

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

December 10, 2002

7:00 P.M.

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AT A JOINT MEETING OF THE JAMES CITY COUNTY BOARD OF SUPERVISORS, WILLIAMSBURG-JAMES CITY COUNTY SCHOOL BOARD, AND THE WILLIAMSBURG CITY COUNCIL, HELD ON THE 28TH DAY OF OCTOBER, 2002, AT 6:00 P.M. IN THE CHILD DEVELOPMENT RESOURCES TRAINING ROOM, 150 POINT O'WOODS ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PRESENTATION

Mr. Kennedy called the meeting to order.

Mayor Jeanne Zeidler welcomed the all parties to the joint meeting and stated that she had been asked to chair the meeting.

Dr. Carol S. Beers, Superintendent of Schools, made a presentation on: the research done on school size and how it affected the Williamsburg-James City school system since the late 1980s; the High School Options study conducted in 1992 and the subsequent study survey results that favored the building of a new high school in addition to the renovation of Lafayette High School; and the subsequent focus group reviews, studies, and comparisons of the issues.

C. CONSIDERATIONS

The Board of Supervisors of James City County, Williamsburg-James City County School Board, the Williamsburg City Council, and staff discussed the following items in relation to the proposed School Budget.

1. Enrollment Projections

Enrollment projections indicated that High School enrollment has grown 55 percent over the past ten years, by 2006 the high school enrollment is estimated to be 3,025 students, and it is estimated that from 2006 to 2012 the projected enrollment will be at or above 3,000 students.2)

2. Research – Smaller High Schools

Dr. Charles Maranzano provided an overview on the research the school system has done on school size and stated that the research indicates that moderate-sized high schools create more leadership opportunities for students, humanize the learning process, connect schools to the community, better serve

economically disadvantaged and minority students, are safer and more secure places to learn, and have a higher success rate than larger or much smaller high schools.

3. Alternatives Considered

Dr. Beers provided an overview on the alternatives the School Board considered to the option of building a third high school which included: the expansion of Jamestown High School, the shared facility for Career and Technical education, the use of Bruton High School, and the different grade configurations.

Dr. Beers stated that the wetlands, high water table, parking capacity, and athletic fields all limit the ability to expand Jamestown High School; that Lafayette High School offers ten career and technical education opportunities and the State of Virginia requires only three; that due to renovations underway at Bruton High School, the projected student capacity will drop from 975 students to 800 students and will result in some constraints in the implementation of shared space; and that the current middle school configuration is the best for adolescents in their most vulnerable years whereas the realignment of the grades would involve major curriculum and staffing changes, logistical challenges, and would put a strain on the physical facilities.

4. High School Programming

The Blue Ribbon Committee, consisting of educators, industry representatives, and community leaders, first met in February 2001 and made several recommendations regarding the programming in the third high school facility from which set the foundation for the High School Programming Committee. As a result of these Committee recommendations, the School Board concluded that 900-1,200 students is the best sized high school for the success of the Williamsburg-James City County school division.

7. City and County Presentation on Development Potential

Mr. John T. P. Horne, Development Manager, stated that the County is projecting the population growth for the Comprehensive Plan, that the population projections to 2010 range from 64,000 to 67,000, that housing growth in the areas north of Centerville Road will increase in the mid- to long-term and that area holds the most long-term potential for large-scale housing growth within the existing Primary Service Area (PSA) boundary.

Mr. Jack Tuttle, City Manager, stated that the children from the City comprise less than ten percent of the school division children and that number is estimated to remain the same over the next five years.

8. City and County Presentation on Bond Rating and Debt Capacity

Mr. John McDonald, Manager, Financial and Management Services, stated that the County's bond ratings are Aa3 from Moody's and AA from Standards and Poor. Mr. McDonald also provided an overview of the County's policy for debt capacity that includes a recommendation that the Board of Supervisors set aside approximately \$3.5 million in advance of the major school bond issue to fund the "spike" in debt service cost, thereby allowing the Board of Supervisors to issue the debt and fund the increased annual debt service without raising the real property tax rate.

Mr. Tuttle stated that the City has never sought a bond rating because it has not needed one due to the City's pay-as-you-go financing method in funding the City's Capital Improvement Program. However, the City's share of a third high school would require additional debt financing and would pursue a bond rating if it would improve the cost of borrowing.

9. State and Local Budget Issues

Mr. Wanner stated that the Governor's budget will not be available until late December; however the budget cuts will impact on the localities. Localities do not have the ability to generate enough revenue to offset all the Governor's cuts.

10. Timeline for Referendum

Ms. Ainsworth stated that the School Board had shown the need for a third high school and recommended a referendum be held in March to avoid a potential additional cost of \$1.8 million.

D. DISCUSSIONS

The Board of Supervisors, School Board, City Council, and staff discussed enrollment projections in connection with the proposed new facility size, the need to expend within the next five years rather than in ten years or later; propose new facility size meeting the needs of the school curriculum, enrollments, and staffing; and clarification on the alternatives the School Board considered in respect to the range of costs.

The City Council and Board of Supervisors requested the following information:

- a. cost benefit analysis of the alternatives;
- b. operating costs of a third high school; and
- c. impacts on the real estate taxes.

Mr. Ludwick stated that the architects had provided a ten-year trend line that showed construction costs increasing approximately four percent each year.

Dr. Beers reviewed the process that would take place for the third high school to be put before the voters in a referendum including a Board of Supervisors requesting a referendum that would then be forwarded to the Circuit Court for placement on the ballot.

E. ADJOURNMENT

Mr. Kennedy made a motion to adjourn.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

The Board adjourned at 8:10 p.m. until 7 p.m. on November 12, 2002.

Sanford B. Wanner
Clerk to the Board

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 26TH DAY OF NOVEMBER, 2002, AT 4:06 P.M. IN THE COUNTY
GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY,
VIRGINIA.**

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District, arrived at 4:10 p.m.
Bruce C. Goodson, Roberts District, arrived at 4:10 p.m.

William C. Porter, Jr., Assistant County Administrator
Frank M. Morton, III, County Attorney

B. BOARD CONSIDERATION

1. James City County Stormwater Funding and Operating Program – Phase II Action Plan Report

Mr. John T. P. Horne, Manager of Development Management, introduced Elizabeth Treadway and Diana St. John, Project Manager, from AMEC Earth and Environmental, Inc., as well as members of the Stormwater Management Committee in attendance.

Mr. Horne provided an overview of the County's Stormwater Funding and Operating Program phases, status of stormwater structures in the County, the impacts of the stormwater structures on the environment, and requested guidance from the Board on the next steps related to financing for stormwater costs.

Mr. Goodson inquired if there were County Regulations and Ordinances to mitigate the stormwater structures at the project level.

Mr. Goodson inquired about the amount of Federal regulations in stormwater management.

Mr. Horne stated that of all the regulations involved in the project only 25 percent is mandated by the National Pollutant Discharge Elimination System (NPDES).

Ms. Treadway provided the Board with an overview of the funding mechanism available for the Stormwater Utility User Fees, the Stormwater Program's objectives, and made a recommendation on funding through blended revenues primarily generated through stormwater user fees.

Mr. Brown inquired if other localities have tiered systems for stormwater user fees.

Ms. Treadway stated that stormwater user fees have flexibility in its assessment.

Mr. Goodson inquired if the focus on the stormwater user fees could be on commercial developments that have a lot of impervious cover and if a regional BMP would allow specific regions or groups to be billed accordingly.

Ms. Treadway stated that depending upon how segmented the proposed billing would be assessed there may be complications associated with the proposal.

The Board, staff, and Ms. Treadway discussed methods to assess stormwater user fees, what stormwater programs are viewed as for the general good vs. individual utility, funding through the general fund vs. through utility fees, flexibility to accept multiple sources of revenue, and the impacts of commercial impervious cover as well as individual dwelling unit impervious cover as a neighborhood on watersheds and stormwater structures.

The Board requested that a public comment period be held on the proposed stormwater utility prior to the Board authorizing the development of a recommended stormwater utility program.

The Board also requested an estimate on the rates that could be assessed to various sized commercial businesses and residential units.

The Board and staff discussed the timeline for the staff in working on this project within the constraints of the FY04 budget and that the Board should take this project into account when looking at the budget.

2. 2003 Legislative Program

Mr. Morton introduced the proposed 2003 Legislative Program and provided an overview of each of the items to be introduced as legislation on behalf of the County as well as those items supported by the County.

The Board requested language to be included in Item 2-2, Land Use Issues, to state opposition to the Executive Branch also usurping the government control in the area of land use.

Mr. Goodson made a motion to adopt the resolution regarding the 2003 Legislative Program.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

RESOLUTION

2003 LEGISLATIVE PROGRAM

WHEREAS, it is appropriate for the Board of Supervisors to consider a legislative program to present to the 2003 session of the General Assembly.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the attached 2003 Legislative Program and urges its consideration and passage as appropriate.

C. ADJOURNMENT

At 5:50 p.m. the Board took a dinner break until 7 p.m.

William C. Porter, Jr.
Deputy Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF NOVEMBER, 2002, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

William C. Porter, Jr., Assistant County Administrator
Frank M. Morton, III, County Attorney

B. MOMENT OF SILENCE

Mr. Kennedy requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Mr. Danny Protocollo, a fourth grade student at Clara Byrd Baker School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated concern regarding the fiscal situation of the County and State and requested the Board postpone any Capital Improvement Projects not underway.

E. PRESENTATIONS

1. Annual Financial Report – KPMG LLP

Ms. Suzanne Mellen, Director of Budget and Accounting, introduced Ms. Elizabeth P. Foster, Partner at KPMG LLP.

Ms. Foster provided the Board with an overview of KPMG's independent audit results of the County's financial statements for the year ended June 30, 2002, and stated that the results of the operations and cash flows of the County's proprietary fund types for the year ended in conformity with generally accepted accounting principles. Ms. Foster stated that this year's audit was a clean and unqualified audit, the highest you can get.

The Board and Ms. Foster discussed the reported findings in last year's audit, the change in the layout for next year's Comprehensive Annual Financial Report, audit procedures, rotation of parties and independence of auditors from those they audit, how illegal activity found by an auditor would be addressed to the County, and reported findings this year to improve internal controls.

Ms. Foster and the Board thanked the Financial and Management Services staff for their work and cooperation.

2. Local Travel Industry Update – Dave Schulte

Mr. Dave Schulte, Executive Director of the Williamsburg Area Convention & Visitors Bureau, provided the Board with an overview of the local travel industry including: sale trends of hotel rooms for 2000 vs. 2001 vs. 2002 across the nation and locally, challenges facing the national travel industry as well as the local travel industry to attract tourists, and the 2003 strategies the local travel industry will use to attract vacationers.

The Board and staff discussed the fact that the timeshare industry is not included in the reports, efforts to offer package deals to attract tourists, and the visitor demographics.

F. HIGHWAY MATTERS

Mr. Steven Hicks, Resident Engineer for the Virginia Department of Transportation (VDOT), introduced Mr. Todd Hollows, Associate Resident Engineer, who will be working with the State legislators in attracting State transportation funding to the area.

Mr. Hicks provided an update on the following road projects: Cedar Drive at Cypress Point – improved road grade and anticipate upgrading the road through the Rural Addition Program by the end of Summer 2003; intersection of Airport Road and Mooretown Road – by Summer 2003 will improve the intersection with the installation of a traffic signal; Merry Oaks Road - overhanging tree limbs have been trimmed and will be maintained; and the intersection of Southside Riverside Drive with Northside Riverside Drive – the traffic engineers have looked at the intersection and will make traffic safety recommendation.

Mr. Hicks stated that VDOT is ready with equipment and sand to address any potential snow or freezing rain that may come to the area this season.

Mr. Harrison inquired if a representative from VDOT would go with him to look at the roads in Governor's Land for improvements.

Mr. Hicks stated that a representative would go with Mr. Harrison.

Mr. Goodson inquired if the intersection of Route 199 and Mounts Bay Road has been reviewed for adjustments to the traffic signal timing and if time-of-day signals could be considered for the intersection.

Mr. Hicks stated that slight timing adjustments have been made to the traffic signal and will continue to be made until an adequate timing pattern had been found.

Mr. Goodson inquired if the traffic signal timing for the turn lanes has been adjusted at the intersection of Route 60 and Route 199 in consideration that there is less traffic since the opening of the Grove Interchange.

Mr. Hicks stated that VDOT would look into the timing.

Mr. Brown inquired if VDOT was responsible for the maintenance of Historical Markers within VDOT right-of-ways and requested that if it falls within VDOT's responsibility, the marker on Route 60 East, westbound lane near Ben & Jerry's, could be made legible.

Mr. Hicks stated that he would look into the maintenance responsibility for the marker.

Mr. McGlennon inquired about the status of the Public/Private partnership for the Jamestown Route 199 corridor.

Mr. Hicks stated that the partnership is on track and groundbreaking will be in January 2003.

Mr. McGlennon stated that Homeowner Associations are concerned about the responsibility of maintaining stormwater structures and inquired if specific sites are identified to VDOT, would a representative clarify the responsible party for maintaining the structure and if appropriate maintain the structure.

Mr. Hicks stated that VDOT would look at any stormwater structures in question.

G. CONSENT CALENDAR

Mr. Kennedy asked if a member wished to pull an item from the Consent Calendar.

Mr. McGlennon made a motion to adopt the items on the Consent Calendar.

On a roll call, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5). NAY: (0).

1. Minutes

a. November 12, 2002, Regular Meeting

2. General Obligation Public Improvement Refunding Bond

**SUPPLEMENTAL RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
\$4,280,000 GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BOND,
SERIES 2002, OF THE COUNTY OF JAMES CITY, VIRGINIA,
AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF**

WHEREAS, on November 12, 2002, the Board of Supervisors of the County of James City, Virginia (the "Board") adopted a resolution entitled "Resolution Authorizing the Issuance and Sale of \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002, of the County of James City, Virginia, and Providing for the Form, Details and Payment Thereof" (the "Bond Resolution"). On November 20, 2002, in accordance with the Bond Resolution, James City County, Virginia (the "County") issued to SunTrust Bank (the "Bank") the County's \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002 (the "Bond") bearing interest at the rate of 3.75 percent per year; and

WHEREAS, provided that the Board adopts this Supplemental Resolution (the "Supplemental Bond Resolution") on November 26, 2002, the Bank has agreed to a reduction in the interest rate payable on the Bond to 3.59 percent per year. The Board wishes to take advantage of this opportunity to reduce the interest rate on the Bond.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia,

Section 1. Authorization of Reduced Interest Rate. The Board hereby authorizes a reduction in the interest rate payable on the Bond to 3.59 percent per year, from and after November 27, 2002. All other payment terms set forth in the Bond, including the principal and interest payment dates, the principal installment payment schedule and the final maturity date of December 15, 2014, shall remain the same.

Section 2. Ratification of Bond Resolution. Except as noted in Section 1, the Board hereby ratifies all of the provisions contained in the Bond Resolution and in the documents and certifications referred to in the Bond Resolution.

Section 3. Other Actions. All other actions of the Supervisors, officers, staff, and agents of the County in conformity with the purposes and intent of this Supplemental Bond Resolution and in furtherance of accomplishing the reduction of the interest rate payable on the Bond are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with this Supplemental Bond Resolution.

Section 4. Effective Date. This Supplemental Bond Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Supplemental Bond Resolution with the Circuit Court of the County of James City, Virginia.

3. Riverview Plantation Water Rates

RESOLUTION

RIVERVIEW PLANTATION WATER RATES

WHEREAS, the Riverview Plantation neighborhood is provided water by Tidewater Water Company; and

WHEREAS, investments in the water system and ongoing maintenance of the system infrastructure have been minimal and inadequate; and

WHEREAS, the owner has filed a notice with the State Corporation Commission with the intent to increase the water rates of customers served by the Riverview Plantation water system; and

WHEREAS, this is the second time in recent years that the rates to customers have been increased without improvements to service; and

WHEREAS, the Board of Supervisors of James City County went on record opposing the last rate increase.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, directs its Chairman to forward correspondence to the State Corporation Commission opposing the rate increase proposed by Tidewater Water Company.

H. PUBLIC HEARING

1. Approval of Amendment to Deed of Easement for Open Space/Major Open Space/RPA Buffer 1528 Harbor Road in Governor's Land

Mr. Morton recommended the Board hold a Public Hearing on this item then defer it indefinitely. Mr. Morton recommended the Board not take action on this item until the litigation has been resolved.

Mr. Kennedy opened the Public Hearing.

1. Mr. Steve Test, attorney representing the applicant, provided the Board with an overview of the proposal, provided a brief overview of the litigation, and recommended the Board not defer the item for more than a couple weeks.

Mr. Morton stated that his recommendation remains to hold off action on this item until the parties conclude its litigation.

As no one else wished to speak, Mr. Kennedy closed the Public Hearing and deferred the item indefinitely.

I. BOARD CONSIDERATION

1. Public Use Site – U. S. Home

Mr. John T. P. Horne, Development Manager, stated that a provision of the proffers dated November 7, 2001, in connection with Case No. Z-4-00/MP-01-01 that rezoned property for the U. S. Home project called "Colonial Heritage," dealt with the possible donation of a public use site or for the Board to receive \$750,000 for the acquisition of public use sites or other capital projects.

Mr. Horne stated that during the rezoning, the most widely discussed possible use for the public use sites was a public high school. The School Board has evaluated both public use sites and determined that neither site is appropriate for the construction of a high school.

Staff recommends the Board adopt the resolution electing to receive the cash contribution of \$750,000 from the applicant as allowed for under the proffers.

Mr. Kennedy inquired if the U. S. Home owned Site B.

Mr. Horne stated that U. S. Home does not own Site B.

Mr. Morton stated that according to the proffers, if the Board elects to accept a site from U. S. Home, U. S. Home has two more years to designate which site will be given to the County, and during that time Site B may be acquired.

Mr. Goodson made a motion to adopt the resolution accepting a site from U. S. Home.

The Board discussed the option of accepting a cash contribution from U. S. Home or accepting an unspecified site and the impacts the options could have on the County's development.

Mr. Brown stated his concerns about the risk of electing to accept restricted-use land from U.S. Home, which is unlikely to be used by the County in the foreseeable future, rather than \$750,000 which could be used for certain needed capital projects.

Mr. Kennedy requested a vote on the motion.

On a roll call vote, the vote was: AYE: McGlennon, Goodson, Harrison, Kennedy (4) NAY: Brown (1).

RESOLUTION

PUBLIC USE SITE - U.S. HOME

WHEREAS, the Board of Supervisors approved Case No. Z-4-00/MP-01-01 on November 27, 2001; and

WHEREAS, as part of that case, certain proffers were accepted, one of which dealt with a public use site or cash contribution; and

WHEREAS, the above proffer allows the Board, by resolution, to elect to receive a site or \$750,000 in cash.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby elect to receive a public use site, as provided for in proffers accepted as part of Case No. Z-4-00/MP-01-01.

J. PUBLIC COMMENT - None

K. REPORTS OF THE ASSISTANT COUNTY ADMINISTRATOR

Mr. Porter stated that due to the holiday on Thursday, the Jamestown District will not have its recyclables picked up until Saturday, November 30.

Mr. Porter stated that the County offices will be closed on November 28 and 29 for the holiday, however the convenience centers will be open on November 29.

L. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon made a motion to appoint Charlene Talcott to a three-year term on the Clean County Commission, term to expire on November 26, 2005; and to appoint Judge G. C. Fairbanks, IV, to the Colonial Community Criminal Justice Board.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

Mr. Harrison stated that notes from the Berkeley town meeting have been distributed to the members of the Board and requested that staff submit a copy of that item on letterhead to Dr. Beers.

M. ADJOURNMENT

Mr. Goodson made a motion to adjourn.

(0). On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY:

Mr. Kennedy adjourned the Board at 8:22 p.m. until 7 p.m. on December 10, 2002.

William C. Porter, Jr.
Deputy Clerk to the Board

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MEMORANDUM

DATE: December 10, 2002
 TO: The Board of Supervisors
 FROM: Needham S. Cheely, III, Director, Parks and Recreation
 SUBJECT: Award of Contract – Phase III of the District Park Sports Complex

Bids for the construction of four T-ball fields, one large baseball field, and additional parking at the District Park Sports Complex were received on November 25, 2002, with the low bid of \$722,025 submitted by E. V. Williams, Inc. The bid amount is within the present Capital Improvement Budget approved for the District Park Sports Complex.

The following contractors submitted bids for the Phase III construction project at the District Park Sports Complex:

<u>Bidder</u>	<u>Amount</u>
E. V. Williams, Inc.	\$ 722,025
J. Sanders Construction	833,800
Henderson, Inc.	841,223
Dobson Construction	944,900
Toano Construction	960,220
Stilley Construction	1,065,262

Staff recommends that the Board of Supervisors approve the attached resolution authorizing the County Administrator to execute contract documents with E. V. Williams, Inc., the lowest responsive bidder.

 Needham S. Cheely, III

CONCUR:

 Anthony Conyers, Jr.

NSC/gb
 parkphase3.mem

Attachment

RESOLUTION

AWARD OF CONTRACT – PHASE III OF THE DISTRICT PARK SPORTS COMPLEX

WHEREAS, bids have been received for construction of four T- Ball fields, one baseball field, and additional parking at the District Park Sports Complex; and

WHEREAS, staff has reviewed all bids and determined that E. V. Williams, Inc., is the low bidder and qualified to complete project; and

WHEREAS, the bid is within the Capital Improvement Budget allocated for the District Park Sports Complex.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the necessary contract documents for award of bid to E. V. Williams, Inc., the lowest responsive bidder, in the amount of \$722,025.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

parkphase3.res

MEMORANDUM

DATE: December 10, 2002
TO: The Board of Supervisors
FROM: Suzanne R. Mellen, Director of Budget and Accounting
SUBJECT: General Obligation Public Improvement Refunding Bond, Series 2002B

On December 5, 1995, the County issued \$35,000,000 in General Obligation Public Improvement Bonds to finance a portion of the costs for School Improvements as approved in a special election held on March 1, 1994. These bonds were issued at rates ranging from 5.25 to 6.4 percent.

It is advantageous at this time to take advantage of lower interest rates in the capital market and refund the portion of the bonds maturing on or after December 15, 2015. The County has received a proposal from SunTrust Bank to purchase the refunding bonds in the principal amount of \$3,180,200 at a rate of 3.75 percent. This equates to savings of approximately \$12,000 annually and total present value savings of approximately \$130,000.

Staff recommends approval of the attached resolution authorizing the issuance and sale of \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002B.

Suzanne R. Mellen

CONCUR:

John E. McDonald

SRM/gb
obligation.mem

Attachment

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

\$3,180,200 GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BOND,

SERIES 2002B, OF THE COUNTY OF JAMES CITY, VIRGINIA

AND PROVIDING FOR THE FORM, DETAILS, AND PAYMENT THEREOF

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum principal amount of \$52,100,000 was approved by the qualified voters of the County in three referenda at a special election held on March 1, 1994, to finance a school construction program, library improvements, and park and recreation improvements (together the "Improvements"). On August 3, 1994, the County issued its \$9,500,000 General Obligation Public Improvement Bonds, Series of 1994 (the "1994 Bonds") to finance a portion of the costs of the Improvements. On December 5, 1995, the County issued its \$35,000,000 General Obligation Public Improvement Bonds, Series 1995 (the "1995 Bonds") to finance a portion of the costs of the Improvements; and

WHEREAS, on November 20, 2002, the County its \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002 (the "2002A Bond") to refund the Bonds maturing on December 15. The County's Board of Supervisors (the "Board") determines that it is in the best interests of the County to take advantage of lower interest rates now prevalent in the capital markets and to issue and sell general obligation public improvement refunding bonds to refinance the 1995 Bonds maturing on December 15, 2015. The Board has received a proposal from SunTrust Bank (the "Bank") to purchase such refunding bonds on substantially the terms set forth in Proposed Terms and Conditions (the "Proposal") delivered by the Bank to the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia,

Section 1. Authorization, Issuance and Sale. There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation public improvement refunding bonds of the County in the principal amount of \$3,180,200 to refund the 1995 Bonds maturing on December 15, 2015 (the "1995 Refunded Bonds") and to pay the costs incurred in connection with issuing such refunding bonds. The Board hereby elects to issue such refunding bonds under the provisions of the Act.

Section 2. Bond Details. Such refunding bonds shall be issued as a single bond designated "General Obligation Public Improvement Refunding Bond, Series 2002B" (the "Bond"), shall be dated the date of its issuance (the "Issuance Date"), which shall be no later than December 31, 2002, shall be in registered form, registered initially in the name of the Bank, shall be in the principal amount of \$3,180,200, and shall be numbered RB-1. Interest

on the Bond shall accrue at the rate per year of 3.75% and shall be payable on each June 15 and December 15, commencing June 15, 2003. Interest shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Bond shall mature on December 15, 2015. Principal installments of the Bond shall be payable on December 15 in the years and the principal amounts set forth below:

<u>December 15</u>	<u>Principal Installment Payable</u>
2003	\$ 19,600
2004	19,600
2005	20,400
2006	21,100
2007	21,900
2008	22,700
2009	23,600
2010	24,500
2011	25,400
2012	26,300
2013	27,300
2014	28,400
2015	2,899,400

If not earlier paid, the aggregate principal amount outstanding under the Bond, together with all accrued and unpaid interest thereon, shall be due and payable on December 15, 2015.

The Board authorizes the issuance and sale of the Bond to the Bank on the terms set forth above, consistent with the Proposal, which Proposal is hereby accepted by the Board. The Bank shall purchase the Bond from the County for the purchase price of \$3,180,200.

The County Administrator is hereby designated as the Registrar for the Bond (the "Registrar"). Principal and interest shall be payable by check or draft mailed to the registered owner at its address as it appears on the registration books kept by the Registrar as of the close of business on the day preceding the principal or interest payment date. A "Business Day" is any day other than a Saturday, Sunday, legal holiday or other date on which banking institutions are authorized or obligated by law to close in the Commonwealth of Virginia. In case any principal or interest payment date is not a Business Day, then payment of principal and interest need not be made on such date, but may be made on the next succeeding Business Day, and if made on such next succeeding Business Day no additional interest shall accrue for the period after such principal or interest payment date. Principal and interest on the Bond shall be payable in lawful money of the United States of America.

Section 3. Prepayment Provisions. The Bond is subject to prepayment at the option of the County in whole or in part at any time or from time to time on or after December 15, 2008 at a prepayment price of 100% of the principal

amount to be prepaid plus accrued interest to the prepayment date. Any such prepayment shall be applied to the principal installments due on the Bond in inverse chronological order.

The County shall cause notice of each prepayment to be sent to the registered owner by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the prepayment date.

Section 4. Preparation and Delivery; Execution and Authentication. The Chairman or Vice Chairman and the Clerk or Deputy Clerk of the Board are authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver the Bond to the Bank upon payment therefor.

The Bond shall be signed by the manual signature of the Chairman or Vice Chairman of the Board and the County's seal shall be affixed thereto and attested to by the manual signature of the Clerk or Deputy Clerk of the Board.

Section 5. Bond Form. The Bond shall be in substantially the form set forth in Exhibit A attached hereto.

Section 6. Pledge of Full Faith and Credit. The full faith and credit of the County are irrevocably pledged for the payment of principal of and interest on the Bond. Unless other funds are lawfully available and appropriated for timely payment of the Bond, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of and interest on the Bond, as the same become due.

Section 7. Registration, Transfer and Owner of Bond. The Registrar shall maintain registration books for the registration of the Bond. Upon surrender of the Bond at the designated office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute a new Bond having an equal principal amount, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or its duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

Section 8. Refunding; Escrow Agreement. The Board hereby irrevocably calls for

the optional redemption of the 1995 Refunded Bonds on December 15, 2005 (the "Redemption Date") at a redemption price equal to 102% of the principal amount of the 1995 Refunded Bonds plus accrued interest to the Redemption Date.

To facilitate the defeasance of the 1995 Refunded Bonds and the payment of the principal of, premium and interest on the 1995 Refunded Bonds from the Issuance Date through the Redemption Date, the Board hereby authorizes the use of the Escrow Agreement dated the Issuance Date (the "Escrow Agreement") between the County and SunTrust Bank, as escrow agent (the "Escrow Agent"). The substantially final form of the Escrow Agreement has been made available to the Board prior to the adoption of this Resolution. The Escrow Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Escrow Agreement to reflect the final terms of the Bond or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the Chairman or the Vice Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Escrow Agreement. The Board hereby authorizes the Chairman or the Vice Chairman of the Board to execute and deliver the Escrow Agreement on behalf of the County.

Section 9. Arbitrage Covenants.

- (a) No Composite Issue. The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bond within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code").
- (b) No Arbitrage Bonds. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or otherwise cause interest on the Bond to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bond, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bond from being includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 10. Non-Arbitrage Certificate and Elections. Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of

the Bond in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bond.

Section 11. Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bond to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bond from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bond is not and will not be “federally guaranteed,” as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bond is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

Section 12. Bank Qualification. The Bond is hereby designated as a qualified tax-exempt obligation under Section 265(b)(3)(B) of the Code for the purpose of facilitating its sale to a financial institution. The County has not and will not designate more than \$10,000,000 of obligations, including the Bond, as qualified tax-exempt obligations in calendar year 2002. The County has not issued more than \$10,000,000 of tax-exempt obligations in calendar year 2002, including the 2002A Bond and the Bond. Neither the County, its industrial development authority nor any other entity which issues obligations on behalf of the County (together, the “County Entities”) has issued any “private activity bonds” which are “qualified 501(c)(3) bonds,” within the meaning of Sections 141 and 145 of the Code during calendar year 2002. Barring circumstances unforeseen as of the date of delivery of the Bond, the County Entities will not issue tax-exempt obligations if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the County Entities in calendar year 2002, result in the County Entities having issued a total of more than \$10,000,000 of tax-exempt obligations in calendar year 2002, including the Bond but not including any private activity bonds other than qualified 501(c)(3) bonds. The County has no

reason to believe that it will issue such tax-exempt obligations in 2002 in an aggregate amount that will exceed such \$10,000,000 limit; *provided*, that if the County receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth above in this paragraph is not required for the Bond to be a qualified tax-exempt obligation, the County need not comply with such covenant.

Section 13. Discharge upon Payment of Bond. The Bond may be defeased, as permitted by the Act. Any defeasance of the Bond, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bond or release the County from its obligations to pay the principal of and interest on the Bond as contemplated herein until the date the Bond is paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 9 and 11 until the date the Bond is paid in full.

Section 14. Other Actions. All other actions of the Supervisors, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bond and the refunding of the 1995 Refunded Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bond.

Section 15. Limitation of Liability of Officials of the County. No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a Supervisor, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No Supervisor, officer, employee, or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.

Section 16. Contract with Registered Owner. The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bond for so long as the Bond is outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bond.

Each year, within thirty (30) days of such document becoming available, the County shall send to the registered owner of the Bond a copy of the County's Comprehensive Annual Financial Report.

Section 17. Repeal of Conflicting Resolutions. All resolutions or parts of resolutions in conflict herewith are repealed.

Section 18. Effective Date. This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the County of James City, Virginia.

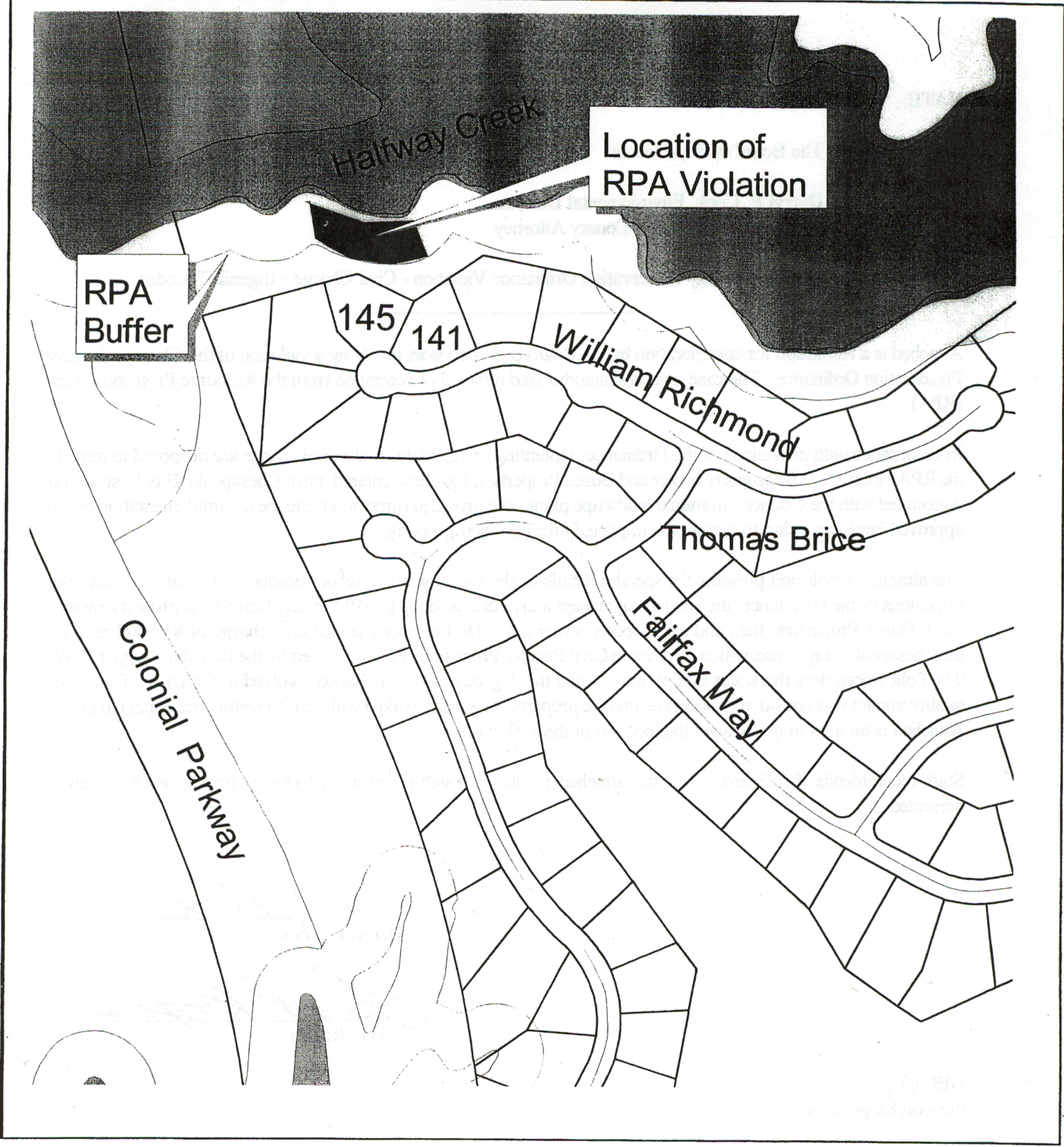
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

gobonds02_2.res



CHESAPEAKE BAY VIOLATION ON BUSCH PROPERTIES LAND

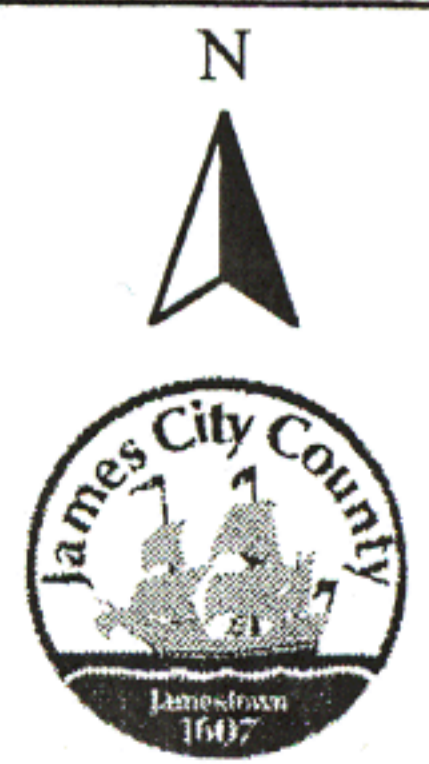
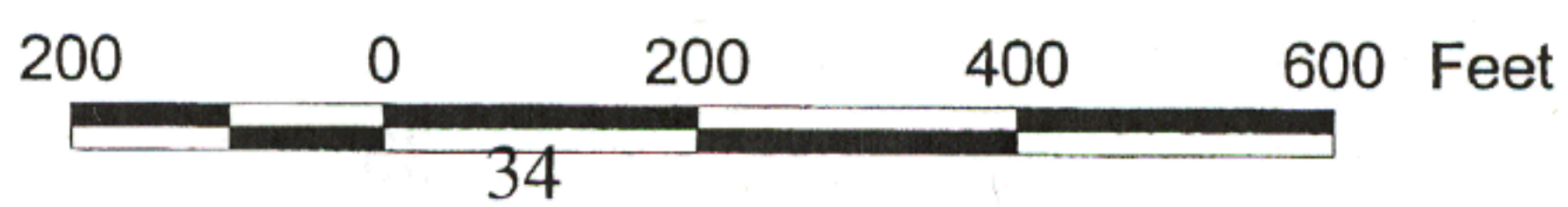


EXHIBIT A

**REGISTERED
No. RB-1**

**REGISTERED
\$3,180,200**

**UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY**

General Obligation Public Improvement Refunding Bond, Series 2002

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
3.75%	December 15, 2015	December 17, 2002	None

REGISTERED OWNER: SUNTRUST BANK

**PRINCIPAL AMOUNT: THREE MILLION ONE HUNDRED EIGHTY THOUSAND
TWO HUNDRED DOLLARS**

The County of James City, Virginia (the ACounty@), for value received, promises to pay, to the Registered Owner stated above, or registered assigns or legal representative, the Principal Amount stated above. Interest on the unpaid principal balance of this Bond shall accrue at the Interest Rate per year stated above. Principal and interest on this Bond are payable as follows:

Accrued interest on this Bond shall be payable on each June 15 and December 15, commencing June 15, 2003. Interest shall be calculated on the basis of a year of 360 days with twelve 30-day months.

This Bond shall mature on the Maturity Date stated above. Principal installments of this Bond shall be payable on December 15 in the years and the principal amounts set forth below:

<u>December 15</u>	<u>Principal Amount Payable</u>	<u>December 15</u>	<u>Principal Amount</u>
<u>Payable</u>			
2003	\$ 19,600	2010	\$ 24,500
2004	19,600	2011	25,400
2005	20,400	2012	26,300
2006	21,100	2013	27,300
2007	21,900	2014	28,400
2008	22,700	2015	2,899,400
2009	23,600		

This Bond is subject to prepayment at the option of the County in whole or in part at any

time or from time to time on or after December 15, 2008 at a prepayment price of 100% of the principal amount to be prepaid plus accrued interest to the prepayment date. The County shall cause notice of each prepayment to be sent to the Registered Owner by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the prepayment date. Any such prepayment shall be applied to the principal installments due on this Bond in inverse chronological order.

If not earlier paid, the aggregate principal amount outstanding under this Bond, together with all accrued and unpaid interest hereon, shall be due and payable on December 15, 2015.

Principal and interest are payable in lawful money of the United States of America. The County Administrator has been named as the registrar for this Bond (the ARegistrar@).

Principal and interest shall be payable by check or draft mailed to the Registered Owner, determined as of the close of business on the day preceding the principal or interest payment date, at its address as it appears on the registration books kept for that purpose at the designated office of the Registrar.

A ABusiness Day@ is any day other than a Saturday, Sunday, legal holiday or other date on which banking institutions are authorized or obligated by law to close in the Commonwealth of Virginia. In case any principal or interest payment date is not a Business Day, then payment of principal and interest need not be made on such date, but may be made on the next succeeding Business Day, and if made on such next succeeding Business Day no additional interest shall accrue for the period after such principal or interest payment date.

This Bond is issued pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, as amended. The issuance of this Bond was authorized by a resolution adopted by the Board of Supervisors of the County (the ABoard@) on December 10, 2002 (the AResolution@). The County shall use the proceeds of this Bond to refund the County's General Obligation Public Improvement Bonds, Series of 1995, maturing on December 15, 2015 (the A1995 Refunded Bonds@) and to pay the costs incurred in connection with issuing this Bond. The County has irrevocably elected to optionally redeem the 1995 Refunded Bonds on December 15, 2005.

The full faith and credit of the County are irrevocably pledged for the payment of the principal of and interest on this Bond. The County has designated this Bond as a Aqualified tax-exempt obligation@ within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

All acts, conditions, and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist, or be performed precedent to and in the issuance of this Bond have happened, exist, and have been performed, and the issuance of this Bond, together with all other indebtedness of the County, is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth of Virginia.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Board of Supervisors of the County of James City, Virginia, has caused this Bond to be issued in the name of the County of James City, Virginia, to be signed by its Chairman or Vice Chairman, its seal to be affixed hereto and attested by the signature of its Clerk or Deputy Clerk and this Bond to be dated December 17, 2002.

(SEAL)

ATTEST:

Clerk, Board of Supervisors
of the County of James City, Virginia

Chairman, Board of Supervisors
of the County of James City, Virginia

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sell(s), assign(s), and transfer(s) unto

(Please print or type name and address, including postal zip code, of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF TRANSFEREE:

the within bond and all rights thereunder, hereby irrevocably constituting and appointing _____ Attorney, to transfer said bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

NOTICE: Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agent's Medallion Program (ASTAMP®) or similar program.

(Signature of Registered Owner)

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this bond in every particular, without alteration or enlargement or any change whatsoever.

CERTIFICATE OF PREPAYMENTS OR REDEMPTIONS

The Principal Amount of this Bond shall be reduced by an amount equal to the aggregate of prepayments noted hereunder. All prepayments shall be certified hereunder by an authorized representative of the Registered Owner of this Bond, and such certification shall constitute a cancellation of the Principal Amount due on this Bond in the aggregate of the amounts certified below.

<u>Amount</u>	<u>Date</u>	<u>Authorized Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
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_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**CERTIFICATE OF THE CLERK OF THE
BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA**

The undersigned Clerk of the Board of Supervisors of the County of James City, Virginia, certifies that:

1. A regular meeting of the Board of Supervisors of the County of James City, Virginia, was held on December 10, 2002, at the time and place established by the Board for such meetings, at which the following members were present and absent:

PRESENT/ABSENT:

James G. Kennedy	____/____
Jay T. Harrison, Sr.	____/____
Bruce C. Goodson	____/____
John J. McGlennon	____/____
Michael J. Brown	____/____

2. A resolution entitled "Resolution Authorizing the Issuance and Sale of \$3,180,200 General Obligation Public Improvement Refunding Bond, Series 2002B, of the County of James City, Virginia, and Providing for the Form, Details and Payment Thereof" was adopted by a majority of all members of the Board by a roll call vote, the ayes and nays being recorded in the minutes of the meeting as shown below:

<u>MEMBER</u>	<u>VOTE</u>
James G. Kennedy	
Jay T. Harrison, Sr.	
Bruce C. Goodson	
John J. McGlennon	
Michael J. Brown	

3. Attached hereto is a true and correct copy of the foregoing resolution as adopted on December 10, 2002. This resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

WITNESS my signature and the seal of the Board of Supervisors of the County of James City, Virginia, this ____ day of December, 2002.

Clerk, Board of Supervisors
of the County of James City, Virginia

(SEAL)

MEMORANDUM

DATE: December 10, 2002

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director
Leo P. Rogers, Deputy County Attorney

SUBJECT: Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Ifigenia Theodor

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Chesapeake Bay Preservation Ordinance. The case involves unauthorized removal of vegetation from the Resource Protection Area (RPA).

In accordance with provisions of the Ordinance, replanting of vegetation and a civil charge are proposed to remedy the RPA violation. The property owner and Busch Properties, Inc., have entered into a Chesapeake Bay Restoration Agreement with the County, submitted landscape plans, and provided surety to guarantee the implementation of the approved landscape plan to restore the impacted areas on their property.

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by a property owner. Staff, Busch Properties, Inc., and the property owner agreed to the recommended civil charge of \$3,500 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact was considered moderate, and the property owner has worked with staff to restore the impacted areas. Attached is an area map showing the location of the violation.

Staff recommends the Board adopt the attached resolution establishing a civil charge for the RPA violation presented.

Darryl E. Cook

Leo P. Rogers

DEC/gs
theodorcharge.mem

Attachments

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - IFIGENIA THEODOR

- WHEREAS, Ifigenia Theodor is the owner of the property, commonly known as 145 William Richmond Road, designated as Parcel No. (03-181) on James City County Real Estate Tax Map No. (49-4), hereinafter referred to as the (“Theodor Property”); and
- WHEREAS, Busch Properties, Inc., is the owner of 292± acres of common area near Halfway Creek located north of the Theodor Property, designated as Parcel No. (1-1) on James City County Real Estate Tax Map No. (50-3) (“Busch Property”); and
- WHEREAS, the Theodor Property and Busch Property are collectively referred to herein as “the Property”; and
- WHEREAS, on or about June 21, 2002, it was determined by County staff that vegetation was removed from approximately 22,000-square feet of area in the Resource Protection Area on the Property; and
- WHEREAS, Ifigenia Theodor and Busch Properties, Inc., agreed to a Restoration Plan to replant trees and shrubs on the Property in order to remedy the clearing violation under the County’s Chesapeake Bay Preservation Ordinance and Busch Properties, Inc., has provided surety to the County to guarantee the survival of the vegetation in the Resource Protection Area on the Property; and
- WHEREAS, Ifigenia Theodor and Busch Properties, Inc., have agreed to pay \$3,500 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and
- WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted areas and the civil charge as an interim settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$3,500 civil charge from Ifigenia Theodor and Busch Properties, Inc., as a settlement of the Chesapeake Bay Preservation Ordinance Violation.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of
December 2002.

theodorcharge.res

MEMORANDUM

DATE: December 10, 2002

TO: The Board of Supervisors

FROM: Bernard M. Farmer, Jr., Capital Projects Administrator
Leo P. Rogers, Deputy County Attorney

SUBJECT: Abandonment of Right-of-Way for Old Entrance to Longhill Gate

Attached is a resolution abandoning the right-of-way for the old entrance to Longhill Gate. In 1998, the County and Longhill Gate Investment Company, L.L.C., entered into an agreement to relocate the entrance to Longhill Gate so that it would be aligned with Warhill Trail, the entrance to the District Park Sports Complex. The realignment was done in order to improve traffic flow. As part of the Agreement, the County agreed that Longhill Gate Investment Company, L.L.C., would receive the real property where the old entrance was located.

No road is currently located on the right-of-way for the old entrance. In order to give public notice of the County's intention to abandon that right-of-way, notice was posted in three places along the property to be abandoned and at the courthouse; a public hearing was advertised, and a letter was sent to the Commonwealth Transportation Board. The right-of-way for the old entrance is located in a residential district, which cannot safely be operated as a public road and is not of historic value. In addition, an alternative route for public travel is available. The right-of-way sought to be abandoned is limited to that property which is no longer needed due to the relocation of the Longhill Gate entrance.

Attached is a map which shows the right-of-way to be abandoned. We recommend adoption of the attached resolution.

Bernard M. Farmer, Jr.

Leo P. Rogers

BMF/LPR/gb
lnghillgate.mem

Attachments

RESOLUTION

ABANDONMENT OF RIGHT-OF-WAY FOR OLD ENTRANCE TO LONGHILL GATE

WHEREAS, on October 27, 1998, the County entered into an Agreement with The Longhill Gate Investment Company, L.L.C. to relocate the entrance to Longhill Gate so that it would be aligned with the new entrance to the District Park Sports Complex, Warhill Trail; and

WHEREAS, in exchange for new right-of-way for the realigned entrance to Longhill Gate, the County agreed to abandon, vacate, or otherwise convey the old right-of-way to Longhill Gate; and

WHEREAS, Longhill Gate Investment Company, L.L.C. conveyed the new right-of-way to the County and the new entrance to Longhill Gate has been constructed and been aligned with Warhill Trail, the entrance to the District Park Sports Complex; and

WHEREAS, the County posted notice of abandonment in three places along the old right-of-way for the entrance to Longhill Gate more than 30 days prior to the December 10, 2002, public hearing, posted notice of abandonment at the front door of the courthouse three days prior to the first day of the regular term of the Circuit Court, advertised for a public hearing to consider abandonment in two issues of the Virginia Gazette, a newspaper having general circulation in the County, and on November 20, 2002, the County sent notice to the Commonwealth Transportation Board of its intention to consider abandonment of the right-of-way for the old Longhill Gate entrance; and

WHEREAS, the Board of Supervisors following a public hearing is of the opinion that it is in the public interest to abandon the right-of-way for the old Longhill Gate entrance as shown on the plat entitled "PLAT OF RIGHT-OF-WAY ABANDONMENT & VACATION" dated September 6, 2002, by Mitchell-Wilson Associates, P.C.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby finds that:

1. The right-of-way for the old Longhill Gate right-of-way is located in a residence district as defined by Virginia Code Section 46.2-100; and
2. Continued operation of a public road on the right-of-way for the old entrance to Longhill Gate would constitute a threat to public safety and welfare; and
3. An alternative route for public use is readily available after the right-of-way for the old entrance to Longhill Gate is abandoned; and
4. The right-of-way for the old entrance to Longhill Gate does not have historic value; and

5. The new realigned entrance to Longhill Gate serves the same citizens as the right-of-way for the old entrance to Longhill Gate; and
6. The right-of-way for the old entrance to Longhill Gate is being abandoned only to the extent that it no longer serves a public need due to new alterations to the Longhill Gate entrance.

BE IT FURTHER ORDERED AND RESOLVED that the Board of Supervisors of James City County, Virginia, hereby declares the right-of-way for the old entrance to Longhill Gate is abandoned.

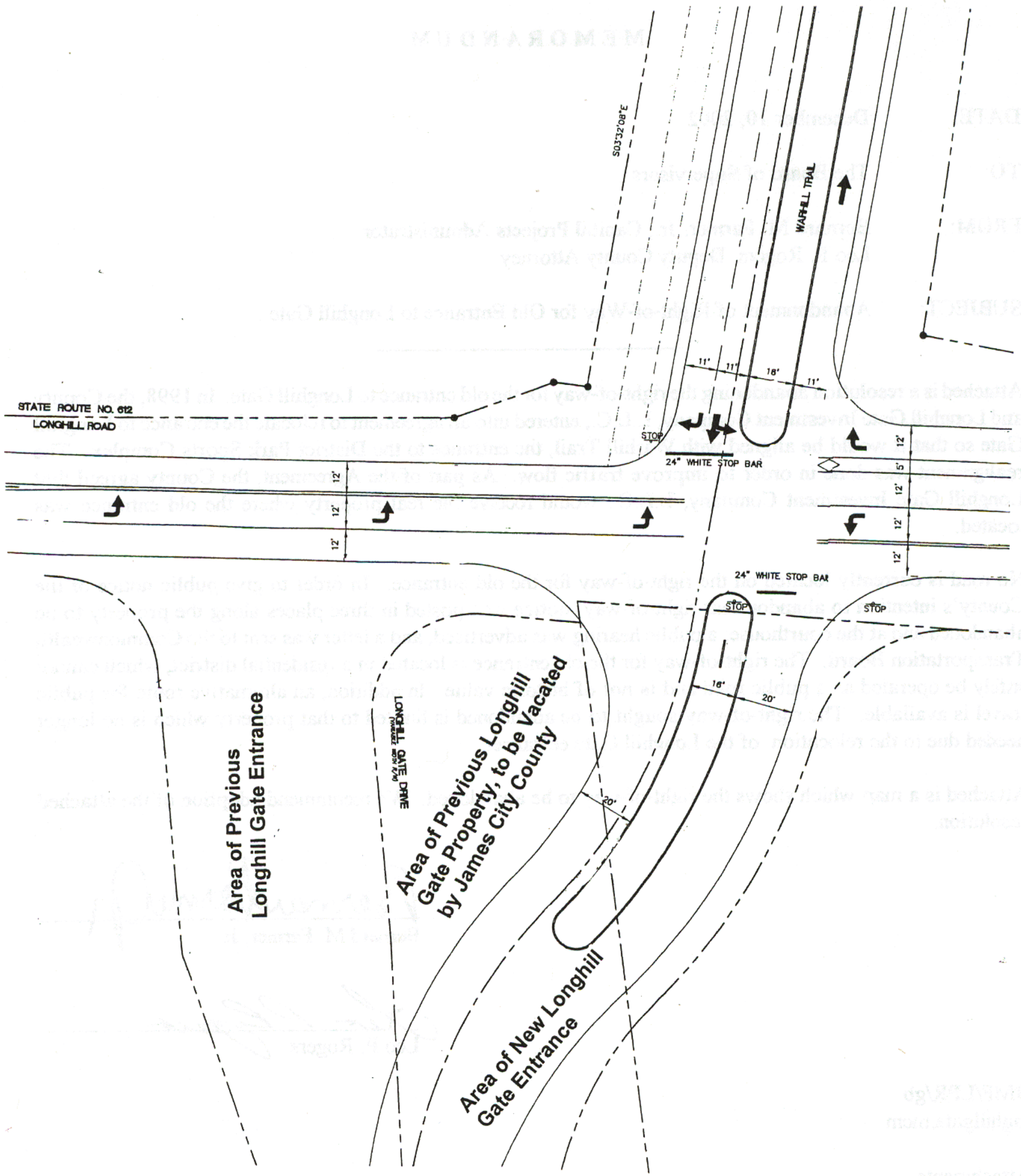
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

lnghillgate.res



**James City County
Capital Projects
Sketch**

Prepared By BERNARD FARMER
 Date 12/04/02
 Project R/W ABANDONMENT



**SPECIAL USE PERMIT-17-02. 112 Smokehouse Lane Accessory Apartment
Staff Report for December 10, 2002, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Building C Board Room; County Government Complex
 Planning Commission: October 7, 2002, 7:00 p.m.
 November 4, 2002, 7:00 p.m.
 Board of Supervisors: December 10, 2002, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Vance Elkins
 Land Owner: Same
 Proposed Use: Accessory apartment in the existing single-family residence
 Location: 112 Smokehouse Lane, Gatehouse Farms subdivision; Jamestown District
 Tax Map and Parcel No.: (47-3)(7-40)
 Primary Service Area: Inside
 Parcel Size: .524 acres
 Existing Zoning: R-1, Limited Residential District
 Comprehensive Plan: Low Density Residential
 Surrounding Zoning: R-1, Limited Residential: Gatehouse Farms subdivision
 R-8, Rural Residential: single-family homes across Neck-O-Land Road
 Staff Contact: David Anderson - Phone: 253-6685

STAFF RECOMMENDATION:

Mr. Vance Elkins has applied for a special use permit to allow an accessory apartment in an R-1, Limited Residential District. The accessory apartment would be located within an existing single-family structure at 112 Smokehouse Lane in the Gatehouse Farms subdivision. The property is further identified as Parcel No. (7-40) on James City County Real Estate Tax Map No. (47-3).

Staff finds the proposal compatible with the surrounding residential properties, since it will maintain the appearance of a single-family residence and will retain the residential character of the area. Staff also finds the proposal consistent with the Comprehensive Plan since the Comprehensive Plan encourages accessory apartments. Therefore, staff recommends the Board of Supervisors approve the special use permit with the attached conditions. At the November 4, 2002, Public Hearing, the Planning Commission voted 4-3 to recommend approval of the special use permit.

Project Description

The applicant proposes renting out the existing master bedroom and master bath as an accessory apartment in his 1,300-square foot single-family residence located at 112 Smokehouse Lane. The applicant's original purpose for the accessory apartment was to provide housing for a young woman with lupus. However, the woman has since found an alternate rental apartment. The applicant desires to continue to pursue approval for the accessory apartment in order to provide an affordable housing option for someone in need.

The master bedroom and master bath, totaling approximately 400 square feet, are located towards the rear of the residence. The applicant has made some minor alterations to the interior of the master bedroom, adding a counter top, sink, and microwave. An existing entrance on the back deck will serve as access to the accessory apartment. It should be noted that there are no covenants restricting this use on this property.

There are no exterior alterations associated with the accessory apartment.

Topography and Physical Features

The structure, built in 1980, is located at 112 Smokehouse Lane in the Gatehouse Farms subdivision. The residence of approximately 1,300 square feet is located on a .524 acre lot.

Surrounding Zoning and Land Use

The site is surrounded by R-1, Limited Residential property within the Gatehouse Farms subdivision, located off Neck-O-Land Road. The rear of the lot backs up to Neck-O-Land Road, and across Neck-O-Land Road lies property zoned R-8, Rural Residential, developed as single-family homes. Since this proposal will maintain the look and appearance of a single-family residence and will retain the residential character of the area, staff feels that this proposal is compatible with the surrounding development and zoning.

Access and Parking

The driveway is accessed off of Smokehouse Lane. The Zoning Ordinance requires that single-family residences with accessory apartments provide three parking spaces. This site currently contains four parking spaces.

Comprehensive Plan

The 1997 Comprehensive Plan designates this site as Low-Density Residential. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

An important strategy of the Housing element of the Comprehensive Plan is to recognize that least-cost housing serves a significant public benefit. The strategy also encourages clustering, zero-lot line development, accessory apartments, mixed housing types, and other innovative housing and neighborhood design options in appropriate locations.

For these reasons, staff feels the proposal is consistent with the Comprehensive Plan land use designation.

Special Requirements for Accessory Apartments

Accessory apartments are allowed in R-1 in accordance with Section 24-32 which outlines special requirements for accessory apartments. They are as follows:

1. Only one accessory apartment shall be created within a single-family dwelling.
2. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence. New entrances shall be located on the side or rear of the building and the apartment may not occupy more than 35 percent of the floor area of the dwelling.
3. For purposes of location and design, the accessory apartment is part of the main structure and shall meet all setback, yard, and height regulations applicable to main structures in the zoning district in which it is located.
4. Off-street parking shall be required in accordance with Section 24-53 of the Zoning Ordinance.

The house and proposed apartment meet these requirements. The apartment will occupy approximately 30 percent of the dwelling floor area, and the house will retain its single-family appearance.

Recommendation

Staff finds that this proposal is compatible with the surrounding zoning and development, since it will maintain the appearance of a single-family residence and will retain the residential character of the area. Staff also finds that this proposal is consistent with the Comprehensive Plan since the Comprehensive Plan encourages accessory apartments. For these reasons, staff recommends the Board of Supervisors approve the special use permit application with the attached conditions. At the November 4, 2002, public hearing, the Planning Commission voted 4-3 to recommend approval of the special use permit.

At the November 4, 2002, Planning Commission meeting, residents of the Gatehouse Farms Subdivision raised concern over what would happen in the future if the accessory apartment was approved. They were less concerned with the proposal as it currently stood, but were very concerned over what the accessory apartment could become. In order to ease the residents' fear, the Planning Commission recommended attaching a 5-year sunset condition to the special use permit. Relying on the inclusion of this sunset condition, the Planning Commission recommended approval of the application. The County Attorney's Office has communicated with staff that they do not support including this condition because it is not related to the land use issues involved in the case. However, since the Planning Commission relied on the condition for their recommendation of approval, staff has carried the condition over to the Board.

1. The permitted accessory apartment shall be part of the owner occupied residential structure on the property. Only one individual may occupy the accessory apartment. The owner of the property shall occupy the remainder of the residential structure as long as the accessory apartment is rented.
2. All parking shall be limited to the existing parking area.
3. The accessory apartment shall be put into use within 18 months, or the permit shall become void.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
5. This special use permit shall be valid for a period of five years from the date of issuance of this special use permit.

David Anderson

CONCUR:

O. Marvin Sowers, Jr.

DA/tlc
smokehseIn.wpd

Attachments:

1. Minutes from the October 7, 2002, and November 4, 2002, Planning Commission
2. Site Location Map
3. Floor Plans
4. Letters of Opposition
5. Resolution

RESOLUTION

112 SMOKEHOUSE LANE ACCESSORY APARTMENT (SUP-17-02)

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Mr. Vance Elkins has applied for a special use permit for his home located at 112 Smokehouse Lane in the Gatehouse Farms Subdivision to permit an accessory apartment; and

WHEREAS, the property is located on land zoned R-1, Limited Residential, and can be further identified as Parcel No. (7-40) on James City County Real Estate Tax Map No. (47-3); and

WHEREAS, the Planning Commission, following its Public Hearing on November 4, 2002, recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approve the issuance of Special Use Permit No. SUP-17-02 as described herein with the following conditions:

1. The permitted accessory apartment shall be part of the owner occupied residential structure on the property. Only one individual may occupy the accessory apartment. The owner of the property shall occupy the remainder of the residential structure as long as the accessory apartment is rented.
2. All parking shall be limited to the existing parking area.
3. The accessory apartment shall be put into use within 18 months, or the permit shall become void.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
5. This special use permit shall be valid for a period of five years from the date of issuance of this special use permit.

James G. Kennedy
Chairman, Board of Supervisors

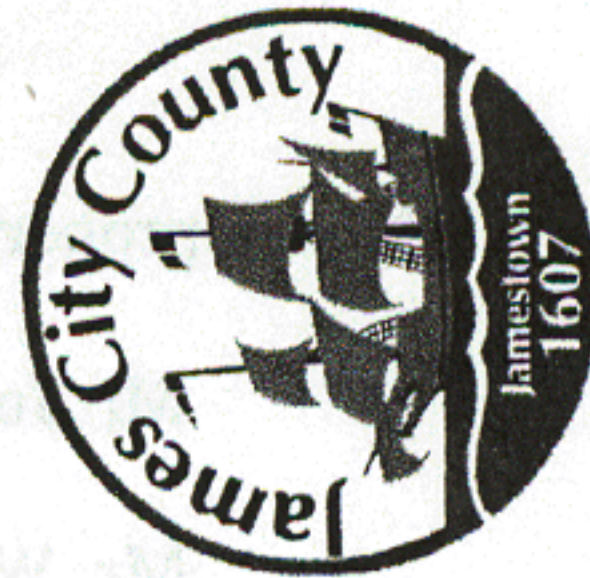
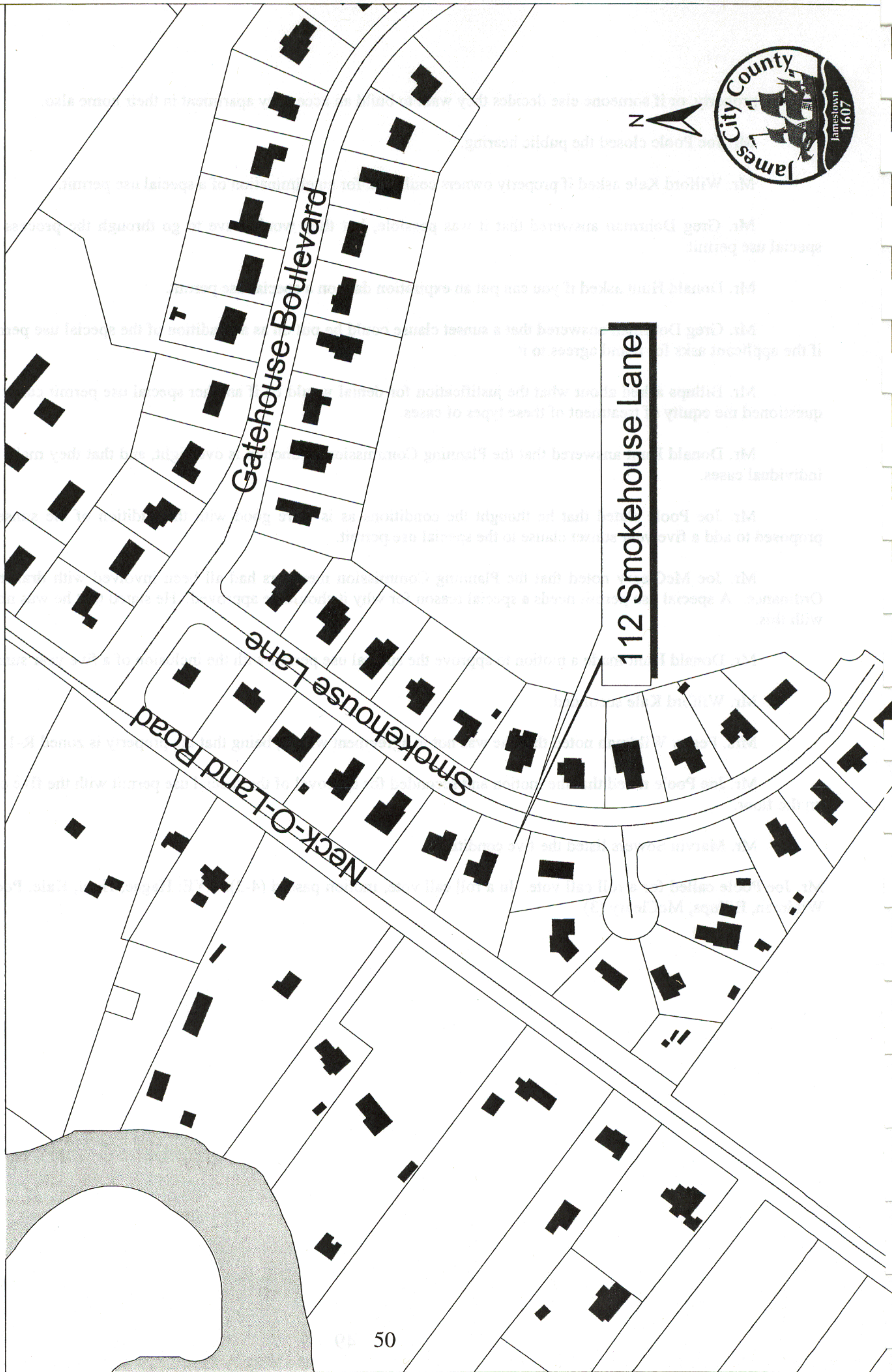
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

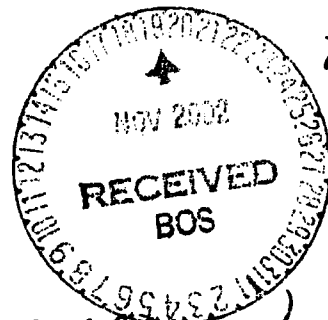
smokehseln.res

Case Number: SUP-17-02 112 Smokehouse Lane Accessory Apartment



112 Smokehouse Lane

Nov 15, '02



Mr Goodsen,

My letter concerns the attached page of the Planning Commission agenda specifically, SUP-17-02, 112 Smoke House Lane Accessory Apts. This request is being made by Mr Vance Elkins, a recent home purchaser in Gate House Farms.

Mr Elkins is a retired builder/contractor. But started his apartment preparation and did not look into obtaining a permit until one of his neighbors questioned him on it. He then applied for said permit stating the need to supplement his social security. However at the Planning Commission meeting he stated his need is to help out a friend with Lupus. This friend has since made other living arrangements. There seems to be no one living in the house at night. As our plight continues we are finding out that Mr Elkins has several such apartments throughout the area.

The last thing that we need is another shuck load in Gate

House Farm. We are battling 2-3 now plus some lazy owners. With the stock market uncertainties, possible job reductions our last sound investment is our homes. Please help us - vote against granting this permit. How do we police the situation if this is granted? Thank you for your time

Judith Musika
112 GATE HOUSE BLVD
WMSBG, VA.

October 10, 2002

Mr. O. Marvin Sowers, Jr.,
Director of Planning, James City County
101-E Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784

Dear Mr. Sowers:

As president of the Gatehouse Farms Homeowners Association, the responsibility of crafting this letter is mine. Following lengthy discussion at our neighborhood meeting this evening, an apparent unanimous decision to attempt to block the granting of *Special Use Permit Case No. SUP-17-02-Gatehouse Farms Accessory Apartment* by whatever means necessary, became manifest. I can assure you that my neighbors are very concerned about this proposed introduction of code approved higher density housing into the Gatehouse Farms subdivision, and that a petition demonstrating support from the vast majority of property owners will be forthcoming.

Many of us were surprised to learn the goals of the County's Comprehensive Plan and that our neighborhood might be negatively affected by the County's need to provide for more, and lower cost, housing. Restrictive covenants that once protected our neighborhood of single-family homes from this sort of thing, are only no longer valid due to the original developer's bankruptcy. All of the homes originally constructed in Gatehouse Farms, and the majority of all homes here, were bound by a set of conservative restrictive covenants.

I write this only to make you aware that a large group of homeowners protest any granting of the special use permit, and to seek your advice on the proper procedures for allowing that voice to be heard. We understand about the upcoming November 4th and 12th meetings of the Planning Commission and the Board of Supervisors, and intend to be represented there. Neighborhood participation was low at last weeks meeting only because many of us were unaware of the issues being discussed. We respectfully request your guidance about how to best prepare for those meetings, and to explore any possibility of resolution beforehand.

Sincerely,



C. Reed Weir
123 Gatehouse Blvd.
Williamsburg, VA 23185

cc: David Anderson, Staff Contact
Board of Supervisors, James City County

APPROVED MINUTES TO THE OCTOBER 7, 2002, PLANNING COMMISSION MEETING

CASE NO. SUP-17-02 GATEHOUSE FARMS ACCESSORY APARTMENT

Mr. David Anderson presented the staff report. Mr. Vance Elkins has applied for a special use permit to allow an accessory apartment in an R-1, Limited Residential District. The accessory apartment would be located within an existing single-family structure at 112 Smokehouse Lane in the Gatehouse Farms subdivision. The property is further identified as parcel (7-40) on James City County Real Estate Tax Map No. (47-3). Staff finds the proposal compatible with the surrounding residential properties, since it will maintain the appearance of a single-family residence and will retain the residential character of the area. Staff also finds the proposal consistent with the Comprehensive Plan since the Comprehensive Plan encourages accessory apartments. Therefore, staff recommends the Planning Commission approve the special use permit with the attached conditions. Two additional letters not included in the original PC packet were handed out by Mr. Anderson and are from concerned residents within the Gatehouse Farms subdivision.

Mr. Joe Poole opened up the questioning from PC members.

Mr. Joe McCleary wanted to make it known for the public's knowledge as to how long the special use permit would be active. It goes with the land, not with the applicant and is in effect forever. The restriction that the apartment rental be limited to one person is unenforceable, unless the neighbors make the effort to make sure this is the case.

Mr. David Anderson responded that these statements are correct and added that the restriction was added in case a problem occurred, since it would give the neighbors a way to report a violation.

Mr. Joe McCleary asked whether or not if the applicant wanted to sell the house after having the accessory apartment installed, if the person who buys it would be able to rent out both sides of the house.

Mr. Leo Rogers affirmed that this could legally occur. He suggested that the SUP can have a condition added to make a portion of the residence restricted to owner occupancy.

Mr. Joe McCleary expressed his concern that if a family moved in to the house, it would become much more densely populated than it currently is.

Mr. George Billups asked if there was a full bathroom in the accessory apartment.

Mr. David Anderson stated it was a fully self contained.

Mr. Joe Poole inquired as to how many specially permitted accessory apartments there are in James City County, and where they are.

Mr. David Anderson stated that the last SUP granted was in 1998, and there are not that many of them. In some circumstances, accessory apartments are a regularly permitted use, so they don't come up that often.

Mr. Joe McCleary stated in some of the newer neighborhoods, the developer puts in conditions so that accessory apartments cannot be permitted.

Mr. Joe Poole opened the public hearing.

Mr. Vance Elkins, the applicant, stated that he lives on a restricted income, so the apartment become a way of supplementing his income, and he didn't even plan on making an accessory apartment until a friend, in need of an assisted living facility was unable to find one in James City County. Since he is single, and doesn't use the rooms that would be converted into the apartment, he felt it would be a nice thing to do for someone in need.

Ms. Sue Millards, resident across the street of 112 Smokehouse Lane, expressed her concern that others in the neighborhood will also want to put in accessory apartments. She also wondered why other residents in the subdivision did not receive the APO letter.

Mr. David Anderson explained that the letter is sent only to adjacent property owners, and not everyone in the subdivision would get one, and actually a few extra ones were sent out to residents who weren't required to receive one.

Mr. Marvin Sowers asked Ms. Millards to call the Planning Division with the names and addresses of the residents who didn't receive a letter.

Ms. Sharon Reed of 124 Smokehouse Lane, expressed her concern that the entire neighborhood will be effected, not just the adjacent property owners. She is concerned about the extra traffic, extra noise and carelessness of the renter, in regards to taking care of the property. She wanted clarification on whether or not this would allow anyone in the neighborhood to build an accessory apartment.

Ms. Peggy Wildman clarified that this would not automatically allow anyone in the neighborhood to have an accessory apartment. They would have to apply for a special use permit just like Mr. Elkins did and be granted approval.

Ms. Sharon Reed expressed concern that the precedent would be set in the neighborhood if this SUP was approved.

A woman from the audience, who didn't identify herself, except that she was a resident of Gatehouse Farms, was concerned about the precedent set. She was concerned at the type of person the rental would attract, and since she, and many others, have small children, the effect of the renter on their safety. She asked that the permit not be passed.

Mr. Joe Poole closed the public hearing and asked for questions or comments from the Planning Commission members.

Mr. John Hagee suggested that a condition be added for an owner occupied scenario.

Mr. Vance Elkins expressed that he was not opposed to this.

Mr. John Hagee commented that Mr. Elkins would be the first to be concerned about noise and the care of the property. Since he would be on site, these issues would be taken care of by him before it became a problem to an adjacent property owner. He commented that this type of growth was encouraged by the county's Comprehensive plan.

Mr. Donald Hunt commented that accessory apartments were encouraged because it makes better use of the infrastructure and although it increases density, it is basically a benign intrusion.

Mr. Joe Poole asked if there were additional questions or comments even though the public hearing is closed.

A member of the audience asked that the decision be postponed until all adjacent property owners could make comments.

Ms. Sharon Reed commented that the changes that were suggested do not cover her concerns.

Mr. Joe McCleary noted that the County does put out the big red sign that notifies residents that a special use permit is under consideration, and there is one at the address of the applicant.

Mr. Joe Poole commented that he was leaning towards deferment so that all adjacent property owners can have the chance to express their opinions. He noted the Planning Division does have in place a notification process that is followed with every case. He liked the idea of the owner occupied condition and wanted it added to the special use permit. He questioned Mr. Rogers if the special use permit would become void if the conditions were violated.

Mr. Leo Rogers responded that yes, it can happen, but it is not something that occurs automatically.

Mr. Donald Hunt made the motion to defer for a month, in order to give more notice to adjacent property owners.

Ms. Peggy Wildman seconded.

Mr. John Hagee wanted clarification on who the extra notifications should go to.

Mr. Joe Poole commented that the letters might have inadvertently been discarded and asked that they be sent out again to the adjacent property owners.

Mr. Marvin Sowers suggested that the subdivision's Home Owners Association contact the Planning Division and we would be happy to work with them to send notifications.

Mr. David Anderson mentioned that he received a phone call today from the former Home Owner's Association President today, and that they had held a meeting regarding this case on Friday.

Members of the audiences who claimed to be residents of Gatehouse Farms expressed they had no notification of the Home Owner's Association meeting or were not invited.

Mr. Joe Poole noted there was a motion on the floor to defer.

Mr. Joe McCleary noted that he welcomed the insertion of the owner occupied conditions and the voiding of the special use permit if the conditions were broken.

Mr. Joe Poole commented that he wanted the case to be heard by those whom it affected. He called for a roll call vote. In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

UNAPPROVED MINUTES TO THE NOVEMBER 4, 2002, PLANNING COMMISSION MEETING

CASE NO. SUP-17-02 GATEHOUSE FARMS ACCESSORY APARTMENT

Mr. David Anderson presented the staff report. Mr. Vance Elkins has applied for a special use permit to allow an accessory apartment in an R-1, Limited Residential District. The accessory apartment would be located within an existing single-family structure at 112 Smokehouse Lane in the Gatehouse Farms subdivision. The property is further identified as parcel (7-40) on James City County Real Estate Tax Map No. (47-3). Staff finds the proposal compatible with the surrounding residential properties, since it will maintain the appearance of a single-family residence and will retain the residential character of the area. Staff also finds the proposal consistent with the Comprehensive Plan since the Comprehensive Plan encourages accessory apartments. The covenants governing the Gatehouse Farms subdivision do not restrict accessory apartments. Therefore, staff recommends the Planning Commission approve the special use permit with the attached conditions.

Mr. Joe Poole opened up the questioning from commission members.

Mr. Joe McCleary questioned the enforceability of the conditions, particularly limiting the renting only to one person.

Mr. Donald Hunt inquired about the owner occupied condition.

Mr. David Anderson stated the owner must live in the home in order to rent the accessory apartment.

Mr. John Hagee noted that enforceability of limitation of renters is not enforceable in any part of the county, even in rental apartment complexes.

Mr. Marvin Sowers noted the county would have to rely on a complaint basis.

Mr. Joe McCleary commented even in that event, it is still very hard to enforce because one can claim the extra person was a guest.

Mr. John Hagee asked if there was some kind of provision that could be put on the special use permit to void it out if the owner sold the property.

Mr. David Anderson replied that we are unable to do that.

Mr. Joe Poole opened the public hearing.

Mr. Reed Wier, the President of the Gatehouse Farms Home Owners Association, spoke on behalf of the neighbors that signed a petition not in favor of the accessory apartment. The list represented about 75% of the neighborhood. He urged the planning commission members to take into consideration their opinions.

Mr. Shane Reed, a member of the Gatehouse Farms Home Owners Association, also spoke on behalf of all the home owners in the neighborhood. They believe that granting the special use permit would be negative in many ways and listed the negative impacts they felt this would have on the neighborhood, such as traffic, privacy and trash concerns, affect on the property value of the homes, the unenforceability of the owner occupied condition and the alteration of the character of the neighborhood.

Mr. Vance Elkins, the applicant, presented the background on how this case came about and why he wanted to build the accessory apartment. He also addressed many of the negative impacts that Mr. Reed had spoke about, such as property upkeep and improvements, since he has to live with the renter, has no desire to rent to an undesirable person, that the Gatehouse Farms covenants were not being violated, and that he was not looking to make a profit, only wanted to help out someone in need. He also noted that there were a few houses in the neighborhood that were rental properties.

Mr. Joe Musica, a resident of Gatehouse Farms, voiced his concern about what happens when Mr. Elkins leaves and

sells his property, or if someone else decides they want to build an accessory apartment in their home also.

Mr. Joe Poole closed the public hearing.

Mr. Wilford Kale asked if property owners could ask for an elimination of a special use permit.

Mr. Greg Dohrman answered that it was possible, but they would have to go through the process to amend the special use permit.

Mr. Donald Hunt asked if you can put an expiration date on a special use permit.

Mr. Greg Dohrman answered that a sunset clause could be put on as a condition of the special use permit, especially if the applicant asks for it and agrees to it.

Mr. Billups asked about what the justification for denial would be if another special use permit came up again. He questioned the equity of treatment of these types of cases.

Mr. Donald Hunt answered that the Planning Commission's function is oversight, and that they make judgments on individual cases.

Mr. Joe Poole stated that he thought the conditions as is were good with the addition of the sunset clause. He proposed to add a five year sunset clause to the special use permit.

Mr. Joe McCleary noted that the Planning Commission members had all been involved with drafting the Zoning Ordinance. A special use permit needs a special reason for why it should be approved. He stated that he was not comfortable with this.

Mr. Donald Hunt made a motion to approve the special use permit with the inclusion of a five year sunset clause.

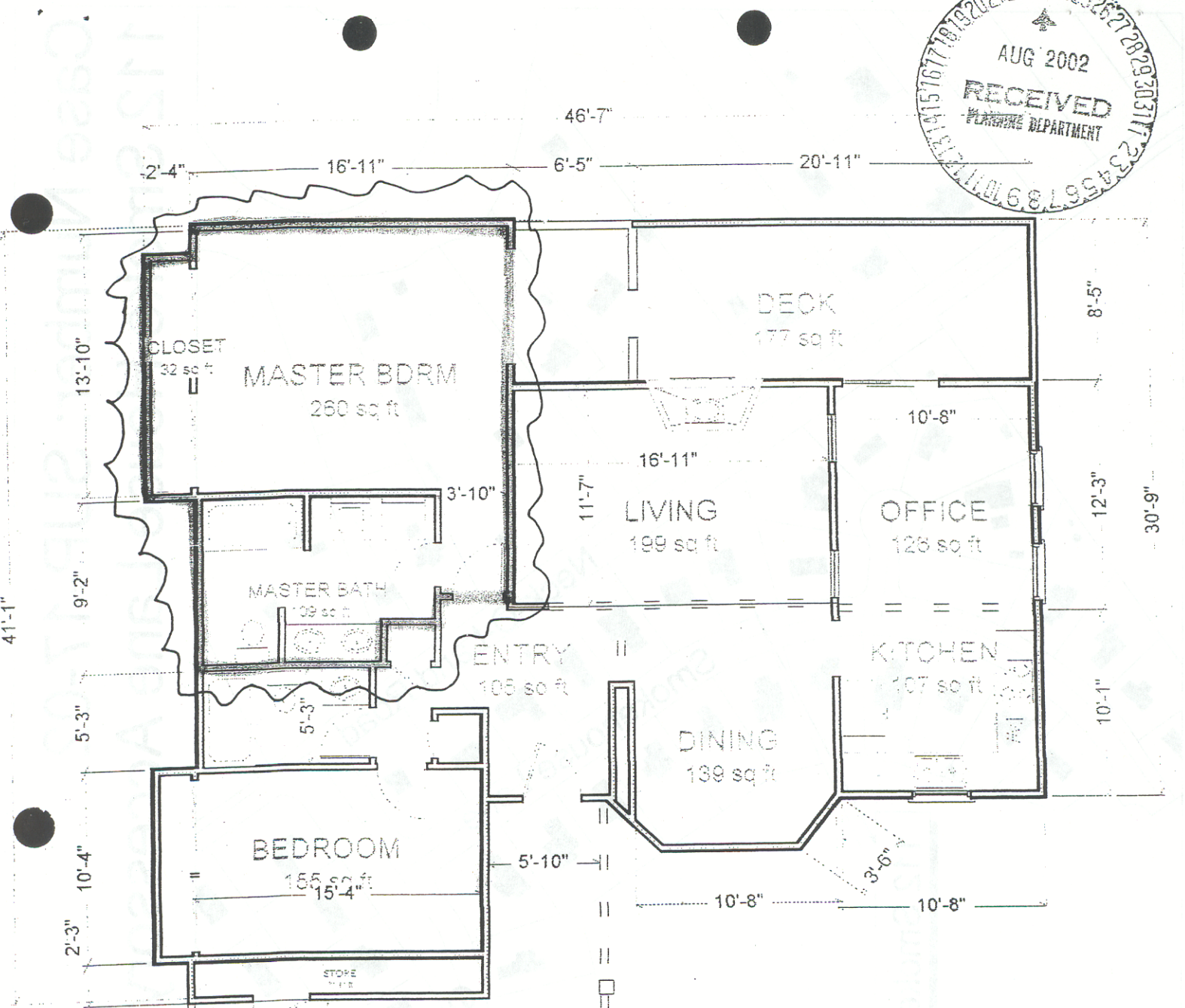
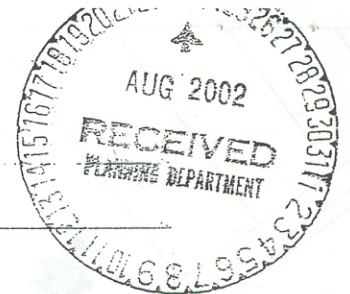
Mr. Wilford Kale seconded.

Mrs. Peggy Wildman noted that she was not in agreement with it, being that the property is zoned R-1.

Mr. Joe Poole noted that the motion and seconded for approval of the special use permit with the five conditions was on the floor.

Mr. Marvin Sowers listed the five conditions.

Mr. Joe Poole called for a roll call vote. In a roll call vote, motion passed (4-3). AYE: Hagee, Hunt, Kale, Poole (4); NAY: Wildman, Billups, McCleary (3).



LIVING AREA
1328 sq ft

ORIGINAL
~~EXISTING~~

112 SMOKE HOUSE LANE

SCALE 1/8" = 1'

JUE

8-22-02

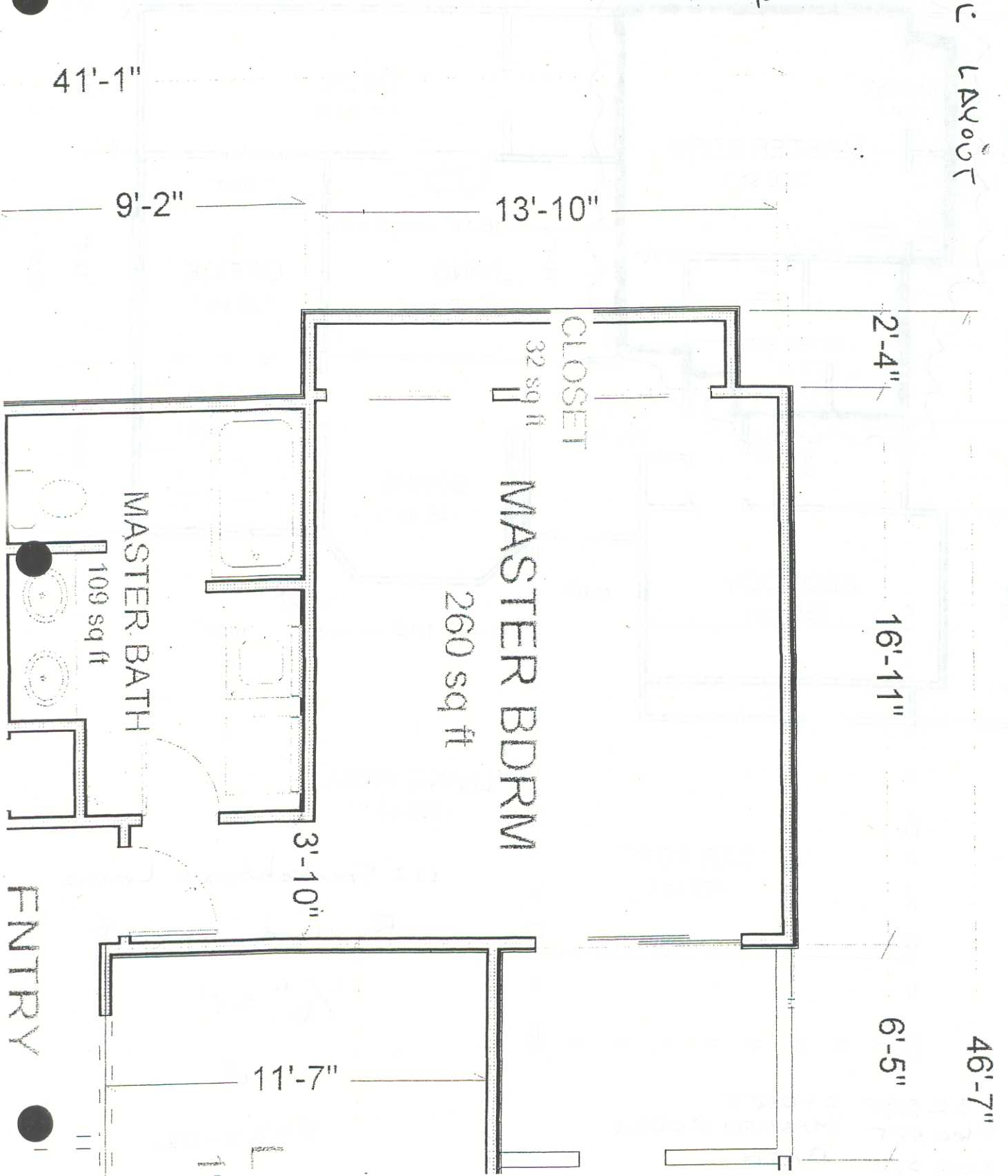
112 Smoke House Lane

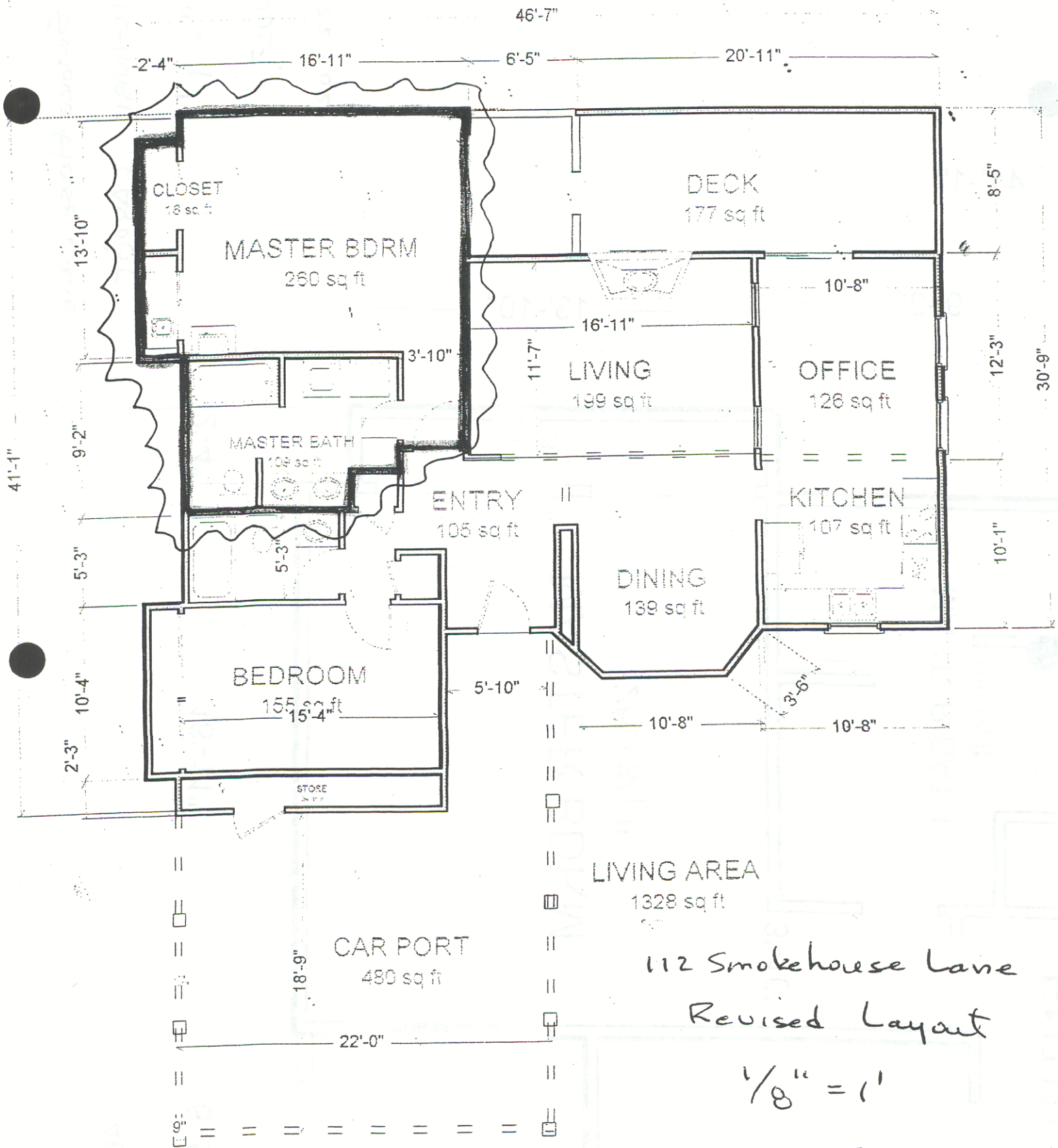
ORIGINAL LAYOUT

1/4" = 1'

OUT

8-22-02





32 SFT CLOSET
 260 SFT MASTER ROOM
 109 SFT BATH
 401 TOTAL $\frac{401}{1290} = 30.1\%$

Revised layout

112 Smoke House Lane

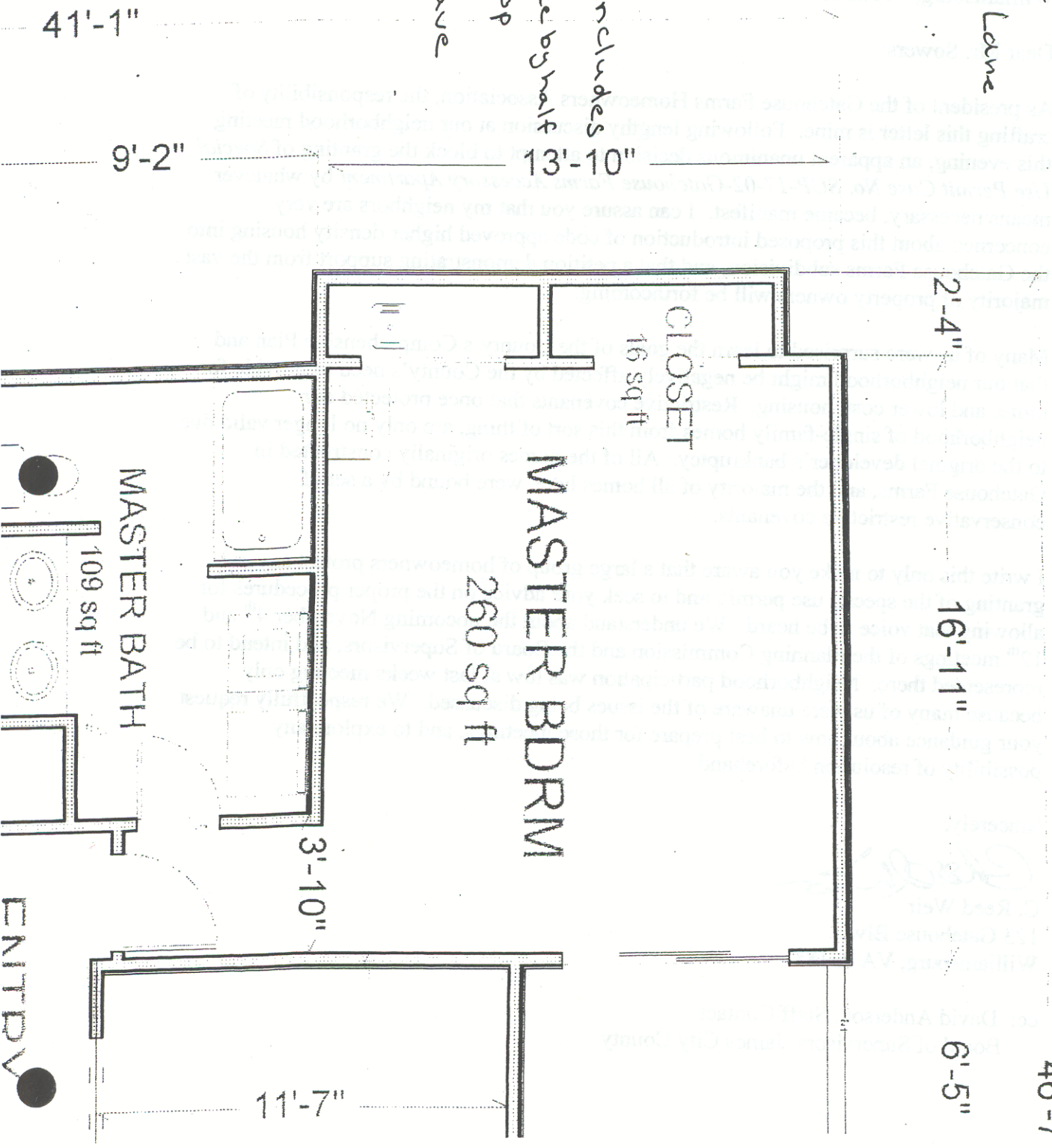
1/4" = 1'

UUE

8-22-02

Revised Layout Includes

- cutting closet space by half
- adding a countertop
- adding a sink
- adding a microwave



SPECIAL USE PERMIT-18-02. Wellspring United Methodist Church Adult Day Care Center Staff Report for the December 10, 2002, Board of Supervisors Public Hearing

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Building C Board Room; County Government Complex
Planning Commission: November 4, 2002, 7:00 p.m.
Board of Supervisors: December 10, 2002, 7:00 p.m.

SUMMARY FACTS

Applicant: Linda Tompkins, on behalf of Wellspring United Methodist Church

Proposed Use: Adult Day Care Center

Location: 4871 Longhill Road; Powhatan District

Tax Map and Parcel No.: (32-4)(1-31)

Primary Service Area: Inside

Parcel Size: 6± acres

Existing Zoning: R-2, General Residential

Comprehensive Plan: Low-Density Residential

Surrounding Zoning: East: Williamsburg Plantation (R-2)
West: Ford's Colony (R-4)
North: Windsor Forest (R-2)
South: Crossroads Youth Home (R-2); King of Glory Church (R-2)

Staff Contact: Christopher M. Johnson - Phone: 253-6685

STAFF RECOMMENDATION:

Staff recommends approval of this application with the attached conditions. Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan. At their meeting on November 4, 2002, the Planning Commission unanimously recommended approval of this application.

History

The Board of Supervisors issued a special use permit in October 2000 to allow an expansion of the church building which added approximately 3,745 square feet of floor area for kitchen and classroom space. Shortly after the completion of construction for the expansion earlier this year, staff received an inquiry from the pastor at Wellspring United Methodist Church regarding the possibility of operating an adult care ministry out of the existing church facility. At that time, adult day care centers were only permitted in business districts (LB, B-1, and PUD). Staff noted the inconsistencies in the zoning ordinance where child day care centers were permitted either by-right or with the issuance of a special use permit and adult day care centers were not permitted and recommended that the Planning Commission initiate consideration of an ordinance amendment to add adult day care centers as a use in the A-1, R-1, R-2, R-5, R-6, R-8, and M-1 zoning districts. Following a positive recommendation from the Planning Commission, on August 13, 2002, the Board of Supervisors approved the ordinance amendment. As a result, in the R-2, General Residential zoning district, adult day care centers are listed as a specially permitted use.

Description of Proposed Use

Ms. Linda Tompkins has applied on behalf of Wellspring United Methodist Church to operate an adult day care center out of the existing church building at 4871 Longhill Road. The adult center would be operated by Ms. Lynn Warner and Ms. Audrey Drake who are professionals currently working with senior adults. The center would provide a safe environment for elderly adults, allowing their children and care providers to keep their employment and provide a much needed break for families who provide round-the-clock care. The center is proposed to be open from the early morning to late afternoon, Monday through Friday, and would serve snacks and lunch for 30-36 adults. It would provide socialization activities, exercise, entertainment, and time for rest. All local and State regulations for this type of service would be met.

Access/Traffic

The church property has a single entrance off Longhill Road (Route 612) which would continue to be utilized. The Virginia Department of Transportation (VDOT) reviewed the existing entrance as part of a site plan review for the recent building additions at the church and did not recommend any improvements. During that plan review, VDOT noted that the width of the right-of-way along this portion on Longhill Road was sufficient to accommodate future changes, should they become necessary. The proposed use will not require any additional parking spaces.

For day care centers, the Institute of Transportation Engineers, Traffic Generation manual anticipates that 0.83 average trips per adult in the a.m. peak hour and 0.80 average trips per adult in the p.m. peak hour. For the expected 30-36 adults at the center, this results in an additional 25-30 peak hour vehicle trips in the a.m. and an additional 24-29 vehicle trips in the p.m. Given the low amount of additional traffic, and the condition of the existing roadway and entrance to the site, staff believes that the additional traffic generated by the proposed use will not negatively impact Longhill Road or the surrounding area.

Utilities

The property is served by public water and a private septic system. The septic tank drainfield is located at the rear of the site and would not need to be enlarged to support the proposed use.

Surrounding Zoning and Development

Crossroads Youth Home and King of Glory Lutheran Church, both zoned R-2, General Residential, are located to the south of the Wellspring Church site. Windsor Forest, zoned R-2, is located to the north of the site and

a portion of Ford's Colony, zoned R-4, Residential Planned Community, is located to the west of the site. Williamsburg Plantation, zoned R-2, is located across Longhill Road east of the site. Staff believes that the proposed use is compatible with surrounding zoning and development as it would operate out of an existing church facility and address a community need by providing a service that is growing in demand.

Comprehensive Plan

The 1997 Comprehensive Plan designates the church property as Low-Density Residential. Low-Density areas are residential developments or land suitable for residential developments with overall densities of up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan.

Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented facilities, and very limited commercial establishments. Nonresidential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located. Very limited commercial establishments, schools, churches, and community-oriented facilities should generally be located on collector roads at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.

As noted above, the existing church is located on an arterial road with adequate capacity to support the proposed use and any future improvements, should they become necessary. With the proposed SUP conditions, staff believes that the application is consistent with the Comprehensive Plan recommendations.

Recommendation

Staff finds that the impacts created by adult day care centers will be similar, if not fewer, than those created by child day care centers, primarily traffic and noise. Given the growing retired and elderly population in the area, the demand for adult day care centers will likely increase in the coming years and facilities such as the one proposed clearly meet this growing community need. The Planning Commission Policy for Adult Day Care Centers does not recommend conditions for proposals not located interior to residential neighborhoods. On November 4, 2002, the Planning Commission unanimously recommended approval of this application. Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan and recommends that the Board of Supervisors approve this application with the conditions listed in the attached resolution.

1. This special use permit shall be valid only for the operation of an adult day care center, as defined by the zoning ordinance, within the existing church building, limited to the hours of operation of 7:00 a.m. - 6:00 p.m., and limited to an enrollment capacity of 36 adults maximum.
2. Operation of the adult day care center shall comply with all State and local codes, requirements, and regulations.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Christopher M. Johnson

CONCUR:

O. Marvin Sowers, Jr.

CMJ/gb
sup-18-02wpd

Attachments:

1. Minutes of the November 4, 2002, Planning Commission public hearing
2. Location Map
3. Planning Commission Adult Day Care Center Policy
4. Resolution

RESOLUTION

CASE NO. SUP-18-02. WELLSRING UNITED METHODIST CHURCH

ADULT DAY CARE CENTER

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Adult day care centers are a specially permitted use in the R-2, General Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 4, 2002, recommended approval of Case No. SUP-18-02 by a vote of 7-0 to permit the operation of an adult day care center out of the existing church building at 4871 Longhill Road and further identified as Parcel No. (1-31) on James City County Real Estate Tax Map No. (32-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-18-02 as described herein with the following conditions:

1. This special use permit shall be valid only for the operation of an adult day care center, as defined by the zoning ordinance, within the existing church building, limited to the hours of operation of 7:00 a.m. - 6:00 p.m., and limited to an enrollment capacity of 36 adults maximum.
2. Operation of the adult day care center shall comply with all State and local codes, requirements and regulations.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

adltdaycare.res

UNAPPROVED MINUTES TO THE NOVEMBER 4, 2002, PLANNING COMMISSION MEETING

CASE NO. SUP-18-02 WELLSPRING ADULT DAY CARE CENTER.

Mr. Christopher Johnson presented the staff report. Ms. Linda Tompkins has applied on behalf of Wellspring United Methodist Church to operate an adult day care center out of the existing church building at 4871 Longhill Road. The adult center would be operated by professionals currently working with senior adults. The center would provide a safe environment for elderly adults, allowing their children and care providers to keep their employment and provide a much needed break for families who provide round-the-clock care. Given the growing retired and elderly population in the area, the demand for adult day care centers will likely increase in the coming years and facilities such as the one proposed clearly meet this growing community need. Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan and recommends that the Planning Commission recommend approval of this application with conditions.

Mr. Joe Poole opened the public hearing.

Ms. Margaret Kutz, Pastor of Wellspring Church, stated that the day care served two purposes, one for the church's own use and second for the community's use. They were very excited about the prospect of this day care center and comfortable with the conditions set forth by staff.

Mr. Wilford Kale asked her if any building additions were needed. He also noted that he lives in the adjacent neighborhood and neighborhood reaction has been very positive.

Ms. Margaret Kutz answered that it looked like no changes would be needed.

Mr. Joe McCleary noted that he visited the facility and it is very well set up.

Ms. Lynn Warner, one of the two registered nurses that will be running the day care center, stated that the day care center was licensed by the Department of Social Services and it would be strictly regulated.

Hearing no further questions, Mr. Poole closed the public hearing.

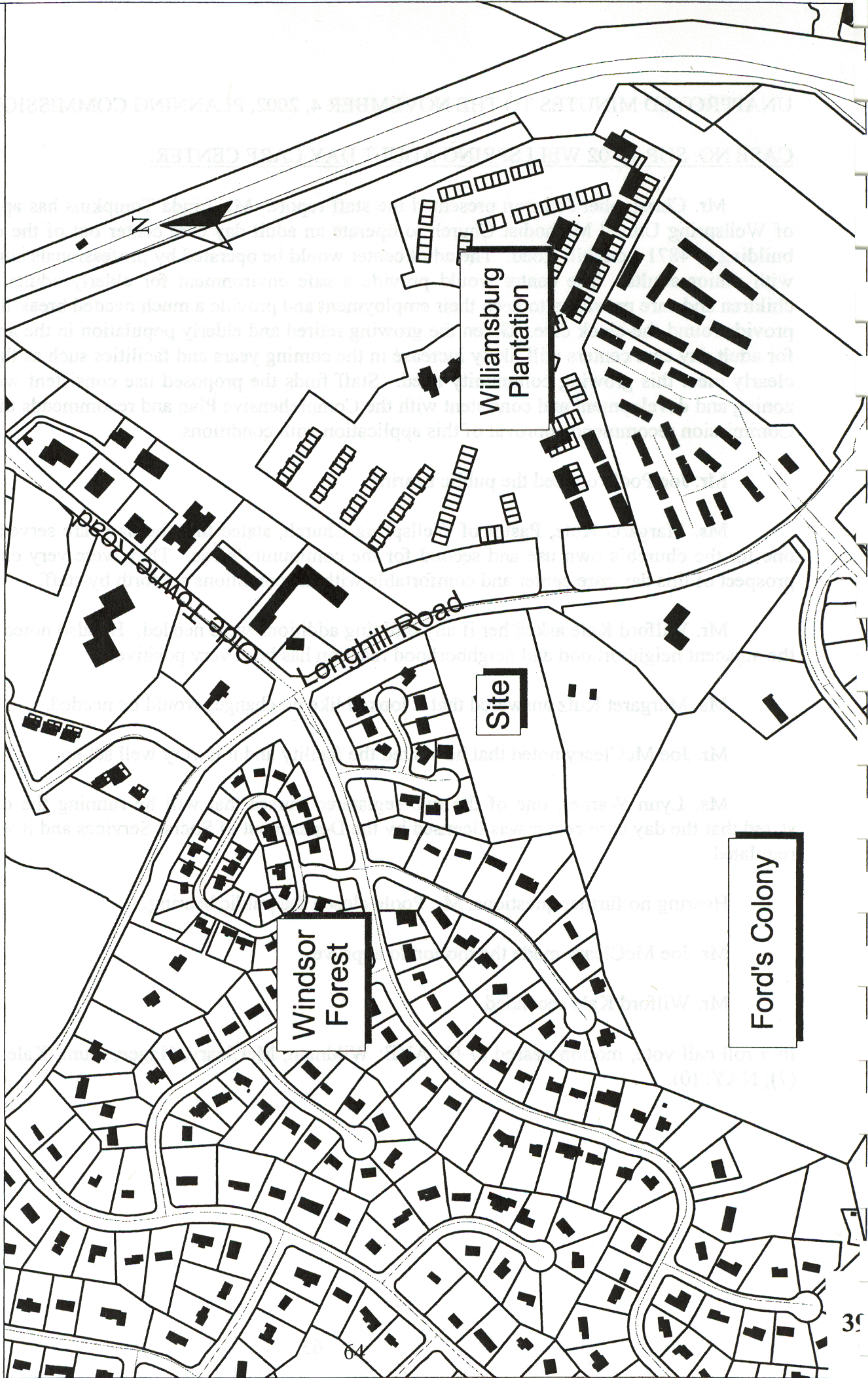
Mr. Joe McCleary made the motion to approve.

Mr. Wilford Kale seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

SUP-18-02

Wellspring Adult Day Care



James City County Planning Commission
Adult Day Care Centers Located in the Interior of Residential Neighborhoods
Adopted September 9, 2002

Policy Committee Recommendation for Adult Day Care Centers Located in the Interior of Residential Neighborhoods:

1. If planning staff determines there are significant impacts on a neighborhood as a result of an adult day care center, staff shall recommend denial of any adult day care center located on a residential lot in the interior of a subdivision.

2. Should the Planning Commission and Board of Supervisors choose to recommend approval of a special use permit or rezoning application for an adult day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:
 - there shall be a three-year time limit in order to monitor the impacts of the day care center;
 - no signage shall be permitted on the property;
 - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

MEMORANDUM

DATE: December 10, 2002

TO: The Board of Supervisors

FROM: O. Marvin Sowers, Jr., Planning Director
Leo P. Rogers, Deputy County Attorney

SUBJECT: Case No. ZO-3-02. Chapter 24 Zoning Ordinance Amendment: Planning Commission Case Review Period

At its November 4, 2002, meeting, the Planning Commission considered an ordinance to amend the amount of time that it has to review rezoning and special use permit (SUP) cases and ordinance amendments. Section 24-13 of the Zoning Ordinance currently allows up to 90 days for Commission review. The amendment would increase the 90-day review period to 100 days as permitted by the Virginia State Code.

Under the current 90-day review period, the number of monthly meetings the Commission has to review a specific case varies from month to month depending on the length of the month and the date of the Commission's monthly meeting. Some months, the Commission must act on a case within two monthly meetings. Other months, the Commission must act within three monthly meetings. For example, a maximum of 90 days to consider a case that began at last September's Commission meeting requires that the case be acted upon by the Commission's December meeting (three meetings). However, a maximum of 90 days to consider a case that began at last October's Commission meeting requires that the case also be acted upon by December (only two meetings). By changing the time period to a maximum of 100 days, the Commission would have three meetings to consider each case. Please note that the Commission is not required to act on a case if an applicant requests deferral for the last meeting within the time period given to act on a case.

During the last three fiscal years (FY 00, FY 01, and FY 02), a total of 160 public hearings were scheduled to consider rezoning and SUP cases at Planning Commission meetings. However, the Commission only deferred three cases at its own initiative (as opposed to the applicant's initiative) during those fiscal years. Two of those deferrals occurred in 2000 and one occurred in 2001. In the first four months of the current fiscal year the need for the Commission to defer a case at its own initiative more than two meetings has come up once. The Commission deferred that case at the first meeting at its own initiative and the applicant requested deferral prior to two subsequent meetings.

Prior to bringing the ordinance amendment to the Planning Commission, staff spoke with local attorneys, local engineering and planning firms, and the Peninsula Home Builders Association to get their opinion about the proposed change to a maximum of 100 days to consider a case. Each indicated that they did not see a problem with the amendment. Although no one supported additional deferrals, they each understood the reason for the change and appreciated the fairness and consistency it would add to the process.

STAFF RECOMMENDATION:

Staff recommends approval of the attached amendment to Section 24-13 of the Zoning Ordinance increasing the Commission's review period from 90 to 100 days. On November 4, 2002, the Planning Commission recommended approval of the ordinance amendment by a vote of 7-0.

O. Marvin Sowers, Jr.

Leo P. Rogers,

OMS/LPR/gb
z0-03-02.mem

Attachments:

1. Unapproved Planning Commission Minutes of November 4, 2002
2. Ordinance

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-13, AMENDMENT OF CHAPTER.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, Article I, In General, is hereby amended and reordained by amending Section 24-13, Amendment of chapter.

Chapter 24. Zoning.

Article I. In General

Section 24-13. Amendment of chapter.

As provided for by section 15.2-2286(7) of the Code of Virginia, the board of supervisors may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations herein established; any such amendment may be initiated by resolution of the board of supervisors or by motion of the planning commission or by petition of any property owner, contract purchaser with the owner's written consent, or the owner's agent therefor of the property which is the subject of the proposed zoning map amendment, addressed to the board of supervisors. Petitions for change or amendment shall comply with the requirements of section 24-23. These changes may be made, provided:

- (4) No plan, ordinance or amendment shall be enacted, amended or re-enacted unless the board of supervisors has referred the proposal to the planning commission for its recommendation or has received the planning commission recommendation. Failure of the planning commission to report ~~90~~ *100* days after the first meeting of the commission after the proposed plan, amendment or reenactment has been referred to the commission *for action* shall be deemed approval. After the public hearing required in subsection (1) above, the board may make appropriate changes or corrections in the ordinance or proposed amendment.

Ordinance to Amend and Reordain
Chapter 24. Zoning
Page 2

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December,
2002.

24-13zoning.ord

UNAPPROVED MINUTES TO THE NOVEMBER 4, 2002, PLANNING COMMISSION MEETING

**CASE NO. ZO-03-02 ZONING ORDINANCE AMENDMENT – PLANNING COMMISSION
CASE REVIEW PERIOD.**

Mr. Marvin Sowers presented the staff report, and indicated the Planning Commission had approved the initiating proposal to amend the Zoning Ordinance at the last Planning Commission meeting in October to extend the Commission's review period from 90 to 100 days for public hearing cases.

Mr. Joe Poole asked for questions from the Planning Commission members. Hearing none, he opened and closed the public hearing.

Mr. John Hagee made the motion to approve.

Mr. Wilford Kale seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

MEMORANDUM

DATE: December 10, 2002

TO: The Board of Supervisors

FROM: David Anderson, Planner

SUBJECT: Cranston's Pond Agricultural and Forestal District - Marston Addition (AFD-6-86)

History

This property is located at 308 Bush Springs Road, further identified as Tax Map No. (22-2)(1-34), and was part of the original Cranston's Pond Agricultural and Forestal District (AFD) formed in 1986. During the 1998 renewal period, the property owner Mr. George Marston chose not to renew this parcel in the AFD. Therefore the property was subject to roll-back taxes covering the years 1993 to 1998. The owner now wishes to place the property back into the AFD.

Surrounding Land Uses and Development

The 14-acre parcel is located approximately 1,000 feet from the end of Bush Springs Road and contains nine acres of timberland and five acres of swampland. The parcel is zoned R-1, Limited Residential, and is surrounded by four undeveloped parcels currently in the Cranston's Pond AFD. To the west of the parcel are several parcels zoned R-8, Rural Residential, that front on Chickahominy Road.

Comprehensive Plan

The Comprehensive Plan designates this parcel as Rural Lands. The majority of parcels within the Cranston's Pond AFD are also designated Rural Lands. One Comprehensive Plan objective calls for protecting and preserving the County's agricultural and forestal lands and activities. The Agricultural and Forestal District program supports this objective.

Utilities

This parcel is located outside of the PSA, so public water and sewer are unavailable.

RECOMMENDATION:

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Cranston's Pond AFD contains 1,073.579 acres. If the 14-acre addition is approved, the District will have 1,087.579 acres. At the October 23 meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. At the November 4, 2002, meeting, the Planning Commission voted 7-0 to recommend approval of the addition. Staff recommends the Board of Supervisors approve the Marston addition to the Cranston's Pond AFD subject to the conditions of the existing District which are as follows:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.

2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

David Anderson

CONCUR:

O. Marvin Sowers, Jr.

DA/gb

MarstonAdd.mem

Attachment:

1. October 23, 2002, AFD Advisory Committee Meeting Minutes
2. November 4, 2002, Planning Commission Minutes
3. Location Map
4. Resolution

ORDINANCE NO. _____

CRANSTON'S POND AGRICULTURAL AND FORESTAL DISTRICT -

MARSTON ADDITION (AFD-6-86)

WHEREAS, an Agricultural and Forestal District has been established in the Cranston's Pond area; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Gordon Creek Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee at its meeting of October 23, 2002, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission following its public hearing on November 4, 2002, unanimously recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia:

1. The Cranston's Pond Agricultural and Forestal District is hereby amended by the addition of the following parcel:

Mr. George Marston	(22-2)(1-34)	<u>14 acres</u>
	Total:	<u>14 acres</u>

provided, however, that all land within 50 feet of the road rights-of-way of Chickahominy Road (Route 631) and Centerville Road (Route 614) shall be excluded from the District.

2. That pursuant to the Virginia Code, Sections 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Casey Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to

Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.

- c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

MarstonAdd.res

AT A REGULAR MEETING OF THE AGRICULTURAL AND FORESTAL DISTRICT ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23rd DAY OF OCTOBER, TWO THOUSAND TWO, AT 4:00 P.M. AT THE HUMAN SERVICES BUILDING, 5249 OLDE TOWNE ROAD, WILLIAMSBURG, VIRGINIA.

1. Roll Call

Members Present

Mr. Ford
Mr. Gilley
Mr. Hunt
Ms. Lowe
Mr. Meadows
Mr. Richardson

Members Excused

Mr. Bradshaw
Ms. Garrett
Mr. Kennedy
Ms. Smith

Also Present

Mr. Anderson, Planner

2. Minutes

Minutes from the previous AFD Committee meetings on February 21, 2002 and July 22, 2002 were approved on a motion by Mr. Ford and seconded by Ms. Lowe.

3. Old Business

No old business was discussed.

4. Renewals

Case No. AFD-6-86. Cranston's Pond (Marston Addition)

Mr. Anderson presented the staff report stating that the owner of a 14-acre parcel, located at 308 Bush Springs Road, wished to add the property into the Cranston's Pond AFD. The parcel was part of the original Cranston's Pond AFD formed in 1986 and during the 1998 renewal period the owner chose not to renew this parcel in the AFD. Therefore the property was subject to roll-back taxes covering the years 1993 to 1998. Staff recommended approval of the addition. No questions arose regarding this addition and Mr. Hunt made a motion to approve the addition, seconded by Ms. Lowe. Upon a roll call vote, the Committee approved the addition, by a vote of 6-0.

Case No. AFD-9-86. Gordon Creek (Kane Addition)

Mr. Anderson presented the staff report stating the owner of five parcels totaling 164.33 acres unintentionally did not renew his property in the Gordon Creek AFD during the 2002 renewal period. Upon realizing his mistake, the property owner contacted the County and initiated an effort to readmit his property back into the AFD. Staff recommended approval of the addition. No questions arose regarding this addition and Mr. Ford made a motion to approve the addition, seconded by Mr. Meadows. Upon a roll call vote, the Committee approved the addition, by a vote of 6-0.

5. New Business

No new business was discussed.

6. Adjournment

There being no further business, Mr. Gilley adjourned the meeting at 4:20 p.m.

Robert E. Gilley, Chairman

Dave Anderson

UNAPPROVED MINUTES TO THE NOVEMBER 4, 2002, PLANNING COMMISSION MEETING

CASE NO. AFD-6-86 CRANSTON'S POND MARSTON ADDITION

Mr. David Anderson presented the staff report. This property is located at 308 Bush Springs Road and was part of the original Cranston's Pond AFD formed in 1986. During the 1998 renewal period, the property owner chose not to renew this parcel in the AFD. Therefore the property was subject to roll-back taxes covering the years 1993 to 1998. The owner now wishes to place the property back into the AFD. The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Cranston's Pond AFD contains 1,073.579 acres. If the 14.00-acre addition is approved, the district will have 1,087.579 acres. At the October 23rd meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. Staff recommends the Planning Committee approve the Marston addition to the Cranston's Pond AFD subject to the conditions of the existing district.

Mr. Joe Poole asked for questions from the Planning Commission members. Hearing none, he opened then closed the public hearing.

Mr. John Hagee made a motion to approve.

Mr. Donald Hunt seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

Case Number: AFD-6-86-1 Cranston's Pond Marston Addition



MEMORANDUM

DATE: December 10, 2002

TO: The Board of Supervisors

FROM: David Anderson, Planner

SUBJECT: Gordon Creek Agricultural and Forestal District - Kane Addition (AFD-9-86)

History

In February of 1995, the Board of Supervisors approved the addition of the Kane property to the Gordon Creek Agricultural and Forestal District (AFD). The Kane property is comprised of five parcels totaling 164.33 acres and further identified as Tax Map Nos. (29-4)(1-3), (30-3)(1-7), (35-2)(1-7), (36-1)(1-1), and (36-1)(1-2). Four of the parcels are located off Jolly Pond Road and one parcel is located off Deerwood Drive. During the 2002 renewal period, Mr. William Kane inadvertently withdrew his property from the Gordon Creek AFD. Upon realizing his mistake, Mr. Kane contacted the County immediately and requested the addition of his property back into the AFD.

Surrounding Land Uses and Development

The five parcels are all zoned A-1, General Agricultural, and are surrounded by similarly zoned property. The only exception being properties to the west of Parcel No. (29-4)(1-3) which are located off Deerwood Drive and zoned R-6, Low-Density Residential.

Comprehensive Plan

The Comprehensive Plan designates this parcel as Rural Lands. The majority of parcels within the Gordon Creek AFD are also designated Rural Lands. One Comprehensive Plan objective calls for protecting and preserving the County's agricultural and forestal lands and activities. The Agricultural and Forestal District program supports this objective.

Utilities

This parcel is located outside of the Primary Service Area (PSA), so public water and sewer are unavailable.

RECOMMENDATION:

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Gordon Creek AFD contains 3,111.340 acres. If the 164.33-acre addition is approved, the District will have 3,275.67 acres. At the October 23 meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. At the November 4, 2002, meeting, the Planning Commission voted 7-0 to recommend approval of the addition. Staff recommends the Board of Supervisors approve the Kane addition to the Gordon Creek AFD subject to the conditions of the existing District which are as follows:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.

2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

David Anderson

CONCUR:

O. Marvin Sowers, Jr.

DA/gb

KaneAdd.mem

Attachments:

1. October 23, 2002, AFD Advisory Committee Meeting Minutes
2. November 4, 2002, Planning Commission Minutes
3. Location Map
4. Resolution

ORDINANCE NO. _____

GORDON CREEK AGRICULTURAL AND FORESTAL DISTRICT -

KANE ADDITION (AFD-9-86)

WHEREAS, an Agricultural and Forestal District has been established in the Gordon Creek area; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Gordon Creek Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee at its meeting of October 23, 2002, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission, following its public hearing on November 4, 2002, unanimously recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia:

1. The Gordon Creek Agricultural and Forestal District is hereby amended by the addition of the following parcels:

Mr. William Kane	(29-4)(1-3)	4.00 acres
	(30-3)(1-7)	8.00 acres
	(35-2)(1-7)	131.00 acres
	(36-1)(1-1)	8.33 acres
	(36-1)(1-2)	<u>13.00 acres</u>
Total:		<u>164.33 acres</u>

provided, however, that all land within 25 feet of the road rights-of-way of News Road, Centerville Road, John Tyler Highway, Bush Neck Road, Jolly Pond Road, and Brick Bat Road shall be excluded from the District.

2. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Gordon Creek Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.

- b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
- c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

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AT A REGULAR MEETING OF THE AGRICULTURAL AND FORESTAL DISTRICT ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23rd DAY OF OCTOBER, TWO THOUSAND TWO, AT 4:00 P.M. AT THE HUMAN SERVICES BUILDING, 5249 OLDE TOWNE ROAD, WILLIAMSBURG, VIRGINIA.

1. Roll Call

Members Present

Mr. Ford
Mr. Gilley
Mr. Hunt
Ms. Lowe
Mr. Meadows
Mr. Richardson

Members Excused

Mr. Bradshaw
Ms. Garrett
Mr. Kennedy
Ms. Smith

Also Present

Mr. Anderson, Planner

2. Minutes

Minutes from the previous AFD Committee meetings on February 21, 2002 and July 22, 2002 were approved on a motion by Mr. Ford and seconded by Ms. Lowe.

3. Old Business

No old business was discussed.

4. Renewals

Case No. AFD-6-86. Cranston's Pond (Marston Addition)

Mr. Anderson presented the staff report stating that the owner of a 14-acre parcel, located at 308 Bush Springs Road, wished to add the property into the Cranston's Pond AFD. The parcel was part of the original Cranston's Pond AFD formed in 1986 and during the 1998 renewal period the owner chose not to renew this parcel in the AFD. Therefore the property was subject to roll-back taxes covering the years 1993 to 1998. Staff recommended approval of the addition. No questions arose regarding this addition and Mr. Hunt made a motion to approve the addition, seconded by Ms. Lowe. Upon a roll call vote, the Committee approved the addition, by a vote of 6-0.

Case No. AFD-9-86. Gordon Creek (Kane Addition)

Mr. Anderson presented the staff report stating the owner of five parcels totaling 164.33 acres unintentionally did not renew his property in the Gordon Creek AFD during the 2002 renewal period. Upon realizing his mistake, the property owner contacted the County and initiated an effort to readmit his property back into the AFD. Staff recommended approval of the addition. No questions arose regarding this addition and Mr. Ford made a motion to approve the addition, seconded by Mr. Meadows. Upon a roll call vote, the Committee approved the addition, by a vote of 6-0.

5. New Business

No new business was discussed.

6. Adjournment

There being no further business, Mr. Gilley adjourned the meeting at 4:20 p.m.

Robert E. Gilley, Chairman

Dave Anderson

UNAPPROVED MINUTES TO THE NOVEMBER 4, 2002, PLANNING COMMISSION MEETING

CASE NO. AFD-9-86 GORDON CREEK KANE ADDITION

Mr. David Anderson presented the staff report. In February of 1995 the Board of Supervisors approved the addition of the Kane property to the Gordon Creek AFD. The Kane property is comprised of five parcels totaling 164.33 acres and further identified as Tax Map Nos. (29-4)(1-3), (30-3)(1-7), (35-2)(1-7), (36-1)(1-1) and (36-1)(1-2). Four of the parcels are located off of Jolly Pond Road and one parcel is located off of Deerwood Drive. During the 2002 renewal period, Mr. Kane inadvertently withdrew his property from the Gordon Creek AFD. Upon realizing his mistake, Mr. Kane contacted the County immediately and requested the addition of his property back into the AFD. The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Gordon Creek AFD contains 3,111.340 acres. If the 164.33-acre addition is approved, the district will have 3,275.67 acres. At the October 23rd meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. Staff recommends the Planning Commission approve the Kane addition to the Gordon Creek AFD subject to the conditions of the existing district.

Mr. Joe Poole asked for questions from the Planning Commission members.

Mr. Donald Hunt asked how the applicant unintentionally withdrew his land from the AFD.

Mr. David Anderson replied that the client filled out the withdrawal form and sent it in without understanding what it was for. If they wanted to keep their land in the AFD designation, they didn't have to send it in.

Mr. Joe Poole opened and closed the public hearing.

Mr. Joe McCleary made a motion to approve.

Mrs. Peggy Wildman seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

Case Number: AFD-9-86-1

Gordon Creek Kane Addition

