agreement.

E. The Parties will consult together in relation to the above matters following the occurrence of a Force Majeure Event.

F. Should paragraph 14.A. apply as a result of a single Force Majeure Event for a continuous period of more than three hundred sixty-five (365) days then the parties must endeavor to agree to any modifications to this Agreement that are equitable having regard to the nature of the ability of Applicant to continue to meet its financial obligations to the City.

G. For the avoidance of doubt, Force Majeure shall not include (a) financial distress nor the inability of either party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a party's financial inability to perform its obligations hereunder.

15. Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties hereto and their respective successors and permitted assigns, and no other person shall have any right, benefit, priority or interest in, under or because of the existence of, this Agreement.

16. Counterparts; Electronic Signatures. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail/PDF or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

17. Recitals and Exhibits. The above stated recitals and previously described exhibits are expressly incorporated herein by reference.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by the officers whose names appear below as of the Effective Date.

SALEM VA BESS 1 LLC

By: _____

Name: _____

Title: Authorized Signatory

CITY OF SALEM, VIRGINIA

By: _____

Name: _____

Title: City Manager

Approved as to form:

By: _____
City Attorney or designee

Exhibit A Concept Plan



Exhibit B
Capital Payment

Capital Payment to City: A one-time payment of eight thousand and 00/100 Dollars (\$8,000)
to be paid to the City by Applicant within thirty (30) days of the Commercial Operations Date.

Exhibit C Insurance Coverage

During the Term, Applicant shall (or shall require its contractors to) maintain the following coverages with limits not less than the following amounts with a company or companies licensed or qualified to do business in the State where the Project is located:

1) Commercial General Liability Insurance covering the insured against claims of bodily injury, personal injury, property damage (including loss of use thereof), and sudden and accidental pollution arising out of Applicant's operations of the Project with limits of liability not less than the following (provided that such limits may be reached through any combination of primary and excess and/or umbrella coverages): \$1,000,000 each occurrence, and \$1,000,000 general aggregate;

2) Property Insurance covering loss or damage to the Project, which shall be written on an "all risks" of direct physical loss or damage basis for the full replacement cost value (except for coverages sub-limited under this policy). Coverage shall include fire and other peril including, but not limited to, vandalism and malicious mischief, theft, and explosion;

3) To the extent Applicant has any employees, (a) Employer's Liability Insurance with limits of liability no less than the following (provided that such limits may be reached through any combination of primary and excess and/or umbrella coverages): \$1,000,000 each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease-policy limit, and (b) Worker's Compensation Insurance to the extent required by Applicable Law; and

4) Applicant shall provide the City with additional insured status on all policies required herein except Worker's Compensation/ Employer's Liability. Applicant hereby waives all rights and claims against the City for losses covered by any insurance policies required to be carried by Applicant under this Exhibit C, and waives all rights of subrogation of Applicant and its insurers, and include a waiver of subrogation in favor of the City on all policies shown above. The insurance required to be maintained by Applicant pursuant to this Exhibit C may be carried under master insurance policies so long as such policies comply with this Exhibit C. The Commercial General Liability Insurance policy shall be primary and non-contributory and include appropriate separation of insured language.

[FORM OF MEMORANDUM]

PREPARED BY AND RETURN TO:

GPIN: _____

EXEMPT FROM RECORDATION TAX PURSUANT TO VA. CODE SEC. 58.1-811.A.3.

**MEMORANDUM OF ENERGY STORAGE PROJECT
SITING AGREEMENT**

This Memorandum of Energy Storage Project Siting Agreement (this “Memorandum”), dated and effective as of _____, 20____, is made by and between the City of Salem, Virginia, a municipal corporation of the Commonwealth of Virginia (the “City”) and Salem VA BESS 1 LLC, a Delaware limited liability company (“Applicant”), with regard to the following:

Siting Agreement. The City and Applicant are parties to that Energy Storage Project Siting Agreement, dated _____ (the “Siting Agreement”), which describes the intent of Applicant to develop, install, build, and operate an energy storage project facility (“Project”) on those certain parcels of land identified as GPIN(s) 150-2-4 (the “Property”).

Authorization. The City’s execution of the Siting Agreement was authorized during that certain regular meeting of the City Council of Salem (“City Council”) on _____.

Substantially in Accord. The Siting Agreement states, inter alia, that, pursuant to Virginia Code Section 15.2-2316.9(C), by entering into the Siting Agreement, the City Council acknowledged that the Project is deemed to be substantially in accord with the City of Salem Comprehensive Plan under Virginia Code § 15.2-2232.

Obligations. The Siting Agreement sets forth, inter alia, certain obligations of the Applicant to make certain payments to the City.

Siting Agreement Controls. This Memorandum does not supersede, modify, amend or otherwise change the terms, conditions or covenants of the Siting Agreement, and the City and Applicant executed and are recording this Memorandum solely for the purpose of providing constructive notice of the Siting Agreement and the City’s and Applicant’s rights thereunder. The terms, conditions and covenants of the Siting Agreement are incorporated into this Memorandum by reference as though fully set forth herein.

Counterparts. This Memorandum may be executed in counterparts, each of which shall be

deemed an original and all of which when taken together shall constitute one and the same document.

WITNESS the following signatures and seals:

CITY OF SALEM, VIRGINIA

By: _____

Name: _____

Title: City Manager

COMMONWEALTH OF VIRGINIA,
COUNTY OF _____, to-wit:

The foregoing Memorandum was acknowledged before me this ____ day of _____, 20____, by _____, City Manager of the City of Salem, Virginia.

Notary Public

My Commission expires: _____

Notary Registration Number: _____

SALEM VA BESS 1 LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: Authorized Signatory

COMMONWEALTH OF VIRGINIA

COUNTY OF _____

The foregoing Memorandum was acknowledged before me this ____ day of _____, 20____, by _____, _____ [title], on behalf of Salem VA BESS 1 LLC.

Notary Public

My Commission expires: _____

Notary Registration Number: _____