STAFF EVALUATION

Case No.: Rezoning No. 21-00010

Planning Commission Date: May 18, 2023 **City Council Date:** June 14, 2023, July 12, 2023

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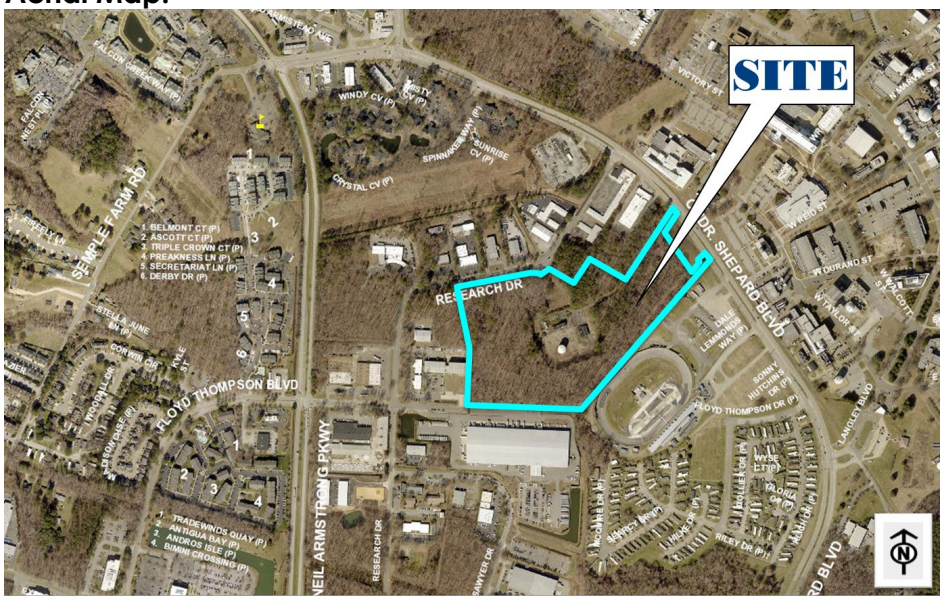
General Information

Applicant	Delorean Power LLC
Property Owners	Linde, Inc.
Site Location	3201 Commander Shepard Boulevard [LRSN: 6001003]

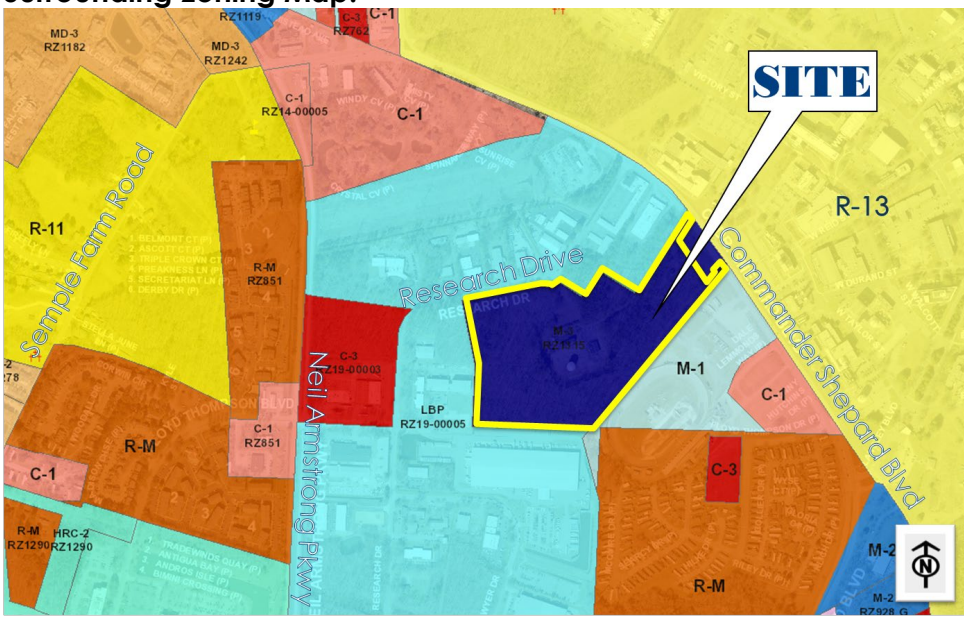
Aerial Map:



Requested Action	Amend the proffered conditions of Rezoning No.1315 to permit the proposed use: power plant (battery energy storage system) as well as other uses permitted in both Heavy Manufacturing (M-3) and Langley Business Park (LBP) Districts.
Description of Proposal	**General** Delorean Power LLC proposes to expand the permitted land uses on the subject ±32.83 acres parcel, located at 3201 Commander Shepard Blvd [LRSN: 6001003], to include a battery energy storage system. A battery energy storage system is an electrochemical device that charges (or collects energy) from the grid and then

	discharges that energy at a later time to provide electricity or other grid services when needed. Per the City's Zoning Ordinance, the proposed use has been determined to be power plant use. More specifically, the proposed system would be comprised of lithium-ion battery cells, AC/DC inverters, transformers and the communication and control technologies that will allow the system operator to store energy for later provision of services to the grid as needed. On an as needed basis, the stored energy would be fed back into the Dominion Energy Virginia electrical grid. The proposed battery systems are fully contained and do not use water, produce air emissions, or generate waste. The applicant has an executed power purchase agreement with Dominion Energy Virginia for project site 1, which is the initial phase of development. Project site 2, which is more interior to the site, would be developed at a future time. **Site Development** Proposed site development includes clearing the project site 1 area, constructing stormwater BMP's, locating the battery storage cabinets and associated transformers and providing an overhead electrical connection between the battery storage and the electrical grid, via an existing power pole on Commander Shepard Blvd., as indicated on the submitted development plan. The applicant is also proposing a minimum 20-foot landscape buffer along the northeast frontage of the site that parallels Commander Shephard Blvd and the site would be secured with a six (6) foot, black vinyl coated chain link fencing. Access to the site would be through an existing drive between Commander Shepard Blvd and the existing development. Project site 2, the cleared area formerly used by Praxair, would allow for the future expansion of the battery storage system or could be developed as other uses permitted in both the Heavy Manufacturing (M-3) and Langley Business Park (LBP) Districts. Site clearing for both project sites 1 and 2 would be limited to the limits of disturbance as indicated on the submitted concept plan. The site would be secured by chain link fencing.
Existing Land Use	vacant
Zoning	Heavy Manufacturing (M-3) District with conditions
Surrounding Land Use and Zoning	**North:** Langley Business Park (LBP) District, Heavy Manufacturing (M-3) District, One Family Residential (R-13) District; office/light industrial, vacant, research and development **South:** Langley Business Park (LBP) District; warehouse/distribution **East:** Limited Manufacturing (M-1) District, Multiple Residential (R-M) District; amusement operations **West:** Langley Business Park (LBP) District; office/light industrial

Surrounding Zoning Map:



The subject property is zoned Conditional Heavy Manufacturing (M-3) District. This zoning designation reflects a rezoning from Limited Manufacturing (M-1) District to M-3 with proffered conditions in 1980. Per the proffered conditions, the land uses are restricted to "air separation facilities and any uses permitted in a M-1 District." In 2013, the previously proffered concept plan was amended to promote future redevelopment and to construct a new sanitary sewer pump station. Currently, the property remains M-3 District with conditions.

Public Policy

The Hampton Community Plan (2006, as amended) is adopted as the guiding policy document for the City of Hampton with regards to future growth and development of the community. The Hampton Community Plan includes the following policy recommendations pertinent to this case:

Land Use and Community Design Policies:
LU-CD Policy 4: Evaluate land use proposals from a regional, city-wide, and neighborhood perspective.

Resilience Policies:
LU-CD Policy 39: Prioritize protecting natural systems and restore or recreate natural systems where they have been compromised.

Community Facility Policies:
CF Policy 42: Provide utility infrastructure that meets the needs of current residents and visitors, is flexible to meet changing service needs, and acts as a catalyst for continued development and redevelopment.

CF Policy 44: Promote utility infrastructure that enhances the natural environment and is consistent with applicable environmental regulations.

Environmental Stewardship Policies:

EN Policy 13: Continue to protect streams, wetlands, floodplains, and woodlands from the impacts of new development and redevelopment as required by local, State, and Federal environmental laws and regulations.

EN Policy 28: Preserve and protect existing mature trees in new development and redevelopment.

Economic Development Policies:

ED Policy 9: Ensure that the City's implementation plans, physical infrastructure, and land use regulations support the City's goals for economic development and growth.

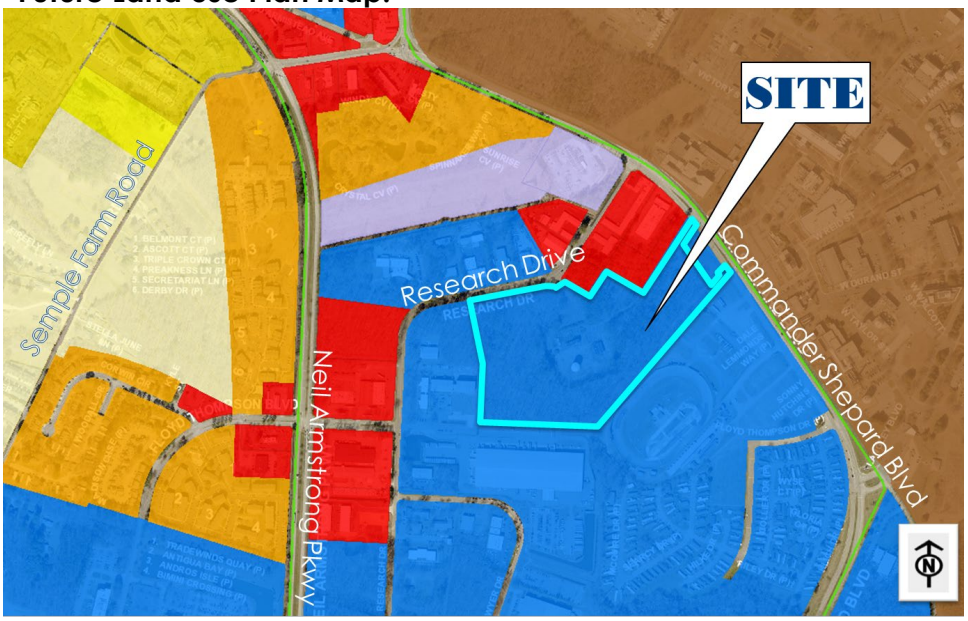
ED Policy 10: Foster the successful redevelopment of well-situated vacant and underutilized commercial and industrial properties within the city.

ED Policy 12: Focus special attention on strengthening the ability of older commercial and industrial areas to support new and expanded business activity.

Future Land Use:

The Hampton Community Plan (2006, as amended) designates the future land use of the subject site as Business/Industrial. Also, the subject site is located off Commander Shepard Boulevard which the Plan designates as a business corridor.

Future Land Use Plan Map:



Traffic Impacts	The current primary point of access to the site is directly from Commander Shepard Blvd; however, a portion of the site has frontage along Research Drive, which could be a future access point to the ±32.83 acres parcel. With the proposed use of utility infrastructure regular traffic to and from the site would be limited to periodic maintenance vehicles.
Environmental	Pockets of isolated non-tidal wetland features currently exists within wooded areas throughout the site. These wetlands have been confirmed by the Army Corps of Engineers. No portion of the existing wetlands are to be disturbed with the proposed development. Tree clearing would only occur within the limits of disturbance as indicated on the concept plan.
Proffered Conditions	There are eight (8) proffered conditions. Proposed proffered conditions include: • Limitation of uses permitted; • Substantial conformance with the proposed concept plan; • Substantial conformance with the proposed development plan; • Tree clearing and land disturbance limited to limits of disturbance as depicted on the concept plan; • Landscaping compliance with the "*City of Hampton Landscape Guidelines*" and the "*Native Plants for Southeast Virginia*" Guide; • Provision of twenty-foot (20') landscape buffer along the north boundary of the site; • Provision of twenty-foot (20') access easement on all sides of the proposed stormwater BMP's; • Provision of on-site public drainage easements as determined to be needed; The full set of proffered conditions can be found in the application package.
Community Outreach	There was no community wide meeting held; however, the Langley Research and Development Park Association has been notified of the proposed rezoning amendment.

Analysis

Rezoning Application No.21-00010 is a request by Delorean Power LLC, to amend the proffered conditions of Rezoning No.1315 to permit the proposed use: power plant (battery energy storage system) as well as other uses permitted in both Heavy Manufacturing (M-3) and Langley Business Park (LBP) Districts. The ±32.83 acres parcel is located at 3201 Commander Shepard Blvd [LRSN: 6001003] and currently zoned M-3 District with conditions. Per the previous rezoning, the current proffered conditions restrict

the land uses to "air separation facilities and any uses permitted in a M-1 District." A battery energy storage system is an electrochemical device that charges (or collects energy) from the grid and then discharges that energy at a later time to provide electricity or other grid services when needed. The battery energy storage system proposed for Project Site 1 will be comprised of lithium-ion battery cells, AC/DC inverters, transformers and the communication and control technologies that will allow the system operator to store energy for later provision of services to the grid. The subject site is located across Commander Shepard Blvd from NASA Langley and between Langley Research and Development Park and Langley Speedway. The character of the surrounding area is business/industrial with land uses that include office, research and development, warehouse distribution, and amusement operations.

Per the Hampton Community Plan (2006, as amended), the future land use designation for this property is business/industrial and recognizes Commander Shepard Blvd as a business corridor, which is mostly characterized by commercial and/or industrial land uses. The Plan defines business/industrial as existing and future areas appropriate for employment centers, business parks, research and development, and manufacturing. If approved the zoning proffer amendment would allow the proposed power plant use as well as other permitted uses in both Heavy Manufacturing (M-3) and Langley Business Park (LBP) Districts. In addition, the Plan recommends ensuring the City's physical infrastructure supports the City's economic development and growth as well as advancing the successful redevelopment of well-situated vacant and underutilized commercial, and industrial properties [ED Policy 9, 10]. The Plan also recommends strengthening the ability of older commercial and industrial areas to support new and expanded business activity [ED Policy 12]. The subject site has been vacant for many years and the proposed use would provide an alternative source of power during outages and peak demands that would benefit NASA Langley and the surrounding business/industrial land uses in the immediate area.

The Plan also recommends meeting the utility infrastructure needs of residents and visitors, while being flexible to meet changing service needs and stimulate continued development and redevelopment [CF Policy 42]. In addition, the Resilient Hampton Initiative is guided by eight values discussed in the "*Living with Water Hampton*" plan, among them *Safe*. The process of becoming a safer, more resilient place with lowered risk depends on a range of factors. A major element of safety and risk reduction is reliable utilities, such as the City's energy supply. The proposed battery energy storage system will improve grid resilience by increasing energy reliance during a storm event. Battery energy storage systems are also growing in importance in aiding the transition to renewable energy sources. This transition is supported by the goal *Natural*, identified in the "*Living with Water Hampton*" plan.

With respect to protecting the natural environment, the Plan recommends protecting natural systems and restoring or recreating natural systems where they have been compromised [LU-CD Policy 39]. The Plan also supports promoting utility infrastructure that enhances the natural environment and is consistent with applicable environmental regulations [CF Policy 44]; and preserving and protecting existing mature trees as well as protecting wetlands in new development and redevelopment [EN Policy 13, 28]. Isolated non-tidal wetland features have been identified within existing wooded areas throughout the site, which have been confirmed by the Army Corps of Engineers. No portion of the existing wetlands are to be disturbed with the proposed development. Tree clearing is limited to the limits of disturbance as indicated on the concept plan. In addition, the

applicant has proffered a 20-foot landscape buffer along the site frontage, parallel to Commander Shepard Blvd. The proposed buffer shall meet the design criteria per the proffered exhibit which includes a combination of deciduous and evergreen trees (i.e., shade, understory, ornamental, etc.) and shrubs and all new plant material shall be consistent with the "*Native Plant Material for Southeast Virginia*" Guide.

Impacts to the surrounding area from the proposed land use are expected to be minimal. Permitted land uses will be restricted to the proposed battery storage system and any other uses permitted in both the M-3 and LBP Districts, which would be compatible with the surrounding uses within Langley Research and Development Park as well as NASA Langley. The proposed battery storage units are fully contained, do not use any water, produce any air emissions, or generate any waste. Noise from the units is generated by cooling pumps and fans and will be approximately 65 decibels or lower at the source and is expected to be inaudible to neighboring facilities. Visually, the projects will be screened by existing foliage. As utility infrastructure vehicular traffic is expected to be minimal, limited to routine maintenance vehicles.

The applicant has proffered eight (8) conditions with the application. These proffers include limitation on permitted uses, substantial conformance with the concept plan and development plan, limits of disturbance, 20-foot landscape buffer, maintenance easement around proposed stormwater BMP's, and other on-site drainage easements. Staff believes these proffers would result in appropriate use of the site to be consistent with the surrounding business/industrial character and successfully address minimizing the potential environmental impacts of the proposed development.

In summary, the proposed application would be consistent with the City's adopted policy as articulated in the Hampton Community Plan (2006 as amended) with respect to land use and community design, resiliency, environmental stewardship, and economic development policies. The proposal would provide an alternate energy source for the city in response to high demands and potential outages. With respect to compatible development, the proposal protects existing nontidal wetlands and many existing mature trees, incorporates a landscape buffer, and provides appropriate stormwater management facilities to appropriately collect and treat runoff onsite. In addition, land uses would be limited to those similar in character to surrounding properties.

Staff recommends **APPROVAL** of Rezoning Application No. 21-00010 with eight (8) proffered conditions.