

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

October 14, 2003

7:00 p.m.

Page

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE - Sara Kay Knicely, a Junior at Jamestown High School.

D. HIGHWAY MATTERS

E. PUBLIC COMMENT

F. PRESENTATION

1. Planning Commission Annual Report FY 2002-2003

G. CONSENT CALENDAR

1. Minutes
 - a. September 9, 2003, Regular Meeting
 - b. September 20, 2003, Special Meeting
 - c. September 23, 2003, Work Session
2. Strengthening Families Program-Grant
3. Carry Forward of Funds - Records Management System
4. Appropriation - FY 04 Commonwealth Mass Transit Capital Matching Grant (Williamsburg Area Transport)
5. Budget Transfer - Commonwealth Attorney's Office
6. Contingency Transfer - Peninsula Public Health District
7. FY 2005-2010 Six-Year Improvement System

H. PUBLIC HEARINGS

1. Case Nos. Z-6-03 and MP-4-03. New Town Sections 2 and 4 Rezoning Amendment
2. Case Nos. Z-5-03 and MP-6-03. WindsorMeade Marketplace
3. Adoption of the 2000 Edition of the Virginia Statewide Fire Prevention Code
4. Amendments to the FY 2004 Operating and Capital Budgets

I. BOARD CONSIDERATION

1. Yarmouth Creek Watershed Management Plan (Deferred from September 9, 2003)

-CONTINUED-

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. CLOSED SESSION

1. Consideration of the Appointment of Individuals to County Boards and/or Commissions, Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Wetlands Board

N. ADJOURNMENT

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF SEPTEMBER, 2003, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

B. PLEDGE OF ALLEGIANCE

Hannah Bolash, a Junior at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

C. MOMENT OF SILENCE

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

Mr. Harrison recessed the Board for a James City County Transit meeting at 7:02 p.m.

Mr. Harrison reconvened the Board at 7:04 p.m.

D. PRESENTATION

1. 2003 County Fair Report – Loretta Garrett

Ms. Loretta Garrett, County Fair Chair, provided the Board with an overview of the 2003 County Fair attendance and the impact of the inclement weather on the Fair.

The Board and Ms. Garrett discussed the future outlook for the County Fair and the Board's interest to assist the continuance of the Fair financially.

The Board and Ms. Garrett agreed to have the County Fair Committee continue to update staff on the Fair's status and that staff would then in turn keep the Board updated.

E. PUBLIC COMMENT

1. Mr. Jack Barnett, 3900 Poplar Creek Lane, stated concern that staff and team members developing the Yarmouth Creek Watershed Management Plan have not kept landowners apprised of the current watershed restrictions or of the proposed additional buffers on the Resource Protection Area.

Mr. Barnett also requested that since a certain proposed development fell through, that the easement that was conveyed to the County by him as part of the development agreement be returned.

2. Ms. Carolyn Lowe, 50 Summer East, commended those who developed the Yarmouth Creek Watershed Management Plan, requested the Board's approval of the Plan, proposed use of the Purchase of Development Rights program to protect sensitive parts of the watershed, and proposed the establishment of the Friends of Yarmouth Creek Association.

3. Mr. Ed Oyer, 139 Indian Circle, encouraged the development of other watershed management areas such as Skiffe's Creek, commented on an article in the Daily Press regarding denial of developments by York County, and encouraged the focus of the development of the third high school curriculum on solid and basic academics.

4. Mr. Eric Fenley, 153 Brookhaven Drive, representing Mt. Pleasant Church, requested an update on the abandonment agreement for a portion of Old Ironbound Road right-of-way and the request for an alternate layout for the bike path.

Mr. O. Marvin Sowers, Planning Director, stated that the Board deferred action on the abandonment in April and that staff will be ready to bring the item back before the Board in October for consideration.

F. CONSENT CALENDAR

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

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

1. Minutes –

a. August 12, 2003, Work Session

b. August 12, 2003, Regular Meeting

2. Appointment of Alternate to the Virginia Peninsulas Public Service Authority Board

RESOLUTION

APPOINTMENT OF ALTERNATE TO VIRGINIA PENINSULAS

PUBLIC SERVICE AUTHORITY BOARD

WHEREAS, the County Administrator is appointed as the County's representative on the Virginia Peninsulas Public Service Authority (VPPSA) Board of Directors; and

WHEREAS, there are occasions that the representative is unable to attend VPPSA meeting.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that John T. P. Horne is appointed as the County's alternate to the VPPSA Board.

3.a. Dedication of Streets in Wexford Hills

RESOLUTION

DEDICATION OF STREETS IN WEXFORD HILLS

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

WHEREAS, the County guarantees the necessary surety amount of \$16,500 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the streets and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the streets are added to the Secondary System of State Highways.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED, this Board hereby rescinds the resolution adopted August 12, 2003, requesting dedication of these same streets into the Secondary System of State Highways.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3.b. Dedication of Red Oak Landing Road and Raleigh Street

RESOLUTION

DEDICATION OF RED OAK LANDING ROAD AND RALEIGH STREET

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on a plat recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition; and

WHEREAS, the County guarantees the necessary surety amount of \$3,750 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the streets and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the streets are added to the Secondary System of State Highways.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3.c. Dedication of Street in Temple Hall Estates

RESOLUTION

DEDICATION OF A STREET IN TEMPLE HALL ESTATES

WHEREAS, the street described on the attached Additions Form SR-5(A), fully incorporated herein by reference, is shown on a plat recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition; and

WHEREAS, the County guarantees the necessary surety amount of \$3,750 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the street and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the street is added to the Secondary System of State Highways.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation add the street described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

4. Office of Emergency Medical Services Grant Award

RESOLUTION

OFFICE OF EMERGENCY MEDICAL SERVICES GRANT AWARD

WHEREAS, the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services has approved a Rescue Squad Assistance Grant providing \$3,000 to the Fire Department for medical fluid temperature control equipment for fire apparatus; and

WHEREAS, local matching funds of \$3,000 are available in the Donation Trust Fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendment to the Special Projects/Grants Fund:

Revenue:

Transfer from Donation Trust Fund	\$3,000
Office of Emergency Medical Services	<u>3,000</u>
Total	<u>\$6,000</u>

Expenditure:

EMS Medical Equipment - FY 04	<u>\$6,000</u>
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5. Award of Contract – Ambulance Replacement

RESOLUTION

AWARD OF CONTRACT - AMBULANCE REPLACEMENT

WHEREAS, funds are available in the Capital Improvement Program budget for the purchase of a replacement ambulance; and

WHEREAS, bids for the purchase of the ambulance were received on April 15, 2002, with Performance Specialty Vehicles, LLC, submitting a responsive bid of \$119,461; and

WHEREAS, the bid included a contract extension provision for future purchases through calendar year 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract between James City County and Performance Specialty Vehicles, LLC, in the amount of \$124,355.14.

6. Appropriation of Funds – Department of Criminal Justice Services, One Time Special Request Fund Grant

RESOLUTION

APPROPRIATION OF FUNDS - DEPARTMENT OF CRIMINAL JUSTICE SERVICES,

ONE TIME SPECIAL REQUEST FUND GRANT

WHEREAS, James City County has received a One Time Special Request Fund Grant from the Department of Criminal Justice Services in the amount of \$1,870; and

WHEREAS, the grant will allow for the purchase of hitched bike racks for the Community Services Unit Bike Patrol Officers; and

WHEREAS, local matching funds of \$467 are available in the Police Department budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and the following budget amendments and changes in appropriations to the Special Projects/Grants Fund:

Revenues:

Department of Criminal Justice Services	\$1,403
Police Department Budget	<u>467</u>
	<u>\$1,870</u>

Expenditure:

Department of Criminal Justice Services	
One Time Special Request Fund Grant	<u>\$1,870</u>

7. Appropriation of Funds – U. S. Bureau of Justice Assistance Block Grant

RESOLUTION

APPROPRIATION OF FUNDS - U.S. BUREAU OF JUSTICE ASSISTANCE BLOCK GRANT

WHEREAS, James City County has received a Local Law Enforcement Block Grant from the Bureau of Justice Assistance in the amount of \$14,529; and

WHEREAS, the grant will allow for purchase of law enforcement training, technology, and equipment; and

WHEREAS, local matching funds of \$1,614 are available in the Police Department budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and the following budget amendments and changes in appropriations to the Special Projects/Grants Fund:

Revenues:

Bureau of Justice Assistance	\$14,529
Police Department Budget	<u>1,614</u>
	<u>\$16,143</u>

Expenditure:

Bureau of Justice Assistance	
Local Law Enforcement Block Grant	<u>\$16,143</u>

8. Chesapeake Bay Gateways Network Grant

RESOLUTION

CHESAPEAKE BAY GATEWAYS NETWORK GRANT

WHEREAS, the Chesapeake Bay Gateways Network, in cooperation with the National Park Service’s Chesapeake Bay Program Office, has made 50/50 matching funds available for the development of gateway sites; and

WHEREAS, funds are needed to make site improvements to include refurbishing an existing boat ramp, regrading and adding vegetative plantings, constructing a floating pier, and creating a kiosk and interpretive signs at James City County’s Chickahominy Riverfront Park.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$51,200 grant awarded by the Chesapeake Bay Gateways Network as funded by the National Park Service to help with the improvements at the Chickahominy Riverfront Park.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following Capital Budget appropriation:

Revenues:

Chesapeake Bay Gateways Grant - CRFP \$51,200

Expenditures:

Chickahominy Riverfront Park \$51,200

- 9. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – G. Baxter Stanton, Barry L. Hale, Richard F. Scott, and David R. Baldwin

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION - CIVIL CHARGE -

G. BAXTER STANTON, BARRY L. HALE, RICHARD F. SCOTT, AND DAVID R. BALDWIN

WHEREAS, G. Baxter Stanton, Barry L. Hale, Richard F. Scott, and David R. Baldwin are the owners (“Owners”) of a certain parcel of land, commonly known as 278 Ivy Hill Road, designated as Parcel No. (1-13) on James City County Real Estate Tax Map No. (11-3), hereinafter referred to as the (“Property”); and

WHEREAS, on or about April 24, 2003, trees and understory vegetation were removed from the Resource Protection Area (RPA) on the Property; and

WHEREAS, the Owners agreed to a Restoration Plan to replant 600 seedlings per acre on the Property, within areas of the RPA buffer impacted by the silvicultural activities, in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance and the Owners have provided surety to the County to guarantee the completion of the restoration for the RPA on the Property; and

WHEREAS, the Owners have agreed to pay \$5,000 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 in full 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 \$5,000 civil charge from the Owners as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

10. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Denton and Elsie Woodward

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - DENTON AND ELSIE WOODWARD

- WHEREAS, Denton and Elsie Woodward are the owners of a certain parcel of land, commonly known as 5224 Ivey Lane, designated as Parcel No. (2-5) on James City County Real Estate Tax Map No. (8-30); hereinafter referred to as the (“Property”); and
- WHEREAS, on or about May 30, 2003, understory vegetation consisting of 63 trees and shrubs were removed from the Resource Protection Area on the Property; and
- WHEREAS, Denton and Elsie Woodward agreed to a Restoration Plan to replant 140 trees and shrubs, on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance; and
- WHEREAS, Denton and Elsie Woodward have agreed to pay \$3,000 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 in full 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 \$3,000 civil charge from Denton and Elsie Woodward as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

11. Underground Utility Agreement – Dominion Virginia Power

RESOLUTION

UNDERGROUND UTILITY AGREEMENT - DOMINION VIRGINIA POWER

- WHEREAS, the James City County Board of Supervisors determined that placing certain overhead utilities underground would enhance the scenic beauty of James City County; and
- WHEREAS, staff has worked with Dominion Virginia Power to accomplish this work at several locations in the County; and
- WHEREAS, Dominion Virginia Power has completed design and is ready to move ahead with construction of the project on Route 5 in the vicinity of Williamsburg Crossing Shopping Center.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into an agreement with Dominion Virginia Power in the amount of \$194,543.25.

12. Code Violation Lien – 136 Magruder Avenue

RESOLUTION

CODE VIOLATION LIEN - 136 MAGRUDER AVENUE

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owners and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Properties to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT:	Ronnie Dean Carter 136 Magruder Avenue Williamsburg, VA 23185
DESCRIPTION:	136 Magruder Avenue
TAX MAP NO.:	(59-1)(02-0-0013-)
FILING FEE:	\$ 5.00
TOTAL AMOUNT DUE:	\$3,840.00

G. PUBLIC HEARINGS

1. Case No. SUP-15-03. Custom Culinary Connections: Barnes Road

Mr. Matthew Arcieri, Planner, stated that Jeffrey and Christy Aczel applied for a special use permit (SUP) to construct and operate a catering kitchen adjacent to their existing residence on two acres zoned A-1, General Agricultural, at 8757 Barnes Road, further identified as Parcel No. (1-22C) on the James City County Real Estate Tax Map No. (10-1).

Staff found the proposal to be consistent with the surrounding zoning and development and, with the proposed conditions, consistent with the Rural Lands Development Standards of the 1997 Comprehensive Plan and with the 2003 Comprehensive Plan.

The Planning Commission, at its meeting on August 4, 3003, recommended approval of the SUP application by a vote of 5-0.

Staff recommended approval of the special use permit with conditions.

Mr. Harrison opened the Public Hearing.

1. Ms. Nancy McNelly, 203 Riverview Plantation Drive, stated support for the proposal and its potential benefits to the community, and requested the Board's approval of the application.

As no one else wished to speak to this matter, Mr. Harrison closed the Public Hearing.

Mr. Kennedy made a motion to adopt the resolution.

Mr. Kennedy stated concern about the potential for traffic impacts with the entrance to the site being close to a blind curve.

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

RESOLUTION

CASE NO. SUP-15-03. CUSTOM CULINARY CONNECTIONS: BARNES ROAD

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, food processing and storage is a specially permitted use in the A-1, General Agricultural, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 4, 2003, recommended approval of Case No. SUP-15-03 by a 5-0 vote to permit the construction and operation of a catering kitchen adjacent to the existing residence at 8757 Barnes Road and further identified as Parcel No. (1-22C) on James City County Real Estate Tax Map No. (10-1).

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-15-03 as described herein with the following conditions:

1. This Special Use Permit shall be valid for the operation of a detached catering kitchen of up to 2,000 square feet and accessory uses thereto. No articles shall be displayed or otherwise offered for sale upon the premises. The existing residence shall continue to be used primarily as a single-family dwelling with any exterior modifications approved by the Planning Director.
2. The property shall be developed generally in accordance with the master plan submitted with the application, with minor changes, including the location, design, and landscaping of the driveway and parking in order to effectively screen it from Barnes Road, approved by the Planning Director.
3. Only one entrance shall be allowed onto Barnes Road.
4. A minimum 75-foot undisturbed buffer, free of structures and paving, shall be provided along Barnes Road with the exception of clearing necessary for improvements to the existing driveway. Tree clearing on the entire property shall be limited to the minimum necessary to accommodate the catering kitchen and

related driveway, entrance improvements, and facilities as determined by the Planning Director.

5. Prior to final site plan approval, architectural elevations, building materials, and colors, shall be submitted to the Director of Planning for review and approval for all structures on the site. The intent of this condition is to ensure that all future buildings on the site are uniform and compatible with existing structures in terms of design, materials, and colors, have a residential appearance, and are designed for minimal visual impact.
6. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.
7. One freestanding sign shall be permitted on the site. The sign shall be ground mounted and shall not exceed a cumulative size of 16 square feet or a height of six feet and approved by the Planning Director. The sign shall not be illuminated.
8. Construction on this project shall commence within twenty-four months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundations.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Tax Increase – Real Property

Ms. Suzanne R. Mellen, Director of Budget and Accounting, stated that the Real Estate Land Book has been completed and notices have been mailed to all James City County property owners where changes in assessment has occurred; and that the total valuation exceeds the assumptions built into the Fiscal Year 2004 Budget adopted by the Board in April by approximately \$158,760.

Ms. Mellen provided the deadline dates for real property appeals as September 30, 2003, to appeal to the Office of Real Estate Assessments and October 30, 2003, to appeal to the Board of Equalization.

Ms. Mellen stated that the increase in amount of value deferred due to the Land Use is a combination of substantial increases in market value of acreage parcels and the reduction of the use rates issued by the State, and requested the Board reaffirm the tax rate of \$.87 per \$100 of the assessed value of the property.

The Board and staff discussed the Debt Services cost, Land Book Values, impacts of reducing the tax rate by 1 cent, impacts of anticipated revue levels, the benefits of a Contingency Fund and how it has been used in the past.

Mr. Harrison opened the Public Hearing.

1. Mr. Lee Reed, 2245 Lake Powell Road, requested the Board remember the citizens on fixed incomes and requested the Board freeze the tax value on homes.

2. Mr. Donald S. Baker, 107 Formby, requested the Board keep in mind the future planning when it considers assessments and budgets.

3. Mr. Ed Kissell, 5 Berkeley Circle, requested the Board look at the inequity of the tax assessment within neighborhoods and keep assessments within reason.

4. Mr. Bob Warren, 104 Gullane, stated that the effective tax rate has been rising and that his rate has increased 40 percent in the past five years to a rate of \$1.22 and stated opposition to the increasing property tax assessments.

5. Mr. Ed Oyer, 139 Indian Circle, stated opposition to his real property assessment taxes increasing by 25 percent over the past two years while there are still trailers on the fence line and sewers on the other side of the circle.

As no one else wished to speak to this matter, Mr. Harrison closed the Public Hearing.

Mr. Brown made a motion to adopt a revised resolution to reduce the real property tax rate for FY 2004 to 86 cents per \$100 of assessed value.

The Board and staff held a discussion regarding the motion including factors such as the General Fund Balance, annual debt services, fiscal impacts of a proposed third high school, tax exemptions available to citizens, impacts of developments on property values and assessments; and other possibilities that would affect real property taxes such as cash proffers on new developments, affordable housing, possibility of other revenue sources, and funding the School Budget.

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

RESOLUTION

TAX DECREASE – REAL PROPERTY

WHEREAS, the Board of Supervisors has adopted a budget for the Fiscal Year 2004 and appropriated funds based on a real estate tax rate of 87 cents per \$100 of assessed value; and

WHEREAS, the Real Estate Land Book, issued with an estimate of values as of July 1, 2003, shows total billable, taxable property assessments increased by \$469,574,000 (8.5 percent) and 57 percent of that increase resulted from changes in the reassessment of property values; and

WHEREAS, the increases due to reassessment constitute a tax increase despite the fact that the current tax rate has not changed; and

WHEREAS, the Board of Supervisors notes that sufficient unencumbered funds are available to offset a one cent per \$100 of assessed value reduction in the real property tax rate appropriated for the current FY 2004 budget; and

WHEREAS, the Board of Supervisors further notes that market-driven James City County real property annual reassessments have been rising at rates significantly higher than the combined rates of growth and cost of living.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby changes the real property tax rate for FY 2004 to 86 cents per \$100 of assessed value from the 87 cents per \$100 of assessed value established in the FY 2004 adopted budget.

Mr. Harrison recessed the Board for a brief break at 8:37 p.m.

Mr. Harrison reconvened the Board at 8:48 p.m.

Mr. Wanner stated that staff will advertise a public hearing on a FY 04 Budget amendment to be held during the October 14 Board meeting.

H. BOARD CONSIDERATION

1. Yarmouth Creek Watershed Management Plan

Mr. John T. P. Horne, Acting General Services Manager, presented the Yarmouth Creek Watershed Management Plan (Plan) and an executive summary of the Plan as developed by staff with the assistance of the Center for Watershed Protection and the James River Association, and input from landowners and other stakeholders.

The Board and staff discussed the composition of members serving on the Stormwater Management Citizen Advisory Committee, buffer requirements in the Plan, notification and invitations to all affected property owners of meetings regarding the Plan, and opportunities to utilize the Purchase of Development Rights Program for preserving parts of the Watershed.

Mr. Kennedy requested the Board defer action on this item until October 14, during which time he would have an opportunity to meet with concerned stakeholders regarding the Plan.

Mr. Wanner stated that Newport News Waterworks would partner with the County regarding Little Creek Reservoir issues and impacts to the Watershed.

The Board discussed deferring action to September 23 rather than October 14 and holding a Work Session with the Stormwater Management Citizen Advisory Committee regarding the development of Priority No. 3 of the Plan.

The Board concurred to defer action on the Plan until September 23.

I. PUBLIC COMMENT - None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. McGlennon introduced the group of the SHARPE Program participants in attendance.

Mr. Wanner stated that September 11 is the United Way Day of Caring.

Mr. Wanner recommended the Board to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider personnel matters, the appointments of individuals to County Boards and/or Commissions.

K. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon, without objection from the Board, recommended the Board not go into Closed Session and made a motion to reappoint Betty Costa to the Williamsburg Arts Commission for a three-year

term, term to expire on August 31, 2006; and to reappoint Betty Cutts to a three-year term on the Williamsburg Area Performing Arts Center, term to expire on July 1, 2006.

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

Mr. Kennedy advised staff to keep a close eye on the Skate Park and if the lack of supervision at the site becomes a concern, that staff promptly act as not to lower the County's safety standards.

Mr. Kennedy requested a letter be sent to all the election candidates to notify them of guidelines for posting political signs along right-of-ways.

Mr. Wanner stated that staff will follow up with the Virginia Department of Transportation regarding the political signs along right-of-ways and stated that the unsupervised Skate Park is a pilot program and would be regulated if needed.

Mr. Harrison stated that he has arranged for a Board tour of the Highland Springs Tech Center on September 17 if the Board is interested in viewing an alternative for the proposed third high school facility.

Mr. Wanner recommended that if a quorum would be present during the tour, that the Board recess to 8 a.m. on September 17 at the conclusion of this meeting.

Mr. Kennedy stated that on September 20 and 27 there will be the Grove and Chickahominy Days and invited citizens to attend.

Mr. Harrison requested invitations be extended to members of the School Board to attend the tour of the Highland Springs Tech Center.

Mr. Wanner stated that he would notify the School Superintendent to invite the School Board.

L. RECESS

Mr. Kennedy made a motion to recess to 8:00 a.m. on September 17, 2003.

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

Mr. Harrison recessed the Board at 9:07 p.m.

Sanford B. Wanner
Clerk to the Board

AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 20TH DAY OF SEPTEMBER, 2003, AT 9:02 A.M. IN THE EMERGENCY OPERATIONS CENTER, 3127 FORGE ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jay T. Harrison, Sr., Chairman, Berkeley District, arrived at 9:06 a.m.
Bruce C. Goodson, Vice Chairman, Roberts District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
James G. Kennedy, Stonehouse District

Sanford B. Wanner, County Administrator
Leo P. Rogers, Deputy County Attorney

B. SPECIAL MEETING

1. Declaration of a Local Emergency

Mr. McGlennon made a motion to adopt the Declaration of a Local Emergency Resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy (4). NAY: (0).
ABSENT: Harrison (1).

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of the County of James City, Virginia, does hereby find as follows:

1. That due to the occurrence of Hurricane Isabel, the County of James City is facing a condition of extreme peril to the lives, safety, and property of the residents of James City County; and
2. That as a result of this extreme peril, the proclamation of the existence of an emergency is necessary to permit the full powers of government to deal effectively with this condition of peril; and

WHEREAS, the Director of Emergency Management declared a local emergency on September 16, 2003.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of James City Virginia, that a local emergency now exists throughout the County of James City.

NOW, THEREFORE, BE IT FURTHER RESOLVED that during the existence of this emergency, the powers, functions, and duties of the Director of Emergency Management and the Emergency Management organization and functions of the County of James City shall be those prescribed by the laws of the Commonwealth of Virginia and the ordinances, resolutions, and approved plans of the County of James City in order to mitigate the effects of said emergency.

Mr. Wanner provided the Board with an update on the issues facing the County as a result of Hurricane Isabel including: power restoration, water concerns, shelters, and debris management.

At 9:15 a.m. the Board received an Emergency Operations Center briefing.

C. RECESS

Mr. McGlennon made a motion to recess until 4 p.m. on September 23, 2003.

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

At 9:41 a.m. Mr. Harrison recessed the Board until 4 p.m. on September 23, 2003, for a Work Session.

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 23RD DAY OF SEPTEMBER, 2003, AT 4:00 P.M. IN ROOM A OF THE JAMES CITY/WILLIAMSBURG COMMUNITY CENTER, 5301 LONGHILL ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

Doug Powell, Acting Assistant County Administrator
Frank M. Morton, III, County Attorney

B. BOARD DISCUSSION

1. Chesapeake Bay Preservation Ordinance Update

Mr. Darryl Cook, Environmental Director, provided the Board with a brief overview of the update on the Chesapeake Bay Preservation Ordinance.

2. Update on the Response to Hurricane Isabel

Staff provided the Board with an update on the County's response to Hurricane Isabel including: debris management, power restoration, emergency food, water and ice distribution for citizens, shelters, the water situation, and reopening of County offices.

C. RECESS

Mr. McGlennon made a motion to recess until 4 p.m. on October 14, 2003.

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

At 4:56 p.m. Mr. Harrison recessed the Board until 4 p.m. on October 14, 2003, for a Work Session.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: October 14, 2003
TO: The Board of Supervisors
FROM: Nancy Ellis, Superintendent of Recreation/Director of Youth Services
SUBJECT: Strengthening Families Program - Grant

James City County has received a \$4,025 grant from the Historic Triangle Substance Abuse Coalition to implement the Strengthening Families Program. This free program is for parents or caregivers and their youth, ages 10 to 14 years old, to help parents with their parenting skills and assist youth in developing skills in handling peer pressure. The grant will pay for the entire cost of the program.

Staff recommends approval of the attached resolution appropriating the funds for the program.

Nancy Ellis

CONCUR:

Anthony Conyers, Jr.

NE/gs
familygrant.mem

Attachment

RESOLUTION

STRENGTHENING FAMILIES PROGRAM - GRANT

WHEREAS, James City County has received a grant to implement the Strengthening Families Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenue:

Historic Triangle Substance Abuse Coalition \$4,025

Expenditure:

Office of Community Services \$4,025

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2003.

familygrant.res

MEMORANDUM

DATE: October 14, 2003
TO: The Board of Supervisors
FROM: Kenneth W. Middlebrook, Deputy Chief of Police
SUBJECT: Carry Forward Funds – Records Management System

The Department of Criminal Justice Service (DCJS) awarded a Records Management Grant during FY 02 to the Police Department in the amount of \$134,900 (\$101,175 DCJS funds and \$33,725 in matching funds). The Police Department added an additional \$36,500 for training, travel, and equipment purchases that weren't covered by the Grant. The Grant was accepted on January 8, 2002, by the Board of Supervisors. Since that time, \$150,588 has been expended or obligated. It is requested that the remaining \$20,812 be declared a continuing appropriation into the FY 04 Budget for completion of this project.

Staff recommends approval of the attached resolution.

Kenneth W. Middlebrook

KWM/gb
grantDCJS.mem

Attachment

RESOLUTION

CARRY FORWARD FUNDS – RECORDS MANAGEMENT SYSTEM

WHEREAS, the Police Department applied for and received a grant from the Department of Criminal Justice Services for a new Records Management System in the amount of \$134,900 in FY 2002; and

WHEREAS, the Police Department added an additional \$36,500 for training, travel, and equipment purchases that weren't covered by the grant; and

WHEREAS, the Board of Supervisors approved the acceptance of the grant and the necessary matching funds on January 8, 2002; and

WHEREAS, the Police Department will have expended or obligated \$150,588 of any grant funds by June 30, 2003.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, declare \$20,812 as a continuing appropriation from the FY 03 Police Department's budget (001-062-0530) to be carried forward to the FY 04 Budget for the purpose of completing the Records Management System.

Jay T. Harrison, Jr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2003.

grantDCJS.res

MEMORANDUM

DATE: October 14, 2003

TO: The Board of Supervisors

FROM: Richard Drumwright, Transit Director

SUBJECT: Appropriation - FY 04 Commonwealth Mass Transit Capital Matching Grant (Williamsburg Area Transport)

Funding for Williamsburg Area Transport is provided by the Commonwealth of Virginia to help offset local contribution for public transportation capital needs. The Virginia Department of Rail and Public Transportation approved a capital matching grant of \$85,000 for additional bus stop shelters and two operational support vehicles.

Matching grant revenues includes \$68,000 in pass-through Federal Revenues and \$6,800 in State matching revenues, requiring a local contribution of \$10,200. The \$10,200 in local match can be met through \$17,600 in proceeds from sale of replaced buses.

These resources are important to operations, and thus staff recommends approval of the attached resolution authorizing the receipt of these grant funds.

Richard Drumwright

CONCUR:

Anthony Conyers, Jr.

RD/gb
appropriation04.mem

Attachment

RESOLUTION

APPROPRIATION - FY 04 COMMONWEALTH MASS TRANSIT

CAPITAL MATCHING GRANT (WILLIAMSBURG AREA TRANSPORT)

WHEREAS, the Commonwealth of Virginia has made matching capital revenues available to assist public transportation; and

WHEREAS, the Board of Supervisors is desirous of securing said funds in support of Williamsburg Area Transport operations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to accept this capital award in the amount of \$85,000 for bus shelters and two operational support vehicles.

BE IT FURTHER RESOLVED that the Board of Supervisors makes the following appropriation to the FY 04 Williamsburg Area Transport Budget:

Revenues:

Federal Matching Funds	\$68,000
State Matching Funds	6,800
Local Matching Funds	<u>10,200</u>
	<u>\$85,000</u>

Expenditure:

Williamsburg Area Transport	<u>\$85,000</u>
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Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2003.

appropriation04.res

MEMORANDUM

DATE: October 14, 2003
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Budget Transfer - Commonwealth Attorney's Office

Commonwealth Attorney Mike McGinty seeks to hire an experienced attorney to replace Deputy Commonwealth Attorney Rich Rizk. Mr. Rizk is resigning to go into private practice after seven years with the Commonwealth Attorney's Office.

The candidate to fill the vacancy that the Commonwealth Attorney would like to hire has 11 years experience as a prosecutor with another Virginia locality. She is mature, has an excellent record in court, has received positive references from judges with whom she has worked, and has ties to our community. As an African-American, she also presents an exciting opportunity to add diversity to the staff.

The State Compensation Board, the primary funding source for the Commonwealth Attorney's Office, will not provide sufficient funds to match this individual's current salary. Using just Compensation Board funding, the individual would realize a pay cut of over \$14,500. I am requesting a transfer from Operating Contingency to cover the difference so that the individual can maintain current salary.

Staff recommends that the Board of Supervisors approve the attached resolution authorizing the transfer of \$14,615 from Operating Contingency to the Commonwealth Attorney's Office.

Sanford B. Wanner

SBW/gs
attyhire.mem

Attachment

RESOLUTION

BUDGET TRANSFER - COMMONWEALTH ATTORNEY'S OFFICE

WHEREAS, the position of Deputy Commonwealth Attorney is vacant; and

WHEREAS, an experienced prosecutor from a neighboring locality is qualified for the position; and

WHEREAS, additional funding in the amount of \$14,615 is needed to match her current salary; and

WHEREAS the necessary funds are available in Operating Contingency.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that \$14,615 in funds budgeted in FY 2004 Operating Contingency be transferred to the Commonwealth Attorney's Office.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of
October, 2003.

attyhire.res

MEMORANDUM

DATE: October 14, 2003
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Contingency Transfer - Peninsula Public Health District

The Health Director of the Peninsula Health District, has advised the County that the State has provided additional funds for salary and the Virginia Retirement System (VRS) increases over and above what was originally estimated last spring when the budget submittal was presented to the member jurisdictions.

The Health District has also made some adjustments in the cost-allocation formulas for certain services, notably those relating to environmental health. The County, under the contract it has with the Health District and the other four district jurisdictions, needs to match the additional State funds and allocate additional funds based on usage. The total additional funding needed is \$24,836 and a request is attached that would transfer those funds from Operating Contingency.

Staff recommends the approval of the attached resolution.

John E. McDonald

JEM/gs
pphc.mem

Attachment

RESOLUTION

CONTINGENCY TRANSFER – PENINSULA PUBLIC HEALTH DISTRICT

WHEREAS, the Peninsula Public Health District (District) received additional, unanticipated funds from the Commonwealth for employee pay and Virginia Retirement System (VRS) increases, each requiring additional local matching funds; and

WHEREAS, in addition, the District has experienced a surge of new activity, specifically in environmental health services for water and septic systems; and

WHEREAS, the District has requested additional funds from all five of the localities that are included within the District.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby increases the FY 2004 Operating Budget allotment to the District by \$24,836 and authorizes a transfer from Operating Contingency to fund that request.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of
October, 2003.

pphc.res

MEMORANDUM

DATE: October 14, 2003

TO: The Board of Supervisors

FROM: O. Marvin Sowers, Planning Director

SUBJECT: FY 2005-2010 Six-Year Improvement Program

There are two annual funding processes available for funding County road improvements: 1) the Secondary Roads Program and 2) the Six-Year Improvement Program Preallocation Hearing Process. The Board of Supervisors adopted the first component, the Six-Year Secondary Roads Program, in February. The Six-Year Secondary Roads Program is a priority funding plan for the improvement and construction of secondary roads (those roads with route numbers of 600 or greater). The Board has considerable control over funding and project timing for the secondary road system because the County receives an annual allocation to be used only in the County. The Virginia Department of Transportation (VDOT) works directly with the County to determine how to spend that money.

The second component, the Six-Year Improvement Program Preallocation Hearing Process, outlines the County's priority funding requests for primary roads (those roads with route numbers of less than 600, including interstate improvements). In this case, there is no regular annual County allocation, and the County's projects compete with projects from all of the other Hampton Roads (Hampton Roads District) communities. In this process, all Virginia localities are given an opportunity to advise VDOT of their transportation priorities prior to VDOT's Commonwealth Transportation Board (CTB) making its allocation decisions.

Attached for consideration is a report outlining the County's priority primary and interstate highway construction projects for which the County is requesting funding in 2005 and beyond. The attached report, once endorsed by the Board of Supervisors, will be forwarded to VDOT. In the coming months, VDOT staff will evaluate the region's priority projects and determine appropriate funding levels for each.

VDOT will conduct a preallocation hearing on November 6, 2003, at 7 p.m. at Thomas Nelson Community College. Unless the Board specifically wishes to attend the meeting, staff intends to submit our comments in writing.

Staff recommends approval of the attached resolution and endorsement of the attached report outlining the County's priority Six-Year Improvement Program projects.

O. Marvin Sowers, Jr.

OMS/gs
priorities05.mem

Attachments:

1. 2005 Requests for Six-Year Improvement Program Projects
2. Resolution - FY2005-2010 Six-Year Improvement Program Priorities

RESOLUTION

2005 - 2010 SIX-YEAR IMPROVEMENT PROGRAM

WHEREAS, the James City County Board of Supervisors believes that a safe, efficient, and adequate transportation network is vital to the future of the County, the region, and State; and

WHEREAS, the James City County Comprehensive Plan and/or regional and State transportation plans and studies conclude that the following highway projects are essential to permit the safe and efficient movement of traffic in the Williamsburg-James City County area and promote economic development; and

WHEREAS, there exists a pressing need to implement the projects below in order to relieve traffic congestion which impedes the actions of emergency vehicles and personnel, causes inconvenience and delays, and contributes the major source of air pollution to the area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following list comprises the highest priority primary highway projects in James City County:

- On schedule completion of the widening of the existing sections of Route 199 to four lanes;
- On schedule completion of the Route 199/Route 31 intersection improvements, with adequate pedestrian facilities;
- Funding the construction of Route 60 relocation with priority given to the section between Route 60 at a point east of Blow Flats Road in the County to the Fort Eustis Interchange in the City of Newport News;
- On schedule completion of the Monticello Avenue/Ironbound Road intersection improvement, with improvements being completed prior to the widening of Ironbound Road;
- Funding for landscaping along the Route 199 corridor;
- Proceeding with the next phases of preliminary design and environmental study for the Capital-to-Capital Bikeway project consistent with a resolution adopted by the Board of Supervisors on November 10, 1998;
- Continued support for the Greensprings Interpretive Trail project; and
- Support for the Peninsula Light Rail Project.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of
October, 2003.

priorities05.res

SUPPLEMENTAL PROFFERS
NEW TOWN - SECTIONS 2 and 4

THESE SUPPLEMENTAL PROFFERS are made as of this 3rd day of October, 2003, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (together with its successors and assigns, "Associates") (index as a "grantor"); and the **COUNTY OF JAMES CITY, VIRGINIA** (the "County") (index as the "grantee").

RECITALS

R-1. Associates is the developer of a mixed-used project referred to as "New Town" located in James City County, Virginia which is subject to and more particularly described in certain proffers (collectively the "Proffers") which include (i) the New Town Proffers ("New Town Proffers") dated December 9, 1997 of record in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City, Virginia ("Clerk's Office") as Instrument No. 980001284, and (ii) the New Town Sections 2 and 4 – Proffers dated November 1, 2001 of record in the Clerk's Office as Instrument No. 010023715 (the "Section 2 and 4 Proffers"). The Sections 2 and 4 Proffers are attached hereto and incorporated by reference.

R-2. The New Town Proffers provide for development of the Property in accordance with (i) a conceptual master land use plan entitled, "NEW TOWN PLAN" prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, and revised December 8, 1997 (the "New Town Master Plan"), and (ii) design guidelines entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY, VIRGINIA" prepared by Cooper, Robertson & Partners dated September 3, 1997 (the "New Town Design Guidelines").

R-3. Associates has acquired certain additional property by deed dated January 28, 2003 of record in the Clerk's Office as instrument no. 030004167 (the "Additional Property"). Associates intends, by these Supplemental Proffers and a re-zoning of the Additional Property and property formerly a part of Section 9 of New Town, to consolidate into Section 4 of New Town the Additional Property and portions of the Property previously a part of Section 9 of New Town. The property to be added to Section 4 of New Town, to be rezoned and subjected to these Proffers, is shown on EXHIBIT A (the "Area Added").

R-4. In furtherance of the additions to Section 4 of New Town, Associates has applied for rezoning of the Area Added from R-8 with proffers, M-1 and MU to MU subject to these Supplemental Proffers. Associates has also applied for certain amendments to the New Town Design Guidelines. The requested rezoning to MU, with these Supplemental Proffers, is, in fact, consistent both with the land use designation for the Property on the County's Comprehensive Plan and the statement of intent for the MU zoning district set forth in Section 24-514 of the County's Zoning Ordinance in effect on the date hereof (the "Zoning Ordinance").

R-5. Pursuant to subsection 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") for development of the property subject to the New Town Proffers.

R-6. Associates has previously submitted to the DRB, and the DRB has previously approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, a master plan entitled "NEW TOWN SECTIONS 2 & 4 AMENDED MASTER PLAN", dated June, 2001, revised June 23, 2003 (the "Sections 2 and 4 Amended Master Plan") and amended design guidelines entitled "Amended and Restated NEW TOWN SECTIONS 2 & 4 DESIGN GUIDELINES", dated July 31, 2003 (the "Sections 2 and 4 Amended Guidelines") for the Property, copies of which Sections 2 and 4 Amended Master Plan and Sections 2 and 4 Amended Guidelines are on file with the County's Director of Planning.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the Sections 2 and 4 Amended Master Plan, the Sections 2 and 4 Amended Guidelines and all related documents described herein, and pursuant to Section 15.2-2296, et seq., of the Virginia Code, Section 24-16 of the Zoning Ordinance and the Proffers, Associates agrees that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

PROFFERS APPLICABLE TO AREA ADDED

1. Application of Sections 2 and 4 Proffers, Amended Master Plan and Amended Design Guidelines. Development and use of the Area Added shall hereafter be subject to and in accordance with the Sections 2 and 4 Proffers as amended hereby, the Amended Master Plan and the Sections 2 and 4 Amended Guidelines, each of which are incorporated herein by reference. The Sections 2 and 4 Proffers are attached hereto for ease of reference. Terms of the Sections 2 and 4 Proffers relative to interpretation, amendment and construction of the Sections 2 and 4 Proffers and/or the Amended Design Guidelines shall be applicable hereto as if set forth in full below. The term "Property" as used in the Sections 2 and 4 Proffers shall be deemed by virtue hereof to include the Area Added.

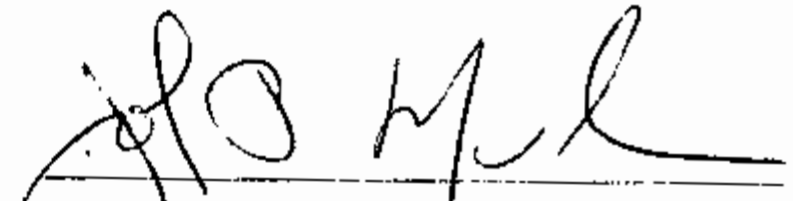
2. Right-In Access from Monticello Avenue. The Area Added may be served by one (1) right in only entrance providing direct access to the Area Added from Monticello Avenue with a turn lane, as shown on the Sections 2 and 4 Amended Master Plan. The entrance shall be governed by signage and design criteria approved by VDOT and the County's Director of Planning, which shall provide for right turn only use of such entrance from Monticello Avenue. No exit to, or left turn entrance from Monticello Avenue shall be permitted via the entrance described herein.

3. Supplemental Proffers. These Supplemental Proffers amend the Sections 2 and 4 Proffers and the provisions of the New Town Master Plan only as to the Area Added. No amendment to the proffers affecting property not included in the Area Added and of record in the Clerk's Office as of the date hereof is intended or accomplished hereby.

4. Recitals. The Recitals set forth above shall be included and read as a part of these Proffers and are incorporated by reference.

WITNESS the following signatures, thereunto duly authorized:

NEW TOWN ASSOCIATES, LLC

By: 

Title: EXECUTIVE DIRECTOR

APPROVED AS TO FORM:

County Attorney

STATE OF VIRGINIA
COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 7th day of October, 2003 by John P. McCANN, Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

N. Mexcia Howard
NOTARY PUBLIC

My commission expires:
December 31, 2004

#6045813 v3

EXHIBIT A

ADDED AREAS

Those certain pieces or parcels of land shown and set out as "AREA ADDED TO SECTION 4" on the NEW TOWN Sections 2 and 4 AMENDED MASTER PLAN prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated June, 2001 and last amended June 23, 2003.

James City County

2005 Requests for

Six-Year Improvement Program Projects

Introduction

James City County respectfully submits its priority Six-Year Improvement Program projects. The project list consists of our community's highest priority projects.

Background

James City County and its environs continue to grow rapidly. According to a March 2001 publication produced by the Weldon Cooper Center for Public Service at the University of Virginia, James City County ranked eighth in the Commonwealth for localities with the highest population growth since 1990. In regard to traffic generation, the 60,000 residents of the Williamsburg area and the local workforce form only part of the picture. During the peak tourist season, an additional 30,000 visitors travel our highways daily. In addition to these challenges, the upcoming Jamestown 2007 celebration will place even greater demands on the local transportation system. To accommodate this national event, many transportation improvements are necessary. Our present highway system is not adequate to accommodate our future growth, to preserve the quiet charm of Colonial Williamsburg, and to provide safe, convenient access for our many visitors to Busch Gardens and other area attractions. James City County continues to focus on projects that will make great strides toward solving present problems and improving the adequacy of our transportation system for years into the future.

Summary of Projects

The County thanks the Virginia Department of Transportation (VDOT) for the completed extension of Route 199 and Monticello Avenue. These projects have greatly relieved traffic on adjacent roadways and improved access to various parts of the County. The County also appreciates VDOT's recent opening of one of our priority projects, the Grove Interchange.

The County asks that VDOT expeditiously complete or accelerate projects that have received partial or full funding. These include the **four-lane improvement to the existing two-lane sections of Route 199, the Route 60 East relocation, the improvements to Route 199/Route 31 intersection, and the improvements to the Monticello Avenue/Ironbound Road Intersection**. James City County is also requesting the Commonwealth's support for four other non-highway projects. The first project involves **corridor landscaping improvements for Route 199**. The second project is the **Capital-to-Capital Bikeway** in the Route 5 corridor from Richmond to Williamsburg. The third project is the **Greensprings Interpretive Trail** connecting the existing Greensprings Trail located behind Jamestown High School to Jamestown. The fourth project is the **Peninsula Light Rail Project**, a light rail system spanning from the City of Hampton, through James City County, and extending to the City of Williamsburg.

Highway Projects

Route 199 - Parallel Lane (Four-Lane Improvement of Existing Two-Lane Sections)

The design, construction, and completion of Route 199 from Interstate 64 at Lightfoot to John Tyler Highway (Route 5) as a full four-lane facility was the County's first priority for 16 years. With the extension now completed, Route 199 forms a loop around the City of Williamsburg, helping to buffer Colonial Williamsburg from the impacts of significant traffic congestion. The extension has removed local traffic from increasingly

congested sections of Richmond Road (Route 60), Ironbound Road (Route 615), Strawberry Plains Road, (Route 616), and Longhill Road (Route 612). However, traffic volumes on Route 199 continue to be burdensome on the existing two-lane sections. The traffic counts for Route 199 show traffic volumes of more than 27,000 vehicle trips per day--exceeding reasonable levels for undivided two-lane roads.

The four-lane improvement throughout the entire existing two-lane sections remains the County's number one priority. We are encouraged by the approved PPTA (Public Private Transportation Act) project that appears to meet the needed schedule to have these projects complete prior to 2007. We encourage close monitoring of the work by VDOT to ensure that the schedule is met.

Route 199/Route 31 Intersection

These intersection improvements are also part of the PPTA project and are critical improvements. While the roadway portion of the project is moving forward, the necessary pedestrian facilities were not originally included in the PPTA contract. We understand that this has been corrected. These pedestrian facilities are a very important part of the project approved by the County and the City of Williamsburg. **We request that VDOT ensure that adequate pedestrian facilities be funded and constructed with this project.**

The County strongly urges continued Commonwealth support for both phases of these Route 199 improvements.

Route 60 East Relocation

The construction of an alternate alignment of Pocahontas Trail (Route 60 East) between the Anheuser-Busch access road and the Newport News City limits is a priority project. This project will serve developing commercial and industrial areas in James City County and the City of Newport News. Total vehicular traffic in this area as indicated by VDOT's average daily traffic volumes exhibited an increase from 1,650 ADT to 12,686 ADT between 1980 and 1998.

The present configuration of Pocahontas Trail produces traffic tie-ups, promotes traffic accidents, and impedes ingress and egress to residents and businesses. Ball Metal (240 employees), Anheuser-Busch Brewery (1,100 employees), Busch Gardens (4,000 employees during peak season), and the Wal-Mart Distribution Center (450 employees) generate high commuter and truck traffic volume in this area. Also, the newly opened James River Commerce Center (220 acres) is dependent upon good access to attract and retain industrial prospects. The Commerce Center contains the Ball Metal warehouse expansion (180,000 square feet) and Service Metal Fabricators, a business with 95 employees. Although recent improvements at the BASF entrance and several other intersections provide some relief, Pocahontas Trail continues to be a dangerous corridor for both residents and businesses.

In James City County, almost 1,000 acres of industrial land is being actively marketed in this area. The Commonwealth of Virginia has designated approximately 3,500 acres in the Grove area as an Enterprise Zone. The Enterprise Zone seeks to create an improved climate for private sector investment, development, and expansion, thereby improving the overall physical and social conditions within the zone. A new alternate alignment of Route 60 would dramatically improve access to this area and will allow the County and Commonwealth to realize the full benefit of the investments made in the Grove area. Recently the City of Newport News and James City County have recommended that the project be divided into two sections. This should facilitate more rapid progress on the first section.

James City County requests prompt funding for construction of this roadway in two sections: The first section extends from Route 60 at a point east of Blow Flats Road in James City County to the Fort Eustis Interchange in Newport News. It is suggested that the section be constructed in advance of the remaining section. To facilitate more rapid progress, the MPO has recognized the regional significance of the Route 60 East relocation project and has allocated \$3.102 million from its Regional Surface

Transportation Program (RSTP) in FY 02-03 along with a projected allocation of an additional \$9.9 million in FY 03-07. There is also \$2.499 million of previously approved RSTP funding for Newport News and James City County available for this project. This money would be used for preliminary engineering, right-of-way acquisition, and some construction in both James City County and Newport News. The County requests that VDOT rapidly complete preliminary engineering and right-of-way acquisition on the first section in order to protect the right-of-way and allocate a balance of funding to construct that section.

Monticello Avenue/Ironbound Road Intersection

The Monticello Avenue/Ironbound Road Intersection is of increasing importance to James City County as the New Town project develops. Traffic in this area is projected to increase dramatically and the improvements at this critical intersection will ensure that the levels of service on both these roadways remains adequate. While the project has been fully funded, including an actual allocation of \$343,000 in FY 02-03 and a projected allocation of \$2,257,000 from the Regional Surface Transportation Program in FY 03-FY05, it is critically important that this project continue to move forward in a timely manner. **The County requests continued Commonwealth support for this project and that the project be completed prior to the widening of Ironbound Road.**

Non-Highway Projects

Route 199 Landscaping

The County requests that all Route 199 projects contain funding for landscaping. Route 199 serves as one of the main entrance corridors for James City County, the City of Williamsburg, and Colonial Williamsburg. It is important that this heavily traveled tourist corridor be well landscaped to preserve the charm of this historic area. The upcoming Jamestown 2007 event, an event of national significance, makes this landscaping even more important. Due to the narrow time frame in which the improvements to Route 199 will be made in relation to the celebration, it is imperative that the landscaping be folded into the widening and intersection projects. The County believes these landscaping improvements will help to enhance the County's scenic beauty which is critical in the effort to ensure the Historic Triangle continues to be one of the nation's top tourist destinations.

Capital-to-Capital Bikeway Project

The County requests continued Commonwealth support for the Capital-to-Capital Bikeway project. The Capital-to-Capital project proposes a combination bikeway and pedestrian facility in the Route 5 corridor from Richmond to the City of Williamsburg. The separate multiuse path in James City County would serve the broadest range of users and provide both State and local benefits, including promotion of tourism; interconnection of neighborhoods; safety for motorists, bicyclists, and pedestrians; and environmental sensitivity. The feasibility study was completed and preliminary engineering work is ready to be undertaken.

Greensprings Interpretive Trail Project

The County requests continued Commonwealth support for the Greensprings Interpretive Trail project. The Greensprings Interpretive Trail project proposes a multiuse trail connecting the existing Greensprings Trail located behind Jamestown High School to Jamestown. The multiuse trail in James City County would serve the broadest range of users and provide both State and local benefits, including promotion of tourism; historic preservation and education; a safe means of alternative transportation for pedestrians and bicyclists; and would be a great asset to the 2007 Jamestown event and beyond.

Peninsula Light Rail Project

The proposed Peninsula Light Rail Project is of great interest to James City County. Improved passenger rail

service for the Peninsula has been under consideration for several years. The Peninsula Light Rail Project would provide an alternative to travelers on the Peninsula, particularly commuters, in a 25-mile-long corridor most likely within the CSX right-of-way. The project would provide such much needed congestion relief on Interstate 64, which would in turn provide relief for the primary roads within James City County, especially Route 199 and Richmond Road. **The County requests that the Commonwealth recognize the need for light rail on the Peninsula and provide support for this project.**

Conclusion

James City County respectfully submits its most critical road improvement projects. The County feels strongly that all these projects are crucial to the development of our community. All are supported by the James City County Comprehensive Plan. The County appreciates the Department's difficult task of trying to make too few dollars cover so many needed construction projects, and requests the Department recognize and fund the following solutions to problems of state significance:

- **On schedule completion of the widening of the existing sections of Route 199 to four lanes;**
- **On schedule completion of the Route 199/Route 31 intersection improvements, with adequate pedestrian facilities;**
- **Funding for the construction of Route 60 relocation with priority given to the section between Route 60 at a point east of Blow Flats Road in the County to the Fort Eustis Interchange in the City of Newport News;**
- **On schedule completion of the Monticello Avenue/Ironbound Road intersection improvement, with improvements being completed prior to the widening of Ironbound Road;**
- **Funding for landscaping along the Route 199 corridor;**
- **Proceeding with the next phases of preliminary design and environmental study for the Capital-to-Capital Bikeway project consistent with a resolution adopted by the Board of Supervisors on November 10, 1998;**
- **Continued support for the Greensprings Interpretive Trail project; and**
- **Support for the Peninsula Light Rail Project.**

priorities05.att

REZONING 6-03/MASTER PLAN 4-03. New Town - Sections 2 and 4 Rezoning Amendment Staff Report for October 14, 2003, 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: September 8, 2003
Board of Supervisors: October 14, 2003

SUMMARY FACTS

Applicant: Mr. Alvin P. Anderson of Kaufman & Canoles

Land Owner: New Town Associates, LLC

Proposed Use: To amend the Master Plan, Proffers, and New Town Design Guidelines for approximately 85.6 acres of New Town Sections 2 and 4 that are currently zoned Mixed-Use (MU), with proffers. Rezone approximately 2.9 acres of land to MU, with proffers that is currently in New Town Section 9, zoned M-1, Limited Business, and Rural Residential, R-8, with proffers to be incorporated into Sections 2 and 4, zoned MU, with proffers. If approved, proposed construction for Sections 2 and 4 would include a maximum of 725,000 square feet of retail, office, and commercial space and a minimum of 525 residential units.

Location: At the intersection of Ironbound Road and Monticello Avenue (northwest corner), across from the Courthouse.

Tax Map and Parcel No.: A portion of (38-4)(1-50)

Primary Service Area: Inside

Existing Zoning: M-1, Limited Business, Rural Residential (R-8), with proffers and an approved Master Plan, and Mixed-Use (MU), with proffers.

Comprehensive Plan: Mixed-Use

Surrounding Zoning: North and West: Other undeveloped lands zoned R-8, with proffers and M-1, Limited Business
East: Undeveloped land within the City limits
South: The Courthouse, AVI, and the new Post Office

Staff Contact: Karen Drake - Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal generally consistent with the adopted 1997 New Town Master Plan and Design Guidelines. Staff further finds the proposed development compatible with surrounding zoning and development and consistent with the 2003 Comprehensive Plan recommendations. Staff also finds the proposed proffers sufficiently mitigate anticipated impacts, including traffic through the right-in only entrance on Monticello Avenue. At the September 8, 2003, meeting, the Planning Commission voted unanimously recommending approval of the rezoning application. Staff therefore recommends the Board of Supervisors approve the rezoning application and acceptance of the voluntary proffers.

Brief History and Description of New Town

In August 1995, James City County and the C.C. Casey Limited Company sponsored parallel design competitions for a Courthouse and Town Plan, respectively, to be located on approximately 600 acres known as the “Casey” property. The winning town plan, chosen from among 99 entries worldwide, was submitted by Michel Dionne, Paul Milana, and Christopher Stienon of New York City. The program includes several civic facilities, 600,000 square feet of regional and community retail, 400,000 square feet of office space, and 2,000 residential units of varying types. The plan locates a civic green at the southeast corner of the site where it becomes central to the larger Williamsburg region and a gateway to the town. A retail square is the focus of the mixed-use town center. The neighborhoods are composed of a simple street and block pattern that accommodates alleys and permits a variety of lot sizes and housing types. The public spaces of the plan connect to the regional system of public open space so that the new town becomes an urban extension and center for the region.

Using the winning town plan as a launching pad, on December 22, 1997, the Board of Supervisors approved rezoning applications (Case Nos. Z-4-97 and Z-10-97) that set forth the New Town binding Master Plan and Design Review Guidelines by rezoning 547 acres of the Casey Tract to R-8, with proffers. The purpose of the R-8 zoning was to bind the property to the Proffers and Master Plan, which set maximum densities, major roads, major open spaces, and types of uses. Under the proffers, the R-8 area could not actually be developed until further rezoning to MU. The purpose for this was to implement the full development gradually. Also, by rezoning areas separately, the Planning Commission and Board will have the opportunity to gauge proposed development against current situations (in an attempt to best mitigate impacts) and to evaluate the proposed development against the Master Plan, the proffers, and the design guidelines.

To allow for initial and immediate construction, 27.5 acres of the Plan (Section 1) was rezoned to Mixed-Use in 1997. Section 1 approved uses included 146,000 square feet for institutional and public use (80,000 square feet for the Courthouse, and 66,000 square feet for the Williamsburg United Methodist Church); 60,000 square feet for office space, Institutional/Office Mixed-Use, or Office/Commercial Mixed-Use; and 3.5 acres for Open Space.

On what is commonly referred to as the west side of New Town due to its location west of Route 199, the WindsorMeade Retirement Community rezoning application (Case Z-02-01/MP-02-01) was approved by the Board of Supervisors on October 23, 2001. WindsorMeade Retirement Community will provide 300 residential units of various levels of continuous health care and have a maximum of 19,500 square feet of commercial office space. And currently under review by the Board of Supervisors, the WindsorMeade Marketplace rezoning application (Case Z-05-03) proposes approximately 200,000 square feet of commercial and retail space fronting Monticello Avenue.

On the east side of New Town, Sections 2 and 4 were rezoned to Mixed-Use, with proffers on December 11, 2001, (Case No. Z-03-01). Sections 2 and 4 borders both Ironbound Road and Monticello Avenue and are where the recently opened Corner Pocket is located and where the SunTrust Building is currently under construction. Featured architectural and design highlights of Sections 2 and 4 include the following details:

- Section 2 is located at the corner of Monticello Avenue and Ironbound Road and contains a Civic Green, the Pecan Square, a Court Square, and up to 245,000 square feet of commercial, institutional, and/or office space.
- The Civic Green is to act as the visual gateway or corner piece into the main street of the town from the east, south, and west. Its character is two-fold, split by two major user groups. A large grouping of deciduous street trees will define both the Civic Green and the edges of Monticello Avenue and Ironbound Road. Where commercial and retail buildings to the north border it, its character is that of an active, urban gathering space. Primarily an area consisting of built improvements (hardscape), it is to contain similar materials and elements found in urban plazas or village open spaces. On the other corner, at the street intersection, the character of the Civic Green becomes more passive with less users, but capturing more off-site visual interest. This portion of the Civic Green is to be primarily green, with areas of landscaping acting as both a visual and spatial edge of the urban plaza, allowing views into and off of the site. Originally just under two acres in size, it is now proposed to be approximately 0.7 acres in size.
- The Court Square marks the main entrance into the Town from Monticello Avenue. Its character is a more natural setting and includes the village entry point and pedestrian gathering space.
- The Pecan Square is to serve as a gateway to the village from Ironbound Road. Seven existing large pecan trees are to be preserved.
- Section 4 is immediately adjacent to Section 2. Proposed are the Village Square, the Village Green, 525-873 residential units (consisting of multifamily apartments and multifamily condominium units), and 227,500-480,000 square feet of commercial, institutional, and/or office space.
- The Village Square is the center stage of all activity within the mixed-use town center. It is intended to be a multipurpose public open space surrounded predominantly by two- and three-story mixed-use commercial buildings of varying sizes. These buildings will consist predominately of ground floor retail with second and third-story residential and office spaces. Retail, office, and higher-density residential uses line the streets that lead to and from the square. The Village Square may be thought of as the town's core where shops, restaurants, small businesses, theaters, and living units come together to form a lively and entertaining centerpiece.
- The Village Green is to have a character separate from that of the Village Square. The Village Green would be primarily landscaping and open space (softscape), and will be designed to encourage passive activities as an amenity to the nearby residential uses. Shade trees, planting beds, fountains, and seating areas are encouraged elements of the open space.
- Regarding street design, within all of New Town is based on street design cross sections contained with the design guidelines. The cross sections include street trees, medians, and pedestrian/bicycle facilities. All streets within Sections 2 and 4 have the potential to be privately owned and maintained (non-gated); however, the intention is that all streets will be publicly owned, maintained, and constructed to the Virginia Department of Transportation (VDOT) standards, unless VDOT will not approve the streets as substantially described with the Guidelines. Only in this circumstance would the streets be private.

Description of the Current Rezoning Proposal

This rezoning application (Case Z-6-03) has two primary objectives. The first is to amend the Design Review Guidelines governing Sections 2 and 4. Several minor edits have been made to the design guidelines to allow for greater flexibility based on current market conditions and reflect the construction of the first New Town buildings. The New Town Design Review Board approved the revised Design Review Guidelines at its August 21, 2003, meeting, as being substantially consistent with the original vision of New Town guidelines and adopted Master Plan.

The opportunity to amend the Design Review Guidelines is made possible by the second objective of this application, which is to rezone approximately 2.9 acres of land to Mixed-Use, with proffers that is currently in New Town Section 9. The land in question is where the former VDOT BMP was located on Monticello Avenue and borders the woodland preserve in Section 4 located between New Town Avenue and Court Street. The site is opposite the proposed Williamsburg United Methodist Church, AVI Associates, and the Monticello Post Office.

New Town Associates recently acquired the land from VDOT and, due to its proximity to Sections 2 and 4, wishes to develop the 2.9 acres in conjunction with Sections 2 and 4. Depending on the tenant, New Town proposes to construct one or two buildings, ranging in size from approximately 15,000 to 20,000 square feet for retail, office, or commercial uses. Site development will be restricted by the adjacent wetlands and New Town regional stormwater management pond. Primary access to enter and exit the site would be from New Town Avenue and there would be a right-in only access point to the site from Monticello. The traffic impacts of developing the 2.9 acres are discussed later in the staff report.

It should be noted that the overall limits on total number of residential units and nonresidential square footage for New Town are not being changed with this application. No new residential units are proposed with this rezoning. The rezoning proposes to add land to Sections 2 and 4 of New Town for nonresidential construction, therefore potentially lowering the final building density. Rather than set finite square footages and dwelling uses for each use in each section, the adopted Master Plan establishes certain uses for each section and then describes in tables the maximum square footages and dwelling units, which would occur under two market scenarios.

The first scenario assumes the residential uses are built out to the maximum extent, whereas the second scenario assumes nonresidential uses are built out to the maximum extent. This system is intended to provide flexibility in determining the mix of residential and nonresidential uses in each section. The results for the entire east side of New Town development (Sections 1-10) and for Sections 2 and 4 are summarized below:

EAST SIDE OF NEW TOWN, SECTIONS 1-10

	<u>Maximum Residential Scenario</u>	<u>Maximum NonResidential Scenario</u>
Residential	1,972 dwelling units 4.5 du/acre overall cap	1,171 dwelling units 4.5 du/acre overall cap
Nonresidential	1,407,800 square feet	2,055,300 square feet

SECTIONS 2 AND 4

	<u>Maximum Residential Scenario</u>	<u>Maximum NonResidential Scenario</u>
Residential	953 dwelling units	525 dwelling units
Nonresidential	427,500 square feet	725,000 square feet

Surrounding Development and Zoning

The surrounding property is a mix of institutional, residential, and commercial uses, with residential being the predominant use. Eastern State Hospital, which is zoned R-2, is located to the north of New Town. Also to the north are existing industrial properties along Tewning Road. Ford's Colony, a planned community, is found to the north and west, as is a relatively small amount of R-8 property. On the eastern side of Route 199, the southern boundary is primarily industrial with New Quarter Industrial Park and undeveloped M-1 property. This undeveloped M-1 property is shown on the overall Master Plan; however, it is not part of New Town. To the

east are additional residences, including the Ironbound Square neighborhood, a continuation of the College Woods property and several commercial uses along Ironbound Road.

Staff believes all sections of the proposed development, including Sections 2 and 4, are compatible with surrounding zoning and development. In general, nonresidential areas of the proposed development are located away from existing residential communities or are focused internally. In addition, the overall Master Plan concentrates its more dense residential uses in the central part of the development, with some multifamily allowed along Monticello Avenue.

Comprehensive Plan

The 2003 Comprehensive Plan shows the entire New Town master planned area, which includes all the property requested for rezoning, as Mixed-Use on the Land Use Map. The Comprehensive Plan states that Mixed-Use areas:

- are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of use are encouraged;
- are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial uses when located at or near the intersections of major thoroughfares;
- are intended to provide flexibility in design and land uses in order to protect and enhance the character of the area; and
- require nearby police and fire protection, arterial road access, access to public utilities, large sites, environmental features such as soils and topography suitable for intense development, and proximity to large population centers.

The Mixed-Use land designation further states that moderate to high-density residential uses could be encouraged in the Mixed-Use area where such development would compliment and be harmonious with existing and potential development. The timing and intensity of commercial development at a particular site are controlled by the maintenance of an acceptable level of service for roads and other public services, the availability and capacity of public utilities, and the resulting mix of uses in a particular area. The consideration of development proposals in Mixed-Use areas should focus on the development potential of a given area compared to the area's infrastructure and the relation of the proposal to the existing and proposed mix of land uses and its development impacts.

During the 2003 Comprehensive Plan Update, the New Town Mixed-Use area description was reviewed to ensure it continues to generally support the implementation of the winning town plan from the design competition and now states:

For the undeveloped land in the vicinity of and including the Route 199/Monticello Avenue interchange, the principal suggested uses are a mixture of commercial, office, and limited industrial with some residential as a secondary use. The development in this area should be governed by a detailed Master Plan which provides guidelines for street, building, and open space design and construction, which complements the scale, architecture, and urban pattern found in the City of Williamsburg.

The other primary consideration in the Comprehensive Plan for this master-planned area is its location in the New Town Community Character Area (CCA) and along the Monticello Avenue, Ironbound Road, and Route 199 Community Character Corridors (CCC). The CCA generally calls for a superior design, which provides a balanced mixture of businesses, shops, and residences in close proximity to one another in an urban environment. It also describes more specific design standards to which development in that area should adhere.

The Ironbound Road CCC and Monticello Avenue CCC are primarily suburban/urban in nature along the New Town borders, and as such, the built environment, formal landscaping, and pedestrian amenities should dominate the streetscapes in these corridors.

Staff finds that Sections 2 and 4 are consistent with the Comprehensive Plan land use and CCC designation, given the uses and densities proposed in the Master Plan, the proposed proffers, and the standards set forth in the design guidelines. Moreover, the design guidelines establish “comprehensive plans” for the Monticello Avenue and Ironbound Road corridors, which meet the intent of the CCC language in the Comprehensive Plan.

Fiscal Impact Study

Since this rezoning application does not represent an increase in the density of retail, commercial, and office space planned for Sections 2 and 4 of New Town, the Wessex Group in the attached June 20 letter is of the opinion that there would be no significant change in fiscal impact for the development of 2.9 acres.

A thorough review of the original Fiscal Impact Study, dated July 2001 and revised in September 2001, was conducted during the first rezoning application of Sections 2 and 4 where it was noted for Sections 2 and 4, the County will realize a net gain of approximately \$1.46 million annually at build-out and beyond. However, regarding fiscal impacts, one premise for New Town as a whole is that the development will be fiscally neutral at build-out and fiscally positive in the timing of the development, i.e., the commercial investment will lead the residential investment. By virtue of the anticipated future-phased rezonings, this Board, and future Boards, will have the final say whether this is actually what happens. **Staff has no additional comments on the fiscal impact statement for this rezoning application.**

Traffic Impact Study and Traffic Proffers

The completion of Route 199 and Monticello Avenue has made New Town both easily accessible and a center of regional activity. The 2003 traffic counts taken by the County indicate that Monticello Avenue, in front of the Courthouse, handles 19,927 traffic trips per day. Staff’s focus has been and continues to be maintaining Monticello Avenue as viable throughway to connect James City County with the City of Williamsburg.

For the original rezoning of Sections 2 and 4, the Traffic Impact Study was prepared using the methodology agreed to by the Board of Supervisors in the 1997 proffers. These proffers require an update of the 1997 traffic impact study using:

- expected traffic from the current rezoning proposal;
- expected traffic generated from all previously approved development in New Town;
- VDOT anticipated daily background traffic for the year 2015; and
- anticipated traffic generated from the Powhatan Secondary development.

The study was performed, and recommendations were made to maintain a Level of Service (LOS) “C” or better on existing roads.

Traffic Study and Road and Signal Improvements/Traffic Signal Preemption Equipment proffers were accepted with the original Sections 2 and 4 rezoning that are consistent with the recommendations of the 1997 Traffic Study and the 2001 Update to the Traffic Study. These proffers set forth certain road improvements to be installed when warranted by VDOT at the following locations:

- North Boulevard
- Courthouse Street
- Center Street

Prior to the occupancy of 175,000 square feet of office space (or equivalent traffic generation from other uses), additional road improvements must be completed at the intersection of Monticello Avenue and Ironbound Road.

More road improvements, including additional turn signals and turn lanes may be warranted when future rezonings are proposed. VDOT reviewed the original rezoning study and does not have any outstanding comments at this time. VDOT has stated that they do reserve the right to require additional traffic analysis at the time site plans and/or subdivision are submitted for development within Sections 2 and 4, and additional requirements may be placed on the development by VDOT at that time.

The Board should note that some of the recommended road improvements are necessary to maintain an intersection LOS of “C” or better. Although LOS “C” is the accepted County standard by both VDOT and staff, a LOS of “C” or better is a very suburban-scale goal. In an effort to reduce the scale of the road network and the related improvements (e.g., dual left-hand turn lanes at all intersections), it may be beneficial to try to achieve a LOS “D” or better. A LOS of “D” or better is an accepted urban standard that staff feels would be appropriate for this development and would produce a more pedestrian-friendly design. Staff has asked the applicant to investigate this scenario to see what impacts it has on the development and on existing public roads and will explore this issue further with VDOT and the applicant at the development plan stage.

Regarding traffic impacts of this rezoning application to incorporate the 2.9 acres of land, the applicant submitted a supplement to the traffic study for Sections 2 and 4 that concluded that since there is not an increase in previously approved development density or square footage, there is not an increase in previously approved traffic. Total development and traffic volumes remain the same. If approved, the traffic changes as a result of this rezoning are for access on New Town Avenue and Monticello Avenue. However, the driveway accesses to Monticello Avenue and New Town were not directly accounted for in previous New Town traffic studies.

For this rezoning application, a master plan was first submitted that proposed a right-in/right-out on Monticello Avenue from the 2.9-acre parcel of land to be rezoned. Staff objected to this separate driveway entrance as it was inconsistent with the vision of New Town and might set a precedent. VDOT objected to this right-in/right-out entrance due to its proposed location in the proposed Monticello Avenue turn lane having possible safety issues.

Staff met with the applicant and VDOT to discuss the possibility of having a right-in entrance only from Monticello Avenue to the 2.9 acre parcel. Referring to the attached July 31, 2003, letter from Mr. John McCann, New Town states that this parcel is a unique site in New Town. It is separated from the rest of the town center by the woodland preserve on the east and the wetlands conservation area on the north. It is not contiguous to another parcel. Without a driveway on Monticello Avenue, only a single driveway on New Town Avenue can be provided. New Town Associates notes it views New Town Avenue as a major entrance to New Town. A right-in only entrance to the 2.9 acre site at the intersection of Monticello Avenue and New Town Avenue will help alleviate traffic conflicts at this strategic location. In further support of the right-in only entrance, the applicant has proposed the one new proffer for Sections 2 and 4 that is applicable only to the 2.9-acre parcel of land and limits access to a right-in only entrance from Monticello Avenue.

The attached amended Master Plan for New Town illustrates a right-in only entrance to the parcel. VDOT has reviewed the amended Master Plan and concurs that the right-in only access off Monticello Avenue should not cause a significant safety issue or noticeably degrade the level of service on Monticello Avenue. Staff also believes that due to the unique characteristics of this site, this entrance does not set a precedent for future access requests. Staff and VDOT will review the engineering details of the right-in only entrance when development plans are submitted for approval.

Proffers

Signed supplemental proffers dated July 22, 2003, have been submitted by the applicant and are attached for your reference. Other than the one new proffer restricting access to a right turn-in only from Monticello Avenue to the 2.9-acre site that is discussed in greater detail in staff's review of the traffic impact study, **there are no other substantive changes to the proffers submitted in this rezoning amendment and the original Sections 2 and 4 Rezoning. Staff has no additional comments on proffers for this rezoning application.**

Powhatan Creek Watershed Study

New Town is within the Powhatan Creek Watershed and will need protection from development impacts. For Sections 2 and 4 of New Town, potential impacts have been modeled by the Williamsburg Environmental Group and compared with the recommendations of the Powhatan Creek Watershed Plan. Staff has reviewed the information and impact analysis compiled for Sections 2 and 4, and believed the Master Stormwater Plan submitted with the rezoning application addresses the recommendations of the Powhatan Creek Watershed Plan.

Recommendation

Staff finds the proposal generally consistent with the adopted 1997 New Town Master Plan and Design Guidelines. Staff further finds the proposed development compatible with surrounding zoning and development and consistent with the 2003 Comprehensive Plan recommendations. Staff also finds the proposed proffers sufficiently mitigate anticipated impacts, including traffic through the right-in only entrance on Monticello Avenue. At the September 8, 2003, meeting, the Planning Commission voted unanimously recommending approval of the rezoning application. Staff therefore recommends the Board of Supervisors approve the rezoning application and acceptance of the voluntary proffers.

Karen Drake

CONCUR

O. Marvin Sowers, Jr.

KD/gs
z-6-03/MP-4-01

Attachments:

1. Planning Commission Minutes
2. Amended Proffers
3. Resolution

RESOLUTION

CASE NOS. Z-6-03/MP-4-03. NEW TOWN - SECTIONS 2 AND 4

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. Z-6-03/MP-4-03 to amend the Master Plan and proffers for the rezoning of approximately 86.5 acres of land currently zoned MU, Mixed-Use, with proffers and to rezone approximately 2.9 acres from M-1, Limited Business, and R-8, Rural Residential, with proffers, to MU, Mixed-Use, with proffers; and

WHEREAS, on September 8, 2003, the Planning Commission recommended approval of this application by a vote of 7-0; and

WHEREAS, the property to be rezoned is identified as a portion of Parcel No.(1-50) on James City County Real Estate Tax Map No. (38-4), more particularly shown on the plan entitled "New Town Sections 2 and 4 Amended Master Plan" prepared by AES Consulting Engineers, with a revision date of June 23, 2003.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-6-03/MP-4-03 and accepts the voluntary proffers.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2003.

z-6-03_MP-4-03.res

UNAPPROVED MINUTES TO THE SEPTEMBER 8, 2003, PLANNING COMMISSION MEETING

CASE NO. Z-6-03 & MP-4-03 New Town Sec. 2 & 4 Amended Master Plan & Proffers

Ms. Karen Drake stated that Mr. Alvin Anderson, on behalf of New Town Associates, LLC, has applied to amend the Master Plan, Proffers and New Town Design Guidelines for approximately 85.6 acres of New Town Section 2 & 4 that is currently zoned MU, Mixed Use, with proffers. The application also proposes to rezone approximately 2.9 acres of land to MU with proffers that is currently in New Town Section 9, zoned M-1, Limited Business & R-8, Rural Residential with proffers to be incorporated into Section 2 & 4, zoned MU with proffers. If approved, proposed construction for Section 2 & 4 would include approximately 620,000 square feet of retail space, approximately 122,000 square feet of office and commercial space, and approximately 525 residential units. There is no proposed change to the overall New Town Residential/Non-Residential Cap.

Ms. Drake stated that staff finds the proposal generally consistent with the adopted 1997 New Town Master Plan and Design Guidelines. Staff further finds the proposed development compatible with surrounding zoning and development and consistent with the 2003 Comprehensive Plan recommendations. Staff also finds the proposed proffers sufficiently mitigate anticipated impacts, including traffic through the right-in only entrance on Monticello Avenue. Staff therefore recommends the Planning Commission approve the rezoning application and acceptance of the voluntary proffers.

Mr. Kale asked if the 620,000 square feet of retail and 122,000 square feet office relate specifically to sections 2 & 4 and not the remainder of New Town project.

Ms. Drake stated that this was correct and referenced page 28 of the staff report for details of the maximum density for the overall New Town project compared to Sections 2 & 4.

Mr. Kale asked if the WindsorMeade project will have any bearing on this project or vice versa.

Ms. Drake stated that to the best of her knowledge it would not.

Mr. Billups asked if there was an impact statement from the Fire or Police Department to ensure that we have a comprehensive look as to how this will impact the entire community.

Ms. Drake stated that this rezoning is a restatement of the proffers and a small land addition and that the original rezoning, approved by the Board of Supervisors in 2001, would have included a review of the impact statements from Fire and Police. This case only shifts 3 acres to be included into Sections 2 & 4.

Mr. Sowers stated that the overall amount of development does not change. Mr. Sowers also stated that this was an excellent question but perhaps more suitable to the next case.

Mr. Poole, III opened the public hearing.

Mr. Greg Davis, of Kaufman and Canoles, represented the applicant. Mr. Davis indicted that this is straight-forward application involving housekeeping related to the previously approved Sections 2 & 4 zoning. It involves the abandoned BMP and some movement of property currently in one section of New Town into another section as well as some changes to the design guidelines. Mr. Davis pointed out the site under consideration on the proposed amended Master Plan. A portion of the 2.9 acres is proposed to be shifted from Section 9 of New Town and added to Section 4. A second portion comes from a Stormwater Management Facility that has been relocated to the rear of the subject property. The application proposes no additional residential units or commercial space. The minor changes to the design guidelines relate to finalization of street names, parking, and some minor architectural standard changes. Mr. Davis stated that this plan is constant with Comprehensive Plan, the New Town Design Plan and was approved by the New Town Design Review Board.

Hearing no other requests to speak, Mr. Poole, III closed the public hearing.

Mr. Hagee stated that this is a very straight-forward case and he sees no issues.

Mr. Hunt echoed Mr. Hagee's sentiments. There appears to be no net change other than expanding onto the 2.9 acres. Mr. Hunt supported the application.

Mr. McCleary echoed the remarks of both Mr. Hagee and Mr. Hunt. Mr. McCleary commended the applicant, staff and Virginia Department of Transportation for being able to resolve the question on traffic.

Ms. Wildman stated she was pleased to see the application come before the Commission. She supported the application.

Mr. Kale moved to approve the case.

Mr. McCleary seconded the motion.

In a unanimous roll call vote the case was approved 7:0 AYE (7) Poole, Wildman, McCleary, Hagee, Hunt, Kale, Billups NAY (0)

**REZONING 5-03/MASTER PLAN 6-03/DESIGN GUIDELINES.
WINDSORMEADE MARKETPLACE
Staff Report for October 14, 2003, 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: August 4, 2003 (Deferred)
 September 8, 2003
Board of Supervisors: October 14, 2003

SUMMARY FACTS

Applicant: Mr. Alvin Anderson of Kaufman & Canoles

Land Owner: C. C. Casey Limited Company

Tax Map and Parcel Nos.: (38-3) (1-2); (38-3)(1-5); (38-3)(1-6); (38-3)(1-7); (38-3)(1-8); and
 (38-3)(1-34)

Proposal: To rezone approximately 34.49 acres to allow for the construction of a
 200,000-square-foot commercial shopping center.

Location: 4692, 4696, 4700, 4704, 4710, and 4740 Old News Road

Primary Service Area: Inside

Existing Zoning: R-8, Rural Residential

Proposed Zoning: Mixed-Use, with proffers

Comprehensive Plan: Mixed-Use and Low-Density Residential

Surrounding Zoning: North: MU, WindsorMeade; R-4, Ford’s Colony
 South: R-4, Marketplace Shoppes; R-8, single-family residences
 East: R-8, undeveloped portion of New Town
 West: R-4, Monticello Marketplace; R-8, single-family residences

Staff Contact: Christopher Johnson - Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal consistent with the surrounding zoning and land use, consistent with the Comprehensive Plan, and consistent with the New Town Master Plan, Design Guidelines, and proffers. On September 8, 2003, the Planning Commission recommended approval of these applications by a vote of 6-1. Staff recommends that the Board of Supervisors approve the rezoning, master plan, and design guidelines; and accept the voluntary proffers.

Project Description

Mr. Alvin Anderson of Kaufman & Canoles, has applied on behalf of C.C. Casey Limited Company to rezone approximately 34.49 acres from R-8, Rural Residential, with proffers, to MU, Mixed-Use, for a commercial shopping center. The proposed shopping center will contain up to 200,000 square feet of commercial space including the main center and out parcels along WindsorMeade Way and Monticello Avenue. WindsorMeade Way provides access to all 185 acres of this portion of New Town. It will serve the proposed shopping center, the Virginia United Methodist Homes continuing care facility, and future residential uses on the remaining acreage. Submission and approval of a Master Plan and Design Guidelines are required under the adopted proffers applicable to the property. The property is located within Section 11 in the West Sector of New Town.

The West Sector was allocated a maximum of 183,700 square feet of nonresidential density in the New Town Master Plan. The Virginia United Methodist Homes proposal utilized 34,100 square feet of nonresidential square footage originally envisioned for office and retail space within Sections 12 and 13. With the approval of the United Methodist Homes proposal, 149,600 square feet of nonresidential density remained for the West Sector. The WindsorMeade Marketplace proposal utilizes all remaining nonresidential density and proposes to reduce the amount of future high-density residential square footage in Section 12 by seven units to increase the nonresidential square footage for the project to 200,000 square feet.

Proffers

The applicant has submitted proffers as part of this project. The proffers address the following issues which will be discussed throughout the report: owner's association, development criteria, traffic and road improvements, and water conservation.

Surrounding Development and Zoning

The property is generally bounded by Route 199 to the east, Monticello Avenue to the south, and Old News Road to the west. The site is currently zoned R-8, Rural Residential, with proffers, as part of the New Town Master Plan adopted in 1997. The New Town rezoning consisted of a mixed-use master plan for the entire Casey New Town site (approximately 622 acres) including binding proffers. However, each section of New Town requires a rezoning to Mixed-Use.

To the north of the site are Sections 12 and 13 of the West Sector of New Town. A portion of the undeveloped property immediately to the north of the site is designated for high-density residential uses and is zoned R-8, Rural Residential. The Virginia United Methodist Home site was rezoned to Mixed-Use in 2001. Further to the north is a portion of the Ford's Colony Master Planned Community which was originally part of New Town, but was purchased by Ford's Colony and rezoned to R-4 in 1998. To the east of the site, across Route 199, is the East Sector of New Town, which is currently undeveloped. To the south of the site, across Monticello Avenue, is a mix of single-family residences and undeveloped land adjacent to the Marketplace Shoppes. To the west of the site is the Monticello Marketplace shopping center, zoned R-4 as part of the Powhatan Secondary master planned community. Since the property is predominantly surrounded by master planned communities, immediately adjacent to other commercial uses and part of a binding master plan which permits this development, staff finds that the proposal is consistent with the surrounding zoning and land use.

Topography and Physical Features

The property is currently heavily wooded, primarily with upland hardwoods and secondary growth. The property shows signs of having been forested in the past. Moderate slopes exist on portions of the property, specifically along the northwest boundary of the site. No evidence of endangered species or small whorled pogonia habitat exist within the project area. No portions of the property lie within the FEMA determined 100-year floodplain limits and no RPA features are present on the site.

Any rezoning of the Section 11 property would be subject to the provisions of the Powhatan Creek Watershed Management Plan. The 34.49-acre site is situated in Subwatershed 209 and 210 of the Powhatan Creek

watershed, more specifically catchments 209-101-1 and 210-202-1. Primary strategies for Subwatershed 209 include the use of on-site stormwater management and the concentration of open space along streams and wetlands, which are identified as high quality. For Subwatershed 210, primary strategies include the concentration of open space along streams and wetlands and possible stream restoration.

Utilities

The site is located inside the Primary Service Area (PSA) and public water and sewer are available.

Water Conservation

A proffer has been submitted which requires development of water conservation standards to be approved by the James City Service Authority. The standards will address such water conservation measures as limitations on installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Staff finds this proffer acceptable since no public water will be utilized for irrigation unless approved by the James City Service Authority and additional efforts will be made to conserve water.

Traffic Impact Study

As required by the existing New Town proffers, the applicant submitted a traffic impact study that addresses the impacts this proposal will have on all intersections surrounding the New Town development area. The site will be accessed off of Monticello Avenue from WindsorMeade Way and Old News Road. Staff has worked diligently with the applicant, the developer, and VDOT to clarify issues pertaining to the traffic study as well as the previously approved traffic study submitted with the Virginia United Methodist Home proposal in 2001. As a result of these meetings, the applicant has submitted a revised master plan and revised proffers which satisfy the major concerns identified by VDOT. The applicant has agreed to proffer the construction of a traffic signal at the second crossover on WindsorMeade Way when and if the traffic volume on the road reaches a point where the signal becomes warranted. The applicant has also agreed to restrict turning movements at the first crossover to maintain traffic flow into the center from Monticello Avenue and mitigate traffic congestion on Monticello Avenue.

VDOT has concluded that the additional 50,000 square feet of nonresidential development will not negatively impact the Level of Service on Monticello Avenue or at the Monticello Avenue/WindsorMeade Way intersection. Staff believes that the traffic impacts created by this development are sufficiently mitigated by the master plan and proffer revisions. There will be no significant degradation in traffic operation on Monticello Avenue as compared to the approved West Sector development allowed under the adopted Master Plan.

Fiscal Impact Statement

The project's Fiscal Impact Study shows the development to have a positive fiscal impact on James City County. When the New Town Master Plan was approved in 1997, the overall project site was assigned a maximum residential and maximum nonresidential development level. The original New Town Fiscal Impact Study determined the overall build-out of New Town would have a positive fiscal impact for the County. Regarding the West Sector, (Sections 11, 12, and 13), the New Town Fiscal Impact Study analyzed a development potential with a mixture of single-family residences, offices, and retail square footage.

New Town Master Plan/Design Guidelines

The New Town Master Plan designates this section of New Town, Section 11, as a Gateway Commercial District. The retail centers within the town are typically located along Monticello Avenue and therefore serve as gateways and addresses to the neighborhoods beyond them. These commercial centers establish the first image and impression of the town to those who pass by or visit from other areas in the region. The buildings of these gateway centers should be architecturally compatible with those of the Southern Civic District to the west. Master Plan Section 11 serves as the front door to residential neighborhoods beyond them and should serve to transition uses from mixed-use and commercial to residential.

Additionally, property in the New Town area is required to adhere to an approved set of Design Guidelines. The Design Guidelines outline issues such as street layout, building design, and architectural materials. The proffers and Design Guidelines require design approval from the New Town Design Review Board (DRB) prior to submission of a rezoning application. The New Town DRB approved the design of this proposal on April 17, 2003. The Design Guidelines also require the approval of the Planning Commission and Board of Supervisors, and have been proffered. Staff supports the finding by the DRB and believes that the design guidelines will ensure a high-quality design consistent with New Town and the quality of existing development by this developer.

Comprehensive Plan

The James City County Comprehensive Plan Land Use Map designates these properties as Mixed-Use and Low-Density Residential. Mixed-Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed-Use areas that are located at or near State interchanges and the intersections of major throughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes. Mixed-Use areas are intended to provide flexibility in design and land uses in order to protect and enhance the character of the area. Moderate- to high-density residential uses could be encouraged in mixed-use areas where such development would compliment and be harmonious with existing and potential development.

Mixed-Use developments require nearby police and fire protection, arterial road access, access to public utilities, large sites, environmental features such as soils and topography suitable for such development, and proximity or easy access to large population centers. Master Plans are encouraged to assist in the consideration of mixed-use development proposals. The consideration of development proposals in mixed-use areas should focus on the development potential of a given area compared to the area's infrastructure and the relation of the proposal to the existing and proposed mix of land uses and their development impacts.

The New Town area is listed on the Comprehensive Plan as "Casey Fields Area." For the area in the vicinity of Route 199/Monticello Avenue, the principal suggested land uses are a mixture of commercial, office, and limited industrial with residential uses as secondary uses. The development in this area should be governed by a detailed Master Plan which provides guidelines for street, building, and open space design and construction which complements the scale, architecture, and urban pattern found in the City of Williamsburg.

Staff finds this proposal to be consistent with the Mixed-Use designation of the Comprehensive Plan.

Recommendation

Staff finds the proposal consistent with the surrounding zoning and land use, consistent with the Comprehensive Plan, and consistent with the New Town Master Plan, Design Guidelines, and proffers. On September 8, 2003, the Planning Commission recommended approval of these applications by a vote of 6-1. Staff recommends that the Board of Supervisors approve the rezoning, master plan, and design guidelines; and accept the voluntary proffers.

Christopher Johnson

CONCUR:

O. Marvin Sowers, Jr.

CJ/gs
z-5-03_MP-6-03

Attachments:

1. Minutes of the August 4, 2003, and September 8, 2003, Planning Commission public hearings
2. Location Map
3. Master Plan
4. Design Guidelines
5. Proffers
6. Resolution

RESOLUTION

CASE NO. Z-5-03/MP-6-03/DESIGN GUIDELINES.

WINDSORMEADE MARKETPLACE

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-5-03/MP-6-03/Design Guidelines for rezoning 34.49± acres from R-8, Rural Residential, with proffers; to MU, Mixed-Use, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on September 8, 2003, recommended approval of Case No. Z-5-03/MP-6-03/Design Guidelines, by a vote of 6 to 1; and

WHEREAS, the properties are located at 4692, 4696, 4700, 4704, 4710, and 4740 Old News Road and further identified as Parcel Nos. (1-2), (1-5), (1-6), (1-7), (1-8), and (1-34) on James City County Real Estate Tax Map No. (38-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-5-03/MP-6-03/Design Guidelines and accepts the voluntary proffers.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

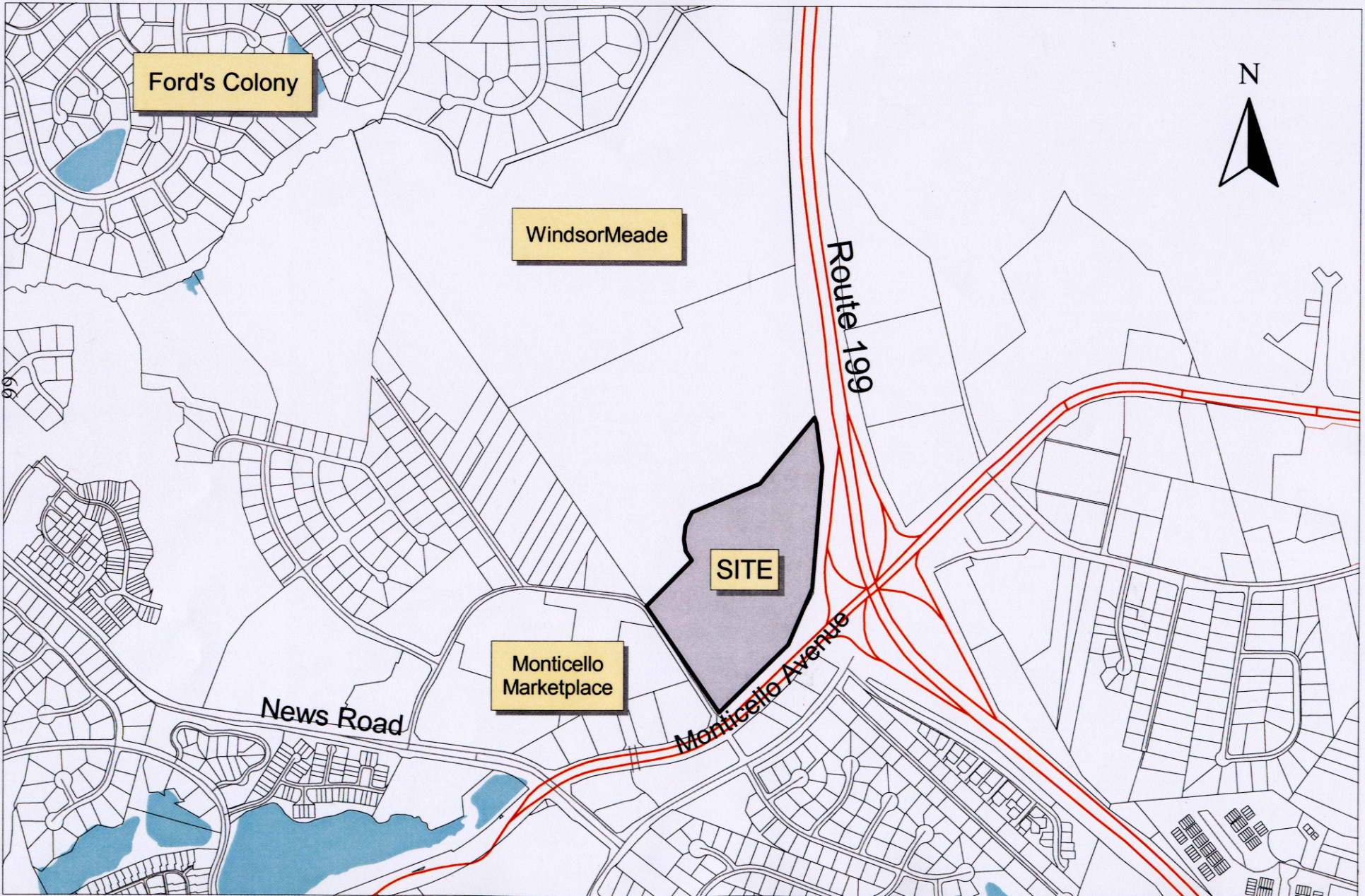
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2003.

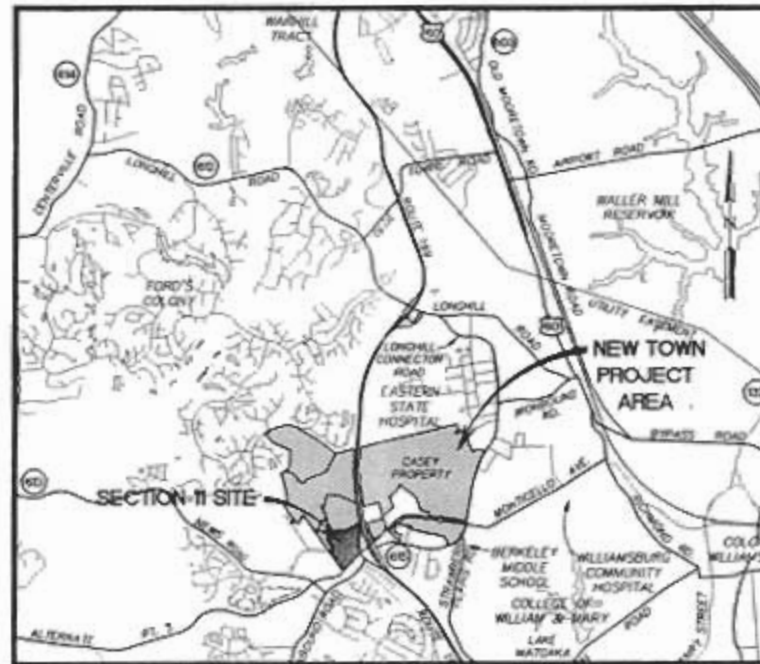
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Z-5-03/MP-6-03

WindsorMeade Marketplace



Master Plan for Rezoning of WindsorMeade Marketplace for C.C. Casey Limited Company James City County, Virginia



VICINITY MAP (APPROX. SCALE 1"=2000')

INDEX OF SHEETS

SHEET NUMBER	DESCRIPTION
1	COVER SHEET
2	MASTER PLAN OF NEW TOWN WEST
3	MASTER CONCEPTUAL PLAN FOR REZONING
4	MASTER UTILITIES PLAN
5	MASTER STORMWATER MANAGEMENT PLAN & ENVIRONMENTAL INVENTORY

DATE: 6/02/03

AES PROJECT # 9069-01

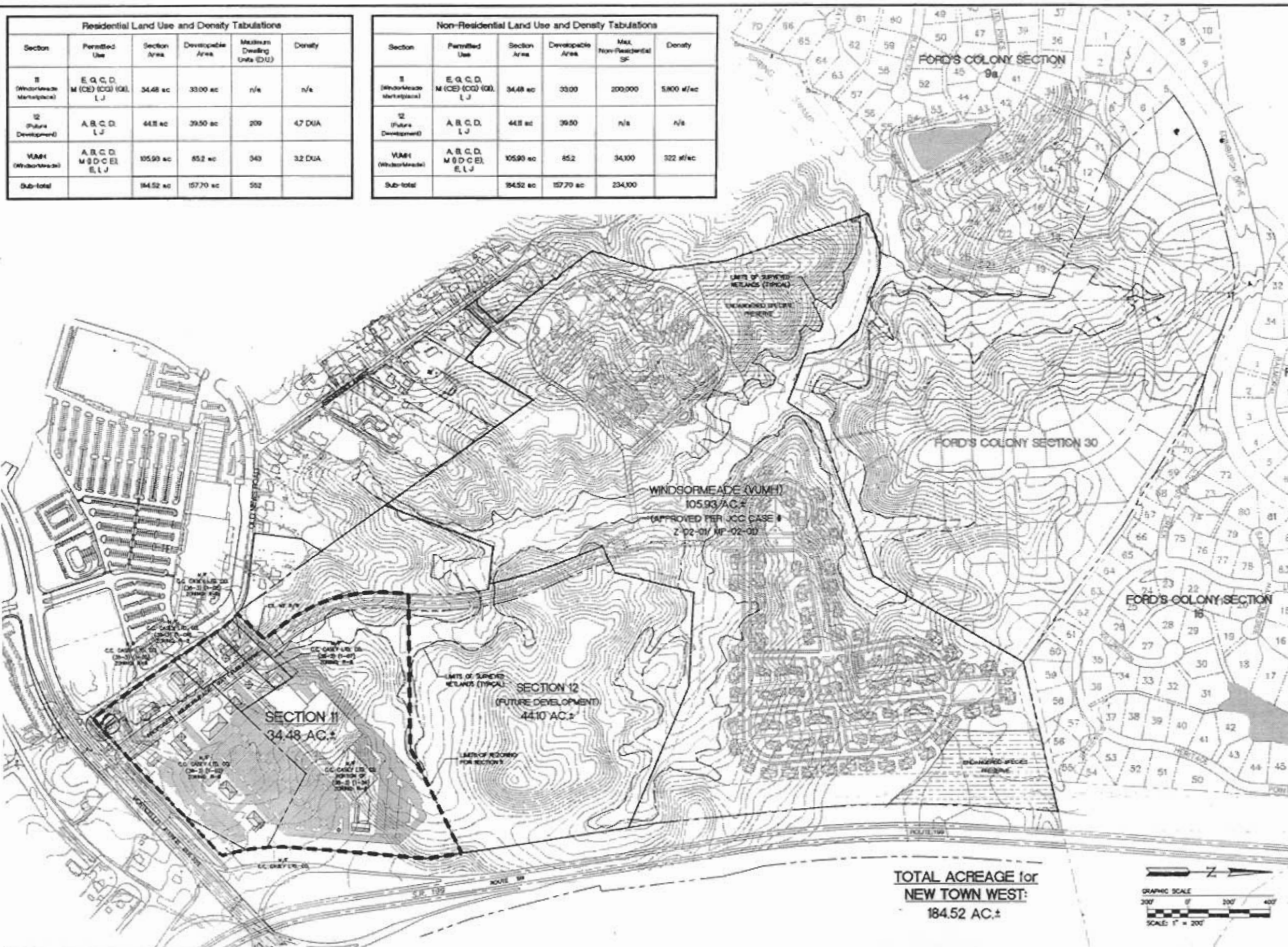


5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
(757) 253-0040
Fax (757) 220-8994

NO.	DATE	REVISION / COMMENT / NOTE

Residential Land Use and Density Tabulations					
Section	Permitted Use	Section Area	Developable Area	Maximum Dwelling Units (DU)	Density
II (WindsorMeade Marketplace)	E, Q, C, D, M (CE) (CG) (G), L, J	34.48 ac	33.00 ac	n/a	n/a
12 (Future Development)	A, B, C, D, L, J	44.8 ac	39.50 ac	209	4.7 DUA
VUMH (WindsorMeade)	A, B, C, D, M (D, C, E), E, L, J	105.93 ac	85.2 ac	343	3.2 DUA
Sub-total		184.52 ac	157.70 ac	552	

Non-Residential Land Use and Density Tabulations					
Section	Permitted Use	Section Area	Developable Area	Max. Non-Residential SF	Density
II (WindsorMeade Marketplace)	E, Q, C, D, M (CE) (CG) (G), L, J	34.48 ac	33.00 ac	200,000	5,800 #/ac
12 (Future Development)	A, B, C, D, L, J	44.8 ac	39.50 ac	n/a	n/a
VUMH (WindsorMeade)	A, B, C, D, M (D, C, E), E, L, J	105.93 ac	85.2 ac	34,300	322 #/ac
Sub-total		184.52 ac	157.70 ac	234,300	



**TOTAL ACREAGE for
NEW TOWN WEST:
184.52 AC.±**



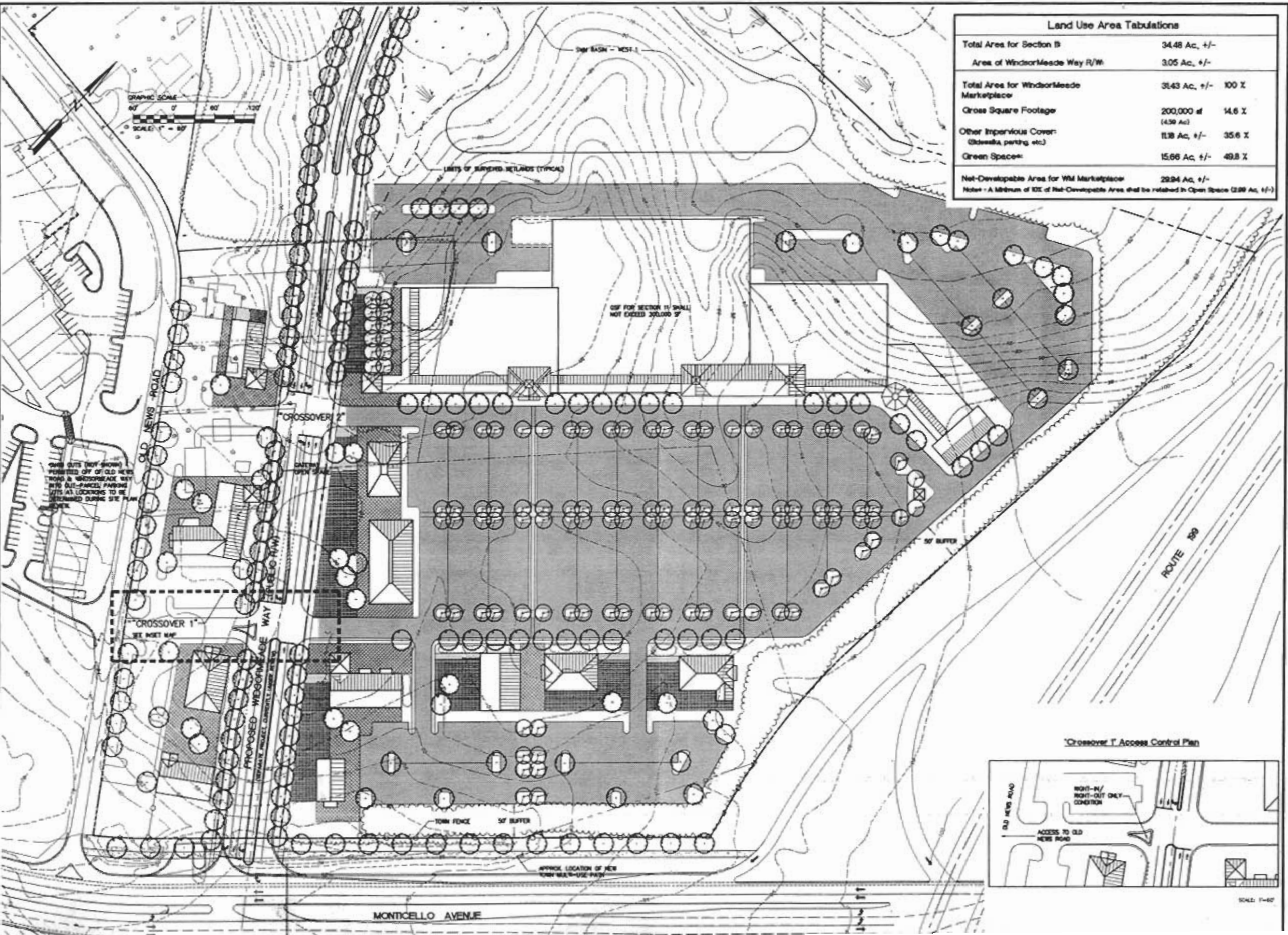
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2	11-10-03	REVISED PER 2007 ZCC COMMENTS
3	11-29-03	REVISED PER 2007 ZCC COMMENTS
4		
5		

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Williamsburg, Virginia 23186
(757) 253-0040
Fax (757) 220-8994



MASTER PLAN FOR REZONING
WINDSORMEADE MARKETPLACE
SECTION II, NEW TOWN WEST
OWNER: C.C. CABRY LIMITED CO.
KINGSLY DISTRICT, JAMES CITY COUNTY, VIRGINIA

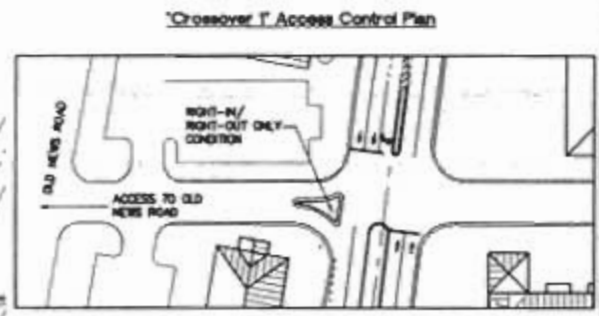
Designed GAN/JSW	Drawn CMB
Date 11-20-03	Date 6/02/03
Scale 1" = 200'	Scale 1" = 200'
Project No. 9069-01	Drawing No. 2015



Land Use Area Tabulations			
Total Area for Section II	34.48 Ac, +/-		
Area of Windsormeade Way R/W	3.05 Ac, +/-		
Total Area for Windsormeade Marketplace	31.43 Ac, +/-	100 X	
Gross Square Footage	200,000 sf	14.6 X	
(439 Ac)			
Other Impervious Cover: (Roofs, parking, etc.)	11.8 Ac, +/-	35.6 X	
Green Space:	15.66 Ac, +/-	49.8 X	
Net-Developable Area for WM Marketplace	29.94 Ac, +/-		
Note: A Minimum of 10% of Net-Developable Area shall be retained in Open Space (2.99 Ac, +/-)			

NO.	DATE	REVISION / COMMENT
1	10/20/03	REVISED FOR 10/17/02 COMMENTS
2	11/20/03	REVISED FOR 10/17/02 COMMENTS
3	11/20/03	REVISED FOR 10/17/02 COMMENTS

SHALL DATE THEY SHOWN
 REVERTED OFF OF OLD NEWS
 ROAD & WINDSORMEADE WAY
 INTO OUT-PARCEL PARKING
 LOTS AT LOCATIONS TO BE
 DETERMINED DURING SITE PLAN
 REVIEW



5248 Old Towne Road, Suite 1
 Williamsburg, Virginia 23186
 (757) 253-0040
 Fax (757) 250-8994

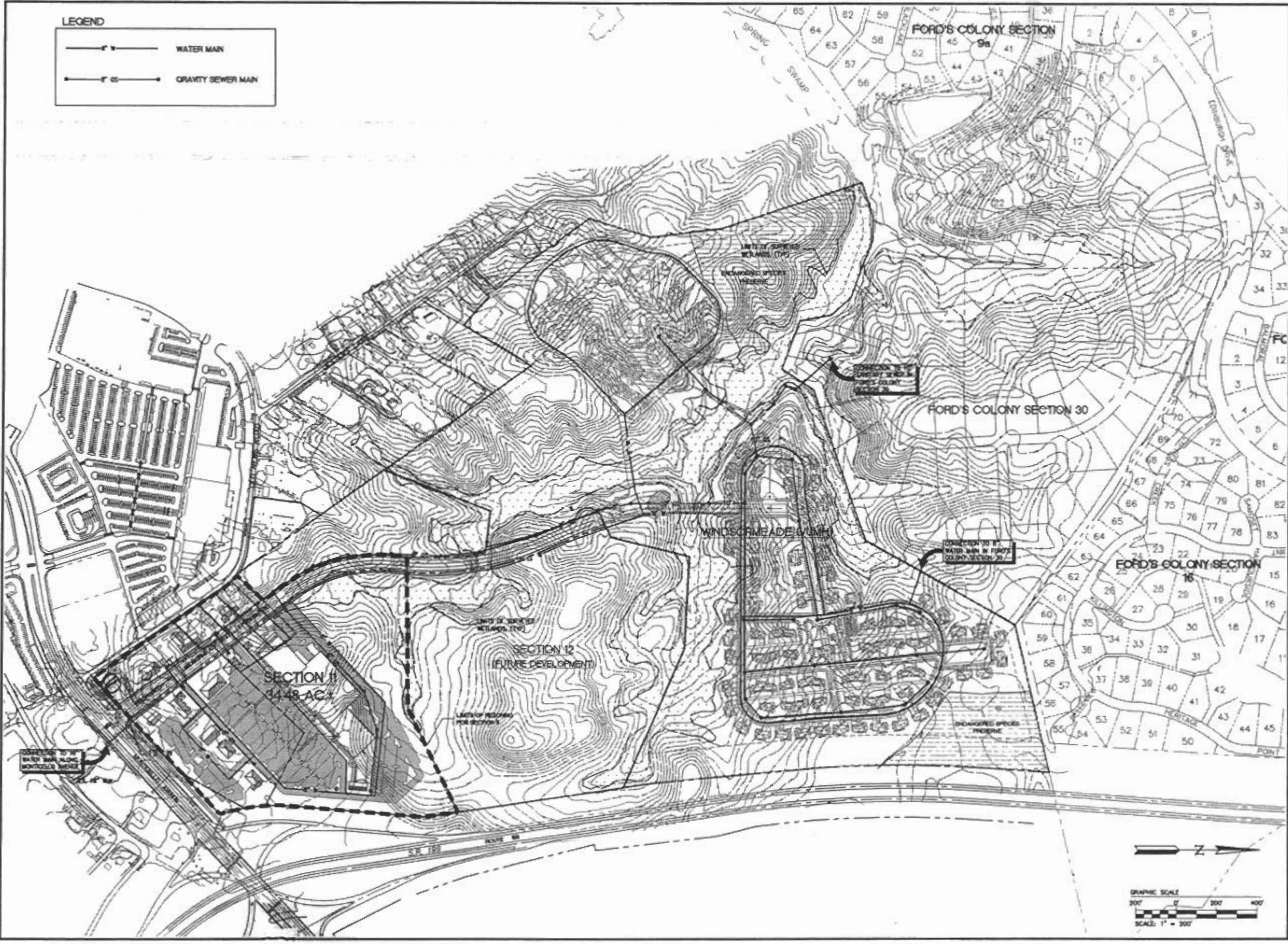
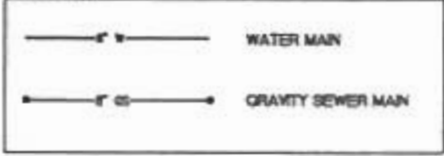


CONSULTING ENGINEERS

MASTER CONCEPTUAL PLAN FOR REZONING
WINDSORMEADE MARKETPLACE
 SECTION II, NEW TOWN WEST
 OWNER: C.C. CASSET LIMITED CO.
 BRIDLE DISTRICT JAMES CITY COUNTY VIRGINIA

Drawn by	AM
Checked by	MS
Scale	1"=80'
Date	8/02/03
Project No.	9089-01
Drawing No.	3 OF 5

LEGEND



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 10/27/03

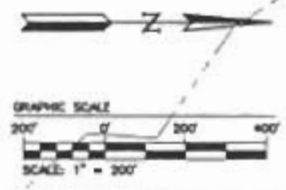
NO.	DATE	REVISION / COMMENT / NOTE

5248 Old Towne Road, Suite 1
 Williamsburg, Virginia 23188
 (757) 253-0040
 FAX (757) 250-8004







MASTER UTILITIES PLAN
WINDSORMEADE MARKETPLACE
 SECTION II, NEW TOWN WEST
 OWNER: G.C. CARY LIMITED CO.
 WINDSORMEADE DISTRICT JAMES CITY COUNTY VIRGINIA

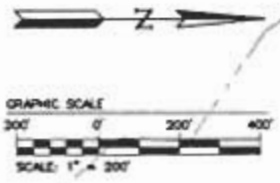
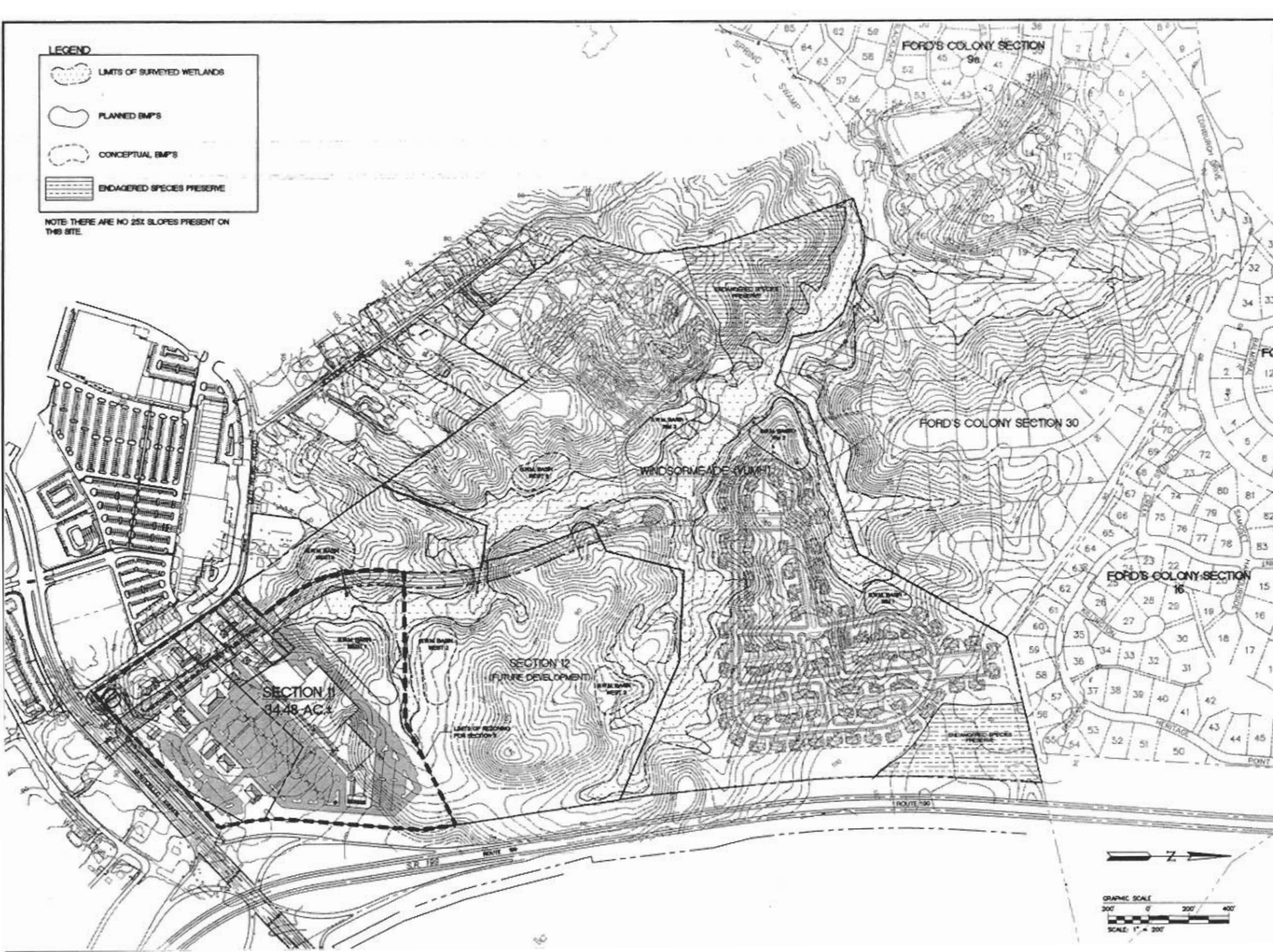
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Project No: 9069-01	
Drawing No: 4 OF 5	



LEGEND

-  LIMITS OF SURVEYED WETLANDS
-  PLANNED BMP'S
-  CONCEPTUAL BMP'S
-  ENDANGERED SPECIES PRESERVE

NOTE: THERE ARE NO 25% SLOPES PRESENT ON THIS SITE.



1	11-21-03	REVISED PER '03' COMMENTS	DATE
2	11-21-03	REVISION / COMMENT / DATE	BY

6248 Old Towne Road, Suite 1
 Williamsburg, Virginia 23196
 (757) 253-0040
 Fax (757) 250-8994



MASTER SWM PLAN AND EM. MEMORY
WINDSORMEADE MARKETPLACE
 SECTION 11, NEW TOWN WEST
 OWNER: G.C. CASEY LIMITED CO.
 JAMES CITY COUNTY, VIRGINIA

Designed	GAK	Drawn	AES
Scale	1"=200'	Date	8/22/03
Project No.	W08-01	Sheet No.	5 OF 5

WindsorMeade Marketplace ^{2-05-03/}
_{MP-06-03}

Design Guidelines

Parcels C, D1, D2 & D3

New Town Section 11

James City County, Virginia

SLN Williamsburg Associates

Consultants

Cooper, Robertson & Partners

Architects Dayton, Thompson & Associates PC

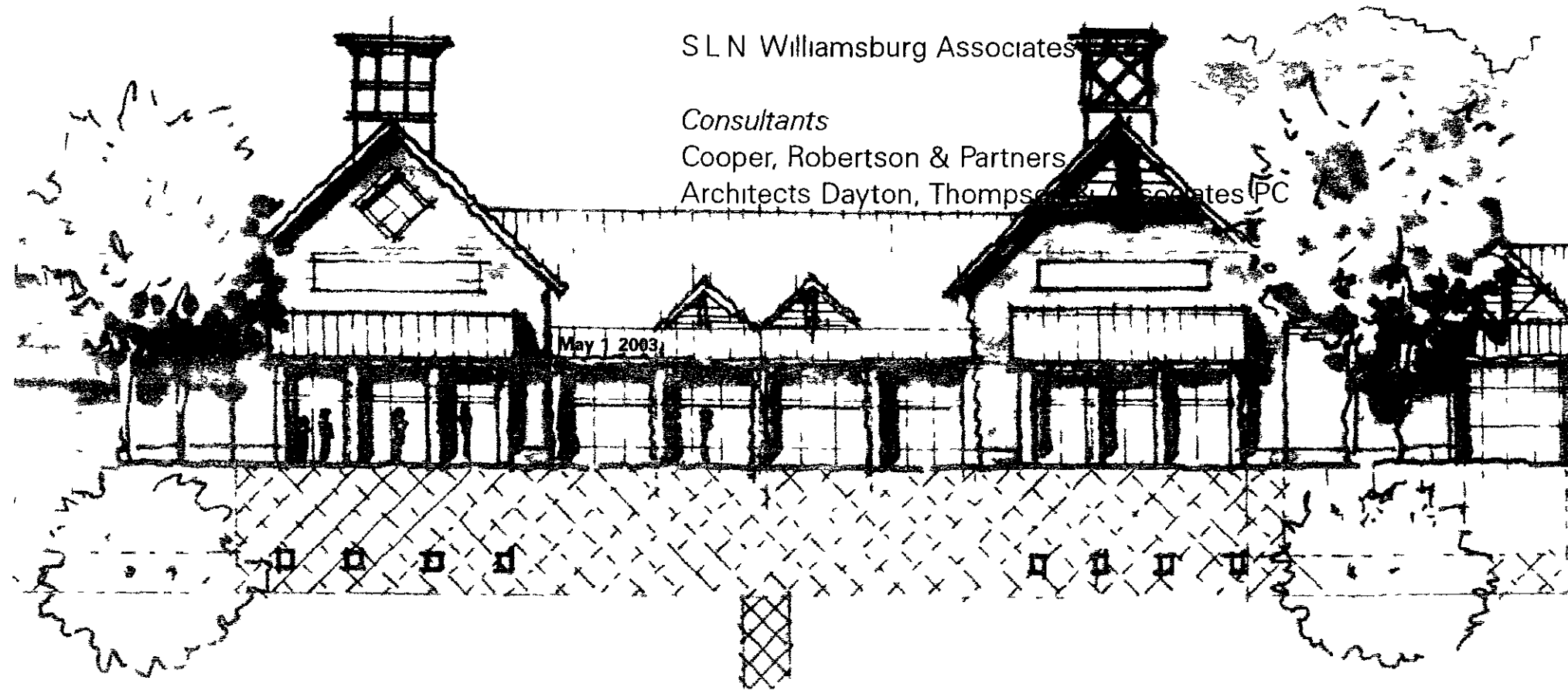
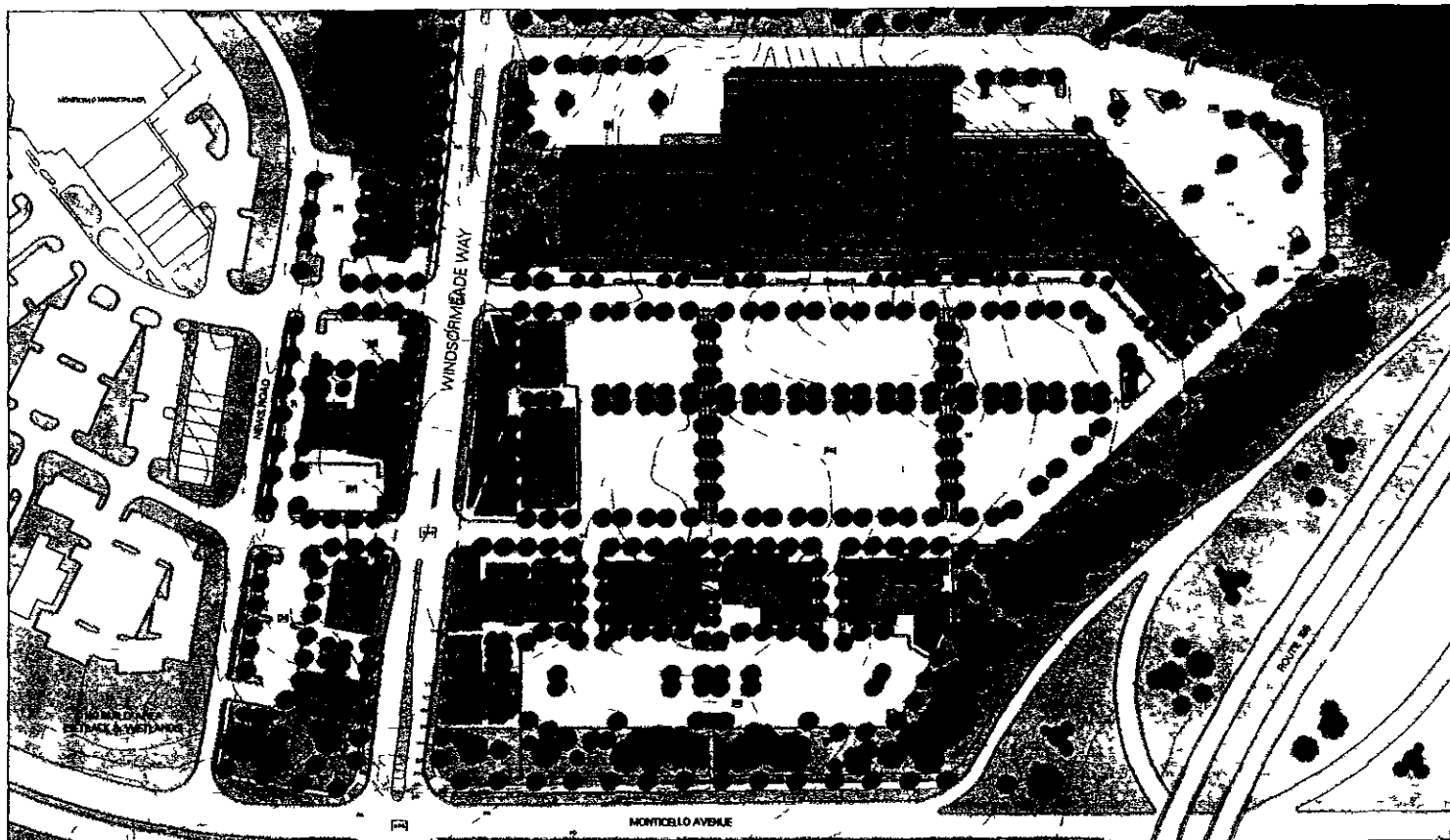


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Parking and Access	9
Visual Character	12
II Landscape and Open Space Standards	
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Streets	18
Open Space and Focal Points	21
Street Frontage / Building Landscape	21
Parking Areas	22
Recommended Planting Practices	22



I WindsorMeade Marketplace Guidelines
(Master Plan Section 11,
Parcels C, D1, D2, & D3)



Illustrative Site Plan of WindsorMeade Marketplace

In accordance with the proffers and adopted Design Guidelines for New Town in James City County S L N Williamsburg Associates L L C (the Owner) presents these specific Design Guidelines and Mixed-Use Plan for Master Plan Section 11 Parcels C D1 D2 and D3 to the New Town Design Review Board (DRB) and James City County

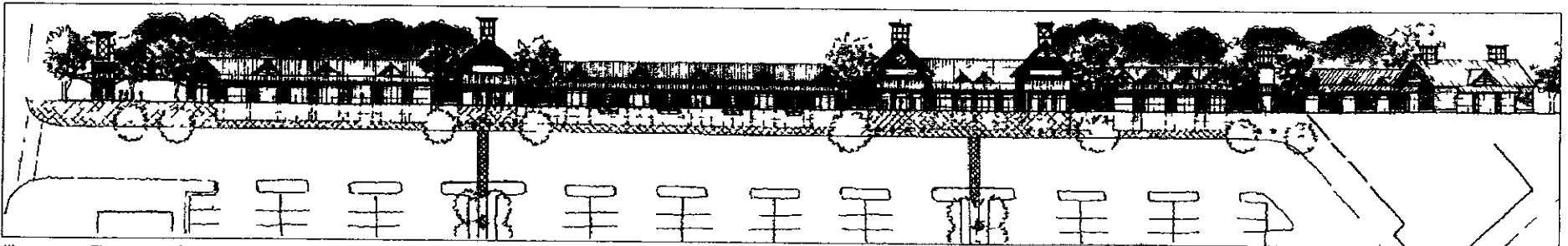
This document summarizes the Owner s plans to develop a 200 000 sf regional shopping center as a gateway to New Town s west side

The retail centers of New Town are typically located along Monticello Avenue and serve as gateways and addresses to the neighborhoods beyond them The more urban centers of New

Town are appropriately located at the intersection of Monticello and Ironbound while more regionally targeted development occurs near Monticello's intersection with Route 199. These commercial centers establish the first image and impression of New Town to those who pass by or visit from other areas in the region. The planning and design of these sites then becomes paramount in setting the desired character for all of the neighborhoods located in the town. Architectural character, landscape requirements, parking and service areas, pedestrian interaction, vehicular movement, signage and lighting are all major factors to be considered in the design of any retail center. The intersection of Route 199 and Monticello Avenue as a gateway to Williamsburg is a primary location for a regional retail center that transitions both to the uses of the Town Center and its shops, restaurants and entertainment venues to the east and the less urban areas of the County to the west. WindsorMeade Marketplace then is part of a transition in scale of development from town to country as one travel west along Monticello.

It is the intention of these guidelines that this gateway center avoids the suburban patterns of development that are characterized by large setback areas, large areas of undefined parking, limited pedestrian opportunities, highway scaled signage and a general lack of connection with its surrounding context.

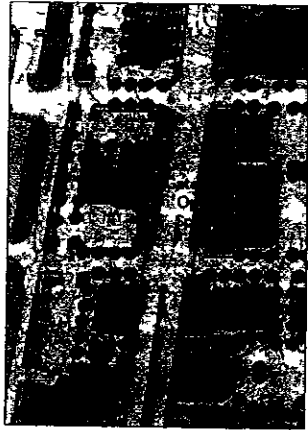
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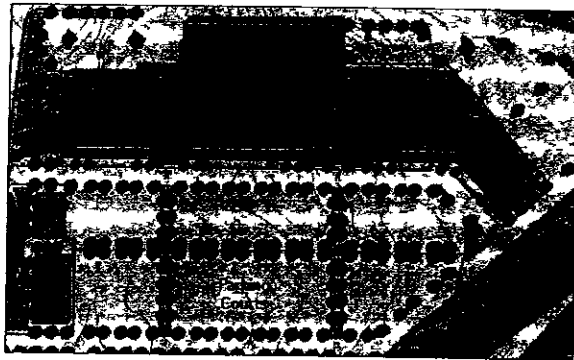
Illustrative Elevation of In Line Retail at North Portion of Site



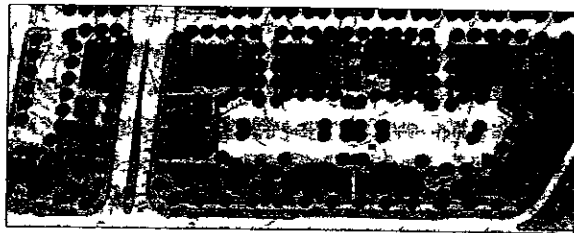
Illustrative Elevation looking East along WindsorMeade Way



Outparcel Development along Windsor Meade Way



In Line Retail east of Windsor Meade Way



Outparcel development along Monticello Avenue

The buildings of these gateway centers should be architecturally compatible with those of the rest of New Town to the east and Monticello Marketplace to the west as they form together the streetscape of Monticello Avenue. They should also convey the scale of the village and provide an identity for the town.

In the concept presented by these guidelines, smaller freestanding commercial users, or out-parcels, which are more flexible in their relationship to parking, are located along Windsor Meade Way. The buildings are organized on both sides of the road and form a Gateway Open Space, which leads into the parking court of the larger retail users. Residents and visitors alike will pass through a retail village on their way to the northern portions of the West Side, rather than through a shopping center.

The larger retail boxes and in-line stores are located east of Windsor Meade Way. The parking that is necessary for the typical daily use of the retail center is located in front of the larger users. Landscaping defines the parking area into smaller "courts" and tree-shaded pathways are provided through the parking field to encourage and facilitate pedestrian circulation about the retail center, especially between the in-line retail and the out-parcels. In order to keep the larger parking area to a manageable size, employee and overflow parking have been provided behind a portion of the larger retail uses. The facades of the larger uses are to be articulated in a way that breaks down the scale of the overall massing and incorporates character elements at special places such as entranceways and focal points. It is expected that the architecture will complement that of the nearby Monticello Marketplace, but retain its own character in defining this neighborhood.

Other smaller users are located to the south of the main parking field along Monticello Avenue. The parking for these uses is located between the buildings and Monticello Avenue, except at the intersection with Windsor Meade Way. Here the parking is provided at a depth of two bays (120') and is located behind the 50' required buffer of preserved existing landscape. At this location, the desired character for Monticello Avenue, as illustrated in the New Town Design Guidelines, is to preserve as many existing mature trees along its edge as possible. The parking for these users is placed between the wooded buffer and the buildings so that buildings will define the larger parking field, encouraging pedestrian circulation to and from. Careful grading of the parking areas and landscaping of the buffers, as well as the implementation of the required town fence, will attractively screen the parking from Monticello, so that its desired park-like character is preserved.

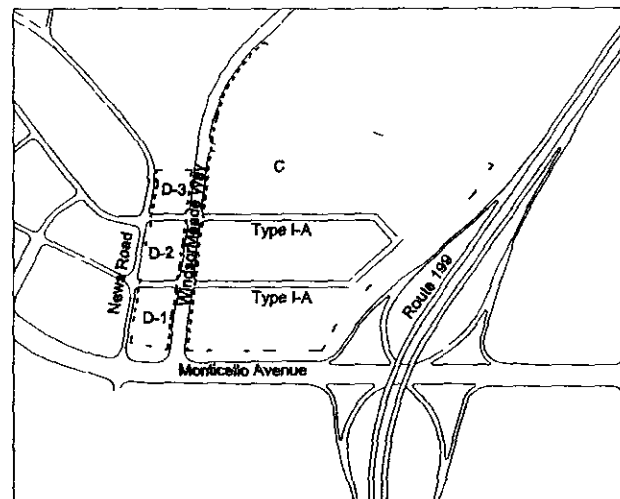
Street Design

The streets which define or are located within the WindsorMeade Marketplace District are Monticello Avenue WindsorMeade Way and the smaller lanes or drives which serve as frontages to open spaces and uses or to define and organize parking areas. The design of Monticello Avenue is to comply with its comprehensive vision (Refer to page 13). Within the site a coherent, interconnected pattern of internal streets and drives are organized into smaller more humanly scaled areas. Sidewalks tree planting and pedestrian lighting are designed on both sides of the streets enabling pedestrians to comfortably and safely walk from parking areas to building entrances day and evening.

The following street sections are proposed for Section 11

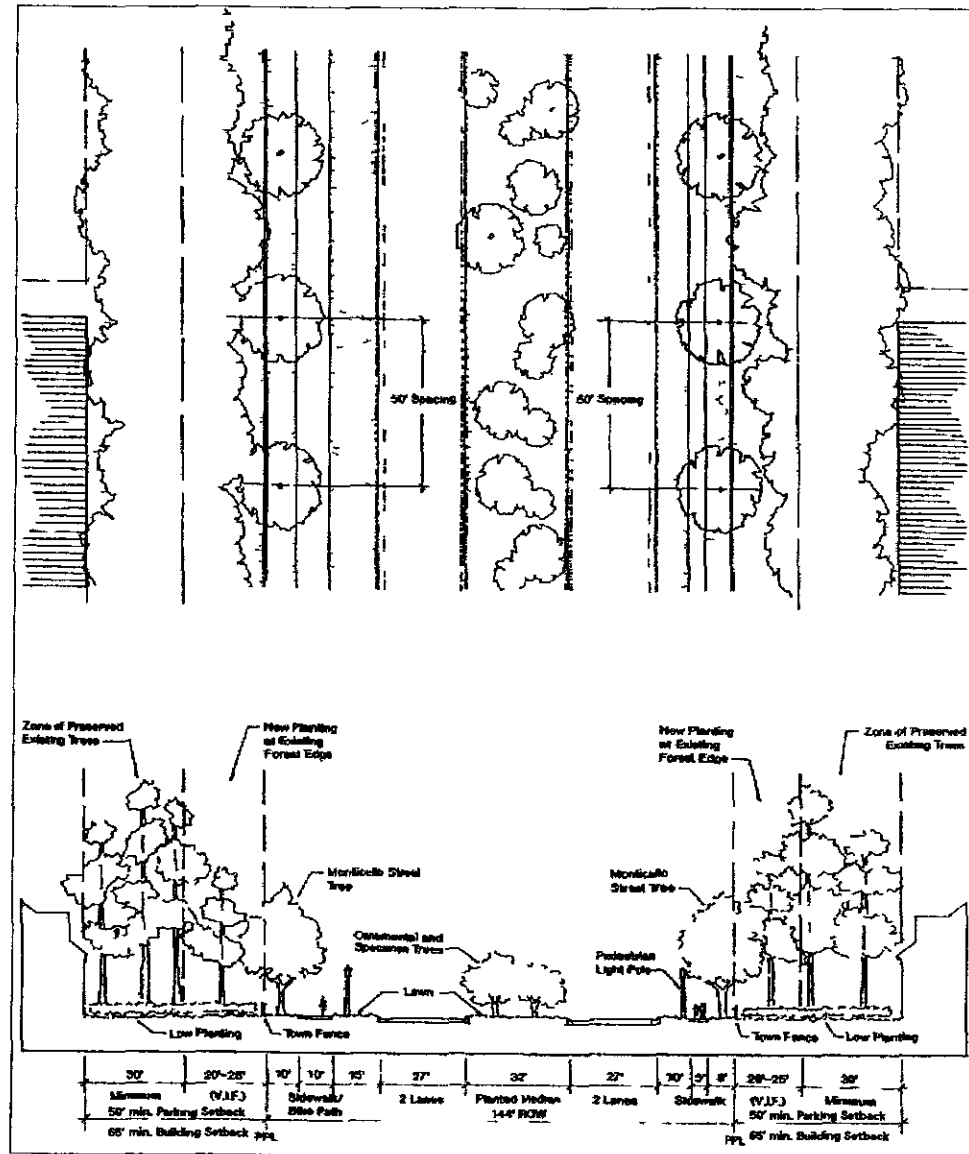
Type Monticello	Monticello Avenue
Type WindsorMeade	WindsorMeade Way
Type I A	Internal street or drive (not a public street)

Refer to the following pages for section diagrams keyed to an illustrative street plan

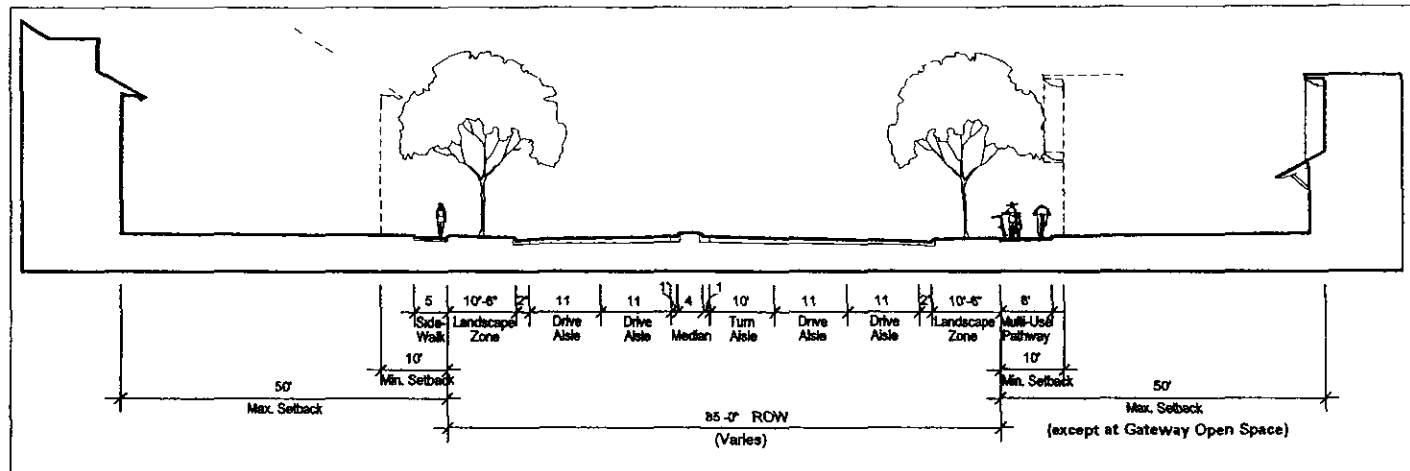


Key to Street Sections

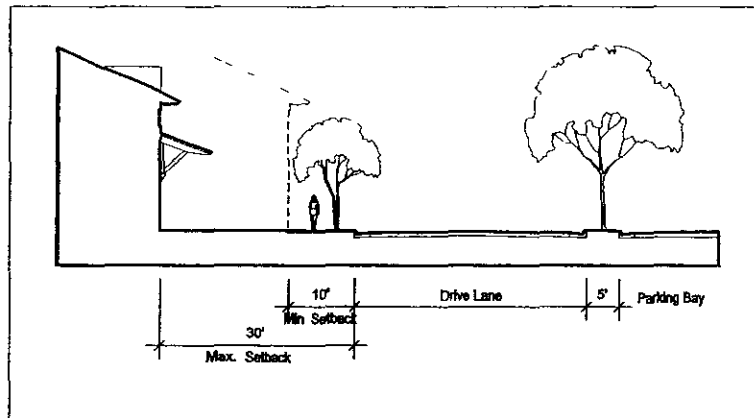
Monticello Avenue Plan and Section (Type Monticello)



**WindsorMeade Way section
(Type WindsorMeade)**



**∞ Internal street or drive section
(Type I-A)**



Building Placement & Massing *Building Orientation*

The orientation and massing of a group of buildings within any retail center should create a positive spatial ensemble rather than occur as free standing random elements. Buildings are located so that they form an ordered relationship with one another ideally through the creation of public open space or "place" (i.e. a plaza, square or green) about which they are entered and to which they should be oriented.

Building Shape and Footprint

Buildings should be predominantly rectangular in shape or composed of simple rectangular pieces. Odd building shapes employing acute angles (such as in the letters "Z", "W" and "Y") are not encouraged. Simpler shapes are preferred (similar to the letters "I", "H", "L", "T" and "U").

Freestanding building footprints should be predominantly small, between 2,000 SF and 10,000 SF. No individual user may have a footprint greater than 90,000 SF and no two users may have a combined footprint greater than 125,000 SF. Floor plates may not be larger than 12,000 SF without the employment of devices to articulate the massing into smaller components. Building depths may not be greater than 150' without the employment of devices to articulate the massing into smaller components. Larger footprint buildings may be allowed with DRB approval.

Building Height

An appropriate building height is desirable to establish a scale to the gateway centers consistent with the New Town village center and the size of the parcel. Gateway centers are to have a predominantly 1½ - 2 story expression; therefore one story buildings in gateway centers should appear to have an attic story with dormers whenever possible. Buildings may not exceed 3 stories except for tower elements with a maximum footprint of 625 SF.

Building Setback/Frontage Zone

Setbacks from the property line are established so that a defined streetscape or streetwall will result. Streetwalls help to create a pedestrian environment which in turn reinforces commercial and retail uses. Because the requirements for 60% maximum impervious surface and storm water management will be applied on a village-wide basis, there is no need to have large setbacks for the purposes of open space buffers and retention/detention ponds. A "frontage zone" is a zone in which the front wall of a building is built.

1 Individual Building Setbacks/Frontage Zone Requirement

A minimum of 60% of the front facade of individual buildings should be built within the following frontage zones.

Chart 1 Frontage Zone Dimensions

Street Type or Condition	Min. Setback from R O W	Max. Setback from R O W
Type Monticello	50' parking 65' building	230'
Type WindsorMeade Way	10'	50' (except at Gateway Open Space)
Type I-A	10'	30'

Arcades, canopies, stoops, bay windows, and balconies may protrude beyond the frontage zone where such zone does not extend to the property line.

Within setback areas, additional pedestrian hardscape and amenities and landscaping should be accommodated. Setbacks along public streets may not accommodate parking.

2 Block Face Setback/Frontage Zone Requirements

Building facades should occur within the frontage zones established above, a minimum of the following percentages over the length of any block face along the indicated frontage.

Chart 2 Block Face Requirements

Frontage Condition	Min % Block Face Frontage
Monticello Avenue	40
Gateway Open Space	60
WindsorMeade Way	40
Internal Street serving commercial uses	per MU Plan

Build-To Zones

Build-To zones are portions of the site frontage where buildings are required and where such buildings should abut the property line or established setback line

Build-To Zones establish criteria where building mass is required to achieve a particular streetscape or define an urban condition such as an open space. This in turn promotes a coherent system of streets and open spaces that characterizes the townscape and encourages pedestrian activity.

Build-To zones are established in the Section 11 MU Plan (see page 18)

Parking and Access

Parking Standards

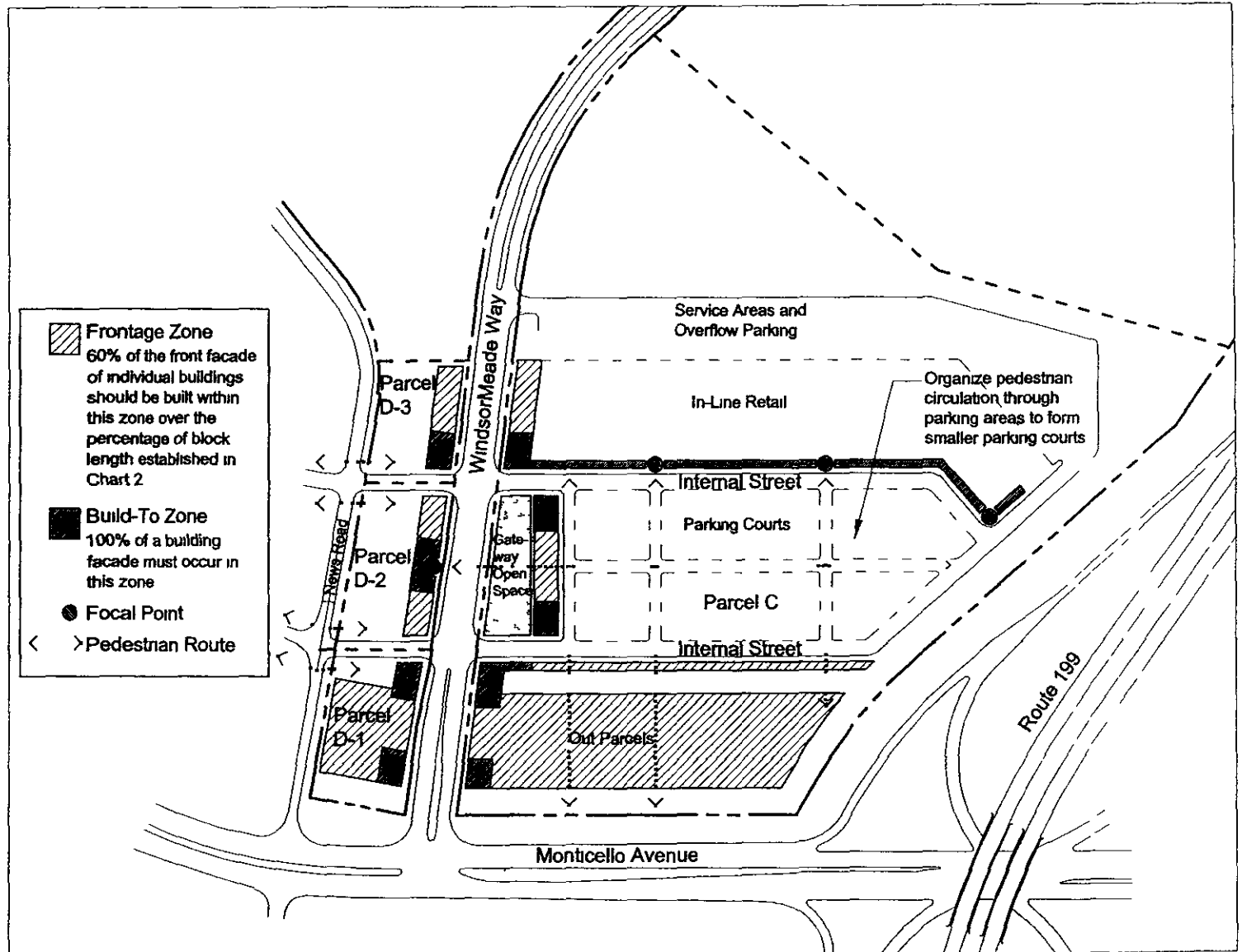
Parking lots within retail centers may be located about a created open space (i.e. a plaza, square or green) or may be located at the center of the retail site or if necessary at the sides of retail buildings rather than being interposed between buildings and streets.

Parking areas are to be setback from the following conditions as described below:

Monticello Avenue R O W	50' min
Other Public Rights-of-Way	15' min
Exterior Property Line	25' min except if combined with that of an adjacent parcel or property

Mixed-Use Plan

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Parking lots should be designed to meet or exceed the landscape standards of the James City County Zoning Ordinance. Whenever possible, existing large trees are to be saved within the parking lots to promote a sense of maturity of the town landscape and to shade the paved areas. Within the large zones of parking, tree and shrub planting are designed to articulate large parking lots into smaller parking courts.

Trash, utility, and service areas should be located behind buildings but are permitted within the parking areas, subject to the screening standards described below.

Access

1 Vehicular Access

Internal street systems and parking lots are to be accessed from the streets that border the site, not from the frontages of the public open spaces that may border the site. Groups of buildings are to share common parking access points to keep to a minimum the number of curb cuts along the bordering streets. Vehicular circulation should be designed to accommodate buses and pull-off areas and to encourage bus access from Monticello Marketplace.

2 Pedestrian Access

Primary pedestrian access should occur from the public open spaces that border the site. Pedestrians are encouraged to access the buildings from the public streets and from the internal street system that organizes the parking areas. Pedestrian networks are to be designed to connect with adjacent development.

3 Building Access/Entrances

Building entrances facing streets and open spaces are desirable. Where building entrances face the parking areas of the site, such entrances, or covered arcades and canopies which lead to them, should be visible from the public right-of-way to encourage their use by pedestrians, or secondary entrances should be employed along the streets and open spaces.

Visual Character

Edge Definition and Screening

General Provisions

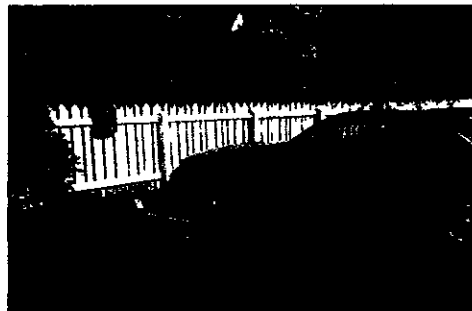
Walls fences and planting between buildings and around parking areas are to be employed to improve the visual environment as well as to reinforce a streetwall condition along public frontages. These elements are not intended to block views of the fronts of the retail buildings but to serve two functions to define street edges and parking areas and to conceal undesirable views into service areas.

Parking lots and landscaped areas of the site should be defined with low walls fences or continuous hedging along the property line or established setback line of the building frontage zones established in the Mixed-Use Plan. Additionally parking areas along Monticello Avenue and Route 199 may be depressed 2-3' from existing adjacent grade. The walls and fences should be architecturally consistent with the adjacent buildings and including hedges should be limited to 42" in height. The canopy of trees planted within the parking areas or other positive features should dominate the view over such walls fences or hedges to soften the effect of parking area along street rights-of-way. Walls and fences should have a minimum opacity of 50%.

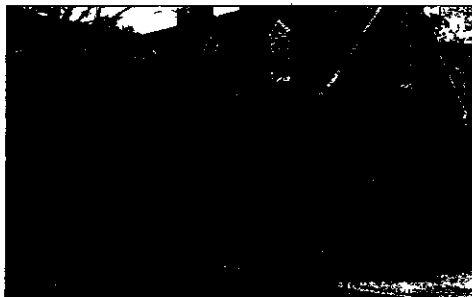
Loading service and trash areas as well as mechanical equipment are to be screened with high walls or fences a minimum of 5' in height combined with planting where appropriate and consistent in character with the retail buildings or may be screened by the buildings themselves.

Mechanical Equipment

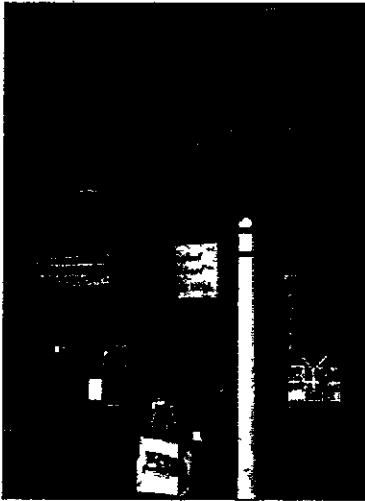
All roof mounted mechanical equipment including ductwork is to be screened from all public view and access.



A good example of parking screening



A good example of service screening



Post mounted retail signage at Market Square Colonial Williamsburg

Planting

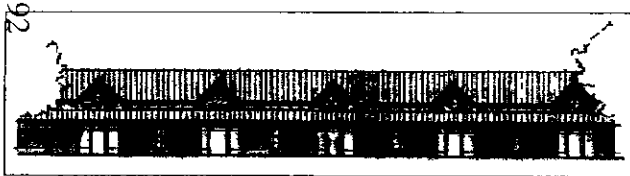
Planting is encouraged in all setback areas and throughout the parking areas. Within large areas of parking, planting should be designed to break down large parking lots into smaller parking areas. The preservation of existing mature trees within planting and parking areas is encouraged.

Signage

All signage should be compatible with the architecture of the buildings and is limited to shop windows, hanging (shingle) signs, post-mounted signs (non-rotating, limited to 12' in height) and the exterior building wall, placed at a consistent height, and to monument signs if designed as an architectural feature consistent with the retail buildings. Signs are encouraged to be externally lit when illuminated. Backlit signs may be permitted at the discretion of the DRB. Individual letters in signs may be internally lit provided the buildings are not located within 100' of Monticello Avenue. Entrance signs are limited to monument signs.

Scale and Articulation

Buildings at WindsorMeade Marketplace should not appear monolithic but should appear consistent with a village character. The use of articulation is to be employed to help reduce the overall size of large buildings. Articulation may be expressed through two devices: building massing and architectural elements. Buildings with large profiles are to be designed to appear smaller if the overall massing is articulated as a collection of component masses. The use of architectural elements such as bays, balconies, porches, loggias, and arcades, as well as architecturally appropriate variations in building materials and color, can add interest to building facades and aid in relating the scale of any building to human dimensions. Roofs may be articulated through the use of dormers, lanterns, monitors, widow's watches, and other rooftop elements. Each of these devices adds character and interest to the buildings of the town that, in turn, reinforces the village character intended by these guidelines. The buildings should be predominantly 1½-2 stories, but may range from 1 to 3 stories and should utilize simple geometric shapes in plan and elevation. The overall massing of any building should be a collection of small and medium simple volumes. Buildings are encouraged to have pitched roofs with attic stories and dormers. Wings and additions should be simple rectangles in plan and oriented parallel or perpendicular to the main body of the building or toward a street frontage.



Example of architectural articulation using fenestration and roof elements



Example of architectural articulation using a varied massing composition

APPROVED MINUTES TO THE AUGUST 4, 2003, PLANNING COMMISSION MEETING

CASE NO. Z-05-03 WindsorMeade Marketplace

Mr. Christopher Johnson presented the staff report, stating Mr. Alvin Anderson has applied, on behalf of C.C. Casey Limited Company, to rezone approximately 34.49 acres from R-8, Rural Residential with proffers to MU, Mixed Use, for a commercial shopping center. The proposed shopping center will contain up to 200,000 square feet of commercial space including main center, out parcels along WindsorMeade Way and Monticello Avenue. WindsorMeade Way provides access to all 185 acres of this portion of New Town. The property is located within Section 11 in the West Sector of New Town. The West Sector was allocated a maximum of 183,700 square feet of non-residential density in the New Town Master Plan. The WindsorMeade Marketplace proposal utilizes all remaining non-residential density and proposes to reduce the amount of future high-density residential square footage in Section 12 by seven units and convert the corresponding 50,000 square feet from residential to non-residential.

The site is located inside the Primary Service Area (PSA). The property is predominately surrounded by Master Plan communities, adjacent to other commercial uses and part of a binding Master Plan. Staff finds this proposal consistent with surrounding development and land use. Staff also finds this proposal consistent with the Mixed Use designation of the Comprehensive Plan.

Staff recommends deferral of these applications until the next Planning Commission public hearing on September 8, 2003 in order to allow staff and the applicant to resolve outstanding issues and to allow Virginia Department of Transportation to offer a recommendation on the traffic impact study submitted with this proposal. With the exception of traffic management issues, the remaining issues to be addressed are relatively minor.

Mr. Joseph McCleary opened public hearing.

Mr. Alvin Anderson, representing the applicant, cited the credentials of S.L. Nausbaum Realty Company, the developer. The subject property is adjacent to Monticello Marketplace and proposes a cross connection between the two centers. The design elements are consistent with Monticello Marketplace.

Mr. Anderson detailed the revenue generated by Monticello Marketplace to the County through sales and real estate taxes. This proposal is a logical extension of Monticello Marketplace. He also indicated that Belk has committed to locate at the site as an anchor store. The proposal included proffers providing for a binding Master Plan, design guidelines, and Design Review Board approval. The proposal is consistent with the Comprehensive Plan designation and New Town Master Plan. Mr. Anderson requested approval as soon as possible in order

to meet seasonal retail cycles.

Mr. Hagge asked about the basic difference in design between this facility and Monticello Marketplace.

Mr. Jim Gresock, with S.L. Nausbaum, stated that the largest difference was a more courtyard setting for the parking area.

Mr. Hunt asked Mr. Anderson if he expected the traffic impact study to contain any surprises.

Mr. Anderson said that he expected the report to contain a list of potential solutions.

Mr. McCleary asked if the Casey family already owned the homes adjacent to property.

Mr. Anderson responded yes.

Mr. McCleary asked if the traffic island currently in place would prohibit traffic from turning onto WindsorMeade Way from Monticello Avenue.

Mr. Dexter Williams, traffic consultant, drew a diagram indicating the current turn lane and a proposed second turn lane.

Mr. McCleary stated that the majority of traffic will flow through the crossovers and from Monticello Avenue.

Mr. Williams confirmed that the bulk of traffic will still flow from Monticello Avenue.

Hearing no other requests to speak, Mr. Joseph McCleary deferred the case until the September 8, 2003 Planning Commission meeting

UNAPPROVED MINUTES TO THE SEPTEMBER 8, 2003, PLANNING COMMISSION MEETING

CASE NO. Z-5-03 & MP-6-03 WindsorMeade MarketPlace.

Mr. Christopher Johnson stated that Mr. Alvin Anderson, on behalf of C.C. Casey Limited Company, has applied to rezone approximately 34.49 acres from R-8, Rural Residential with Proffers to MU, Mixed Use with Proffers, to allow for the construction of a 200,000 square feet commercial shopping center. This application was deferred at the August 4th Planning Commission meeting to allow staff and the applicant to work with the Virginia Department of Transportation (VDOT) to resolve some outstanding issues and allow VDOT to offer a recommendation on the Traffic Impact Study submitted with this proposal. The applicant has agreed to proffer the construction of a traffic signal at the second crossover on WindsorMeade Way when and if the traffic volume on the road reaches a point where the signal becomes warranted. The applicant has also agreed to restrict turning movements at the first crossover to maintain traffic flow into the center from Monticello Avenue and mitigate traffic congestion on Monticello Avenue. VDOT has concluded that the additional 50,000 square feet of non-residential development will not negatively impact the Level of Service on Monticello Avenue or at the Monticello Avenue/WindsorMeade Way intersection. Staff believes the traffic impacts created by this development are sufficiently mitigated by the master plan and proffer revisions.

Mr. Johnson stated that staff finds the proposal consistent with the surrounding zoning and land use, consistent with the Comprehensive Plan, and consistent with the New Town Master Plan, Design Guidelines and proffers. Staff recommended that the Planning Commission recommend approval of the rezoning, master plan, and design guidelines.

Mr. Poole, III opened the public hearing.

Mr. Alvin Anderson, Kaufman and Canoles, represented S.L. Nausbaum Realty Company in this application. Mr. Anderson indicated the location of the subject property on an aerial photograph. The subject property is frequently referred to in the New Town Master Plan as the gateway commercial district. Mr. Anderson stated that the New Town Plan was ratified by the Board of Supervisor by the approval of the Comprehensive Plan. The applicant indicted the features of the plan that will enhance the character of the center, parking, small retail shops, through-ways to residential areas, green space etc. Mr. Anderson stated that the plan is consistent with the 2003 Comprehensive Plan, the New Town Plan and approved by the New Town Design Review Board. In response to Mr. Billups' question on the previous application Mr. Anderson indicated that a Community Impact Statement is included in their handouts.

Mr. Hagee asked for the square footage of the main building where Belk will be located.

Mr. Anderson stated that the building is 143,000 square feet

Mr. Hagee asked if the remaining outparcels will be primarily retail or a mix.

Mr. Jim Gresock, with S.L. Nausbaum Realty, stated that the outparcels will be a mix of office and retail space.

Mr. Hagee asked if it will be similar to Monticello Marketplace where most of the outparcels are fast food establishments.

Mr. Gresock indicated that the parking lot layout doesn't allow for individual buildings. He stated there should be fewer food establishments and perhaps one bank. This is the first project they have designed with shared parking.

Mr. McCleary noted that page 4 of the proffers makes reference the owner's association. He asked if this section, the Methodist Home, and the other residential sections will each have their own separate owner's associations.

Mr. Anderson stated there are sub-associations for each of the developments that are all part of a master association.

Mr. McCleary asked if page 44 of the handout regarding traffic lanes indicates that all 5 lanes traffic will be constructed during the initial construction phase.

Mr. Arch Marston, of AES, stated that all 5 lanes will be developed with the development of WindsorMeade Way.

Mr. McCleary stated that the Commission has received complaints over the years from residents on the end of Jester's Lane about the noise of loading and unloading at the rear of the buildings. He asked if there are planned buffers to help mitigate those types of issues.

Mr. Anderson acknowledged that this development is far removed from Jester's Lane and that deliveries will be made off of WindsorMeade Way. The parcel that remains to be developed is designated on the master plan as residential.

Mr. Kale asked for the zoning of the undeveloped parcel.

Mr. Anderson said that it is zoned R-8.

Mr. Sowers stated that it is also part of the New Town Master Plan.

Mr. Leo Rogers clarified that there is a difference between the zoning classification for the property of R-8 and what might ultimately be developed based on the New Town Master Plan.

Mr. Hagee noted that the Stormwater Management Pond will also serve as a buffer.

Hearing no other requests to speak, Mr. Poole, III closed the public hearing.

Mr. Kale stated that he has strong reservations when he looks at the total project

WINDSORMEADE MARKETPLACE PROFFERS

THESE PROFFERS are made as of this 3rd day of October, 2003, by C C CASEY LIMITED COMPANY, a Virginia limited liability company (together with its successors and assigns, "Casey") (index as a "grantor"), and the **COUNTY OF JAMES CITY, VIRGINIA** (the "County") (index as the "grantee")

RECITALS

R-1 Casey is the owner of certain real property in James City County, Virginia, being more particularly described on EXHIBIT A attached hereto and made a part hereof (the "Property")

R-2 The Property is subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as document no 980001284

R-3 The New Town Proffers provide for development of the Property in accordance with (i) a conceptual master land use plan entitled, "NEW TOWN PLAN" prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, and revised December 8, 1997 (the "New Town Master Plan"), and (ii) design guidelines entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY, VIRGINIA" prepared by Cooper, Robertson & Partners dated September 3, 1997 (the "New Town Design Guidelines")

Prepared by
Kaufman & Canoles, P C
1200 Old Colony Lane
Williamsburg VA 23185



R-4 In furtherance of the vision embodied in the New Town Master Plan and New Town Design Guidelines, Casey has applied for a rezoning of the Property from R-8, Rural Residential, with proffers to MU, Mixed-Use, with proffers. The rezoning of the Property to MU, with proffers, is in fact consistent both with the land use designation for the Property on the County's Comprehensive Plan and the statement of intent for the MU zoning district set forth in Section 24-514 of the County's Zoning Ordinance in effect on the date hereof (the "Zoning Ordinance")

R-5 Casey has submitted an update to the Community Impact Statement previously filed with the County's Director of Planning which satisfies the requirements of Section 24-515(c) of the Zoning Ordinance and the New Town Proffers, which update to the Community Impact Statement includes, without limitation, an updated Fiscal Impact Study which has been reviewed and accepted by the County in connection with the rezoning request referenced above. The update to the Community Impact Statement, as well as the Community Impact Statement, are on file with the County's Director of Planning.

R-6 Pursuant to subsection 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") for development of the property subject to the New Town Proffers.

R-7 Pursuant to the New Town Proffers, the DRB is charged with the responsibility of rendering a written advisory recommendation to the County's Planning Commission and to the County's Board of Supervisors as to the general consistency with the New Town Master Plan and the New Town Design Guidelines of any proposed master plans and guidelines in future rezonings of the property subject to the New Town Proffers.

R-8 Casey has submitted to the DRB, and the DRB has approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, a conceptual master plan of development for the Property entitled "Master Plan for Rezoning of WindsorMeade Marketplace" prepared by AES Consulting Engineers and dated January 30, 2003

R-9 Casey has submitted a revised conceptual master plan of development entitled 'Master Plan For Rezoning, Windsormeade Marketplace, Section 11, New Town West, Owner C C Casey Limited Company" prepared by AES Consulting Engineers and dated June 02, 2003, revised August 29, 2003 (the "Marketplace Master Plan"), consistent with the "Master Plan for Rezoning of WindsorMeade Marketplace", dated January 30, 2003 approved by the DRB, the New Town Master Plan, and the New Town Design Guidelines A copy of the Marketplace Master Plan is on file with the County's Director of Planning

R-10 Casey has submitted to the DRB, and the DRB has approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, design guidelines for the Property entitled "WindsorMeade Marketplace Design Guidelines", dated May 1, 2003 (the "Marketplace Guidelines") A copy of the Marketplace Guidelines is on file with the County's Director of Planning

R-11 Pursuant to the New Town Proffers, a Phase I Archaeological Study recommending no further treatment or further study for the Property, entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and Mary Archaeological Project Center, has been submitted to, and reviewed and approved by, the County Director of Planning

R-12 Casey has caused a small whorled pogonia survey to be conducted on the Property in 1996 and 2001 revealing that no small whorled pogonias or small whorled pogonia habitat exist on the Property. The reports generated from these surveys are entitled 'SEARCHES FOR THE SMALL WHORLED POGONIA, ISOTRIA MEDEOLOIDES, ON THE CASEY TRACT, CHISEL RUN WATERSHED, WILLIAMSBURG/JAMES CITY COUNTY, VIRGINIA SPRING/SUMMER 1996' (the "1996 Report") and "SEARCHES FOR THE SMALL WHORLED POGONIA, ISOTRIA MEDEOLOIDES, ON THE WINDSORMEADE PROPERTY JAMES CITY COUNTY, VIRGINIA JULY 2001" (the "2001 Report"). The 1996 Report and the 2001 report were prepared by Dr. Donna M. E. Ware of the College of William & Mary for Williamsburg Environmental Group, Inc. Dr. Ware will write a letter to the County stating that no small whorled pogonias or small whorled pogonia habitat exist on the Property. A copy of the 1996 Report, 2001 Report, and the letter from Dr. Ware will be on file with the County's Director of Planning.

R-13 The provisions of the Zoning Ordinance, Section 24-1, *et seq*, may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Casey, in furtherance of its application for rezoning, desires to proffer certain conditions which are specifically limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15 2-2296 *et seq* of the Code of Virginia (1950), as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

R-14 The County constitutes a high-growth locality as defined by Section 15 2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning of the Property as set forth above and the Marketplace Master Plan, the Marketplace Guidelines and all related documents described herein, and pursuant to Section 15 2-2296, et seq, of the Virginia Code, Section 24-16 of the Zoning Ordinance and the New Town Proffers, Casey agrees that all of the following conditions shall be met and satisfied in developing the Property

PROFFERS

1 Application of New Town Proffers, Master Plan and Design Guidelines Unless otherwise specifically noted herein, these Proffers shall supercede and amend and restate in their entirety the New Town Proffers, the New Town Master Plan and the New Town Design Guidelines, but only as to the Property

2 New Town Owner's Association Casey shall (i) organize an owner's association or associations in accordance with Virginia law in which all owners of the Property, by virtue of their property ownership, shall be members of an association, or (ii) execute a supplemental declaration and record it in the Clerk's Office submitting all or a portion of the Property to an existing owner's association comprised of owners of property within the New Town Master Plan and amendments thereto Any articles of incorporation, bylaws, declarations, or supplemental declarations (together, the "Governing Documents") creating and governing such association(s) shall be submitted to and reviewed by the County Attorney for consistency with this Proffer

3 Development Process and Land Use

(a) Development The Property shall be developed in one or more phases generally in accordance with the Marketplace Master Plan and the Marketplace Design Guidelines including but not limited to, the land uses, densities and design set forth therein however all of such development shall be expressly subject to such changes in configuration composition and location as required by all other governmental authorities having jurisdiction over such development

(b) DRB Authority, Duties and Powers All subdivision plats site plans, landscaping plans architectural plans and elevations and other development plans for the Property shall be submitted to the DRB for review and approval in accordance with the manual entitled NEW TOWN DESIGN PROCEDURES JAMES CITY COUNTY as the same may be amended by the DRB from time to time, and such other rules as may be adopted by the DRB from time to time for general consistency with the Marketplace Master Plan and Marketplace Guidelines Evidence of DRB approval of plans required to be submitted to the County for approval shall be provided with any submission to the County Department of Development Management of such plans The County shall not be required to review any subsequent development plans not receiving the prior approval of the DRB In reviewing applications, development plans and specifications, the DRB shall consider the factors set forth in the Marketplace Master Plan and/or the Marketplace Guidelines The DRB shall advise of either (i) the DRB's recommendation of approval of the submission, or (ii) the areas or features of the submission which are deemed by the DRB to be materially inconsistent with the applicable Marketplace Guidelines and/or the Marketplace Master Plan and the reasons for such finding and suggestions for curing the inconsistencies The DRB may approve development plans that do not strictly comply with the Marketplace Master Plan and/or the Marketplace Guidelines, if

circumstances including but not limited to topography, natural obstructions hardship economic conditions or aesthetic or environmental considerations, warrant approval All structures and improvements and open space wetlands and other natural features on the Property shall be constructed improved identified for preservation left undisturbed or modified as applicable, substantially in accordance with the plans and specifications as finally approved by the DRB

(c) Procedures for Changes to Marketplace Master Plan and Marketplace Guidelines Applications to change the Marketplace Master Plan and/or the Marketplace Guidelines are to be made to the Planning Commission or the Board of Supervisors, as appropriate, as hereinafter provided and in accordance with the Zoning Ordinance

In accordance with Section 24-518 of the Zoning Ordinance, all of such amendments shall be subject to the approval of the County Planning Commission if, after reviewing written confirmation from the County's Director of Planning, the Planning Commission concludes that the changes do not significantly alter the character of the land uses or other features or conflict with any conditions placed on the approval of the rezoning

No amendment of the Marketplace Master Plan and/or Marketplace Guidelines which significantly alters the character of land uses or other material features or conflicts with any conditions placed on approval of the rezoning as determined by the County's Director of Planning, and, if applicable under Section 24-518 of the Zoning Ordinance, the Planning Commission, shall be effective unless approved by the County Board of Supervisors

Any change or amendment shall apply after its effective date but shall not require modification or removal of any previously approved construction

(d) Limitation of Liability Review of and recommendations with respect to any application and plans by the DRB is made on the basis of aesthetic and design considerations only and the DRB shall not have any responsibility for ensuring the structural integrity or soundness of approved construction of modifications, nor for ensuring compliance with building codes or other governmental requirements, or ordinances or regulations. Neither the Casey, the County, the DRB nor any member of the DRB shall be liable for any injury, damages or losses arising out of the manner or quality of any construction on the Property.

(e) Land Use As a result of the rezoning sought in connection with these Proffers, "Table 1, Land Use and Density Tabulation Residential, West Side" and "Table 2, Land Use and Density Tabulation Non-Residential, West Side" shown on page 2 of the New Town Master Plan are hereby amended to reflect the densities and land uses specified in EXHIBIT B attached hereto. Except as hereby amended, the Tables and Charts on page 2 of the New Town Master Plan shall remain unchanged.

4 Traffic Study and Road Improvements

(a) In accordance with the requirements of Section 4 of the New Town Proffers, Casey has submitted to the County an updated traffic study entitled "TRAFFIC STUDY FOR PROPOSED S L NUSBAUM SHOPPING CENTER AT MONTICELLO AVENUE/WINDSORMEADE WAY, JAMES CITY COUNTY, VIRGINIA", dated May 28, 2003, prepared by DRW Consultants, Inc., Midlothian, Virginia (the "Traffic Study"), which is on file with the County's Director of Planning.

(b) The following entrance and road improvements shall be completed (or bonded pursuant to the County Code) for the Monticello Avenue/WindsorMeade Way intersection when warranted as determined by VDOT.

- (i) A second eastbound left turn lane on Monticello Avenue
- (ii) A westbound right turn lane on Monticello Avenue
- (iii) On WindsorMeade Way, a minimum of three lanes approaching Monticello Avenue (two left turn lanes and one right turn lane) and two lanes departing Monticello Avenue

A traffic signal shall be designed and installed (or bonded pursuant to the County Code) when warranted as determined by VDOT at the Monticello Avenue/WindsorMeade Way intersection, which traffic signal shall include, subject to VDOT approval, traffic signal preemption equipment meeting VDOT design standards and acceptable to the James City County Fire Department. Any costs incurred in designing, installing, or bonding the aforementioned traffic signal shall be less than the \$10,000.00 previously proffered in paragraph 5 of the "WindsorMeade Proffers" recorded in the Clerk's Office at Instrument No. 010020618.

A traffic signal shall be designed and installed (or bonded pursuant to the County Code) when warranted as determined by VDOT at the WindsorMeade Way/Crossover 2 intersection, which traffic signal shall include, subject to VDOT approval, traffic signal preemption equipment meeting VDOT design standards and acceptable to the James City County Fire Department.

5 Water Conservation. The owner's association to be established pursuant to paragraph 2 shall be responsible for establishing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority (the "JCSA"). The standards shall address such water conservation measures as limitations on installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to reduce the total

irrigated area of the Property in order to accomplish the limitation on use of public water and groundwater. The standards shall be approved by the JCSEA prior to approval of the first site plan for development of the Property or any portion thereof.

6 Subdivision Notwithstanding anything in these Proffers to the contrary, the failure by Casey, its successors or assigns, to comply with one or more of the conditions of these Proffers in developing any portion(s) of the Property which failure does not in any way, in whole or in part, apply to the remainder of the Property or portion(s) thereof owned by a separate owner(s) will not affect the ability of such separate owner(s) to develop the remainder of the Property or such portion(s) in accordance with these Proffers and other applicable provisions of the County's Zoning Ordinance.

MISCELLANEOUS PROVISIONS

7 Successors and Assigns This Proffer Agreement shall be binding upon and shall inure to the benefit of the Casey and the County, and their respective heirs, successors and/or assigns. Any obligation(s) of Casey hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

8 Severability In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be judged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the

judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof

9 Conflicts In the event there is a conflict between (1) these Proffers, the Marketplace Guidelines, and/or the Marketplace Master Plan, and (2) the New Town Proffers, the New Town Master Plan and/or the New Town Guidelines, then these Proffers, the Marketplace Guidelines and the Marketplace Master Plan shall govern In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Supervisors and the Courts or as otherwise provided by law

10 Signature by the County The County's Director of Planning has executed these Proffers solely for purpose of confirming the filings and submissions described herein and confirming approval by the Board of Supervisors of the rezoning of the Property with these Proffers by resolution dated _____, 20__

11 Headings All section and subsection headings of Conditions herein are for convenience only and are not a part of these Proffers

12 Conditions Applicable Only To The Property Notwithstanding anything in these Proffers to the contrary, the failure to comply with one or more of the conditions herein in developing the Property shall not affect the rights of Casey and its successors in interest to develop its other property in accordance with the other applicable provisions of the County Zoning Ordinances

WITNESS the following signatures, thereunto duly authorized

C C Casey Limited Company

By

Robert T. Casey
Robert T Casey

Its Secretary

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF James City, to wit

The foregoing instrument was acknowledged before me this 7th day of October, 2003 by Robert T Casey as Secretary of C C Casey Limited Company, a Virginia limited liability company, on its behalf

Norica R Smith
NOTARY PUBLIC

My Commission Expires July 31, 2007

My commission expires _____

THE COUNTY OF JAMES CITY, VIRGINIA

By _____
O Marvin Sowers

Its Director of Planning

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____, to wit

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by O Marvin Sowers as Director of Planning for the County of James City, Virginia, on its behalf

NOTARY PUBLIC

My commission expires _____

APPROVED AS TO FORM

By _____
Leo P Rogers

Its Deputy County Attorney

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to wit

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by Leo P Rogers as Deputy County Attorney for the County of James City, Virginia

NOTARY PUBLIC

My commission expires _____

EXHIBIT A

All those certain lots, parcels or tracts of land, situate and lying in the Powhatan District of James City County, Virginia, containing 34 13 acres more or less and being a portion of the same property as shown on a map entitled "Master Plan For Rezoning, Windsormeade Marketplace, Section 11, New Town West, Owner C C Casey Limited Company", prepared by AES Consulting Engineers and dated June 02, 2003, revised August 29, 2003, and being the properties designated as a portion of James City County Tax Map Parcels #(38-3)(1-2), #(38-3)(1-5), #(38-3)(1-6), (38-3)(1-7), #(38-3)(1-8), and a Portion of Tax Map Parcel #(38-3)(1-34), and a parcel formerly owned by the Commonwealth of Virginia

Said parcels are more particularly described by metes and bounds as follows

All of James City County Tax Map Parcels #(38-3)(1-2), #(38-3)(1-5), #(38-3)(1-6), (38-3)(1-7), #(38-3)(1-8) and a Portion of Tax Map Parcel #(38-3)(1-34) Owned by C C Casey Limited Company

Beginning at a point on the northerly right-of-way line of Monticello Avenue Extended, State Route #321, said point being S28°41'04"W, 358 65' from the intersection of the westerly right-of-way line of State Route #199 and the northerly right-of-way line of said Monticello Avenue Extended, State Route #321, a corner to the property described hereon and the property now or formerly standing in the name of the Commonwealth of Virginia, thence leaving said corner of the property now or formerly standing in the name of the Commonwealth of Virginia and lying along the right-of-way line of Monticello Avenue Extended, State Route #321, S46°23'51"W, 530 33' to a point, thence along a curve to the right, having a radius of 869 93' and an arc length of 91 40' to a point, said point being at the intersection of the northerly right-of-way line of said Monticello Avenue Extended, State Route #321 and the easterly right-of-way line of what is now known as Old News Road, thence leaving said right-of-way line of Monticello Avenue Extended, State Route #321 and lying along the easterly right-of-way line of what is now known as Old News Road, N34°54'22"W, 480 33' to a point, thence N33°17'29"W, 275 90' to a point, thence along a curve to the left, having a radius of 400 00' and an arc length of 62 99' to a point, thence N42°18'49"W, 9 79' to a point, thence along a curve to the left, having a radius of 251 53' and an arc length of 40 04' to a point, said point being a corner to the properties described hereon and the remaining portion of James City Tax Map Parcel #(38-3)(1-34) now or formerly standing in the name of C C Casey Limited Company, thence along the line of the remaining portion of James City Tax Map Parcel #(38-3)(1-34) now or formerly owned by C C Casey Limited Company and an existing 40' private right-of-way, N43°12'19"E, 178 71' to a point, thence leaving said 40' private right-of-way and continuing along the line of the remaining portion of James City County Tax Map Parcel #(38-3)(1-34), now or formerly owned by C C Casey Limited Company, N36°30'08"W, 123 42' to a point, thence along a curve to the right, having a radius of 790 50' and an arc length of 214 79' to a point, thence along a curve to the right, having a radius of 587 50' and an arc length of 101 13' to a point, thence N11°04'18"W, 34 77' to a point, thence along a curve to the right, having a radius of 787 50' and an arc length of 246 68' to a point, thence along a curve to the right, having a radius of 1387 50' and an arc

length of 46 69' to a point, thence N89°13'21"E, 746 48' to a point, thence N63°40'56"E, 565 00' to a point on the westerly right-of-way line of State Route #199, a corner to the properties described hereon and the remaining portion of James City County Tax Map Parcel #(38-3)(1-34) now or formerly owned by C C Casey Limited Company, thence leaving said corner of the remaining portion of James City Tax Map Parcel #(38-3)(1-34) now or formerly standing in the name of C C Casey Limited Company and lying along the westerly right-of-way line of State Route #199, S08°18'36"E, 171 61' to a point, thence S04°50'02"W, 654 04' to a point, thence along a curve to the left, having a radius of 903 51' and an arc length of 235 65' to a point, said point being a corner to the property described hereon, the property now or formerly standing in the name of the Commonwealth of Virginia and the intersection of the right-of-way line State Route #199 and Monticello Avenue Extended, State Route #321, thence along the line of the property now or formerly owned by the Commonwealth of Virginia, S28°41'04"W, 358 65' to the aforesaid point of beginning The properties described above contain an aggregate area of 34 13 acres more or less

Less and except any portion of that certain piece or parcel of land contained within the above metes and bounds description that is located within the Right Of Way lines for WindsorMeade Way shown on that certain plan entitled "WindsorMeade Way Road Construction Plan" prepared by AES Consulting Engineers, dated May 2002, revised June 20, 2003, revised August 28, 2003

Parcel Formerly Owned by the Commonwealth of Virginia and Now Owned by C C Casey Limited Company

Beginning at a point at the intersection of the westerly right-of-way line of State Route #199 and the northerly right-of-way line of Monticello Avenue Extended, State Route #321, thence lying along the northerly right-of-way line of said Monticello Avenue Extended, State Route #321, S46°23'51"W, 276 71' to a point, a corner to the property described hereon and the properties now or formerly owned by C C Casey Limited Company, thence leaving said corner of the properties now or formerly owned by C C Casey Limited Company and lying along the property owned by the Commonwealth of Virginia, N28°41'04"E, 358 65' to a point, said point being on the westerly right-of-way line of State Route #199, thence lying along the westerly right-of-way line of State Route #199, S13°36'06"E, 71 92' to the aforesaid point of beginning The property described above contains an area of 0 35 acres more or less

EXHIBIT B

CASEY NEW TOWN WEST SIDE
REVISED RESIDENTIAL LAND USE AND DENSITY TABULATION
(INCLUDES BERRY PROPERTY)

SECTION	PERMITTED USE	SECTION AREA IN ACRES	DEVELOPABLE AREA	MAXIMUM DWELLING UNITS (D.U.)	DENSITY D.U./ACRE
11	E, G, C, D, M (CE) (CG) (GI), I, J	34 48	33 00	0	0
12	A, B, C, D, I, J	44 11	39 50	209	4 7
VUMH	A, B, C, D, M, (I D C E), E, I, J	105 93	85 20	343	3 2
Subtotal		184 52	157 70	552	

CASEY NEW TOWN WEST SIDE
REVISED NON-RESIDENTIAL LAND USE AND DENSITY TABULATION
(INCLUDES BERRY PROPERTY)

SECTION	PERMITTED USE	SECTION AREA	DEVELOPABLE AREA	MAXIMUM NON-RESIDENTIAL SQUARE FOOTAGE	DENSITY SF/ACRE
11	E, G, C, D, M (CE) (CG) (GI), I, J	34 48	33 00	200,000	5,799
12	A, B, C, D, I, J	44 11	39 50	0	0
VUMH	A, B, C, D, M, (I D C E), E, I, J	105 93	85 20	34,100	322
Subtotal		184 52	157 70	234,100	

NOTE RESIDENTIAL UNITS AND NON-RESIDENTIAL SQUARE FOOTAGE NOT UTILIZED WITHIN THE PARTICULAR SECTIONS INDICATED, MAY BE TRANSFERRED TO OTHER SECTIONS OF THE NEW TOWN MASTER PLAN IF APPROVED BY THE DRB AND THE OWNERS OF THE AFFECTED SECTIONS

#6042614 v7

MEMORANDUM

DATE: October 14, 2003
TO: The Board of Supervisors
FROM: Richard M. Miller, Fire Chief
SUBJECT: Adoption of the 2000 Edition of the Virginia Statewide Fire Prevention Code

The Board of Supervisors last adopted the Virginia Statewide Fire Prevention Code ("SFPC") on June 24, 1997. The Virginia Code empowers the Virginia Board of Housing and Community Development ("BHCD") to adopt and promulgate a Statewide Fire Prevention Code (SFPC). The BHCD recently amended the SFPC and incorporated by reference the International Fire Code/2000. The amendments to the SFPC became effective October 1, 2003, and shall be known as the Virginia Statewide Fire Prevention Code - 2000 Edition.

In order for Chapter 9, Fire Protection, of the James City County Code to remain current, the Virginia Statewide Fire Prevention Code - 2000 Edition needs to be adopted. The attached Ordinance amends Chapter 9, Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Statewide Fire Prevention Code; Section 9-2, Definitions; Section 9-3, Amendments; and Section 9-4, open burning of yard waste, to reference the model code and standards adopted by the BHCD.

Staff recommends adoption of the attached Ordinance to amend and reordain Chapter 9, Fire Protection of the Code of James City County.

Richard M. Miller

CONCUR:

Michael H. Drewry

RMM/gs
chpt9art1.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, FIRE PREVENTION CODE, SECTION 9-1, ADOPTION OF VIRGINIA STATEWIDE FIRE PREVENTION CODE; SECTION 9-2, DEFINITIONS; SECTION 9-3, AMENDMENTS; AND SECTION 9-4, OPEN BURNING OF YARD WASTE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and reordained by amending Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Statewide Fire Prevention Code; Section 9-2, Definitions; Section 9-3, Amendments; and Section 9-4, Open burning of yard waste.

Chapter 9. Fire Protection

Article I. Fire Prevention Code*

Sec. 9-1. Adoption of Virginia Statewide Fire Prevention Code.

Pursuant to section 27-97 of the Code of Virginia, the ~~1996~~ 2000 edition of the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, and the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the “fire prevention code” *or* “*SFPC.*” The fire department shall enforce the fire prevention code under the direction of the fire official.

Cross reference-Fire protection requirements in subdivisions, § 19-63.

**State regulation reference-13 Virginia Administrative Code 5-51-Virginia Statewide Fire Prevention Code.*

Sec. 9-2. Definitions.

The following words and terms used in the fire prevention code shall have the definitions ascribed to them in this section:

~~Chief appointing authority or appointing authority.~~ *Local governing body.* The James City County Board of Supervisors.

~~Chief authority or chief administrative officer.~~ The county administrator of James City County.

~~Deputy.~~ The James City County Deputy Fire Marshal.

Fire official. The fire marshal of the county or his duly authorized representative. For the purposes of this code, the term code official shall also mean fire official.

IFC. International Fire Code /2000

Jurisdiction. The County of James City, Virginia.

~~Legal counsel~~ *department of the jurisdiction.* The county attorney or an attorney appointed by the board of supervisors to represent the county in legal matters.

~~*Open burning.* Any burning wherein the products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. A chamber shall be regarded as enclosed when, during the time combustion takes place, only apertures, ducts, stacks, flues or chimneys necessary to provide air and to permit the escape of gas are open.~~

Yard waste. Include leaves, brush, grass, stumps, scrub vegetation, bushes, and twigs or branches.

Sec. 9-3. Amendments.

The fire prevention code is hereby amended, modified and changed as set out in the following subsections of this section.

- (1) ~~*SFPC Section F-107.2.3*~~ ***107.2, Permits required***, is hereby amended to read as follows ***added***:

Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such permits, and for inspections, shall be in such amounts as are from time to time established by resolution of the board of supervisors.

- ~~(2) *Section F-107.2.3.1, Permits required, is hereby added.*~~

With exception of mandatory permits for explosives and blasting agents, the county shall require permits issued as a part of the Statewide Fire Prevention Code for the following:

- (a) Fireworks.
- (b) Open burning of debris waste as a result of land clearing, refuse as result of agricultural and forestal management practices, and bonfires.

(32) ~~Section F-107.2.4.1, Local Fees~~ *SFPC Table 107.2 - Operational Permit Requirements* is hereby ~~amended~~ *added*:

- (a) \$100.00 per event or \$200.00 per calendar year (at same site with similar displays) for fireworks.
- (b) \$50.00 for each waste open burning permit.
- (c) \$25.00 for each bonfire permit.

~~State law reference - Authority of county to adopt fire prevention code, Code of Va., §27-97.~~

(43) ~~Section F-113.2.1.1, Board of Appeals~~ *SFPC Section 112.1, Local Board of Fire Prevention Code Appeals (BFPCA)*, is hereby ~~amended to read~~ *added*:

The James City County Board of Building Code Appeals is hereby constituted as and shall serve as the James City County Board of Fire Prevention Code Appeals.

(54) ~~Section F-113.2.3~~ *SFPC Section 112.2.1, Chairman* is hereby ~~amended to read~~ *added*:

The chairman of the James City County Board of Building Code Appeals shall also serve as chairman of the James City County Board of Fire Prevention Code Appeals.

(65) ~~IFC Section F-311.1.1~~ *503.2.2, Specifications Authority* is hereby ~~amended to read~~ *added*:

Fire lanes *apparatus access roads*, when required, shall conform to the specifications issued by the fire official. The fire official shall maintain records of those properties which are required to establish and maintain fire lanes *apparatus access roads*.

(76) *IFC Section F-403.3-307.2.2, Allowable burning Prohibited open burning*, is hereby amended to read *added*:

Open burning shall be allowed without prior notification to the fire official for recreational fires, highway safety flares, smudge pots and similar occupational needs, and the burning of yard waste, and household debris, except garbage, when conducted in accordance with this code; provided, however, pursuant to section 10.1-1142 of the Code of Virginia, that:

- (a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.
- (b) *Except as provided in subsection (c),* ~~During~~ during the period beginning February 15 and ending April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county *or any portion thereof organized for forest fire control under the direction of the state forester*, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any

woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set on federal lands. ~~and, between February 15 and March 1 of each year, on lands owned by the Department of Game and Inland Fisheries.~~

(c) Subsection (b) shall not apply to any fire set between February 15 and March 1 of each year, if:

- 1. The fire is set for “prescribed burning” that is conducted in accordance with a “prescription” and managed by a “certified prescribed burn manager” as those terms are defined in Va. Code section 10.1-1150.1;*
- 2. The burn is conducted in accordance with Va. Code section 10.1-1150.4;*
- 3. The state forester has, prior to February 1, approved the prescription for the burn; and*
- 4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year; (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or (iii) management necessary for natural heritage resources.*

The state forester may on the day of any burn planned to be conducted pursuant to this subsection revoke his approval of the prescription for the burn if hazardous fire conditions exist. The state forester may revoke the certification of any certified prescribed burn manager who violates any provision of this subsection.

(~~c~~*d*) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.

(~~d~~*e*) Any person violating any of the provisions ~~of subsections (a), (b) or (c)~~ of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the ~~S~~*s*tate ~~F~~*f*orester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.

(~~87~~) *IFC Section F-403.5-307.3, Location requirements, is hereby amended to read is added:*

~~The location for any open burning shall not be less than 50 feet from any structure and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. Fires in approved containers shall be permitted; provided, that such fires are not less than 15 feet from any structure.~~

~~Exception:~~ The location of any open burning conducted for the disposal for land clearing refuse which has been permitted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 500 feet from an occupied dwelling.

(98) ~~IFC Section F-403.5.1~~ **1404.3**, ~~Open burning prohibited-Construction sites~~, is hereby added:

Open burning of construction waste, demolition waste, refuse or any other type of waste is prohibited when located at a construction or demolition site. The removal of such waste from a construction or demolition site and the subsequent burning of the same at another location in James City County is also prohibited.

Exception: Approved open burning for the disposal of land clearing refuse shall be allowed on construction sites when conducted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality and this Code.

(109) ~~IFC Section F-403.6, 307.2.2~~ ~~Open burning stipulations~~ **Prohibited open burning** is hereby amended to read **added**:

~~Notwithstanding any other provision of this chapter,~~ ~~o~~ Open burning shall not be used for waste disposal purposes, the quantity of material to be burned shall not exceed five feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

Exception: Approved burning for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

(~~11~~10) *SFPC Section ~~F-3101.2~~ 3301.2, Permit required*, is hereby ~~amended to read~~ *added*:

A permit shall be obtained from the fire official for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county fire department, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. The permittee shall furnish a bond *or certificate of insurance* in the amount required by section ~~F-3103.4~~ *3301.2.4.2* of the Virginia Statewide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the fire official to any organization or association or group of individuals unless the fire official is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. An authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.

(~~12~~11) *SFPC Section ~~F-3102.1~~ 3302.1, Definitions, general*, is hereby amended to read:

The following words and terms shall, for the purpose of this chapter and as stated elsewhere in this Code, have the meanings shown herein.

"Fireworks." ~~shall mean and include a~~ Any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or flammable compound or substance and is intended or commonly known as fireworks and which explodes, rises into the

air, or travels laterally, or fires projectiles into the air. The term "fireworks" shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term "fireworks" shall not include auto flares or caps for pistols.

“Permissible fireworks.” Any auto flares or caps for pistols.

~~(13) Section F-3103.1, General~~ is amended to read:

~~The rules and regulations for fireworks shall be in accordance with NFPA 1123, 1124 and 1126 listed in Chapter 44.~~

~~(14) SFPC Section F-3103.4 3301.2.4.2, Bond for display~~ *Fireworks display* is amended to read:

The permit holder shall furnish a bond *or certificate of insurance* at a minimum ~~in the~~ amount of \$1,000,000.00 for the payment of all potential damage caused by either to the person or property due to the permitted display, and arising from any acts of the permit holder or agent of the permit holder, *employees*, or agent of the permit holder. The property owner shall agree in writing to the bond *or certificate of insurance* amount prior to the permit being issued.

Sec. 9-4. Open burning of yard waste.

The fire prevention code is hereby amended, modified and changed as set out in the following subsection of this section:

- (1) ~~IFC Section F-403.3.1~~ **307.2.2, *Burning yard waste Prohibited open burning***, is hereby added.
- (a) Notwithstanding any other provision of this Code, open burning of yard waste by any person shall be unlawful within the county except in those areas zoned A-1, General Agriculture; provided, however, even within A-1 acres, yard waste shall not be burned in platted subdivisions consisting of five or more lots of which at least three lots have occupied dwellings or in manufactured home parks. In those areas where the open burning of yard waste is otherwise permitted, it shall be unlawful for any person to burn yard waste during the period beginning February 15 and ending April 30 of each year, except between the hours of 4:00 p.m. and 12:00 midnight.
- (b) Open burning of yard waste performed in an area permitted in paragraph (a) shall comply with any applicable provisions of state law and this article.
- (c) Notwithstanding paragraphs (a) and (b), open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

State law reference-Code of Va., §§ 27-97 and 10.1-1142.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2003.

chpt9art1.ord

MEMORANDUM

DATE: October 14, 2003
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Amendments to the FY 2004 Operating and Capital Budgets

The State Code requires a public hearing prior to any budget amendment exceeding \$500,000.

There are three proposed budget amendments that exceed that threshold.

The first is the reduction of \$580,000 in real property revenue and operating contingency spending in the FY 2004 Operating Budget, as previously adopted. This is to implement the Board's decision to reduce the FY 2004 real property tax rate to \$0.86.

The second is to increase the County's adopted FY 2004 Capital Budget by adding \$13.5 million to financing proceeds as a source of funds and the same dollar total in an additional appropriation for public safety communication improvements. This implements the budget changes needed to implement the Board's approval of a contract with Motorola for improvements to the County's public safety systems. The financing is actually proposed for \$14.5 million, but \$1 million has previously been appropriated by the Board and used for design services. Part of the proceeds of the financing will be used to reimburse the County for project costs incurred to date, including those used in acquiring and installing the County's new Computer Aided Dispatch system.

The third is to restore funds previously used to acquire property. The Virginia Department of Transportation (VDOT) has paid \$580,950 relating to the intersection of Greensprings Road and John Tyler Highway. The Board has previously expressed interest in returning this money to Greenspace in the Capital Budget.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/gs
04amends.mem

Attachment

RESOLUTION

AMENDMENTS TO THE FY 2004 OPERATING AND CAPITAL BUDGETS

WHEREAS, the Board of Supervisors of James City County has adopted a budget for the year ending June 30, 2004 (FY 2004), and has been requested to amend both the Operating and Capital Budgets to accommodate certain changes; and

WHEREAS, those changes consist of: 1) a reduction in Operating Contingency and real property tax revenue to reflect the current tax on real property of \$0.86; 2) the appropriation to the Capital Budget of the anticipated proceeds from the 800-MHz public safety communications system financing; and 3) the appropriation of funds received from the sale of property to the Virginia Department of Transportation (VDOT) returned to the Greenspace account from which the original purchase was funded.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the FY 2004 Operating Budget by reducing real estate tax revenues and Operating Contingency by \$580,000.

BE IT FURTHER RESOLVED that the Board of Supervisors amends the FY 2004 Capital Budget and appropriates additional funds in the amount of \$13.5 million from the proceeds of a public financing to radio system improvements.

BE IT FURTHER RESOLVED that the Board of Supervisors amends the FY 2004 Capital Budget and appropriates additional funds in the amount of \$580,950 received from the sale of property to the Greenspace account.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2003.

04amends.res

MEMORANDUM

DATE: October 14, 2003
TO: The Board of Supervisors
FROM: John T. P. Horne, Acting General Services Manager
SUBJECT: Yarmouth Creek Watershed Management Plan

The Board of Supervisors considered this plan at its meeting on September 9, 2003, and at the recommendation of Mr. Kennedy, deferred the Yarmouth Creek Watershed Management Plan to the September 23, 2003, meeting. A summary of the Plan is included in the Reading File.

Staff continues to recommend approval of the attached resolution adopting the Plan.

John T. P. Horne

JTPH/gs
YCWPdefer.mem

Attachment

RESOLUTION

YARMOUTH CREEK WATERSHED MANAGEMENT PLAN

WHEREAS, the Yarmouth Creek Watershed is a resource of local and national significance; and

WHEREAS, the Board authorized staff to prepare a Management Plan to help the County and landowners protect the watershed and its natural resources; and

WHEREAS, stakeholders, staff, and consultants have met over a period of 12 months to share information, set goals, and develop the Watershed Management Plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the Yarmouth Creek Watershed Management Plan dated July 14, 2003, with the exception of Priority No. 3, Special Stormwater Criteria.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of
October, 2003.

YCWP.res.