

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

March 9, 2004

7:00 P.M.

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE – Adrianna Carter, a seventh-grade student at James Blair Middle School

D. PRESENTATION

1. Jamestown High School Auxiliary Gym

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Minutes
 - a. February 24, 2004, Work Session
 - b. February 24, 2004, Regular Meeting
2. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – James Huff
3. Colonial Services Board FY 2004 Budget Adjustment
4. Street Name Changes – Colonial Heritage Phase I, Section I
5. Strengthening Families Program - Historic Triangle Substance Abuse Coalition Grant

G. PUBLIC HEARINGS

1. Case No. SUP-30-03. Chesapeake Bank at Lightfoot
2. Case Nos. Z-9-03/Z-12-03/SUP-20-03. Williamsburg Community Chapel Rezoning/Jamestown Hundred Proffer and Master Plan Amendment
3. Case Nos. Z-14-03/MP-1-04. Powhatan Secondary Proffer Amendment
4. Temporary Classroom Trailers
 - a. Case No. SUP-3-04. Lafayette High School
 - b. Case No. SUP-4-04. Jamestown High School
 - c. Case No. SUP-5-04. Toano Middle School
 - d. Case No. SUP-6-04. Clara Byrd Baker
 - e. Case No. SUP-7-04. D. J. Montague Elementary School
 - f. Case No. SUP-8-04. Stonehouse Elementary
5. Case No. ZO-3-03. Sign Ordinance Amendment

H. PUBLIC COMMENT

I. REPORTS OF THE COUNTY ADMINISTRATOR

- CONTINUED -

J. BOARD REQUESTS AND DIRECTIVES

K. CLOSED SESSION

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

L. ADJOURNMENT

030904bs.age

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF FEBRUARY, 2004, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
Michael J. Brown, Vice Chairman, Powhatan District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District, arrived at 4:04 p.m.
Jay T. Harrison, Sr., Chairman, Berkeley District

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

B. BOARD DISCUSSION

1. Heritage Humane Society

Ms. Lynne C. Christensen, Heritage Humane Society (HHS) Executive Director, invited the Board to invest in a public/private partnership for a new community animal shelter. Ms. Christensen provided the Board with an overview of the HHS, services it provides, facility needs, and proposed funding and anticipated costs.

The Board, staff, Ms. Christensen, and Ms. Pam Johnson, Chairman of the HHS Board of Directors, discussed the factors leading to the expansion request of the HHS, difference in the space requirements for services in the County's Animal Control facility to the HHS facility, perception of need by HHS for local government involvement in supporting HHS services, access of the Animal Control staff to the proposed facility, ability of proposed facility to hold a variety of animals in addition to cats and dogs, regional animal control efforts, and cost estimates for an expansion of the County's Animal Control facility versus the proposed joint HHS facility.

The Board requested information on the benefits and costs of moving forward with the expansion of the County's facility and partnering with HHS, the estimated costs for the County to meet the basic State mandates versus the cost to the County to provide a level of service comparable to what citizens receive today, the overall additional expenditure needed to get to the level the County wants to provide, and the overall expenditure needed to get to the level the HHS provides.

The Board reached consensus to have staff move forward with arrangements in partnership with the Heritage Humane Society for a facility.

The Board and staff discussed funding mechanisms and agreed to have the County Administrator meet with the other jurisdictions to identify potential financing partnerships.

The Board discussed a potential contribution of up to \$500,000 in Debt Service Funding to the partnership with HHS as this amount is what the County would need to spend to upgrade its facility. The Board stated that the partnership agreement should provide for an adequate facility for the County to meet State mandates of the future should anything happen to the HHS.

C. RECESS

At 5:28 p.m. the Board took a dinner break until 7:00 p.m.

Sanford B. Wanner
Clerk to the Board

022404ws.min

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF FEBRUARY, 2004, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
Michael J. Brown, Vice Chairman, Powhatan District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District
Jay T. Harrison, Sr., Berkeley District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Travis Owens led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Steven Hicks, Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), stated that a signal traffic study will be conducted on Monticello Avenue to identify areas to enhance the flow of traffic along that corridor.

Mr. Hicks stated that the intersection of Monticello Avenue and Ironbound Road will be enhanced in a 30-day trial to attempt to improve the flow of traffic at the intersection. "Yield on Green" signs will be posted at the intersection for left-hand turns on green. At the end of the 30-day trial, a decision will be made if the signs will remain posted.

Mr. Hicks stated the Monticello Avenue and Ironbound Road Project is tentatively scheduled to start construction in mid-March and it is estimated the project will be completed in late summer of 2005.

Mr. Hicks stated that construction on Ironbound Road between Sandy Bay Road and Jamestown Road will begin in March. VDOT would like to meet with property owners to advise them of the starting dates and estimated duration of the project through June.

Mr. Hicks stated that VDOT will hold a citizen information meeting on the road improvements proposal for Croaker Road, including the widening and reinforcement of the shoulders, utility relocation, and right-of-way acquisition.

Mr. Hicks provided a copy of this year's road overlaying schedule for primary and secondary roads in the County.

Mr. Hicks stated that VDOT debris cleanup is completed and approximately 417,000 cubic yards of debris were removed from the County by VDOT.

Mr. Hicks stated the Jamestown Road corridor improvements are proceeding ahead of schedule for the relocation of Route 359.

Mr. Hicks stated the relocation of utilities at the intersection of Route 199 and Jamestown Road will begin in April. Mr. Hicks stated the intersection work at Route 199 and Jamestown Road will create significant delays until its anticipated completion date of April 2005.

Mr. Harrison inquired if the intersection work at Jamestown Road and Route 199 could be scheduled around peak traffic flow hours.

Mr. Hicks stated that VDOT is looking at possibilities to minimize the impact on traffic flows during peak hours.

Mr. McGlennon inquired if the intersection work will be completed one segment at a time; thereby only one portion of the intersection will be interrupted at a time.

Mr. McGlennon recommended VDOT set up community meetings to let citizens know what is going to happen during the construction work and what the anticipated impacts to commuters will be.

Mr. McGlennon inquired how the repair of potholes is progressing and how citizens could report potholes.

Mr. Hicks provided phone numbers for citizens to call regarding potholes.

Mr. Hicks stated that potholes on Route 199 right-of-ways have been repaired and stated that most secondary roads and subdivision potholes will be addressed over the next few weeks.

Mr. Bradshaw requested VDOT look at the bottom crossover on Cranston's Mill Road to see if guardrails along the roadway would be appropriate.

Mr. Goodson requested clarification on the maintenance of sidewalks on the Route 60 East corridor.

Mr. Hicks stated that certain sidewalks have been constructed within VDOT right-of-way and some sidewalks are under a maintenance agreement for VDOT to maintain. Others are the County's responsibility to maintain. Mr. Hicks stated that the County and VDOT are working together to identify who maintains what sidewalks; however, safety is foremost in importance and VDOT will step in to remedy unsafe sidewalks.

Mr. Bradshaw thanked VDOT for addressing issues regarding "No Outlet" signs in Stonehouse District subdivisions and stated that the citizens are appreciative.

E. PRESENTATION

1. Annual Financial Report – KPMG LLP

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

Ms. Foster provided the Board with an overview of KPMG's independent audit results of the County's financial statements for the year ended June 30, 2003, including how the reports are represented as a result of GASB 34.

The Board and Ms. Foster discussed the reported findings and the change in the layout of the Comprehensive Annual Financial Report.

Mr. Goodson thanked Ms. Foster for her presentation.

F. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, inquired why the School Division is purchasing mulch when it is available from the Hurricane Isabel debris removal efforts; stated that during the last Bond Referendum, a comment was made that Jamestown High School would carry well into the next century; however, apparently the Schools are not interested in following through and recommended it be upgraded and expanded.

Mr. Oyer stated that a few years ago the Warhill site was dismissed by the School Board as a potential school site because it was too close to Lafayette High School, yet now it is being considered as the new school facility site; and he commented on articles in the *Wall Street Journal* regarding the spending of money on education.

G. CONSENT CALENDAR

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

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

1. Minutes

- a. February 10, 2004, Regular Meeting
- b. February 12, 2004, Retreat – VACo/VML Legislative Day

2. Dedication of a Streets

a. Longhill Station, Section II

RESOLUTION

DEDICATION OF STREETS IN LONGHILL STATION, SECTION II

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 July 1, 1994, for comprehensive stormwater detention, which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to 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.

b. Jamestown Hundred

RESOLUTION

DEDICATION OF STREETS IN JAMESTOWN HUNDRED

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 July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to 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.

- c. John Tyler Commercial Center and Office Park

RESOLUTION

DEDICATION OF A STREET IN JOHN TYLER

COMMERCIAL CENTER AND OFFICE PARK

WHEREAS, the street described on the attached Additions Form SR-5(A), fully incorporated herein by reference, is 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 this 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 July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to 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.

3. Installation of “Watch for Children” Signs – The Pointe at Jamestown

RESOLUTION

INSTALLATION OF “WATCH FOR CHILDREN” SIGNS - THE POINTE AT JAMESTOWN

WHEREAS, Section 3.3.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, the residents of The Pointe at Jamestown have requested that “Watch for Children” signs be installed on Sir Thomas Way as illustrated on the attached drawing titled The Pointe at Jamestown “Watch for Children Signs.”

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain three “Watch for Children” signs as requested with funds from the County’s secondary road system maintenance allocation.

4. Department of Motor Vehicles Grant

RESOLUTION

DEPARTMENT OF MOTOR VEHICLES GRANT

WHEREAS, the Department of Motor Vehicles (DMV) has approved a grant in the amount of \$10,000 to the Police Department for traffic enforcement, overtime, and related equipment; and

WHEREAS, the grant only requires in-kind local match, thus eliminating any additional spending by the Police Department, excluding court overtime and equipment maintenance; and

WHEREAS, the grant is administered by the DMV according to the Federal Government Fiscal Year which runs from October 1 through September 30.

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

Revenue:

DMV - FY 04 Highway Safety \$10,000

Expenditure:

DMV - FY 04 Highway Safety \$10,000

5. Citizen Corps Grant Funds Award

RESOLUTION

CITIZEN CORPS GRANT FUNDS AWARD

WHEREAS, Citizen Corps Funds have been approved for a grant in the amount of \$6,900 in support of Citizens Emergency Response Team (CERT) efforts; and

WHEREAS, the grant requires no local match; and

WHEREAS, the grant will be administered by the Commonwealth of Virginia Department of Emergency Management (VDEM), with a grant period of January 15, 2004, through November 25, 2004.

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:

VDEM – FY 04 Citizen Emergency Response Team \$6,900

Expenditure:

VDEM – FY 04 Citizen Emergency Response Team \$6,900

- 6. FY 2005 Virginia Department of Rail and Public Transportation Grant Application

RESOLUTION

FY 2005 VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

GRANT APPLICATION

WHEREAS, the Commonwealth of Virginia has made funds available for public transportation; and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to execute and file the application to the Virginia Department of Rail and Public Transportation (VDRPT) of the Commonwealth of Virginia for a grant of State public transportation matching assistance under Section 58.1-638.A.4 of the Code of Virginia. The amount requested for State assistance is \$435,000 to assist in eligible project expenses. The County Administrator shall be authorized to accept grant funds awarded and to have furnished the VDRPT documents and other information as may be required for processing this grant request.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, certifies that funds shall be used in accordance with the requirements of Section 58.1-638(A)(4) of the

Code of Virginia and that James City County may be subject to audit by the VDRPT and by the State auditor of public accounts.

7. Award of Contract – Boat Ramp Improvements at Chickahominy Riverfront Park

RESOLUTION

AWARD OF CONTRACT - BOAT RAMP IMPROVEMENTS AT

CHICKAHOMINY RIVERFRONT PARK

WHEREAS, bids have been received for improvements to the existing boat ramp at Chickahominy Riverfront Park; and

WHEREAS, staff has reviewed all bids and determined that David A. Nice Builders, Inc., is the low bidder and qualified to complete the project; and

WHEREAS, the bid is within the Capital Budget allocated to the Division of Parks and Recreation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the necessary contract documents for award of bid to David A. Nice Builders, Inc., the lowest responsive and responsible bidder, in the amount of \$117,684.

H. BOARD CONSIDERATION

1. Award of Contract – Construction of Columbia Way

Mr. Bernard M. Farmer, Jr., Capital Projects Administrator stated that the Commonwealth Transportation Board awarded the County a State Industrial Access Road Fund grant for the construction of approximately 1,200 feet of industrial access road in the James River Commerce Center.

Mr. Farmer recommended the Board adopt a resolution authorizing the County Administrator to execute contract documents with George Nice Brothers, who submitted the lowest responsive and responsible bid for the project.

Mr. Bradshaw inquired if “responsive” and “responsible” in reference to the bidder are both required language for awarding bids.

Mr. Farmer stated that both are required and that George Nice Brothers have done a large amount of utility and construction work for the County over the years and staff feels they qualify as “responsive” and “responsible.”

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

AWARD OF CONTRACT – CONSTRUCTION OF COLUMBIA WAY

WHEREAS, bids have been received for construction of an extension of Columbia Way into James River Commerce Center and the concurrent installation of utilities; and

WHEREAS, State Industrial Access Road Fund Program money has been awarded for the road construction and may potentially be forgiven in all or part if a qualifying user locates along the new roadway by June 2007.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract with the lowest responsive and responsible bidder, George Nice Brothers in the amount of \$472,185 for construction of roadway and utilities for Columbia Way in the James River Commerce Center.

I. PUBLIC COMMENT - None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the Virginia Cooperative Extension Office, in partnership with several local groups, is conducting a Community Reforestation Project on March 13, during which time citizens can learn about trees and a selection of native seedlings will be available to the public.

Mr. Wanner recommended at the conclusion of the Board meeting, it recess until 8:30 a.m. on February 26, 2003, for a Joint Meeting with the School Board and Williamsburg City Council at Jamestown High School.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson stated that the Governor recognized the County as a participant in the Virginia 2007 Community Program and presented a Certificate of Recognition from the Governor.

Mr. Goodson invited citizens to contact the Board of Supervisors or County Administration to volunteer to participate in the Jamestown 2007 activities.

L. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointment of individuals to County Boards and/or Commissions.

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

Mr. Goodson adjourned the Board into Closed Session at 7:48 p.m.

Mr. Goodson reconvened the Board into Open Session at 7:57 p.m.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions.

Mr. Bradshaw made a motion to appoint Edith Harris-Bernard to a four-year term on the Historical Commission, term to expire on August 31, 2008; and to appoint Betty Cutts to an unexpired term on the Historical Commission, term to expire on August 31, 2005.

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

M. RECESS

At 8:58 p.m., with consensus from the Board, Mr. Goodson recessed the Board until February 26, 2004, at 8:30 a.m. for a Joint Work Session with the Williamsburg City Council and Williamsburg-James City School Board to be held at the Jamestown High School.

Sanford B. Wanner
Clerk to the Board

022404bs.min

MEMORANDUM

DATE: March 9, 2004

TO: The Board of Supervisors

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

SUBJECT: Chesapeake Bay Preservation Ordinance Violation - Civil Charge - James Huff

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

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

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owners. Staff and the property owners agreed to the recommended civil charge of \$3,500 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact has been assessed as moderate and the violation intent as minor.

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

Darryl E. Cook

Leo P. Rogers

DEC/LPR/adw
huff.mem

Attachments

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - JAMES HUFF

WHEREAS, James Huff is the owner of a certain parcel of land, commonly known as 5198 Riverview Road, designated as Parcel No. (1-1) on James City County Real Estate Tax Map No. (15-3), hereinafter referred to as the ("Property"); and

WHEREAS, on or about December 1, 2003, approximately 10,000 square feet of the Resource Protection Area on the Property was graded and the understory trees and shrubs were removed; and

WHEREAS, James Huff agreed to a Restoration Plan to replant 150 trees and shrubs, on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, James Huff has agreed to pay \$3,500 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted areas and the civil charge 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 \$3,500 civil charge from James Huff as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

huff.res

WOODLAND ROAD

Richmond Road

Area of Violation

RPA Buffer

RIVERVIEW ROAD

CHESAPEAKE BAY ORDINANCE VIOLATION 5198 RIVERVIEW ROAD - JAMES HUFF



MEMORANDUM

DATE: March 9, 2004
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Colonial Services Board FY 2004 Budget Adjustment

During the discussions of the FY 2004 County Budget, full funding of the request by the Colonial Services Board (CSB) was not initially recommended. Staff thought that full funding should be contingent on a mutually acceptable agreement to pursue Federal revenue maximization reimbursements for qualifying spending on at-risk youth. As such, the adopted FY 2004 County Budget included only the funding amount for FY 2003. During budget work sessions, staff agreed to return to the Board with a revised funding recommendation if a revenue maximization agreement could be executed. The adopted FY 2004 Budget includes a contribution to the CSB that is \$35,795 less than what was requested based on the regional funding formula.

An agreement has been concluded, reimbursements for qualified spending by the CSB are now being sought under that agreement, and staff recommends a transfer from Operating Contingency to reinstate the \$35,795 to the CSB in FY 2004. This transfer would fully fund the CSB request of the County for FY 2004 and would “match” the other jurisdictional contributions. Additional Federal reimbursements under revenue maximization received and managed by the County’s Department of Social Services are anticipated and will be included in the FY 2005 Budget proposal.

If this budget transfer is approved, the balance in the County’s FY 2004 Operating Contingency will be \$23,476.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/gs
CSBadjust.mem

Attachment

RESOLUTION

COLONIAL SERVICES BOARD FY 2004 BUDGET ADJUSTMENT

WHEREAS, the Board of Supervisors of James City County has been requested to amend the County's FY 2004 Operating Budget to fund, in its entirety, the budget request of the Colonial Services Board; and

WHEREAS, that increase of \$35,795 can be funded through a transfer of funds from Operating Contingency.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following budget transfer:

From:		
	Operating Contingency	<u>\$35,795</u>
To:		
	Contributions - Colonial Services Board	<u>\$35,795</u>

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

CSBadjust.res

MEMORANDUM

DATE: March 9, 2004
TO: The Board of Supervisors
FROM: Patrick Foltz, Development Management Assistant
SUBJECT: Street Name Changes - Colonial Heritage Phase I, Section I

Section 19-54 (B) of the James City County Subdivision Ordinance requires street name changes to be reviewed and approved by the Board of Supervisors. Mr. Tom Wilson of AES Consulting Engineers, representing U.S. Home, has requested that the Board of Supervisors change the following street names in Phase I, Section I of Colonial Heritage:

<u>Present Name</u>	<u>New Name</u>
Constitution	Constitution Way
Adams	Wren Lane
Statesman	Statesman Road
House of Lords	House of Lords Way

U.S. Home currently owns all of the lots on these streets.

The James City County Fire Department, Police Department, Planning Commission, Real Estate Assessment, and Williamsburg Post Office have been consulted and there are no objections.

Staff recommends approval of the attached resolution.

Patrick Foltz

CONCUR:

O. Marvin Sowers, Jr.

PF/gs
HeritageSt.mem

Attachment

RESOLUTION

STREET NAME CHANGES - COLONIAL HERITAGE PHASE I, SECTION I

WHEREAS, Section 19-54(B) of the James City County Subdivision Ordinance provides for street names to be changed upon approval by the Board of Supervisors; and

WHEREAS, the proposed street name changes have been discussed with the James City County Fire Department, Police Department, Planning Commission, Real Estate Assessment, and Williamsburg Post Office, and these agencies have found it acceptable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve renaming the following streets: "Constitution" to "Constitution Way"; "Adams" to "Wren Lane"; "Statesman" to "Statesman Road"; and "House of Lords" to "House of Lords Way."

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

HeritageSt.res

MEMORANDUM

DATE: March 9, 2004
TO: The Board of Supervisors
FROM: Nancy Ellis, Superintendent of Recreation/Director of Youth Services
SUBJECT: Strengthening Families Program – Historic Triangle Substance Abuse Coalition 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/gb
famprogrant.mem

Attachment

RESOLUTION

STRENGTHENING FAMILIES PROGRAM – HISTORIC TRIANGLE

SUBSTANCE ABUSE COALITION 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	<u>\$4,025</u>
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Expenditure:

Strengthening Families Program	<u>\$4,025</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

famprogrant.res

**SPECIAL USE PERMIT- 30-03. Chesapeake Bank at Lightfoot
Staff Report for the March 9, 2004, 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 F Board Room; County Government Complex
 Planning Commission: February 2, 2004, 7:00 p.m.
 Board of Supervisors: March 9, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant: Marshall N. Warner of Chesapeake Bank

Land Owner: Cap Care Group, Inc.

Proposed Use: Bank with drive-thru and automatic teller machine (ATM). A bank is a by-right use in B-1, General Business zoning district; however, a commercial special use permit is required for any use which generates more than 75 peak hour vehicle trips.

Location: 6601 Richmond Road; Stonehouse District

Tax Map and Parcel No.: (24-3)(1-35)

Primary Service Area: Inside

Parcel Size: ± 53.44 acre site

Existing Zoning: B-1, General Business

Comprehensive Plan: Mixed-Use

Staff Contact: Christopher Johnson - Phone: 253-6685

STAFF RECOMMENDATION:

Staff recommends the Board of Supervisors approve this application with the conditions listed in the attached resolution. Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development.

Planning Commission Recommendation

On February 2, 2004, the Planning Commission voted 7-0 to recommend approval of this application.

Proposed Changes Made After Planning Commission Consideration

None

Project Description

Mr. Marshall Warner, on behalf of Chesapeake Bank and property owner Cap Care Group, Inc., proposes a new 3,200 square foot branch bank in the Lightfoot Mixed-Use area in the Stonehouse District. The new drive-thru bank would be located on the western side of Richmond Road (Route 60 West) between Smith Memorial Baptist Church and the Wythe-Will Candy site. The proposed development includes three drive through teller stations and a self standing automatic teller machine (ATM). A bank is a by-right use in the B-1, General Business, Zoning District. A commercial special use permit is necessary when traffic generation exceeds 75 or more peak hour vehicle trips. This application is for an approximately 1.4 acre site on the northwest corner of a 53.44 acre site. The existing Buffeteria restaurant parking lot pavement as well as several outbuildings on the site will be removed to accommodate the proposed development.

Public Impacts

Environmental Impacts

Watershed:	Yarmouth Creek
Environmental Comments:	Staff concurs with the findings of the environmental inventory submitted with this application.

Public Impacts

Utilities:	The site is served by public water and sewer.
JCSA Comments:	The applicant shall be responsible for developing water conservation standards for this development. The applicant shall also confirm that the existing JCSA water system will provide adequate fire flow volume and duration and provide a master utility plan for the site. Developer costs associated with providing sanitary sewer service to the site may be effected, in part, by the construction of a future lift station in the nearby Colonial Heritage development. These issues will be addressed at the development plan stage. Staff has included a condition which requires the development of Water Conservation Standards for the proposed development.

Traffic Impacts

Proposed Traffic:	1,234 vehicles trips per day
2003 Traffic Counts:	18,828 vehicle trips per day
Road Capacity:	A four-lane road with turn lanes has a capacity of 30,000 vehicle trips per day.
Virginia Department of Transportation (VDOT) Comments:	VDOT concurs with the traffic impact study and its recommendations. A left-turn lane into the site from westbound Route 60 must have at least 200 feet of storage and 200 feet of taper. A right-turn taper is warranted on the westbound approach to the existing crossover; however, there is no likelihood that traffic signal warrants will be met by the proposed development. VDOT does not support the construction of the

entire four-lane Private Street entrance at this time. Construction of the entire four lanes should commence when future development warrants the improvements. Staff believes that traffic issues will be addressed adequately during the development plan review for the proposed use. The timing of the development of the remainder of the parcel will impact VDOT concerns over the entrance to the site from Richmond Road.

Comprehensive Plan

The site is located in the Lightfoot Mixed Use Area on Richmond Road (Route 60 West), an urban Community Character Corridor.

- The principal suggested uses for lands west of Richmond Road are moderate density housing, commercial developments, and office developments. The commercial development should not be developed in a strip commercial fashion and should emphasize shared access and parking as well as consistent treatment for landscaping and architecture.

Staff Comments: The proposed entrance would be utilized to provide shared access to the remainder of the parcel. With the proposed conditions, staff believes that the proposed bank is consistent with the Community Character Corridor guidelines.

The property is designated Mixed Use.

- Mixed Use areas are centers within the Primary Service Area where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed Use areas are intended to provide flexibility in design and land uses in order to protect and enhance the character of the area. The timing and intensity of commercial development within a mixed use area is to be controlled by, among other things, an acceptable level of service for roads and the mix of uses in a particular area.

Staff Comments: With the proposed conditions, staff believes that the proposed use is consistent with the Mixed Use designation.

Setback Reduction Request:

- As part of the review for this special use permit, the applicant has requested that a setback reduction be granted in accordance with Section 24-393 of the Zoning Ordinance. The request is made to permit the side of the bank building to be located 25 feet off the proposed private right-of-way that will eventually serve the entire property. The development of the site as proposed will allow the existing parking lot to be removed and a 50-foot Community Character Corridor landscaped buffer created in its place.

Staff Comments: Staff believes that the requested setback reduction will not negatively impact adjacent properties and will allow for a better site layout than that which would be possible without the reduction. The proposed private right-of-way will be a shared access road for the development on the remainder of the property.

Planning Commission Action: The Planning Commission granted a setback reduction to permit the side of the bank building to be located 25 feet off the proposed private right-of-way.

Recommendation

Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan. On February 2, 2004, the Planning Commission voted 7-0 to recommend approval of this application. Staff recommends the Board of Supervisors approve this special use permit application with the conditions listed in the attached resolution.

Christopher Johnson

CONCUR:

O. Marvin Sowers, Jr.

CJ/adw
sup30-03.wpd

Attachments:

1. Planning Commission Minutes
2. Location Map
3. Conceptual Plan with Building Elevation (separate attachment)
4. Resolution

APPROVED MINUTES TO THE FEBRUARY 2, 2004 PLANNING COMMISSION MEETING

SUP-30-03 – Chesapeake Bank.

Mr. Christopher Johnson stated that Mr. Marshall Warner, on behalf of Chesapeake Bank, has applied for a special use permit to allow the construction a bank with a drive-thru and ATM. A bank is a by-right use in the B-1, General Business zoning district; however, a commercial Special Use Permit is required for any use which generates more than 75 peak hour vehicle trips.

Staff found the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommended approval of the application and attached conditions.

Mr. A. Joe Poole, III opened the public hearing.

Mr. Vernon Geddy, represented the applicant. Mr. Geddy agreed with the staff report and conditions.

Mr. Kale asked if the proposal would utilize the vacant former “Buffeteria” building.

Mr. Jim Bennett, AES Consulting Engineers, said it was not a part of the project.

Mr. Hunt made a motion to approve the application.

Mr. Kale seconded the motion.

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



RESOLUTION

CASE NO. SUP-30-03. CHESAPEAKE BANK AT LIGHTFOOT

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

WHEREAS, Mr. Marshall N. Warner of Chesapeake Bank has applied on behalf of property owner Cap Car Group, Inc., for a special use permit to allow a bank at 6601 Richmond Road; and

WHEREAS, the property is located on land zoned B-1, General Business, with Proffers and can be further identified as Parcel No. (1-35) on James City County Real Estate Tax Map No. (24-3); and

WHEREAS, the Planning Commission, following its public hearing on February 2, 2004, voted 7-0 to recommend approval of this application.

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-30-03 as described herein with the following conditions:

1. If construction has not commenced on this project within twenty-four months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundation.
2. All exterior lighting on the property 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. Modifications to this requirement may be approved by the Planning Director if it is determined that the modifications do not have any negative impact on the property or surrounding properties.
3. Free standing signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a free standing sign with a completely enclosed base not to exceed thirty-two square feet in size and not to exceed eight feet in height from grade.
4. The building architecture shall be consistent, as determined by the Planning Director, with the building elevation submitted with this application and included on the Special Use Permit Plan prepared by AES Consulting Engineers, dated December 22, 2003.
5. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the fifty-foot Community Character Corridor buffer along Richmond Road (Route 60 West) so that the required number of plants and trees equals, at a

minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of fifty percent of the plantings within the Community Character Corridor buffer shall be evergreen.

6. The plan of development shall be in accordance with the special use permit plan prepared by AES Consulting Engineers and dated December 22, 2003.
7. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures to promote water conservation and minimize the use of public water resources.
8. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

sup.30.03.res

REZONING 9-03/REZONING 12-03/SPECIAL USE PERMIT 20-03. Williamsburg Community Chapel Rezoning/Jamestown Hundred Proffer and Master Plan Amendment Staff Report for the March 9, 2004, 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 F Board Room; County Government Complex
Planning Commission: November 3, 2003, 7:00 p.m., Building C Board Room (deferred)
December 8, 2003, 5:30 p.m., Building C Board Room (deferred)
January 12, 2004, 5:30 p.m. (deferred)
February 2, 2004, 7:00 p.m.
Board of Supervisors: March 9, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant: Craig G. Covey, Hening-Vest-Covey-Chenault
Land Owner: Williamsburg Community Chapel
Proposed Use: Infill development of three single-family residential lots in the Jamestown Hundred Subdivision
Location: 3899 John Tyler Highway; Berkeley District
Tax Map and Parcel No.: (46-1)(1-2A)
Primary Service Area: Inside
Parcel Size: 0.965 acres out of 15.12 total acres
Existing Zoning: R-8, Rural Residential
Proposed Zoning: R-2, General Residential, Cluster with Proffers
Comprehensive Plan: Low-Density Residential
Surrounding Zoning: North (across John Tyler Highway): R-8, Rural Residential; South and West: R-2, General Residential; East: R-1, Limited Residential
Staff Contact: David Anderson - Phone: 253-6685

STAFF RECOMMENDATION:

The proposed zoning designation, density, and use are all consistent with the Comprehensive Plan and with the adjacent Jamestown Hundred Subdivision. The attached conditions and proffers adequately address any impacts associated with the proposal. Staff recommends approval of the proposal with the attached proffers and conditions. At the February 2, 2004, Public Hearing, the Planning

Commission voted 6-1 to recommend approval with an additional condition limiting infill development of Jamestown Hundred to only two lots.

Description of Project

Mr. Craig G. Covey has applied on behalf of Williamsburg Community Chapel to rezone 0.965 acres out of the 15.12-acre Williamsburg Community Chapel parcel from R-8, Rural Residential, to R-2, General Residential Cluster, with proffers. The purpose of this rezoning is for the infill development of three single-family residential lots in the adjacent Jamestown Hundred Subdivision. The property to be rezoned is located to the rear of the Williamsburg Community Chapel site at 3899 John Tyler Highway. The property is further identified as Parcel No. (1-2A) on James City County Real Estate Tax Map No. (46-1). The proposal also requires a special use permit because the gross density of the proposal exceeds one unit per acre, and in the R-2 zoning district, residential cluster developments with a maximum gross density of more than one unit per acre require a special use permit.

History

This rezoning application has been submitted in cooperation between Williamsburg Community Chapel and Hampton Roads Development, the developers of the Jamestown Hundred Subdivision. In an effort to alleviate traffic concerns, Williamsburg Community Chapel wishes to construct a private drive from the Chapel to Eagle Way on property owned by Hampton Roads Development and designated as a conservation easement. At the August 12, 2003, Board of Supervisors meeting, the Board approved release of a County conservation easement on the property where the road is proposed in order to permit its future construction. In exchange, the Chapel will convey conservation easements of greater quantity and equivalent value in Powhatan Secondary and to the rear of the Chapel site. Prior to being able to construct the road, the Chapel must acquire the land from Hampton Roads Development. However, Hampton Roads Development cannot convey the portion needed for the roadway without adding additional land area to the Jamestown Hundred development or it will fall under its open space requirement. Therefore, an agreement was struck between the two parties. Williamsburg Community Chapel agreed to request a rezoning of a portion of the Chapel property for the infill development of three single-family lots in Jamestown Hundred, and in return, Hampton Roads Development will convey a portion of the current open space property to provide the access to Eagle Way.

Summary of Case Activity

The applicant originally proposed the infill development of four additional lots in the Jamestown Hundred Subdivision. Several of the Jamestown Hundred residents objected to the additional lots, especially Lots 4A and 4B in the existing section of the development. The case was deferred by the Planning Commission at the November 3, 2003, Public Hearing, to allow residents of Jamestown Hundred, Williamsburg Community Chapel, Hampton Roads Development, and the applicant to work towards an alternate development proposal that would be acceptable to all parties involved. However, the parties were unable to reach an acceptable alternate proposal despite meeting several times.

The applicant then modified the original proposal by reducing the number of proposed lots from four lots to three lots, eliminating Lot 4A from the original proposal and proposing to develop only Lots 4B, 11A, and 11B. Lots 11A and 11B would be located in an "as of yet" undeveloped section of Jamestown Hundred, while the lots across the street from Lot 4B are developed. Many of the Jamestown Hundred residents were still dissatisfied with the proposal and recommended denial of the application at the February 2, 2004, Planning Commission meeting. In response to their concerns, the Planning Commission added a condition limiting development of Jamestown Hundred to only two additional lots and voted 6-1 to recommend approval of the case with the additional condition. However, the applicant still desires to pursue approval of three additional lots in association with the rezoning application.

Surrounding Zoning and Development

The proposal seeks the same zoning designation as Jamestown Hundred and the lots will be incorporated into the Jamestown Hundred Subdivision. Therefore, the proposal is consistent with surrounding zoning and development.

Density

The density of Jamestown Hundred is 1.40 units/acre. The infill development will raise the density to 1.44 units/acre. Jamestown Hundred was approved in 1996 as a cluster development. At that time, the Cluster Ordinance permitted a density of 2.5 units per acre by right. Since that time the Ordinance has been revised. The current Ordinance permits densities of up to one unit per acre by right, and up to two units per acre with a special use permit. In order to achieve a density of up to two units per acre, the developer must include the following:

- Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy:

Since none of the existing subdivision streets have streetscape trees, staff has added a condition requiring transfer of the required right-of-way trees to the Recreation Lot.

- Implementation of the County's Archaeological Policy:

An archaeology study was previously submitted for the entire Jamestown Hundred Subdivision, so this requirement has been satisfied.

- Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the Planning Commission if the development is infill development of less than 20 units where sidewalks do not exist or are planned on adjacent property:

The project already is providing sidewalks along at least one side of all roads.

- Provision of recreation facilities as recommended in the County's Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the Master Plan:

A cash contribution for use by the County for recreational capital improvements has been proffered.

- Implementation of the County's Natural Resource Policy:

There are no significant natural resources on this small site.

Staff finds that the proposal generally meets the above standards to achieve a density greater than one dwelling unit per acre.

Comprehensive Plan

The property to be rezoned is designated Low-Density Residential on the 2003 Comprehensive Plan Land Use Map. This designation allows for cluster developments of densities greater than one unit per acre, provided certain public benefits are provided. The Comprehensive Plan states that the Zoning Ordinance will specify the benefits to go beyond one unit per acre. As stated above, staff believes the proposal generally meets the Ordinance requirements. Since this property will be incorporated into the

Jamestown Hundred Subdivision, the proposal is consistent with the Comprehensive Plan. Furthermore, the 2003 Comprehensive Plan encourages infill development of this type.

Open Space

Open space calculations are included on the revised Master Plan. The amount of open space required for Jamestown Hundred with the additional infill development is 42.60 acres, which equals 56.85 percent of the site. The amount of open space provided is 42.70 acres, which equals 57.00 percent of the site. Therefore, the open space requirement is met.

Buffers

The Jamestown Hundred development currently has a 35-foot buffer adjacent to adjoining property, as required under the Ordinance when the development was approved in 1996. However, the Ordinance has changed since 1996. The Ordinance now requires a 35-foot perimeter buffer and a yard requirement where no structure can be located closer than 35 feet to the internal edge of the perimeter buffer. There is no reduction provision for the yard requirement, but the perimeter buffer can be reduced by the Planning Commission. In order to provide a buffer between the infill development and the Chapel property consistent with the existing buffer, the application went forward to the Planning Commission with a request to reduce the required perimeter buffer from 35 feet to 20 feet. However, in actuality, a 35-foot wooded buffer will still be provided. The reduction in the perimeter buffer will simply push the yard requirement further towards the front of the lot. This will reduce the area where accessory structures can be located on the infill lots from 5 feet from the rear property line to 20 feet from the rear property line. The Planning Commission had no objection to the request and the reduction of the perimeter buffer has been approved.

Miscellaneous

Due to the small nature of this infill development, impacts to traffic, public schools, water, sewer, and emergency services are minimal. Therefore, impact studies were not required along with this proposal. However, the applicant has proffered a cash contribution for water impacts, for the Route 5 Transportation District, and for recreation as previously noted. As a point of clarification, the proffered cash contributions are calculated for two additional lots as opposed to the three additional lots that are being proposed. The reason for this is that Jamestown Hundred was originally approved for 106 lots. However, only 105 lots were platted. With the platting of three new lots, the development will exceed the previous lot cap by two additional lots. The cash contributions reflect the number of lots exceeding the approved cap rather than the number of lots associated with this proposal.

Recommendation

The proposed zoning designation, density, and use are all consistent with the Comprehensive Plan and with the adjacent Jamestown Hundred Subdivision. The attached conditions and proffers adequately address any impacts associated with the proposal. Staff recommends approval of the proposal with the attached proffers and conditions. At the February 2, 2004, Public Hearing, the Planning Commission voted 6-1 to recommend approval with an additional condition limiting infill development of Jamestown Hundred to only two lots.

1. Construction on this project shall commence within 36 months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Construction does not include land preparation, such as clearing, grading, or filling.
2. In lieu of implementing the Streetscape Guidelines as defined in the Streetscape Guidelines Policy, the developer shall transfer the required right-of-way trees to the recreation lot. A landscaping plan

identifying the type and location of the plantings shall be submitted to and approved by the Planning Director prior to the County being obligated to grant final subdivision approval.

3. No more than 107 residential units may be built in the Jamestown Hundred Subdivision and no lot shall be built on the properties designated as Lot 4A or 4B on the revised Master Plan entitled "1996 Master Plan with 2003 Extension: Jamestown Hundred" prepared by AES Consulting Engineers and dated October 14, 2003, and last revised on December 29, 2003.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

David Anderson

CONCUR:

O. Marvin Sowers, Jr.

DA/gs

z-9-03/z-12-03/sup-20-03

Attachments:

1. Approved minutes of the Planning Commission - November 3, 2003, and February 2, 2004
2. Location Map
3. Portion of Proposed Plan
4. Correspondence between Hampton Roads Development, Williamsburg Community Chapel, and Jamestown Hundred residents
5. Hampton Roads Development *New Construction Addendum VII*
6. Proposed Master Plan "under separate cover"
7. Proffer Agreement
8. Resolutions

APPROVED MINUTES TO THE NOVEMBER 3, 2003 PLANNING COMMISSION MEETING

SUP-20-03 & Z-9-03 –Community Chapel/Jamestown Hundred.

Mr. David Anderson stated that Mr. Craig Covey has applied, on behalf of Williamsburg Community Chapel to rezone 1.21 acres of the 15.12 acres to R-2, General Residential Cluster with Proffers. The purpose of this rezoning is for the infill development of four single-family residential lots in the adjacent Jamestown Hundred subdivision. The property is located to the rear of the Chapel and is located at 3899 John Tyler Highway.

The proposal also requires a special use permit because the gross density of the proposal exceeds 1 unit per acre. In the R-2 zoning district residential cluster developments with a maximum gross density of more than 1 unit per acre require a special use permit.

The application has been submitted in cooperation between Williamsburg Community Chapel and Hampton Roads Development, the developer of the Jamestown Hundred subdivision. The agreement allows the chapel to potentially construct an access road to the rear of the chapel property from Eagle Way to accommodate a future expansion. It should be noted that the expansion of the church and the construction of the access road would require a special use permit. The Planning Commission will have an opportunity to review this aspect of the agreement when the special use permit is brought forward.

This infill development will raise the density of Jamestown Hundred from 1.4 units per acre to 1.45 units per acre. In order to achieve this density the applicant has proffered a cash contribution for recreation facilities and staff has added a condition requiring relocation of required street trees to the recreation lot.

In order to be consistent with the surrounding area the applicant has requested that the buffer behind the infill lots be thirty-five feet. This requires a reduction in the perimeter buffer. The reduction will simply reduce the area where accessory structures can be located on the infill lots from 5 feet from the rear of the property line to 20 feet. Staff feels the reduction is acceptable because at least a 35 foot buffer consistent with the existing buffer will still be provided. Furthermore staff concurs with the request since the property owners on both sides of the buffer are cooperating in the application.

Due to the small nature of this infill development impacts to traffic, public schools, water, sewer and emergency services are minimal. Therefore impact studies were not required with this proposal. The applicant has proffered a cash contribution for water impacts, the Route 5 transportation district, and for recreation.

The proposed zoning designation, density, and use are all consistent with the Comprehensive Plan and with the adjacent Jamestown Hundred Subdivision. In addition, the Comprehensive Plan encourages infill development. Staff recommends the approval of the proposal with the proffers and conditions.

Mr. Kale asked if the Commissioners would be obligating themselves to approve

the proposed later special use permit for the chapel expansion and access road by approving this application.

Mr. Rogers answered that with approval of this application the Commission would be approving a plan of development. Therefore they would be indicating that they would be favorably disposed to approve a later application that is required as long as the later application is consistent with that plan.

Mr. Hagee confirmed that this would be no more than the access to Eagle Way.

Mr. Rogers said that this was correct and that it could also be limited as a part of the consideration of this case.

Mr. McCleary stated that the access to Eagle Way would be an advantage to the County because it cuts down on traffic problems.

Mr. A. Joe Poole, III opened the public hearing.

Mr. Craig Covey, President of Hening-Vest-Covey-Chenault, represented Williamsburg Community Chapel. Approximately 1 year ago the Chapel considered a plan to expand to provide additional space for its out-source services. They realized that any development would require turns lane off of Route 5 and majority clearing of trees along Route 5. In looking at public health, safety and general welfare of the community it seemed another way to provide access and egress might be through a connection to Eagle Way. They have indicated a proposed 50 foot right-of-way and worked with staff and the Board of Supervisors by exchanging easements. The two property owners are now working to adjust the two property lines and provide sufficient land to the developer so that he can provide 3 additional lots. Jamestown Hundred has 106 lots approved but were only able to plat 105. The Chapel property will allow for the plating of the last lot plus 3 additional lots. There would still be the open space conservation area between the Chapel and the same 35 feet of buffer.

Mr. McCleary thought the Chapel appeared to be divided into two halves. The front half is the building and paved parking lot and the other is a gravel parking lot and a grassy area some of which will be swapped with the developer. Mr. McCleary asked if any future expansion will include trying to preserve the amount of impervious cover.

Mr. Covey stated the conceptual plan has the back section of the property for overflow parking that will be gravel so that they can continue to recharge the groundwater. There will be some parking and additional paving in the area near the structure. The provisions of the Chesapeake Bay Ordinance and the 60/40 ratio will be met.

Mr. Covey addressed Mr. Kale's question concerning the future expansion of the Chapel. The thinking at this time is to add the road now. Therefore a site plan application would be brought forward showing the access to the church property. At a subsequent time the Chapel will file for the expansion to the Chapel.

Mr. Billups wanted to clarify the nature of the future expansion.

Mr. Covey said that there are no final plans but they have looked at the extension

of the existing structure toward the rear of the site creating a new sanctuary which would allow the front to be converted to potentially some recreation and youth type services.

Mr. Poole asked if the applicant is comfortable with the conditions outlined by staff.

Mr. Covey stated that they were in favor of proceeding that way.

Mr. Stephen Bacon, 3220 Reades Way, stated they chose their particular lot because there would be no neighbors behind or in front of them. The site agent representing Virginia Enterprises assured them that nothing would be built across the street or in the 19 ½ acre conservancy adjacent to Eagle Land Williamsburg Chapel. Upon opening the newspaper on Saturday he found out that the builder, without consulting the property owners, struck a deal to develop lots 4 & 5 and 11& 12 to construct four more houses. They could then manipulate zoning laws to sell the property in the conservancy to the Chapel. Just over a year ago Virginia Enterprises tried to acquire land from the church to make lot 5 larger to accommodate a larger home and the church said no. It makes no sense that three months ago Virginia Enterprises stopped construction on phase 3 in Jamestown Hundred. What does make sense is that by delaying construction on phase 3 Virginia Enterprises assures itself sole representation of the Homeowners Association for another 2 to 3 years because there will not be 80% occupancy to allow property owners to act alone as the Homeowners Association. That fits into the timeline of the Chapel. The underhandedness continued when only 5 property owners received notification of the hearing a week ago out of 50 families. We are the neighbors of the Williamsburg Community Chapel not Virginia Enterprises. He urged the Chapel to reconsider their application until they can sit down with the real homeowners of Jamestown Hundred and work out a solution.

Mr. Bacon suggested several solutions. One would be to install a traffic light. Another is to sit down with the Homeowners Association. Will the Chapel be agreeable to letting the homeowners run a road connecting their Eagle Way project for the folks who live in phase 3? Perhaps a park area will suit both the Chapel and the homeowners. He would prefer a true green space that both could use. Mr. Bacon urged the members to do the right thing without wasting court time with injunctions and lawsuits.

Ms. Debra Gillilan, of lot 100 in Jamestown Hundred, stated that she is five homes away from the referenced property. Ms. Gillilan provided a copy of the brochure given to homeowners that indicated the conservancy space in green. The subdivision is still being marketed that way today. She opposed the proposal. Ms. Gilliland does not believe that the \$620 proffered for recreation was adequate. A picnic table could not be purchased for this amount. She also questioned why Virginia Enterprises is not willing to follow the streetscape guidelines listed in the Comprehensive Plan. Instead they intend to transfer required trees to the recreation lot. Ms. Gillilan said there is no recreation lot, there is no lot where the children can play, no picnic table. She asked if they planned to dig up trees for this transfer. She also felt that \$750 per lot is not enough for impacts to water. Significant plumbing repairs could not be obtained at that price. Ms. Gillilan asked if the 42.9 acres of open space includes the land given away for the access road. She encouraged the Commission to vote no.

Mr. Anderson indicted that the amount of money proffered for the recreation lot was derived from the Park and Recreation Comprehensive Plan. Also in lieu of

providing actual recreation facilities for smaller developments, which these 4 infill lots are considered, they outline specific dollar amounts. The recreation area will be in the next phase of development.

Mr. Hagee asked for the location of the area to be developed.

Mr. Covey indicated the location on the plan.

Mr. Hagee asked about rights of the Chapel to access Reades Way and if the land adjacent to the Chapel will be part of the conservation area.

Mr. Anderson answered that there is currently no right to access Reades Way and that the land would be part of the conservation area along with additional areas that are not currently part of the Williamsburg Chapel property.

Mr. Doug Harshbarger, 3252 Reades Way, stated that he was appointed by the homeowners to be their liaison with Hampton Roads Development. He was told by the developer that there are no plans for recreation facilities on the recreation lots. He observed tonight that the left hand turn onto Reades Way may stack up about 10 cars, on Sunday mornings there are considerably more than 10 cars backed up on Route 5. He feels the proposal only moves the congestion from in front of the Chapel to in front of Eagle's Way. Mr. Harshbarger stated that a drawing provided to him by the developer shows a watershed area in the vicinity of St. Eric's Turn. He also questioned the need for a variance to reduce the buffer to 20 feet when the application states that there will be a 35 foot buffer.

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

Mr. Hunt asked what buffering rules govern Williamsburg Community Chapel.

Mr. Anderson said that it is 35 feet to the back of the Chapel property. He also explained that when Jamestown Hundred was approved there was a 35 foot buffer requirement. Since then the ordinance has changed. There is now a 35 foot perimeter buffer and a 35 foot yard requirement. There is no provision to get a waiver or a reduction to the yard requirement so the applicant is requesting a reduction in the perimeter buffer. But in effect they are still providing the 35 foot that is there currently. This proposal pushes the yard requirement back further on the lots. Therefore; future owners of these lots will only able to locate accessory structures 20 feet from the back property line instead of 5 feet. The buffer will remain at 35 feet.

Mr. Hagee asked to see the sales brochure referred to by Ms. Gillilan.

Mr. Billups asked if the existing infrastructure for the 4 infill lots were sufficient to build 4 homes.

Mr. Anderson confirmed that the additional land would be required to be acceptable under the ordinance.

Mr. Poole was very sympathetic that members of the community were given some sort of expression from an entity and then found it to be different in the field. He does not feel it's limited to real estate transactions; however it is particularly egregious

when it becomes ones home. Mr. Poole felt a lot of important questions were raised tonight. He would like to see a discussion between the applicant and the homeowners before Commissioners make a recommendation on the application.

Mr. Sowers assured the members that staff was not aware of the disparities before the meeting. An attempt would have been made by staff to try to bring the two sides to together.

Mr. Poole expressed concern that only adjacent property owners immediately adjacent to property receive written notification. He reiterated that he would like to see some sort of discussion outside of this meeting before it comes to the Commission.

Mr. Kale concurred with Mr. Poole and asked that those discussions include the developer. He felt the developer has allowed the Williamsburg Community Chapel, which has an excellent reputation in this community, to carry some water that is dirty perhaps not as clean as the Chapel may have thought it was. He stated that the developer has as much as if not more to gain in the long run with the proposal.

Mr. Billups wanted to see any grandfather clauses or other legal protections that were granted to the association even though the Comprehensive Plan has been updated.

Mr. Hunt would like to see some accommodations made but does not want to see another traffic light installed on Route 5 unless it was absolutely necessary.

Mr. McCleary echoed Mr. Kale's sentiments that the developer should have been in attendance at tonight's meeting. He reminded members and citizens that the Commissioners cannot force them to participate in any discussions.

Mr. Hagee felt it unfortunate that the developer was not present. He thought the proposed access road has a lot of very practical assets. He would like to see that worked out. Mr. Hagee said that there were some clear misrepresentations and that the homeowners may have an opportunity to gain some amenities in negotiations with the applicants. He suggested that homeowners focus their thought on what they absolutely want.

Mr. McCleary commended the Chapel for attempting to mitigate traffic impacts.

Mr. McCleary moved to defer the application.

Mr. Kale seconded the motion.

Mr. Poole urged all parties to get together and to involve staff if possible.

In a roll unanimous roll call vote, the application was deferred.

APPROVED MINUTES TO THE FEBRUARY 2, 2004 PLANNING COMMISSION MEETING

CASE NO. Z-9-03 Williamsburg Community Chapel Rezoning.

CASE NO. Z-12-03 Jamestown Hundred Proffer and Master Plan Amendment.

CASE NO. SUP-20-03 Jamestown Hundred Master Plan Amendment.

Mr. David Anderson stated that Mr. Craig Covey, on behalf of Williamsburg Community Chapel and Hampton Roads Development, has applied to rezone .965 acres for the infill development of three single family residential lots in the Jamestown Hundred Subdivision.

This application was unanimously deferred at the November 3, 2003 meeting to allow the applicant and the residents of Jamestown Hundred to reach a compromise. The parties were unable to reach an agreement. The applicant has revised the original proposal by eliminating one of the four proposed lots. Staff found that the conditions and proffers adequately address associated impacts and recommended approval.

Mr. A. Joe Poole, III opened the public hearing.

Mr. Lawrence Cumming, Kaufman and Canoles, represented Hampton Roads Development. The applicant has modified the original request to three and reduced the size of the adjoining lots near lots 4 and 5. Mr. Cumming noted that addendums advised buyers that the seller would not be bound by the statements of others concerning future use or condition of adjoining property.

Mr. Kale and Mr. Cumming discussed who the real estate agents worked for and who would be responsible for any misrepresentations.

Mr. Kale asked if the addendum had been signed by all the Jamestown Hundred buyers.

Mr. Cumming answered yes.

Mr. Kale wanted to know what adjustments had been made to lots 4 & 5.

Mr. Cumming explained the adjustments.

Mr. Kale asked if any of the lots fronting the road near lots 11A and 11B had been sold.

Mr. Cummings stated that the area remains undeveloped at this time.

Mr. Fraley and Mr. Cummings discussed how the applicant calculated a net gain of only two lots.

Mr. Fraley asked if there had been any instances where a buyer did not sign the addendum or where changes had been initialled by the buyer and seller.

Mr. Cummings did not know of any such instances.

A general discussion ensued concerning the fairness of the document and potential buyers' reliance on the zoning of surrounding properties.

Mr. McCleary said there appeared to be little difference from the original proposal relative to open space.

Mr. Richard Costello, AES Consulting Engineers, explained the change in open space.

Mr. Stephen Bacon, 3220 Reades Way, submitted a copy of the declaration of restrictions for the community that refer to the parcels in question as designated open space.

Mr. Debra Gillilan, 3236 Reades Way, said a petition had been filed with the Army Corps of Engineers regarding the proposed road being constructed on wetlands.

Mr. Roxanne Womack, 3205 Reades Way, said she considered surrounding zoning before purchasing her home.

Mr. Ralph Harshbarger, 3252 Reades Way, gave a summary of the negotiations between the developer and homeowners.

Mr. Craig Covey, on behalf of Williamsburg Community Chapel, explained how the proposal will benefit the Chapel and the community.

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

Mr. Kale asked how the declaration of restrictions will impact construction of the access road.

Mr. Cummings said the Corps of Engineers and James City County must approve the installation of the access road.

Mr. Kale asked if Mr. Covey had any additional information to add.

Mr. Covey said the Board did approve a vacation of the County's easement to allow construction. They are still in negotiations with the Corps of Engineers.

Mr. McCleary made motion to amend the application by including additional conditions.

There was a discussion concerning whether or not approval of this application would allow for construction of the access road.

Mr. Rogers confirmed that the Board agreed to a land swap of easements only. The road would still require Site Plan and Army Corps. of Engineers approval.

Mr. Hunt clarified the location of the proposed access road.

Mr. Billups did not support amending the application.

In a voice vote the amendment was approved 5-2, AYE (5): Poole, Wildman, McCleary, Kale, Fraley; NAY (2): Billups, Hunt.

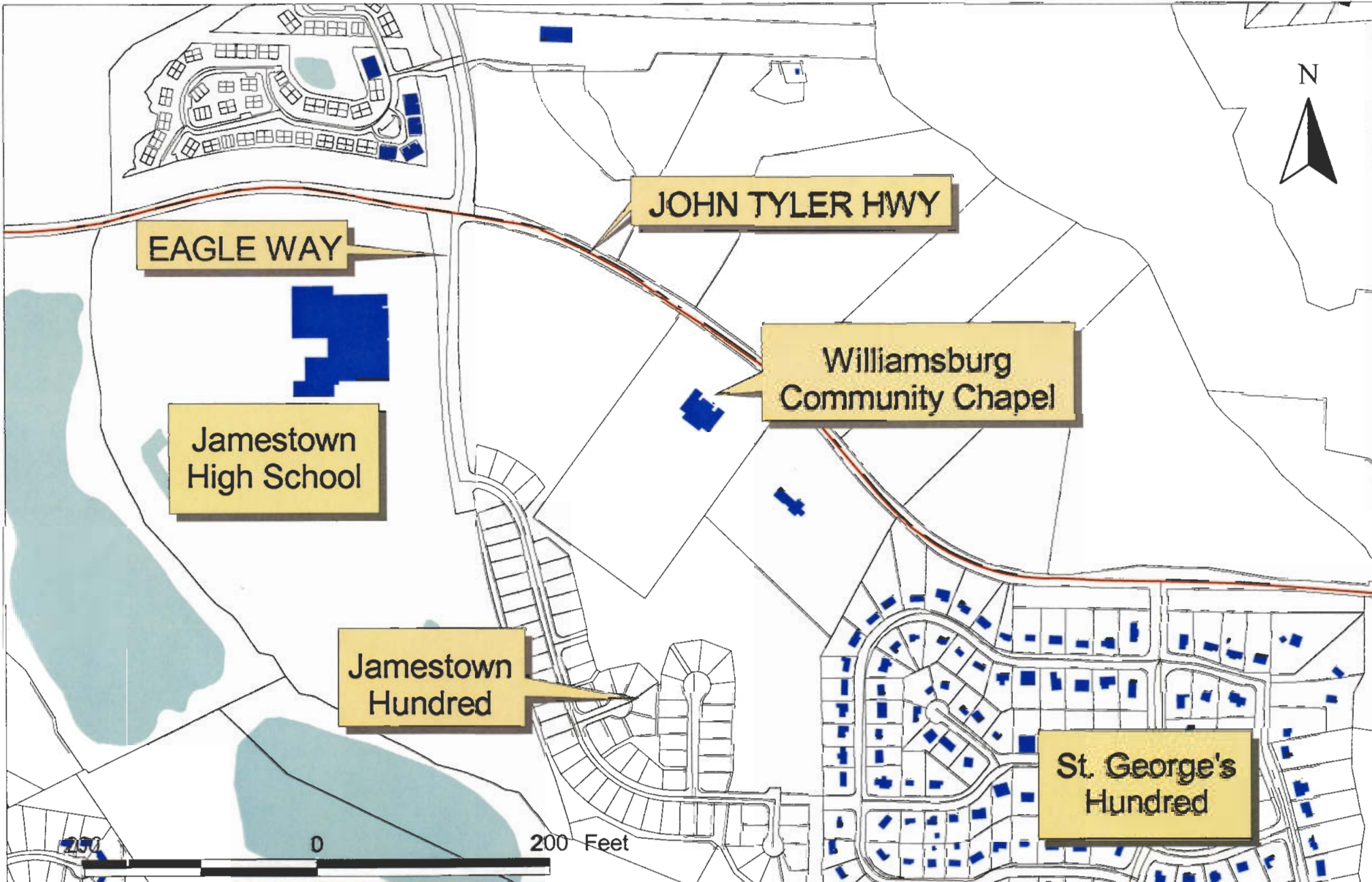
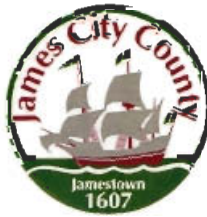
Mr. McCleary made a motion to approve the application as amended.

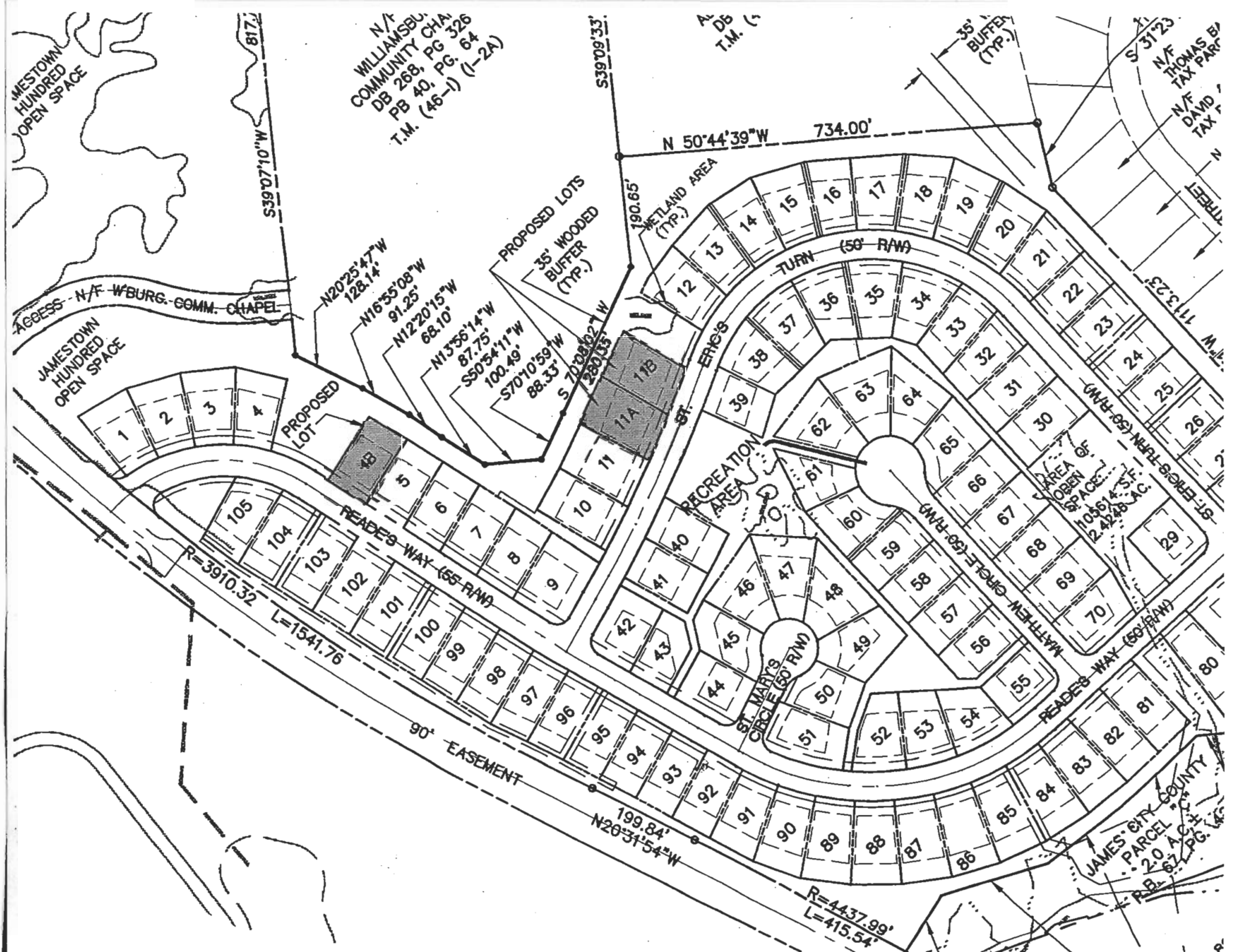
Ms. Wildman seconded the motion.

In a roll call vote the application was approved 6-1, AYE (6): Poole, Wildman, McCleary, Kale, Fraley, Hunt; NAY (1): Billups.

Case No. Z-9-03/Z-12-03/SUP-20-03

Williamsburg Community Chapel/Jamestown Hundred





N/A
WILLIAMSBU,
COMMUNITY CHA,
DB 268, PG 326
PB 40, PG. 64
T.M. (46-1) (1-2A)

A
DB
T.M. (

S 31°23'
N/A
THOMAS B,
TAX PARC
N/A
DAVID
TAX P

N20°25'47"W
128.14'

N16°35'08"W
91.25'

N12°20'15"W
68.10'

N13°58'14"W
87.75'

S50°54'11"W
100.49'

S70°10'59"W
88.33'

S 70°28'02.7"W
280.05'

N 50°44'39"W 734.00'

35'
BUFFER
(TYP.)

S39°09'33"

S39°07'10"W 817.1'

MESTOWN
HUNDRED
OPEN SPACE

ACCESS - N/A
W/BURG. COMM. CHAPEL

JAMESTOWN
HUNDRED
OPEN SPACE

PROPOSED
LOT

PROPOSED LOTS
35' WOODED
BUFFER
(TYP.)

190.65'
WETLAND AREA
(TYP.)

TURN (50' R/W)

RECREATION
AREA

AREA
OPEN
SPACES
106614
24246 AC

R=3910.32

L=1541.76

90' EASEMENT

199.84'
N20°31'54"W

R=4437.99'
L=415.54'

JAMES CITY COUNTY
PARCEL
2.0 A.C.
P.B. 87 PG. 43

THREE

1713.23'

1713.23'

1713.23'

1713.23'

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1713.23'

1713.23'

1713.23'

Ralph D. Harshbarger
3252 Reade's Way
Williamsburg VA 23185
Phone: 220-2523

December 17, 2003

Mr. Rob Campbell
Williamsburg Community Chapel
3899 John Tyler Highway
Williamsburg VA 23185

Dear Mr. Campbell;

I met with the residents of Jamestown Hundred on December 16, 2003 to again discuss your rezoning application for an access road from Eagle's Way to your parking lot. Included in your application are plans for Hampton Roads Development (Virginia Enterprises, Inc.) to construct houses on the land they will acquire.

Although the consensus of the homeowners/residents remains that we are opposed to the access road and the additional houses in the neighborhood, we understand your problem and would like to support an effort to resolve it. We would like to see a solution that addresses our concerns and includes provisions that are beneficial to our neighborhood. We are not convinced the access road will solve the traffic problem and we do not believe the wetlands issues have been adequately addressed. However, we believe the James City County Planning Commission will more than likely support your rezoning application request.

Since we assume the county will support your request, we would like the following provisions included in the final design:

- Allow lot #5 to be expanded toward the north to square off the lot so that Hampton Roads Development (HRD) can construct a house that would be commensurate with the existing structures in Jamestown Hundred.
- Allow HRD to construct one house each on lots 11A OR 11B AND 39A OR 39B (two houses total). (We have not yet been advised by HRD whether or not a house can be constructed on the currently designated Recreation Area.)
- The current homeowners are adamant that lots 4A and 4B not be developed and left in their current state. This is because many of the current homeowners along Reade's Way selected their home sites based on the assurance they were given at the time of contract that there would not be any development between lots 4 and 5.
- Require HRD to develop the recreation area (lot 11A or 11B) to include a covered picnic area with at least 4 picnic tables, 2 barbeque pits and 2 trash receptacles.

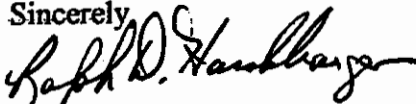
- Require HRD to construct an attractive sign (similar to the one by St. George's Hundred) at the entrance to the Jamestown Hundred neighborhood.
- We would like an assurance from the Chapel that all security and traffic control problems that affect Jamestown Hundred will be addressed and resolved swiftly.
- We would like an assurance that no future home sites beyond those included in this proposal will be pursued at a later date.
- We would like an assurance that no road will be constructed to connect Jamestown Hundred to St. George's Hundred.

We believe these added provisions are reasonable and should be honored so that the homeowners/residents of Jamestown Hundred can feel more comfortable with the encroachment the rezoning proposal imposes on us. Further, we believe HRD should provide all funding for these items without using any of the funds in the Jamestown Hundred Homeowner Association account.

We would like to meet with you as soon as you have the opportunity to complete a revision to your original application request design.

We appreciate the opportunity to provide our input to this project. We look forward to meeting with you in the near future to review the design revisions.

Sincerely



Ralph D. Harshbarger
Neighborhood Liaison

CC: Mr. Joseph R. McCleary, James City County Planning Commission
Mr. George E. Fiscella, Hampton Roads Development, LLC

David Anderson

From: JoAnn Armstrong [joann@vei.hrcoxmail.com]

Sent: Monday, December 22, 2003 10:17 AM

To: Rdharsh@cox.net

Cc: Craig Covey

Subject: Rezoning

Doug,

In response to your letter of 12-17-03 to Mr. Rob Campbell.

Our final offer is as follows:

4 Lots (4A & 4B, 11A & 11B) and lot line adjustments = Rec Area Improvements and a Sign.

3 Lots (4B, 11A & 11B) and lot line adjustments = NO Rec Area Improvements, No Sign.

We are proceeding forward to the January 12, 2004 planning commission with the 3 lots as listed above. If the homeowners would like for us to proceed with the 4 lots please advise us as soon as possible so that we will be able to prepare for the planning commission meeting accordingly.

Please note:

Your statement "This is because homeowners along Reade's Way selected their home sites based on the assurance they were given at the time of contract that there would not be any development between lots 4 and 5."

We find your statement of reason not constituted.

Please refer to the Virginia Enterprises, Inc., New Construction Addendum VII, items A-9, A-10 and A-18. This addendum was a part of the Sales Contract and has been signed by all homeowners.

Thank You,

JoAnn B. Armstrong

Hampton Roads Development, LLC

703 Thimble Shoals Boulevard, Suite C-1

Newport News, VA 23606

(757)873-3646 Telephone

(757)873-5931 FAX

Ralph D. Harshbarger
3252 Reade's Way
Williamsburg VA 23185
Phone: 220-2523

January 19, 2004

Mr. Rob Campbell
Williamsburg Community Chapel
3899 John Tyler Highway
Williamsburg VA 23185

AND

Mr. George Fiscella
Hampton Roads Development, LLC
703 Thimble Shoals Blvd, Ste C-1
Newport News VA 23606

Dear Mr. Campbell and Mr. Fiscella:

I thought I would share with you the results of our most recent meeting of homeowners. We met on January 18, 2004 to discuss the responses we received from my December 17, 2003 letter.

At this time, most homeowners acknowledge that the proposed road is a viable option to help alleviate the Sunday morning traffic congestion on in front of the Williamsburg Community Chapel on Route 5. These homeowners also have no objection to the houses proposed for lots 11A and 11B. If the road and these two houses are all that is approved in conjunction with your rezoning request, we foresee no significant objection to approving your petition.

Although we are submitting the above contingent support for the Chapel's petition, we offer the following comments for your consideration and possible response.

- a. We have been unable to locate the results of the traffic study that has been alluded to in previous meetings. Can you provide us with a copy or let us know where we can review this study? There is still concern that the road will do nothing to solve the problem and that the traffic congestion will merely be shifted from in front of the Chapel to the lighted intersection. We do not believe the lighted left turn lane is adequate to handle the volume of traffic. At least with the police officer directing traffic there is the ability to "react" to the build-up. The light will, at times, stop traffic that could otherwise be turning. If the road does not solve the problem to VDOT's satisfaction, to whom will they issue their next mandate?
- b. There is significant concern over the possibility of future projects. The main concern is that we DO NOT want a 7-11, Subway, etc., to be approved for any remaining parcel of land around our neighborhood.
- c. We are not receptive to either provision of Hampton Roads Development's (HRD's) "final offer" as outlined in their December 22, 2003 email to me. (Mr. Covey was also addressed on this email but if he did not receive it and you would like to see a copy, please let me know and I will forward it to you.) We do not

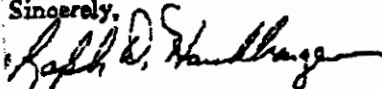
want the area (now known as lots 4A and 4B) developed. Regardless of what it says in the quoted addendum, several homeowners relied on the statements that this area (lots 4A and 4B) would not be developed when they selected their home sites. There was no reason to believe that the on-site agent was not properly representing the developer/builder. We believe HRD is "maximizing" the development of Jamestown Hundred. (I use the term "maximizing" because I believe Mr. Kale's comments about another matter at the January 12th Planning Commission meeting regarding developers "maximizing" an area are pertinent to this situation.)

- d. The homeowners are willing to forego the recreation area improvements and neighborhood sign requested in my December 17, 2003 letter with the understanding that there will be no development of lots 4A and/or 4B.
- e. HRD did not address the last 2 bullets in my December 17, 2003 letter and we would like a response to these two points.

I believe the homeowners have provided sufficient information about our concerns and desires for the Planning Commission to evaluate your application at their February 2, 2004 meeting. Although there are still some unanswered questions, I believe the Planning Commission can address these items in their evaluation process.

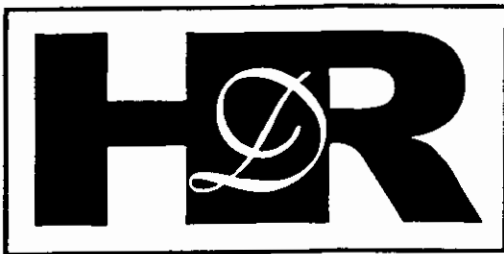
We appreciate the opportunity to provide our input to this project. Please feel free to contact me if you have any questions and/or concerns. For your information, an alternate point of contact for the homeowners is Trina Meeske. She can be reached at 729-2403 (home) or 729-6811 (work).

Sincerely,



Ralph D. Harshbarger
Neighborhood Liaison

CC: Mr. Joseph R. McCleary, Vice Chair, James City County Planning Commission



HAMPTON
ROADS
DEVELOPMENT, LLC

703 Thimble Shoals Blvd., C-1 • Newport News, Virginia 23606
(757) 873-3646 • Fax (757) 873-8819 or 5931



December 15, 2003

Dave Anderson
James City County
Planning Division
P. O. Box 8784
Williamsburg, VA 23187-8784

Re: Jamestown Hundred - Rezoning

Dear Dave:

Pursuant to our discussion enclosed please find herewith copy of the *New Construction Addendum VII* which has been attached to the contract and signed by each homeowner of the Jamestown Hundred subdivision, including those homeowners who have attended previous meetings of the planning commission and follow up meetings between the developer and Williamsburg Community Chapel. We are also enclosing a blank form of our standard contract that the addendum attaches to.

Please make note in particular to A-9, A-10 and A-18 on page 2 of the addendum.

We will have copies of the documents signed by all adjoining property owners available at the planning commission meeting in January.

Please submit this letter and attachment(s) to the planning commission members for their review prior to the meeting.

Sincerely,

JoAnn B. Armstrong
Development Projects Manager

Cc: Leo P. Rogers, Deputy Attorney
Larry Cumming, Attorney

VIRGINIA ENTERPRISES, INC.
NEW CONSTRUCTION ADDENDUM VII

ORIGINAL AGREEMENT DATE: _____

BUYER: _____

SELLER: Virginia Enterprises, Inc.

AGENT(S): _____

PROPERTY ADDRESS: _____

MODEL: _____ (attach copy of floor plan and standard features).

This is an Addendum to above-referenced Agreement. The terms of this Addendum supersede any and all conflicting terms and conditions contained in said Agreement regardless of whether such terms and conditions are printed or handwritten.

ALL PARTIES TO THIS ADDENDUM MUTUALLY ACKNOWLEDGE AND AGREE AS FOLLOWS:

A-1. Buyer acknowledges that he is entitled to employ, deal with and/or be represented by any attorney, lender, surveyor and title insurance company of his choice; however, Buyer desires Seller to pay all of Buyer's closing costs (excluding prepaid items), to which Seller has agreed, provided: (i) The parties have selected, Lawrence G. Cumming as settlement agent to prepare the loan closing documents and conduct the settlement, Buyer reserves the right to retain a separate attorney at his expense to review the documents and/or attend settlement; (ii) any loan to Buyer shall be obtained through a lender of Seller's choice; (iii) the surveyor and title insurance company to be used in conjunction with the settlement shall be selected by Seller or Seller's attorney; and (iv) Buyer alone shall be authorized to determine if and when to "lock-in" the lender's discount points and interest rate; however, Seller shall only pay the number of discount points expressly agreed to in the Agreement, if any. Buyer authorizes Seller to lock in interest rate and discount points for the Loan if Buyer has not done so on or before forty-five (45) days before the Settlement date in this Agreement.

A-2. Seller reserves the right, without notice, to change any and all price quotations for extras or options at any time prior to ordering by Buyer and agreement by Seller.

A-3. If the home includes a garage, prior to signature of this Agreement, Buyer shall determine whether the dimensions of the garage are satisfactory taking into consideration the fact that certain equipment will be included within the garage; and as a result, Buyer waives any objection to the size of the garage. Seller expressly states and Buyer acknowledges that certain larger vehicles may not fit within particular garages depending upon the particular model and vehicle involved.

A-4. Until final settlement, the house, either under construction or completed, and all materials and supplies stored or installed on the land, shall remain the property of the Seller.

A-5. The lot upon which the dwelling is to be constructed may be subject to easements along the boundary lines for drainage and utility systems. Buyer acknowledges that the equipment or structures for such systems located below, on or above ground level may be installed subsequent to the date of this contract and after final settlement. In addition, Buyer is advised that the property may be subject to covenants, conditions and restrictions of record which limit or affect Buyer's use of the same.

A-6. A. Rights-of-Way that extend beyond curb and gutter. Owners are advised that the street rights-of-way may extend beyond the curb and gutter of the streets; and that although the right-of-way areas beyond the curb and gutter are graded and seeded and may appear to be a part of the lots, these areas are owned by the holder of the rights-of-way.

B. No Improvements within Rights-of-way. All major subdivision signs, walls, ornamental items, plantings shall be located outside of the proposed rights-of-way. In addition, the installation of trees, shrubs, flowers, posts, walls, brick mail boxes or similar structures that do not enhance a roadway's capacity or traffic safety shall not be permitted within the rights-of-way of any subdivision street. The following specific provisions shall apply to work within street rights-of-way; when the holder of the rights-of-way is the Virginia Department of Transportation.

(1) Owners must contact the Virginia Department of Transportation ("VDOT") prior to any type of installation within a street right-of-way. Only those structures specifically authorized by permit issued by VDOT may be located within the street's right-of-way. If planting is proposed, the District Environmental Section and the resident must submit a design for review and approval by VDOT and a planting agreement must be signed.

(2) Private irrigation systems (sprinklers) shall only be allowed within a right-of-way after the design and location of the proposed system is submitted to and approved by VDOT. If approval is given the applicant will be required to obtain a CE-7 permit and submit a continuous bond for the irrigation system.

A-7. A Homeowners Orientation is a process that allows the Seller to establish a relationship with the Buyer and to explain warranties, operating instructions, and proper procedures for reporting future problems should they arise. It also provides a time for the Buyer to address any concerns they may have on a room by room basis. We have found that when other persons such as, but not limited to, Realtors, Inspectors, etc. are present it presents a distraction in the processing and presentation of information that takes place during the scheduled Homeowners Orientation. Therefore, the policy is that No Realtors, Inspectors, etc. are allowed to be present during a Homeowners Orientation. Realtors, Inspectors, etc. may, if they so choose, at any time PRIOR to the scheduled Homeowners Orientation preview the house with the Buyer at their convenience.

A-8. IN LIEU OF ALL OTHER EXPRESSED, IMPLIED OR STATUTORY WARRANTIES, SELLER SHALL PROVIDE BUYER WITH A 10-YEAR WARRANTY. THE WARRANTIES AND REPRESENTATIONS WHICH ARE HEREBY WAIVED AND EXCLUDED SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING: ANY AND ALL VERBAL WARRANTIES OR REPRESENTATIONS HERETOFORE OR HEREAFTER GIVEN TO BUYER BY ANYONE INCLUDING THE AGENTS AND SELLER; ANY IMPLIED WARRANTIES OF MERCHANTABILITY; ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE; ALL STATUTORILY IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THOSE CONTAINED IN SECTION 55-70.1 OF THE CODE OF VIRGINIA, AS AMENDED. THAT THE DWELLING TOGETHER WITH ALL ITS FIXTURES IS SUFFICIENTLY (I) FREE FROM STRUCTURAL DEFECTS, SO AS TO PASS WITHOUT OBJECTION IN THE TRADE, (II) CONSTRUCTED IN A WORKMANLIKE MANNER, SO AS TO PASS WITHOUT OBJECTION IN THE TRADE, AND (III) FIT FOR HABITATION.

A-1

**VIRGINIA ENTERPRISES, INC.
NEW CONSTRUCTION ADDENDUM VII**

A-9. Seller is not bound by any statement, promise, conditions, stipulation, representation or warranty, oral or written, not specifically set forth in this Agreement. No sales person has any authority to make any statements, promises, agreements or representations that modify, add to or change the terms of this Agreement.

A-10. Neither Seller nor any sales person has made, and the Buyer has not relied upon, any statements, representations or warranties as to the future use or condition of any land adjoining or in the vicinity of the property, whether said land is owned by Seller or not, including but not limited to, statements, representations or warranties as to the use, development, improvement or non-disturbance of any land; or the size, style, design or density of any improvements to be constructed thereon.

A-11. Although not covered by the 10-year warranty, Seller agrees to repair cracks in concrete driveways, sidewalks or patios exceeding 1/4 inch in width or 1/4 inch vertical displacement which occur through no fault of Buyer within one (1) year after the earlier of possession by Buyer or final settlement.

A-12. If there is a homeowner's association, Buyer agrees to be bound by the association's articles of incorporation, by-laws, regulations, declaration and restrictive covenants, receipt of which are hereby acknowledged. Buyer agrees to accept membership in the association, and to pay the assessments established by such association.

A-13. Notwithstanding any other provision of this Agreement, in the event of a dispute between Seller and Buyer, by written notice to Buyer and Agents, Seller shall have the right, in its sole and absolute discretion, to terminate this Agreement at any time prior to final settlement and refund to Buyer all sums paid by Buyer to Seller or to lender pursuant to this Agreement, and pay to Buyer an additional Two Hundred Dollars (\$200.00), all as liquidated damages. In such event, none of the parties shall have any further liability or obligation to any other party, and any right to compel specific performance by Seller is hereby waived; and all parties agree to execute appropriate releases.

A-14. In the event of an unsettled dispute between Seller and Buyer following final settlement, ALL disputes hereunder shall be resolved by arbitration in accordance with the rules of the American Arbitration Association.

A-15. Buyer is advised that George Fiscella, an owner of Seller, is a licensed real estate agent in Virginia.

A-16. NO ACTION OR CLAIM, REGARDLESS OF ITS NATURE OR FORM, IN ANY WAY ARISING OUT OF THIS AGREEMENT OR THE SUBJECT TRANSACTION, MAY BE BROUGHT BY BUYER MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

A-17. This Agreement constitutes the entire agreement and understanding between the parties; all prior negotiations between the parties have been merged with this Agreement; there are no understandings, representations, warranties or agreements, either oral or written, other than those set forth herein; and no portion of this Agreement shall be amended, altered, waived or supplemented in any manner unless such amendment, alteration, waiver or supplement is in writing and signed by all parties. Verbal representations or comments by anyone, including, but not limited to, Agents or Seller's employees shall not be binding upon Seller and may not be relied upon by Buyer. Whenever used herein, the singular shall include the plural, the plural shall include the singular and the use of any gender shall include all other genders, as the context may require. The individual provisions of this Agreement are severable, and the invalidity of anyone or more provisions shall not affect the validity and enforcement of the remaining provisions.

A-18. BUYER AGREES TO BE BOUND BY ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT, AND BUYER IS NOT RELYING ON ANY STATEMENT, PROMISE, CONDITIONS, STIPULATION, REPRESENTATION OR WARRANTY WHICH IS NOT SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS AGREEMENT. BUYER UNDERSTANDS THAT SELLER IS RELYING UPON THE FOREGOING ACKNOWLEDGMENT AND REPRESENTATION OF BUYER AND THAT SELLER WOULD NOT AGREE TO SELL THE PROPERTY TO BUYER WITHOUT SUCH ACKNOWLEDGMENT AND REPRESENTATION BY BUYER.

Agreed upon as of _____,

Buyer

SELLER: VIRGINIA ENTERPRISES, INC.

Buyer

By: _____
President

AGENT:

AGENT:

By: _____
Authorized Agent

By: _____
Authorized Agent

PROFFER AGREEMENT

THESE PROFFERS are made this 5th day of January 2004 by Williamsburg Community Chapel ("the Owner"), together with its successors and assigns, which owns certain real property shown on the James City County Tax Map 46-1, Parcel 1-2A.

RECITALS

- A. The Owner is the owner of a parcel of land located in James City County, Virginia, with an address of 3899 John Tyler Highway, Williamsburg, Virginia, containing 15.12+/- acres and being Tax Parcel 1-2A ("the Property"). The Property is now zoned R-8.
- B. The Owner has applied to rezone 0.965 acres of the Property ("Rezoned Property") from R-8 to R-2, General Residential District with proffers.
- C. The Owner has submitted to the County a master plan entitled "1996 Master Plan with 2003 Extension" prepared by AES Consulting Engineers dated 14 October 2003 (the "Master Plan") for the Jamestown Hundred Subdivision as revised on 29 December 2003 incorporating the 0.965 acres in accordance with the County Zoning Ordinance.
- D. The Owner desires to offer to the County certain conditions on the development of the 0.965 acres not generally applicable to land rezoned to R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, the Owner agrees that it shall meet and comply with all of the following conditions.

PROPOSED PROFFERS

1. Land Use and Conveyance. Upon approval of the rezoning application by the County, the 0.965 acres will be conveyed by the Owner to Hampton Roads Development, L.L.C. by deed of exchange and a subdivision plat that will subdivide and extinguish lot lines between the properties as generally shown in the "1996 Master Plan with 2003 Extension, Jamestown Hundred" as prepared by AES Consulting Engineers on 10/14/2003 with revisions on 12/29/03, and in the "Exhibit Showing Area To Be Rezoned and Preliminary Detailed Lot Layout, Jamestown Hundred" as prepared by AES Consulting Engineers on 10/14/2003 with revisions dated 12/29/03.

MISCELLANEOUS PROVISIONS

1. Headings. All section and subheadings of these Proffers are for convenience only and shall not be read as a part of these Proffers or utilized in interpretation thereof.
2. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged 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 Rezoned 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.
3. Conflicts. In the event that there is any conflict between the 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 as otherwise provided by law.

4. Successors and Assigns. This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.
5. Void if Rezoning not Approved. In the event that the rezoning sought by the Applicant is not approved by the County, the Proffers shall be null and void.

WITNESS the following signatures:

WILLIAMSBURG COMMUNITY CHAPEL

By: 

Robert J. Campbell

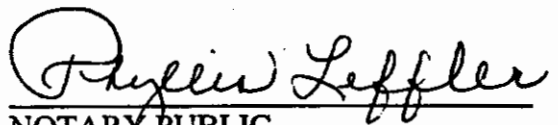
Title: Administrator

STATE OF VIRGINIA

COUNTY OF JAMES CITY,

to-wit:

The foregoing instrument was acknowledged before me this 5th day of January, 2004, by Robert J. Campbell, as Administrator of Williamsburg Community Chapel, on behalf of the Chapel.


NOTARY PUBLIC

My commission expires:

July 31, 2004.

PROFFERS

Hampton Roads Development, L.L.C., as Applicant and successor Declarant to J. R. Chisman Development Co., hereby agrees to amend that certain Proffer Agreement dated March 22, 1995, executed by J. R. Chisman Development Co., as Owner, duly recorded in Deed Book 752, page 280 in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia, as follows; and in the event of any conflict between the original Proffer Agreement and the following Proffers, the terms and conditions of the following Proffers shall prevail:

1. Relocated Open Space Conservation Easement. The amount of existing open space conservation easement, as provided in the Jamestown Hundred Subdivision final recorded plat which open space is between the Chapel and Jamestown Hundred Subdivision, will be retained and relocated adjacent to the Williamsburg Community Chapel's revised east, south and west property lines.

2. Number of Infill Dwelling Units. Jamestown Hundred Subdivision was approved for 106 lots as proffered in the 22 March 1995 Proffer Agreement for Jamestown Hundred Subdivision (Z-02-95/PR-0-53) and only 105 were platted. This proffer hereby amends the total number of lots from 106 to a revised total of 108 lots. The infill of the three (3) new lots and the lot line revisions will be in accordance with the 1996 Master Plan with 2003 Extension for Jamestown Hundred prepared by AES Consulting Engineers, dated October 14, 2003, with latest revision number 1 dated December 29, 2003.

3. Cash Contribution for Water System Improvements. A contribution of \$750.00 for each of the two (2) additional dwelling units developed from the addition of the .965 acres to the Subdivision shall be paid by Owner to the James City Service Authority prior to final subdivision plat approval in order to mitigate impacts on the County from the physical development and operation of the Subdivision. The James City County Service Authority may use these funds for development of alternative water sources or any project related to improvements to the James City Service Authority water system, the need for which is generated, in whole or in part, by the physical development and


operation of the Subdivision. The per unit contribution(s) paid in the year pursuant to this Section shall be adjusted annually beginning January 1, 2004 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI) prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraph (a) this Section. The adjustment shall be made by multiplying the unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 of the preceding year, in the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

4. Cash Contributions for Route 5 Transportation District. The Owner shall contribute to the County the sum of one percent (1%) of the estimated sales price for each dwelling unit developed on the two (2) new lots and the County shall make these monies available to the Route 5 Transportation Improvement District for construction of alternate Route 5 or for any other project included in the County's Capital Improvement Plan, the need for which in whole or in part is generated by the development of the Undeveloped Property. Said contributions shall be payable only when, as and if the Owner conveys a lot within said area on which lot is located, a dwelling unit for which an initial certificate of occupancy has been issued by the County. Notice that such sum is due shall be recorded on all plats of subdivision approved after the date hereof.

5. Cash Contribution for Recreation Capital Improvements. In lieu of providing active recreational facilities on the property, the Owner shall make a contribution to the County of \$624.30 for use by the County for recreation capital improvements. The contribution shall be payable at the time of subdivision final plat approval.

6. Provisions of Existing Proffer Agreement. All of the remaining provisions of the existing Proffer Agreement dated 22 March 1995 for Jamestown Hundred Subdivision not amended herein shall remain in full force and effect.

HAMPTON ROADS DEVELOPMENT, L.L.C.
By: Virginia Enterprises, Inc., Manager

By: 
George E. Fiscella, President

STATE OF VIRGINIA
CITY OF NEWPORT NEWS, to-wit:

The foregoing instrument was acknowledged before me this 28th day of January, 2004, by George E. Fiscella, President of Virginia Enterprises, Inc., a Virginia corporation, as Manager of Hampton Roads Development, L.L.C., a Virginia limited liability company, on behalf of the Company.


NOTARY PUBLIC

My commission expires: March 31, 2007.

RESOLUTION

CASE NO. SUP-20-03. WILLIAMSBURG COMMUNITY CHAPEL REZONING/

JAMESTOWN HUNDRED PROFFER AND MASTER PLAN AMENDMENT

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

WHEREAS, Mr. Craig Covey has applied for a special use permit on behalf of Williamsburg Community Chapel to rezone 0.965 acres out of the 15.12 acre Williamsburg Community Chapel parcel for the infill development of three lots in the adjacent Jamestown Hundred Subdivision; and

WHEREAS, the incorporation of these lots into the Jamestown Hundred Subdivision will raise the density of the Jamestown Hundred Subdivision above one unit per acre, requiring a special use permit; and

WHEREAS, the property is located on land currently zoned R-8, Rural Residential, to be rezoned to R-2, General Residential, Cluster with proffers, and can be further identified as Parcel No. (1-2A) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the Planning Commission, following its Public Hearing on February 2, 2004, recommended approval of Case No. SUP-20-03, by a vote of 6 to 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. 20-03 as described herein with the following conditions:

1. Construction on this project shall commence within 36 months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation. Construction does not include land preparation, such as clearing, grading, or filling.
2. In lieu of implementing the Streetscape Guidelines as defined in the Streetscape Guidelines Policy, the developer shall transfer the required right-of-way trees to the recreation lot. A landscaping plan identifying the type and location of the plantings shall be submitted to and approved by the Planning Director prior to the County being obligated to grant final subdivision approval.
3. No more than 107 residential units may be built in the Jamestown Hundred Subdivision and no lot shall be built on the properties designated as Lot 4A or 4B on the revised Master Plan entitled "1996 Master Plan with 2003 Extension: Jamestown Hundred" prepared by AES Consulting Engineers and dated October 14, 2003, and last revised on December 29, 2003.

4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of
March, 2004.

sup-20-03.res

RESOLUTION

CASE NOS. Z-9-03/Z-12-03. WILLIAMSBURG COMMUNITY CHAPEL REZONING/

JAMESTOWN HUNDRED PROFFER AND MASTER PLAN AMENDMENT

WHEREAS, in accordance with Section 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 Nos. Z-9-03 and Z-12-03 for rezoning 0.965 acres from R-8, Rural Residential, to R-2, General Residential, cluster with proffers; and;

WHEREAS, the property is located at 3899 John Tyler Highway and further identified as Parcel No. (1-2A) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on February 2, 2004, recommended approval of Case Nos. Z-9-02 and Z-12-03 by a vote of 6 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-9-03 and Z-12-03 and accepts the voluntary proffers.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

z-9-03_z-12-03.res

**REZONING-14-03/MASTER PLAN-1-04. Powhatan Secondary Proffer Amendment
Staff Report for the March 9, 2004, 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 F Board Room; County Government Complex
Planning Commission: January 12, 2004, 5:30 p.m. (deferred)
February 2, 2004, 7:00 p.m.
Board of Supervisors: March 9, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant: Alvin P. Anderson, Kaufman & Canoles, P.C.
Land Owner: Lawrence E. Beamer, Powhatan Enterprises, Inc.
Proposed Use: Amendment to the existing Powhatan Proffers to allow commercial/office development generating up to 1,504 vehicles per day on the commercial/office parcel.
Location: 4501 News Road; Berkeley District
Tax Map and Parcel Nos.: (38-3)(1-31) and a portion of (38-3)(1-32)
Primary Service Area: Inside
Parcel Size: 11.6 acres
Existing Zoning: R-4, Residential Planned Community District, with proffers
Proposed Zoning: R-4, Residential Planned Community District, with proffers
Comprehensive Plan: Low-Density Residential
Surrounding Zoning: North, South, East, and West: R-4, Residential Planned Community District
Staff Contact: David Anderson - Phone: 253-6685

STAFF RECOMMENDATION:

The proposed proffer amendment is consistent with surrounding zoning and development and compatible with the Comprehensive Plan. The attached proffers adequately address any potential impacts associated with the proposal. Staff recommends approval of the proposal with the attached proffers. At the February 2, 2004, Public Hearing, the Planning Commission voted 7-0 to recommend approval.

Description

Alvin P. Anderson of Kaufman & Canoles, P.C., has applied on behalf of Lawrence E. Beamer, President of Powhatan Enterprises, Inc., to amend the existing Powhatan Proffers. The amendment seeks to delete the last sentence in existing Proffer No. 20 which states, "No commercial uses shall be permitted on the Commercial/Office area if the ITE trip generation for such commercial use per square foot exceeds the ITE trip generation for office per square foot." Effectively, the last sentence in existing Proffer No. 20 limits any commercial development on the Commercial/Office area significantly since very few commercial developments generate traffic equivalent to or less than office developments. The applicant proposes the following language to replace the last sentence in existing Proffer No. 20, "Without additional traffic studies reviewed and approved by the Planning Director, no commercial and/or office uses shall be permitted on the Property if the ITE trip generation for such commercial and/or office uses exceeds 1,504 vehicles per day." Currently, per the adopted Master Plan of Powhatan, the Commercial/Office area is limited to a development level not to exceed the traffic generation of 93 townhouse units, which the parcel was originally to be developed as, equivalent to 744 vehicle trips per day. The applicant arrives at the generation rate of 1,504 vehicles per day by transferring traffic generation from 95 approved off-site townhouse units that were never built. Ninety-five townhouse units generate 760 vehicle trips per day, bringing the total on that parcel to the proposed traffic generation cap of 1,504 vehicles per day. This amendment applies only to the Commercial/Office parcel located at 4501 News Road.

Summary of Case Activity

This case was deferred at the January 12, 2004, Planning Commission Public Hearing to allow the applicant and the adjacent residents of Powhatan Place to meet and resolve issues brought up by the residents during the Public Hearing. This meeting took place on January 23, 2004, at the clubhouse in Powhatan Secondary. The meeting was attended by Mr. Lawrence Beamer of Powhatan Enterprises, Mr. Tim Trant of Kaufman & Canoles, Mr. Joe McCleary from the Planning Commission, Mr. David Anderson from the County Planning Division, and nearly two dozen residents of Powhatan Place. The two primary issues brought up by the residents included: 1) buffering between the proposed commercial development and Powhatan Place and 2) the problem of vehicular traffic utilizing Powhatan Circle as a shortcut between News Road and Monticello Avenue. Mr. Beamer agreed to construct a buffer between Powhatan Place and the proposed commercial development. This agreement is reflected in the attached proffer agreement. Mr. Beamer also agreed to work with the residents on installing appropriate traffic-calming measures (i.e., pressure-sensitive gates, signage, etc.) to reduce cut-through traffic on Powhatan Circle. At the February 2, 2004, Planning Commission Public Hearing, the Powhatan Place residents presented a letter of support for the proposal.

Surrounding Zoning and Development

The Commercial/Office parcel is zoned R-4, Residential Planned Community District, with proffers. Land to the north, south, east, and west of this parcel is also zoned R-4, Residential Planned Community District. Additionally, the land is governed by the adopted Powhatan Proffers. Surrounding development includes Powhatan Place townhouses, Monticello Marketplace, and the Marketplace Shoppes. Commercial developments, including a gas station, a bank, and several fast-food restaurants have been developed in the surrounding area. Due to the like-zoning designation of the surrounding area and the commercial nature of surrounding development, staff believes the proposal is consistent with surrounding zoning and development.

Comprehensive Plan

The parcel was first designated Low-Density Residential during the 1991 Comprehensive Plan Update, when the Low-Density Residential designation was first introduced. Prior to this, the parcel was designated Planned Community, a designation that no longer exists. In 1996, the Powhatan Secondary Master Plan was amended

to change the subject parcel's use from 93 townhouses to a commercial/office use. Due to the limited nature of commercial development permitted on the property because of Proffer No. 20, the use was rendered consistent with the Low-Density Residential designation - the definition of Low-Density Residential allows for "very limited commercial establishment." The property's designation intentionally remained unchanged through the 1997 and 2003 updates of the Comprehensive Plan, because the limited nature of commercial development permitted on the parcel remained consistent with the designation. In addition, in both the 1997 and 2003 Comprehensive Plan updates, a number of undeveloped, commercially zoned areas were intentionally left designated Low-Density Residential in recognition of a preference that it be put to "very limited commercial use" rather than more intensive commercial use.

The current proposal to expand the commercial uses allowed on the parcel and increase the traffic generation permitted does make the proposal technically inconsistent with the Comprehensive Plan. However, since the applicant has proffered out several of the intense commercial uses, which are normally permitted in the R-4 zoning districts, staff feels the proffer substantially limits the intensity of commercial development of this site. Additionally, the proffered enhanced landscaping adjacent to News Road and the proffered buffer adjacent to Powhatan Place further limits the intensity of developing, providing sufficient justification for staff to render the proposal compatible with the Comprehensive Plan designation.

Traffic Generation

As stated previously, this amendment raises the permitted traffic generation of this parcel from 744 vehicles per day to 1,504 vehicles per day. While this increase would double the permitted traffic generation, the Virginia Department of Transportation (VDOT) does not believe it will have an appreciable impact. Although traffic generation on Monticello Avenue and News Road has been increasing, adequate capacity exists to accommodate the impact of development of this parcel. Furthermore, the increase in traffic generation on this parcel is actually a reallocation of already permitted traffic generation from the overall Powhatan development. The total traffic generation for the overall development is not increasing. Finally, staff believes that traffic generation numbers for this parcel will be less than that which is projected under the ITE due to the intense commercial nature of surrounding development and the competing uses, which comprise surrounding development.

Despite its beliefs that the increased traffic generation will not have an appreciable impact, VDOT has indicated that it will require a traffic study be performed during site plan review for a specific development proposal on this property. Since a traffic study will be required during the site plan review stage, staff did not feel it was necessary to require one at this time.

Additional Impacts

The applicant has proffered several desirable conditions for development of this parcel which would not otherwise be achieved through a by-right development of this parcel. Most importantly, these include limiting access to the existing curb cuts on News Road, enhanced landscaping along News Road, a landscaped buffer adjacent to Powhatan Place, and assurance of architectural compatibility with Monticello Marketplace and the Marketplace Shoppes. Staff believes these proffers adequately mitigate any potential negative impacts associated with development of a more intense commercial use on the Commercial/Office parcel, and are extremely important in preserving the character of the area.

Recommendation

The proposed proffer amendment is consistent with surrounding zoning and development, and compatible with the Comprehensive Plan. The attached proffers adequately address any potential impacts associated with the proposal. Staff recommends approval of the proposal with the attached proffers. At the February 2, 2004, Public Hearing, the Planning Commission voted 7-0 to recommend approval.

David Anderson

CONCUR:

O. Marvin Sowers, Jr.

DA/gs
z-14-03_MP-1-04

Attachments:

1. Approved Minutes of the Planning Commission - January 12, 2004, and February 2, 2004
2. Location Map
3. Portion of Powhatan Secondary Master Plan
4. Plan of Development Powhatan of Williamsburg Secondary
5. Letter of Support from Powhatan Place Homeowners
6. Letters of Concern from Adjacent Property Owners
7. Proffer Agreement
8. Resolution

APPROVED MINUTES TO THE JANUARY 12, 2004 PLANNING COMMISSION MEETING

CASE NO. Z-14-03 & MP-01-04 Powhatan Secondary Proffer Amendment.

Mr. David Anderson stated that Mr. Alvin Anderson, on behalf of Powhatan Enterprises, Inc., has applied to amend the existing Powhatan Proffers. The amendment proposed to delete the last sentence in existing Proffer 20, which limits any commercial uses where the ITE Trip Generation per square foot exceeds the ITE Trip generation per office per square foot. The existing proffer significantly limits commercial development since very few meet this criterion.

The proposal sought to amend Proffer 20 to prohibit commercial/office uses on this property if the ITE Trip Generation exceeded 1,504 vehicles per day without traffic studies reviewed and approved by the planning director. The approved Powhatan Master Plan limits the commercial/office area to developments not to exceed 744 vehicles trips per day.

Staff found the proposed proffer amendment consistent with surrounding zoning and development and compatible with the Comprehensive Plan. The attached proffers adequately address any potential impacts associated with the proposal. Staff recommended the Planning Commission approve the proposal and attached proffers

Ms. Wildman asked Mr. Anderson for the location of the enhanced landscaping on News Road.

Mr. Anderson pointed to the area in question on the location map.

Ms. Wildman asked if this applicant also developed Powhatan Villages.

Mr. Anderson said it was part of the same master plan development.

Ms. Wildman had some concerns regarding the landscaping.

Mr. Anderson noted that the applicant proffered 15% above the minimum requirements.

Mr. McCleary asked how the number of vehicle trips per day is calculated.

Mr. Anderson said it was a projection based on the ITE Manuel.

Mr. A. Joe Poole, III opened the public hearing.

Mr. Tim Trant, Kaufman Canoles, represented the applicant. Mr. Trant agreed with Mr. Anderson's report. He highlighted the applicant's proposal to eliminate 95 townhouses in the development. The applicant proffered construction to be architecturally compatible with the Monticello Marketplace Shopping Center. Mr. Trant stated that the applicant also proffered to limit curb cuts to the two existing cuts and the elimination of certain undesirable by-right uses.

Mr. Kale asked for clarification on the originally intended use of the property.

Mr. Trant clarified that the townhouses referred to earlier were originally intended for another property within the same master planned community.

Mr. Kale asked for the location where the vehicle counts are calculated.

Mr. Trant said the traffic counts calculate traffic in and out of the parcel.

Mr. Kale wanted to know how the projections were arrived at.

Mr. Trant explained that the Institute of Traffic Manuel defines the predicted traffic counts by type and size of the operation.

Mr. Kale asked how the applicant would be affected if the Commission recommended denial.

Mr. Trant answered that the applicant's ability to locate any commercial use on the property would be limited.

Ms. Deborah Leonard, 4404 Makah Court, was concerned about the traffic impacts of the proposal. She wanted to know if there would be a buffer for privacy. She was also concerned about the effects on the BMP pond.

Mr. John Goomis, 4427 Chickasaw Court, questioned whether the site would house an Eckerd drugstore and the need for such services in that area. He was also concerned about the possible traffic impacts.

Mr. Charles Dodge, 4400 Acoma Circle, said he had understood that the parcel would be office space. He was concerned about the transference of traffic from further in the development and concentrating it on one site. He asked if approval of this application would guarantee that the townhouse parcel would not be developed.

Ms. Dodge pointed out his property on the location map. She also indicated a road that was not visible on the map.

Ms. Lucy Staler, 4416 Chickasaw Court, shared the same concerns regarding traffic and buffers as her neighbors.

Mr. Trant explained that the BMP pond was owned and maintained by Virginia Department of Transportation. He clarified that without this transfer traffic would still have been concentrated on News Road. A commercial use spreads traffic throughout the day and not during mainly peak hours as residential. He also stated that the site of the original 95 townhouses had already been approved for other use. Mr. Trant said the existing proffers already address and require buffers and lighting.

Mr. McCleary asked for the VDOT rating for that section of News Road.

Representatives for the applicant said it was Level of Service B.

Mr. Lawrence Beamer, Powhatan Secondary developer, said a sidewalk had been

proffered for the site. He offered to close off the road in question if all the Powhatan Place homeowners agreed. He also stated that he is in negotiation with Eckerd's and explained why he felt it was a good match for this location. Mr. Beamer was willing to discuss the issue of a buffer.

Mr. Hagee asked where the drugstore would be situated on the parcel.

Mr. Beamer pointed to the eastern half of the parcel. He does not have a use currently for the other half. He further explained that a right-turn into the parcel would mitigate the traffic on News Road.

Mr. Kale asked the applicant what he would put on the site if the application was denied.

Mr. Beamer said he did not know. He felt staff made an error in the recommendations of the original proffers.

Mr. Leo Rogers, Deputy County Attorney, stated that the original proffer recommendations were carefully thought out and crafted by staff. The current proffers reflect the intent at that time. Staff has reconsidered the intersection based on this proposal.

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

Mr. Kale disagreed with staff recommendations that this application is compatible with the Comprehensive Plan. He would prefer to see applications where proposed uses are consistent with the best use of land instead of maximum value for the applicant.

Mr. Poole stated he is inclined to support the application but would like to first see more dialogue between the applicant and adjacent property owners.

Mr. Hagee thought the idea of a drugstore in that location was appropriate. He felt the master plan clearly stated that it was commercial/office. He pointed out that Mr. Beamer is willing to address the traffic concerns of the existing neighbors.

Mr. McCleary discussed recent situations where real estate professionals allegedly made claims to potential buyers about potential uses on adjacent properties.

Mr. Hagee did not dispute Mr. McCleary's statement but thought things could be worked out in this case.

Mr. Beamer said this parcel was not low density. It was zoned in 1978. Mr. Beamer stated that he was told by staff that the recent Comprehensive Plan update would not affect his subdivision or its use.

Mr. Sowers stated that it is not unusual for commercial areas and businesses in master planned communities be designated residential. Mr. Sowers said in such cases there is no expectation that they would become a residential area.

Mr. Kale expressed his disappointment that this was not corrected during the Comprehensive Plan update process. He was still concerned with the proposed use for

this parcel and the transference of traffic.

Mr. Hunt agreed with Mr. Hagee.

Mr. Hunt made a motion to approve the application.

Mr. McCleary seconded the motion.

Mr. Poole wanted to see more discussion between the applicant and adjacent owners before voting on the application.

Mr. Billups had a concern that the impacts of New Town and other recently approved developments have not been considered. He also questioned other commercial uses coming into this area.

Mr. Billups and Mr. Beamer discussed other commercial developments that might locate next to this property.

Mr. Kale made a motion to defer the application.

Ms. Wildman felt adjacent owners should have an opportunity to meet with the applicant.

Mr. Trant requested a decision tonight.

Ms. Wildman seconded the motion to defer.

In a roll call vote the application was deferred 4-3; AYE: (4) Billups, Poole, Wildman, Kale; NAY: (3) Hunt, Hagee, McCleary.

APPROVED MINUTES TO THE FEBRUARY 2, 2004 PLANNING COMMISSION MEETING

Z-14-03 & MP-1-04 Powhatan Secondary Proffer Amendment.

Mr. David Anderson presented the staff report. Mr. Lawrence Beamer, on behalf of Powhatan Enterprises, Inc., has applied to amend the existing proffers to allow commercial/office development generating up to 1,504 vehicles per day.

This case was deferred at the January 12th meeting to allow the applicant and adjacent property owners to resolve issues raised at that meeting. The parties met and where able to resolve those issues.

Staff found the proffer amendment consistent with the surround area and compatible with the Comprehensive Plan. Staff recommended approval.

Mr. Fraley asked about the status of issues relative to traffic impacts.

Mr. Anderson said Virginia Department of Transportation (VDOT) will require a traffic study at the time of site plan application that will address those issues.

Mr. Kale asked for clarity on the transference of traffic counts.

Mr. Anderson said the applicant could address Mr. Kale's question.

Mr. A. Joe Poole, III opened the public hearing.

Mr. Tim Trant, Kaufman and Canoles, agreed with the staff report. He highlighted the applicant's cooperation with adjacent owners. He also clarified the source of the additional traffic density.

Mr. Rogers brought to the Commissioners attention the need to change proffer number 4 regarding the landscape berm.

Mr. Kale asked if the commercial area would use both curb cuts onto News road.

Mr. Trant said that was correct.

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

Mr. Hunt made a motion to approve the application with the understanding that staff and the applicant while resolve proffer number 4 prior to the Board of Supervisors hearing.

Mr. McCleary seconded the motion.

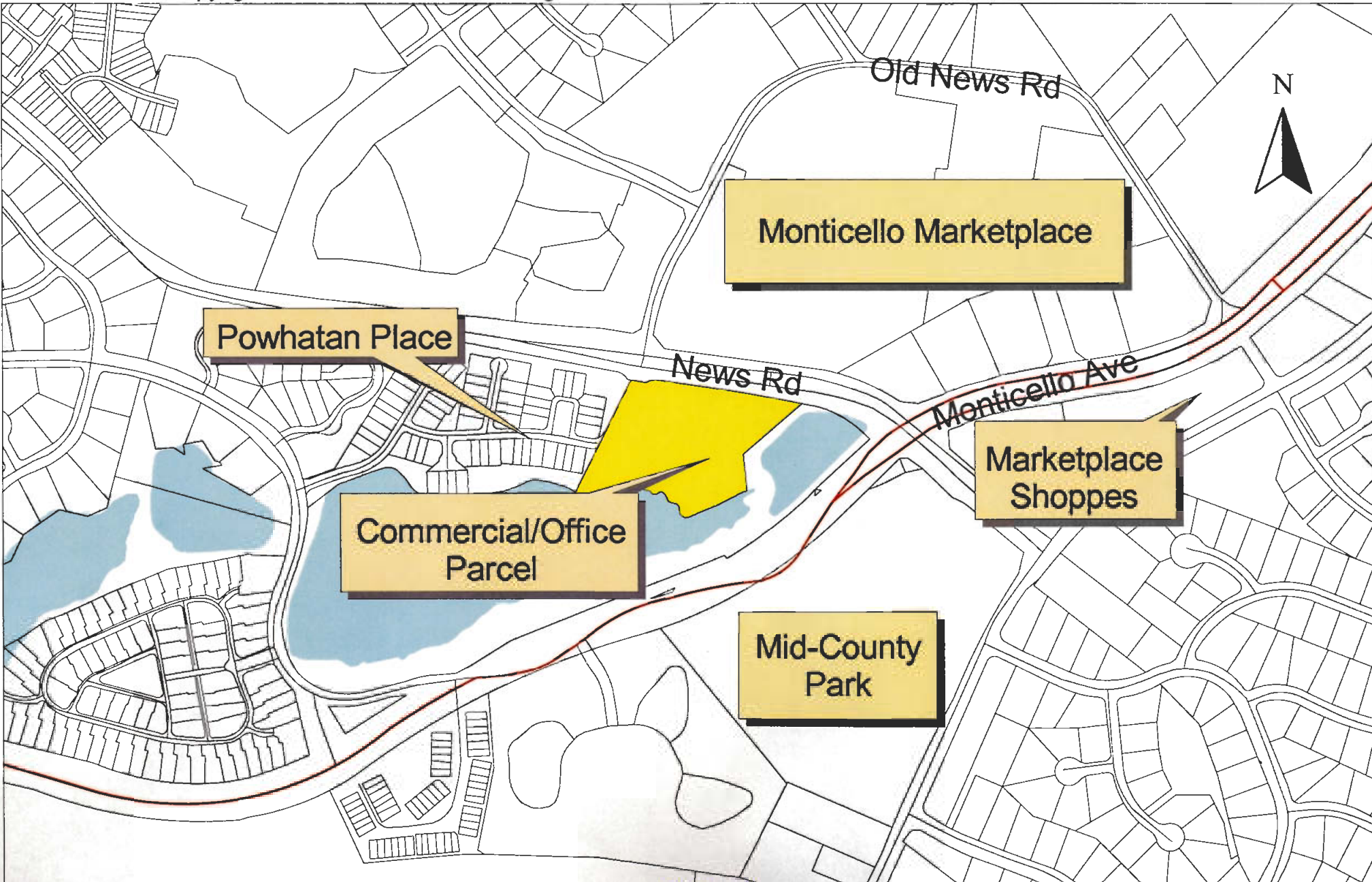
In a roll call vote the application was approved 7:0; AYE: (7) McCleary, Hagee, Hunt, Kale, Billups, Wildman; Poole NAY (0).

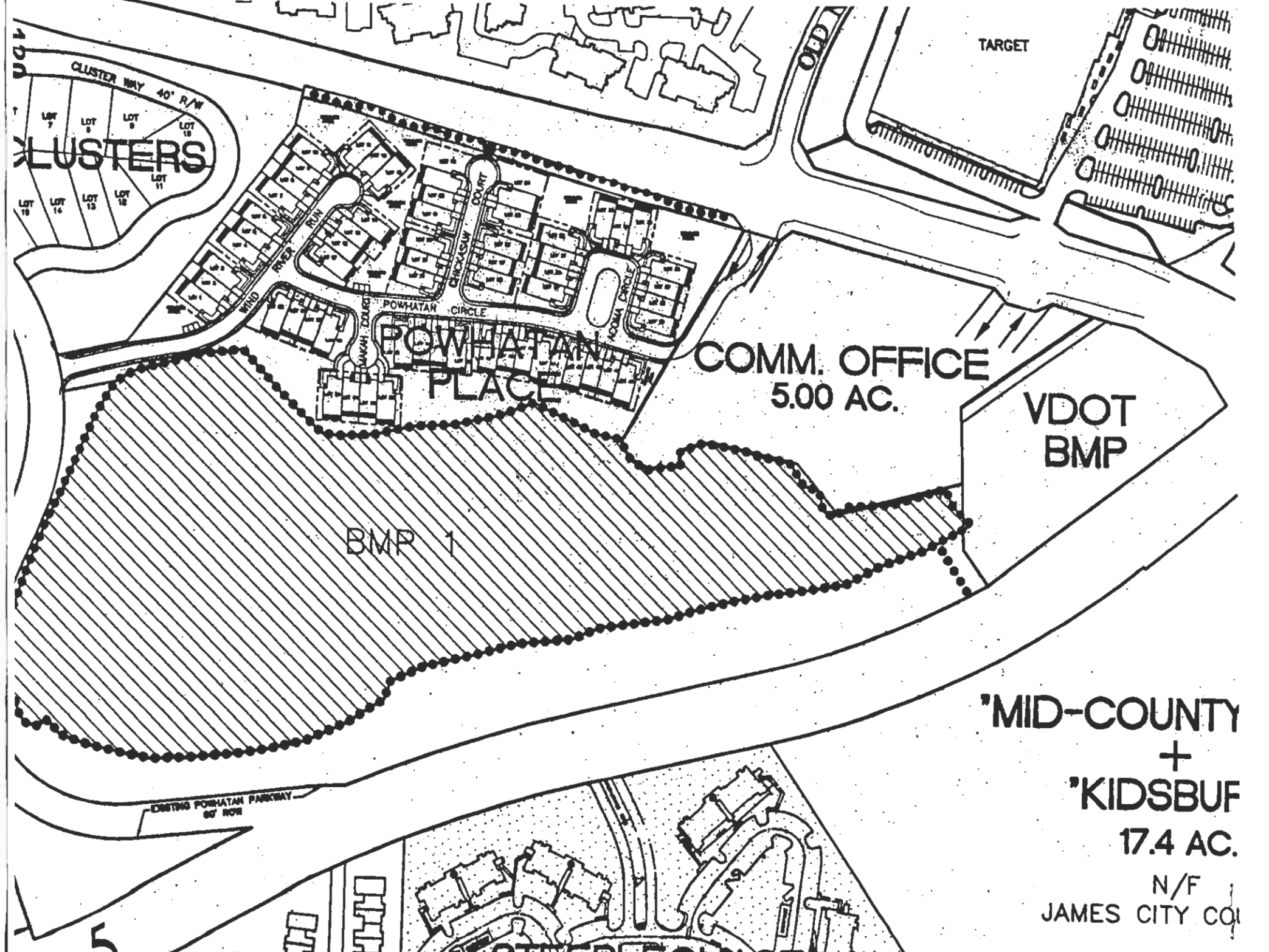
Case No. Z-14-03/MP-1-04, Powhatan Enterprises Proffer Amendment - Location Map



Aerial View Copyright 2002 Commonwealth of Virginia

300 0 300 600 Feet





CLUSTERS

COMM. OFFICE
5.00 AC.

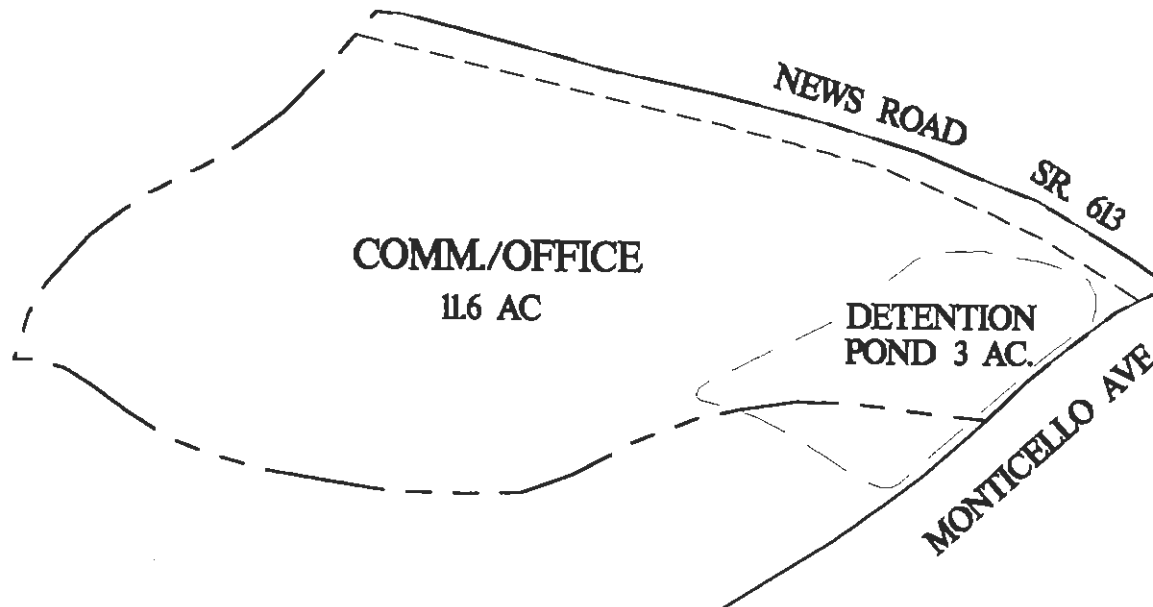
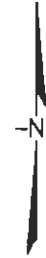
VDOT
BMP

BMP 1

MID-COUNTY
+
KIDSBUF
17.4 AC.

N/F
JAMES CITY CO

NOTE 1: WITHOUT ADDITIONAL TRAFFIC STUDIES REVIEWED AND APPROVED BY THE PLANNING DIRECTOR, NO COMMERCIAL AND/OR OFFICE USES SHALL BE PERMITTED ON THE "COMMERCIAL/OFFICE" PROPERTY IF THE ITE TRIP GENERATION FOR SUCH COMMERCIAL AND/OR OFFICE USES EXCEEDS 1,504 VEHICLE TRIPS PER DAY."



**PLAN OF DEVELOPMENT
POWHATAN OF WILLIAMSBURG SECONDARY
JAMES CITY COUNTY, VIRGINIA JANUARY 6, 2004
SCALE: 1"=200'**

**LANDMARK
DESIGN GROUP**
Engineers - Planners - Surveyors
Landscape Architects - Environmental Consultants

4028 Ironbridge Road
Suite 100
Williamsburg, VA 23188
Tel. (757) 253-2975
Fax (757) 229-0049
Email: lmkg@landmarkdg.com

VIA HAND DELIVERY & FACSIMILE (757) 253-6850

February 1, 2004

Dave Anderson
Planning Department
James City County
101 E Mounts Bay Road
Williamsburg, VA 23185

Re: Powhatan Enterprises, Inc.
Z-14-03 & MP-1-04

Dear Mr. Anderson:


I am the designated representative of the Powhatan Place homeowners interested in the above-referenced applications currently under review by James City County. In follow-up to our appearance at the January 12, 2004 Planning Commission meeting and our subsequent meetings and conversations with Mr. Beamer and his consultant(s), of which you and Mr. McCleary have been apprised, I write to relate our support for the proposal and the conditions for the same. The conditions for our support are as follows:

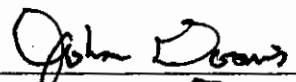
1. Powhatan Enterprises, Inc. should contribute one half of the cost, up to \$5,000.00, towards the implementation of a means of deterring "cut-through" traffic on Powhatan Circle; and
2. Powhatan Enterprises, Inc. should proffer the provision of a landscape buffer in the form of a planted berm, 15 feet in width at the base, adjacent to and along the western boundary of the Commercial/Office Property adjoining the common area of Powhatan Place, and that a landscaping plan for the Commercial/Office Property or portion thereof then being developed shall be submitted to the Planning Director for review and approval before final site plan approval.

Mr. Lawrence E. Beamer, as president of Powhatan Enterprises, Inc., has represented his commitment to condition 1 and we are satisfied with his commitment. We are aware that Powhatan Enterprises, Inc. has proffered a landscape buffer identical to that described in condition 2. Thus, the concerns of the interested Powhatan Place homeowners have been satisfactorily addressed and, by this letter, we offer our support for the proposal.

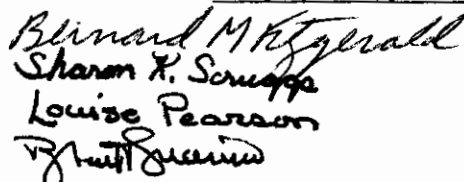
Thank you for your consideration of our comments.

Very truly yours,

Approved: 


Printed Name: JOHN GRAMIE
Address: 4427 Chickasaw Ct
Williamsburg 23188
Phone Number: 229-1815

xc: Lawrence E. Beamer (via hand delivery)
Timothy O. Trant, II, Esq. (via hand delivery)
#6051433 v1





S.L. NUSBAUM Realty Co.

9211 Forest Hill Avenue, Suite 110 • Richmond, Virginia 23235 • (804) 320-7600 • FAX (804) 320-7601



Via Facsimile: 757/253-6850

January 15, 2004

David Anderson
Planning Department
James City County
101-C Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784

Re: REZONING CASE 14-03/MASTER PLAN 1-04. Powhatan Secondary Proffer Amendment

Dear David,

As a follow-up to our recent telephone conversation, I called the Planning Department today and was advised that the referenced case was deferred. Please advise at your earliest convenience the basis for the stated action.

With regard to our recent conversation, I still have some questions regarding the Staff Report and, more specifically, the section regarding traffic generation. The report states that, with the proposed amendment, potentially the level of traffic generation could double, but the Staff does not believe it will have an appreciable impact. It is further stated that adequate capacity exists to accommodate the impact of development of this parcel. I would like to understand the basis of the Staff's opinion, as I believe a current traffic study for the project was not required.

As I stated to you, our concern is not with what is being proposed in terms of use or aesthetics, but the potential effect on the ingress and egress to Monticello Marketplace and, especially the crossover at the main drive in front of Target, as well as the stacking lane at the News Road/Monticello Avenue intersection for left turn movements.

As you may be aware, in the development of the SunTrust Bank site at Marketplace Shoppes, we were required to provide a new traffic study to augment the Master Plan for Powhatan Secondary which resulted in us having to provide an additional right turn lane. In addition, under our WindsorMeade Marketplace rezoning case, we were involved in extensive traffic analysis, not only for the project itself, but for the Monticello Avenue corridor.

I have discussed the proposed project and rezoning with Lawrence Beamer and will maintain a dialogue with him to address any concerns that may be of mutual interest for both parties. I have also been contacted by the development company involved in the proposed project and will assist them in providing background design features and materials from Monticello Marketplace to facilitate the compatibility of the projects, as required by the County.

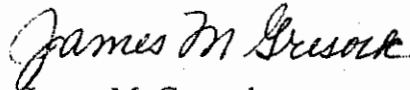
David Anderson
January 15, 2004
Page 2

In the meantime, we want to stay involved in the review process for the requested zoning amendment, as well as the submittal of the site plan for the intended development.

By copy of this letter, I am advising Lawrence Beamer and Alvin Anderson of our interest and will make myself readily available to meet with them to discuss their plans, especially as they relate to our adjacent projects.

If you have any questions or comments regarding the above, please feel free to contact me.

Sincerely,



James M. Gresock
Senior Vice President - Development

JMG:lds/*lds*

cc Alan Nusbaum - w/copy of Staff Report
Tommy Johnson, Esquire - w/copy of Staff Report
Alvin Anderson, Esquire
Lawrence Beamer

Direct Dial: (804) 594-4433
Telecopier: (804) 379-1326

January 29, 2004

Mr. David Anderson
Planning Department
James City County
P. O. Box 8784
Williamsburg, VA 23187-8784



Re: *Rezoning Case 14-03/Master Plan 1-04
Powhatan Secondary Proffer Amendment*

Dear Mr. Anderson:

I am writing to express my company's concerns regarding the above-referenced rezoning request. Ukrop's Super Markets, Inc. owns and operates a store in the Monticello Marketplace Shopping Center, which is located across from the proposed retail development referenced above.

We are concerned about the potential effect the rezoning request would have on the ingress and egress to our shopping center, particularly the crossover at the main drive in front of Target and the stacking lane at the News Road/Monticello Avenue intersection for left-hand turns.

The proposed retail project would also cause a significant increase in traffic. It is my understanding that the County's Staff Report indicates that under the proposed rezoning request the level of traffic may double. We do not believe adequate capacity exists to accommodate such an increase in traffic levels. Although the staff does not consider the traffic impact significant, its opinion is not based on a current traffic study. However, in the development of the SunTrust Bank site at Marketplace Shoppes, the developers there were required to provide a new traffic study to augment the Master Plan for Powhatan Secondary which resulted in the developers having to provide an additional right-turn lane. Likewise, during the rezoning process for the WindsorMeade Marketplace, the developers were required to provide the County Staff with extensive traffic analysis of not only their project but for the Monticello Avenue corridor.

For all the foregoing reasons, we respectfully request that the Planning Department oppose the request for rezoning. Please feel free to contact me if you have any questions or comments regarding the above. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Brian K. Jackson'.

Brian K. Jackson
Vice President and General Counsel

c: James M. Gresock

REPORT SUPPLIED BY UKROP'S INC. 400 SOUTH HURST BLDG. WINDYBOND, VA 23125-6399 • 804.379.7300 • UKROPS.COM

TARGET CORPORATION



Writer's Direct Dial:
(612) 761-1548
Fax: (612) 761-3735

January 28, 2004

By AirBorne Express

David Anderson
Planning Department
James City County
101-C Mounts Bay Road
Williamsburg, VA 23187

RE: Rezoning Case 14-03/Master Plan 1-04; Powhatan Secondary Proffer Amendment
Target Store T-656 Williamsburg, VA

Dear David:

This shall serve as a follow up to our recent phone conversation. Since that time, I have had a chance to talk with Tony Handy of VDOT regarding this rezoning case. We discussed the traffic levels addressed in the Staff Report. Tony was very certain that VDOT would mandate a traffic study in the event one is not required earlier.

As I informed you, Target is generally concerned about the effects increased traffic will have on the ingress and egress to Monticello Marketplace; notably at the front drive of our store. Specifically, the Staff Report elicited that, if the proposed Amendment is approved, allowable traffic generation could double. However, we were intrigued to find out that, without a traffic study having been performed, the statement was made that the "staff does not believe it [traffic generation doubling] will have an appreciable impact."

I have also contacted James Gresock, Senior Vice President of S.L. Nusbaum Realty Co., regarding this matter. He informed me that new traffic studies were required in the development of the SunTrust Bank site at Marketplace Shoppes and in their WindsorMeade Marketplace rezoning case. Both Target and S.L. Nusbaum desire to stay involved in the review process for the requested zoning amendment, as well as the submittal of the site plan for the intended development.

Please let me know if you have any questions or comments about our position on this matter.

Respectfully,


Matt Wise
Property Development

cc: O. Marvin Sowers, Jr.
Laurie O'Donnell

SUPPLEMENTAL PROFFERS

FOR THE POWHATAN "COMMERCIAL/OFFICE PARCEL"

THESE SUPPLEMENTAL PROFFERS are made as of this 26th day of February, 2004, by **POWHATAN ENTERPRISES, INC.**, a Virginia corporation (together with its successors and assigns, "Powhatan") (index as a "grantor"); and the **COUNTY OF JAMES CITY, VIRGINIA** (the "County") (index as the "grantee").

RECITALS

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

R-2. The Property is subject to the proffers (the "Existing Proffers"), dated March 11, 1996, 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") in Deed Book 803, at page 740. The Existing Proffers are made a part hereof and incorporated by reference.

R-3. The Property is also subject to a plan of development entitled "Exhibit F Master Plan of Powhatan" prepared by Langley and McDonald, P.C., dated July, 1982, last revised on February 29, 1996 (the "Existing Plan of Development"), a copy of which is on file with the County's Director of Planning.

R-4. Powhatan desires to amend the Existing Proffers and the Existing Plan of Development which changes only pertain to the Property.

R-5. Powhatan has reduced the allowable townhouse density within the News Road Corridor by a total of 188 units which development would have otherwise generated 1,504 vehicle trips per day pursuant to the Institute of Transportation Engineers ("ITE"). Based upon that reduction in townhouse density, the Existing Proffers, the Existing Plan of Development and the notes thereon, Powhatan, without further traffic studies, reviewed and approved by the Planning Director, is seeking to develop the Property with commercial and/or office uses which do not exceed a total of 62,000 square feet provided the ITE trip generation for such use(s) does not exceed 1,504 vehicles per day; however, the last sentence of proffer 20 of the Existing Proffers may conflict with the intended use by stating: "No commercial uses shall be permitted on the "Commercial/Office" area if the ITE trip generation for such commercial use per square foot exceeds the ITE trip generation for office use per square foot."

R-6. Powhatan has applied for a proffer amendment solely to allow commercial and/or office development on the Property without further traffic studies provided that the aggregate amount of square feet of commercial and/or office floor area does not exceed 62,000 square feet and provided further that the ITE trip generation for the commercial and/or office uses does not exceed 1,504 vehicles per day.

R-7. The provisions of the County's Zoning Ordinance ("Zoning Ordinance"), Section 24-1, et seq. of the County Code, may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Powhatan, in furtherance of its application, desires to proffer certain additional 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-8. 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 proffer amendments set forth above and the approval of these Supplemental Proffers and all related documents described herein, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code and Section 24-16 of the Zoning Ordinance, Powhatan agrees that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

PROFFERS APPLICABLE TO THE PROPERTY

1. Application of Existing Proffers and Existing Plan of Development.

Development and use of the Property shall hereafter be subject to and in accordance with the Existing Proffers as amended hereby and the Existing Plan of Development as amended hereby, which are both incorporated herein by reference.

2. Amended Plan of Development. Powhatan will also develop the Property in accordance with a plan of development entitled "Plan of Development, Powhatan of Williamsburg Secondary, James City County, Virginia" prepared by Landmark Design Group dated January 6, 2004 ("the Amended Plan of Development").

3. Amended Proffer. The last sentence of proffer number 20 of the Existing Proffers is deleted and in lieu of the sentence deleted, the following sentence is substituted:

"Without additional traffic studies reviewed and approved by the Planning Director, no commercial and/or office uses shall be permitted on the Property if the ITE trip generation for such commercial and/or office uses exceeds 1,504 vehicles per day."

4. Landscaping of the Property. Prior to the issuance of a certificate of occupancy for any development on the Property or portion thereof then being developed, Powhatan shall provide the following landscaping on the portion of the Property then being developed:

a. Powhatan shall provide enhanced landscaping along the frontage of the Property adjacent to News Road which landscaping shall exceed the number of plantings otherwise required by the Zoning Ordinance currently in effect by a factor of fifteen percent (15%); and

b. Powhatan shall provide a landscape buffer in the form of a berm, planted with a single row of trees the size and type of which shall be determined by Powhatan. The berm shall be located adjacent to and along the western boundary of the Property adjoining the common area of Powhatan Place, except that no berm shall be required in such areas where there are roadways, drainage structures, drainage facilities, 25% or greater slopes, wetlands, where such berm would not be permitted under applicable ordinances, statutes, or regulations, where such berm would not be permitted under applicable easements or other restrictions in the chain of title to the Property, where placement of the berm would raise safety concerns, and/or where placement of the berm would raise stormwater management concerns. The berm shall be 15 feet in width at the base and have a slope ratio (run : rise) of 3:1. The slope ratio may be steeper at Powhatan's discretion. Notwithstanding the aforesaid, the slope ratio of the berm shall not be steeper than that which is permitted by the County Code.

5. Limitation on Number of Curb Cuts. Access to News Road to the Property shall be limited to no more than two (2) curb cuts at existing locations; however, with the review and approval of the Planning Director, said locations may be changed but not increased in number.

6. Architectural Compatibility. Prior to final site plan approval for the Property or portion thereof then being developed, architectural elevations shall be submitted to the Planning Director for review and approval solely to determine the general compatibility of all buildings on the property with the design and materials of that currently in place at the Monticello Marketplace and the Marketplace Shoppes.

7. Sidewalk. Powhatan shall either construct a sidewalk parallel to and along the front property line of the Property within the existing right of way of News Road or, in the alternative, provide a bond in form and amount acceptable to the County to guarantee construction of the same when, as and if sidewalks are constructed on the adjacent properties. Provided, however that the sidewalk otherwise herein required shall be constructed not later than the time when a certificate of occupancy is issued for any building on the Property.

8. Prohibited Uses. The following uses which are generally permitted in the Residential Planned Community, R-4 zoning district are hereby prohibited:

- automobile service stations
- private clubs, civic or service clubs, lodges and fraternal organizations
- public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other centers of amusement
- fast food restaurants

9. Supplemental Proffers and Amended Plan of Development. These Supplemental Proffers and the Amended Plan of Development amend and supplement the Existing Proffers and the Existing Plan of Development but only as to the Property. No other amendment to the Existing Proffers and/or the Existing Plan of Development is intended or accomplished hereby. To the extent that the Amended Plan of Development or the provisions of these Supplemental Proffers conflict with the provisions of the Existing Plan of Development or the Existing


Proffers, the Amended Plan of Development and these Supplemental Proffers shall govern, but only as to the Property.

10. 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:

POWHATAN ENTERPRISES, INC.

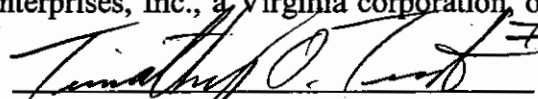
By:



Lawrence E. Beamer, President

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 26th day of February, 2004 by Lawrence E. Beamer, President of Powhatan Enterprises, Inc., a Virginia corporation, on its behalf.



NOTARY PUBLIC

My commission expires: 2/28/2005

#6048867 v6

EXHIBIT A

All that certain piece or parcel of land shown and set forth as "Comm./Office, 11.6 AC" including but not limited to the area designated as "Detention Pond, 3 AC" on that plan of development entitled "Exhibit "F," Master Plan of Powhatan" prepared by Langley and McDonald, P.C. dated July 1982 with revisions dated 6/2/86, 6/6/86, 6/10/86, 1/26/87, 3/30/89, 11/25/94, 12/15/95 and 2/29/96.

RESOLUTION

CASE NOS. Z-14-03/MP-1-04. POWHATAN SECONDARY PROFFER AMENDMENT

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 Nos. Z-14-03/MP-1-04 to amend the existing Powhatan Proffers; and

WHEREAS, the property is located at 4501 News Road and further identified as Parcel Nos. (1-31) and (1-32) on James City County Real Estate Tax Map No. (38-3); and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on February 2, 2004, recommended approval of Case Nos. Z-14-02/MP-1-04, by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-14-03/MP-1-04 and accepts the voluntary proffers.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

z-14-03_MP-1-04.res

SPECIAL USE PERMIT-3-04, 4-04, 5-04, 6-04, 7-04, 8-04. Temporary Classroom Trailers Staff Report for the March 9, 2004, 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

Board of Supervisors:

Building F Board Room; County Government Complex
March 9, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Bruce Abbott of AES Consulting Engineers

Land Owner:

Williamsburg-James City County Public Schools

Proposed Use:

Placement of one new trailer and extend the expiration date of two existing trailers at Lafayette High School; placement of one new trailer and extend the expiration date of one existing trailer at Jamestown High School; extend the expiration date of three existing trailers at Toano Middle School; placement of two new trailers and extend the expiration date of one existing trailer at Clara Byrd Baker Elementary School; placement of one new trailer at D.J. Montague Elementary School; and placement of one new trailer at Stonehouse Elementary School.

Location:

Lafayette H.S. - 4460 Longhill Road; Powhatan District
Jamestown H.S. - 3751 John Tyler Highway.; Berkeley District
Toano M.S. - 7817 Richmond Road; Stonehouse District
Clara Byrd Baker E.S. - 3131 Ironbound Road; Berkeley District
D. J. Montague E.S. - 5380 Centerville Road; Powhatan District
Stonehouse E.S. - 3651 Rochambeau Drive; Stonehouse District

Tax Maps and Parcel Nos.:

Lafayette H.S. - (32-3)(1-1); R-2, General Residential
Jamestown H.S. - (46-1)(1-2D); R-1, Limited Residential
Toano M.S. - (12-4)(1-51); A-1, General Agricultural
Clara Byrd Baker E.S. - (47-1)(1-58); R-8, Rural Residential
D. J. Montague E.S. - (31-1)(1-49); R-8, Rural Residential
Stonehouse E.S. - (13-1)(1-20); A-1, General Agricultural

Comprehensive Plan:

All six schools are designated Federal, State, and County Land

Primary Service Area:

All six schools are located inside the Primary Service Area

Staff Contact:

Christopher Johnson - Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds these proposals consistent with surrounding zoning and development, and consistent with the Comprehensive Plan. Staff recommends the Board approve these proposals with the condition listed in the attached resolutions.

Project Description

Mr. Bruce Abbott of AES Consulting Engineers, has applied for special use permits on behalf of the Williamsburg-James City County Public Schools to allow the placement of temporary classroom trailers at Jamestown High School, Lafayette High School, Toano Middle School, Clara Byrd Baker Elementary School, D.J. Montague Elementary School, and Stonehouse Elementary School. Section 24-109 of the Zoning Ordinance requires the issuance of a special use permit (SUP) by the Board of Supervisors for temporary classroom trailers accessory to an existing school. The requests for each of the six schools are detailed below.

Lafayette High School

Lafayette High School currently has five temporary classroom trailers located west of the main school building. The attached summary chart shows that the SUP for two existing trailers is valid until July 1, 2004, and the other three are valid until July 1, 2006. The School Board is requesting one new classroom trailer (two classrooms) to accommodate the existing and projected growth in the student population at the high school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

Jamestown High School

Jamestown High School currently has four temporary classroom trailers located west of the main school building. The attached summary chart shows that the SUP for one existing trailer is valid until July 1, 2004, and the other three are valid until July 1, 2006. The School Board is requesting one new classroom trailer (two classrooms) to accommodate the existing and projected growth in the student population at the high school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

Toano Middle School

Toano Middle School currently has three temporary classroom trailers located on the southern side of the school between the main school building and the track. The attached summary chart shows that the SUP for the existing trailers is valid until July 1, 2004. The School Board is requesting a three-year extension of the SUP for three existing trailers to accommodate the existing and projected growth in the student population at the middle school.

Clara Byrd Baker Elementary School

Clara Byrd Baker Elementary School currently has two temporary classroom trailers located between the main school building and the basketball courts. The attached summary chart shows that the SUP for one existing trailer is valid until July 1, 2004, and the other is valid until July 1, 2006. The School Board is requesting two new temporary classroom trailers (two classrooms, each with a bathroom) to accommodate the existing and projected growth in the student population at the elementary school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

D. J. Montague Elementary School

D.J. Montague Elementary School currently has one temporary classroom trailer located on the eastern side of the school between the main school building and the soccer field adjacent to St. Andrews Drive. The attached summary chart shows that the SUP for the existing trailer is valid until July 1, 2006. The School Board is requesting one new modular classroom trailer (four classrooms with restrooms) to accommodate the existing and projected growth in the student population at the elementary school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

Stonehouse Elementary School

Stonehouse Elementary School currently has one temporary classroom trailer located between the main school building and the softball fields. The attached summary chart shows that the SUP for the existing trailer is valid until July 1, 2006. The School Board is requesting one new temporary classroom trailer (one classroom with bathroom) to accommodate the existing and projected growth in the student population at the elementary school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

Public Utilities

Each of the school sites lies within the Primary Service Area (PSA). Public water and sewer serve the area surrounding each of the schools and the schools themselves.

Comprehensive Plan

The Comprehensive Plan designates Lafayette High School, Jamestown High School, Toano Middle School, Clara Byrd Baker Elementary School, D.J. Montague Elementary School, and Stonehouse Elementary School as Federal, State, and County Land. The majority of land surrounding these School sites is designated as Low-Density Residential. Examples of acceptable land uses in areas designated as Low-Density Residential include single-family homes, recreation areas, community-oriented public facilities, very limited commercial development, churches, and schools. Staff finds the proposed use to be consistent with the Comprehensive Plan as they are accessory to a recommended land use.

Recommendation

Staff finds the proposals to be consistent with the surrounding zoning and development, and consistent with the Comprehensive Plan. The applicant has requested a three-year time limit for the requested trailers. Staff recommends the Board of Supervisors approve each of these proposals with the following condition:

1. This permit shall be valid until July 1, 2007.

Christopher Johnson

CONCUR:

O. Marvin Sowers, Jr.

CJ/gs
sup-3,4,5,6,7,8-04.wpd

Attachments:

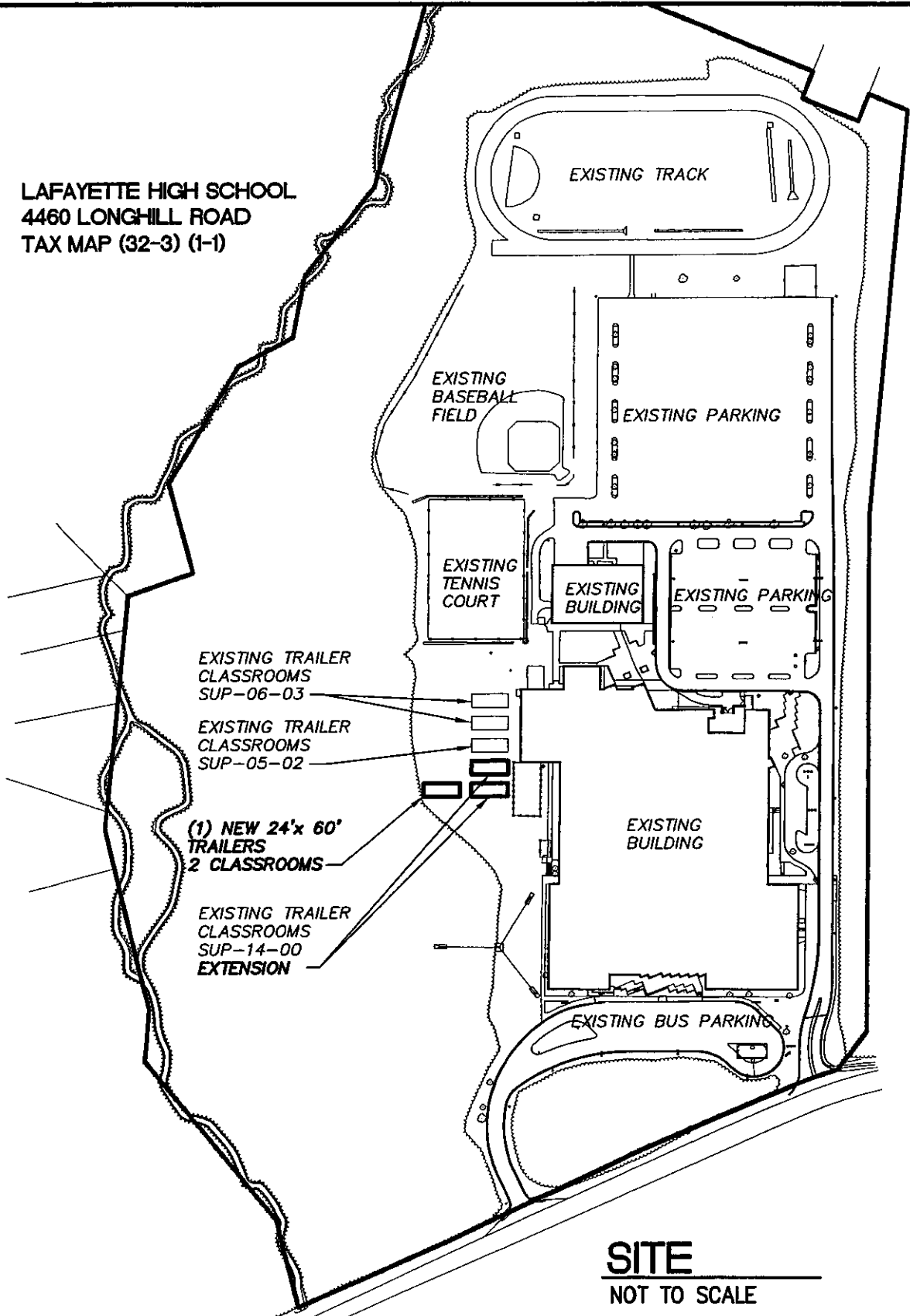
1. Summary of Existing Trailers at Williamsburg-James City County Public Schools
2. Site Map for Lafayette High School
3. Site Map for Jamestown High School
4. Site Map for Toano Middle School
5. Site Map for Clara Byrd Baker Elementary School
6. Site Map for D.J. Montague Elementary School
7. Site Map for Stonehouse Elementary School
8. Resolution for Elementary and Middle Schools
9. Resolution for High Schools

**WILLIAMSBURG - JAMES CITY COUNTY PUBLIC SCHOOLS
TEMPORARY CLASSROOM TRAILERS**

SCHOOL	NUMBER OF TRAILERS	SPECIAL USE PERMIT	EXPIRATION DATE
LAFAYETTE HIGH SCHOOL	2	SUP-14-00	July 1, 2004
	1	SUP-5-02	July 1, 2006
	2	SUP-6-03	July 1, 2006
<i>Total Existing Trailers</i>	5		
	1	SUP-3-04	July 1, 2007
<i>Total if SUP is approved</i>	* 6		
JAMESTOWN HIGH SCHOOL	1	SUP-13-00	July 1, 2004
	1	SUP-6-02	July 1, 2006
	2	SUP-5-03	July 1, 2006
<i>Total Existing Trailers</i>	4		
	1	SUP-4-04	July 1, 2007
<i>Total if SUP is approved</i>	* 5		
TOANO MIDDLE SCHOOL	3	SUP-12-00	July 1, 2004
<i>Total Existing Trailers</i>	3		
<i>Total if SUP is approved</i>	* 3	SUP-5-04	July 1, 2007
CLARA BYRD BAKER ELEMENTARY	1	SUP-11-00	July 1, 2004
	1	SUP-7-03	July 1, 2006
<i>Total Existing Trailers</i>	2		
	2	SUP-6-04	July 1, 2007
<i>Total if SUP is approved</i>	* 4		
D. J. MONTAGUE ELEMENTARY	1	SUP-9-02	July 1, 2006
<i>Total Existing Trailers</i>	1		
	1	SUP-7-04	July 1, 2007
<i>Total if SUP is approved</i>	* 2		
STONEHOUSE ELEMENTARY	1	SUP-8-03	July 1, 2006
<i>Total Existing Trailers</i>	1		
	1	SUP-8-04	July 1, 2007
<i>Total if SUP is approved</i>	* 2		

* Number reflects new trailers and extensions of existing trailers set to expire July 1, 2004

LAFAYETTE HIGH SCHOOL
4460 LONGHILL ROAD
TAX MAP (32-3) (1-1)



SITE
NOT TO SCALE



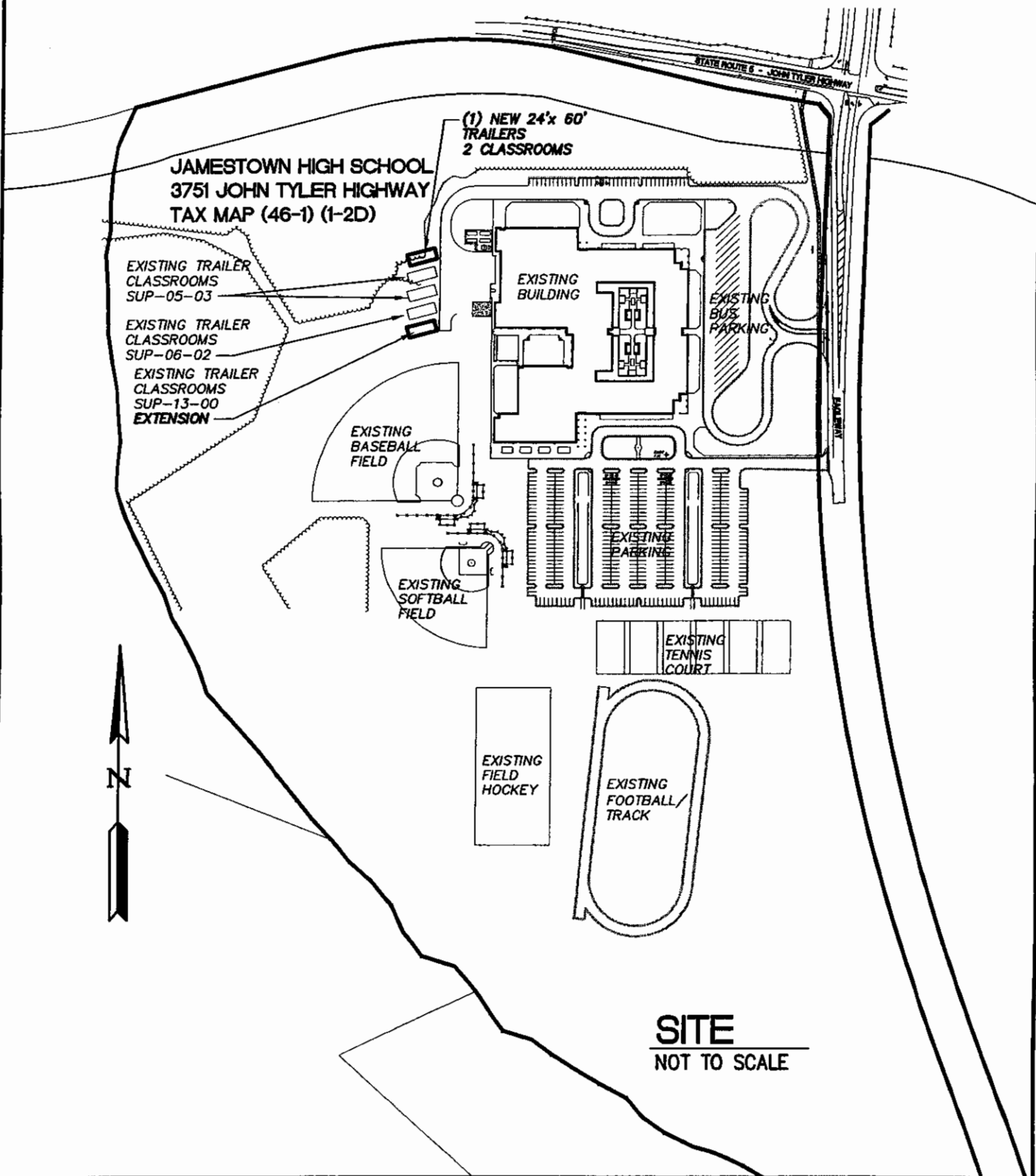
Consulting Engineers

Engineers, Surveyors, Planners

Williamsburg, Virginia

TRAILER CLASSROOM

LAFAYETTE HIGH SCHOOL
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS



JAMESTOWN HIGH SCHOOL
3751 JOHN TYLER HIGHWAY
TAX MAP (46-1) (1-2D)

(1) NEW 24'x 60'
TRAILERS
2 CLASSROOMS

EXISTING TRAILER
 CLASSROOMS
 SUP-05-03

EXISTING TRAILER
 CLASSROOMS
 SUP-06-02

EXISTING TRAILER
 CLASSROOMS
 SUP-13-00
 EXTENSION

EXISTING
 BUILDING

EXISTING
 BUS
 PARKING

EXISTING
 BASEBALL
 FIELD

EXISTING
 SOFTBALL
 FIELD

EXISTING
 PARKING

EXISTING
 TENNIS
 COURT

EXISTING
 FIELD
 HOCKEY

EXISTING
 FOOTBALL/
 TRACK



SITE
 NOT TO SCALE

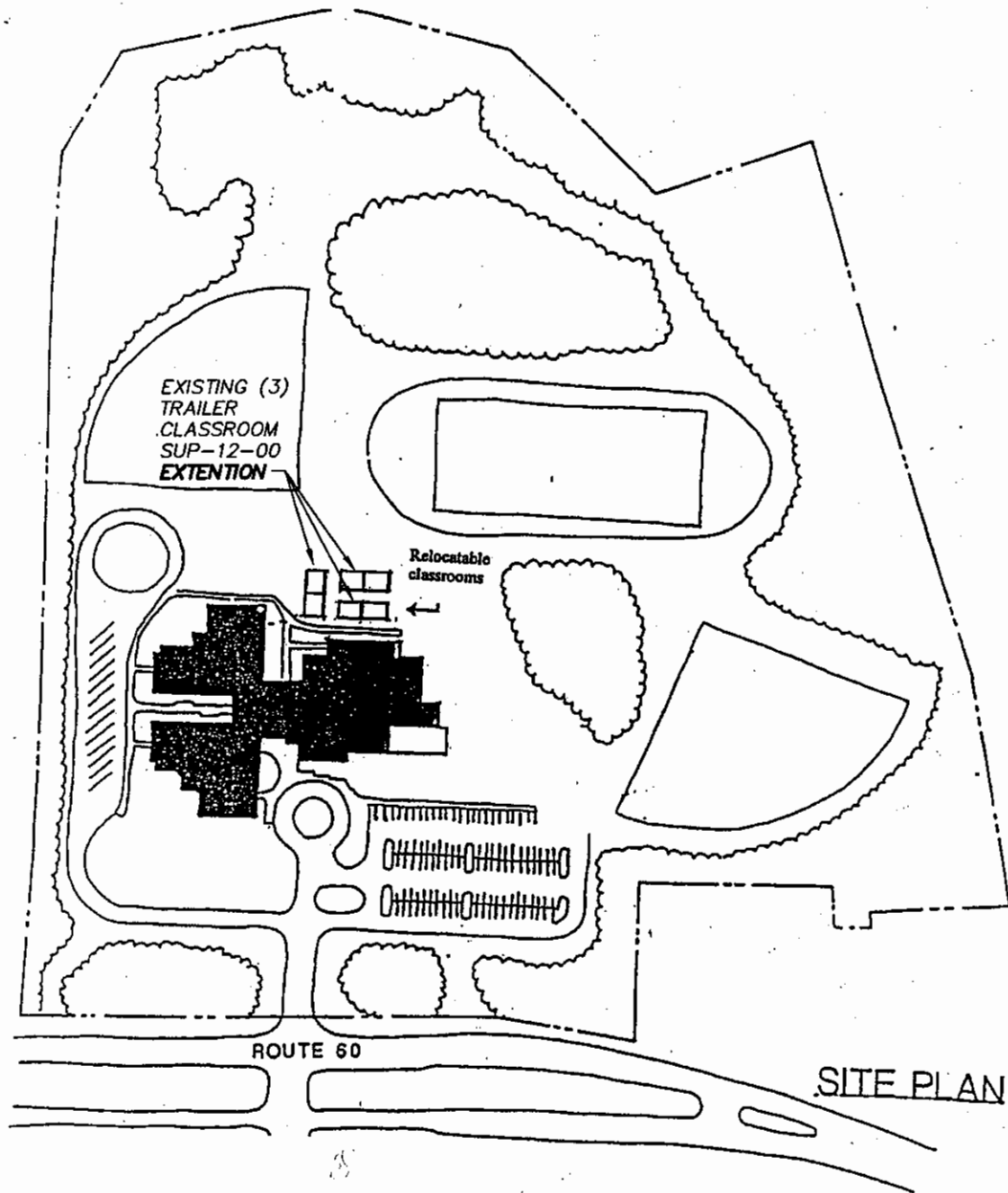


Consulting Engineers

Engineers, Surveyors, Planners

Williamsburg, Virginia

TRAILER CLASSROOM
JAMESTOWN HIGH SCHOOL
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS



Toano Middle School
 7817 Richmond Road
 (12-4) (1-51)



Consulting Engineers

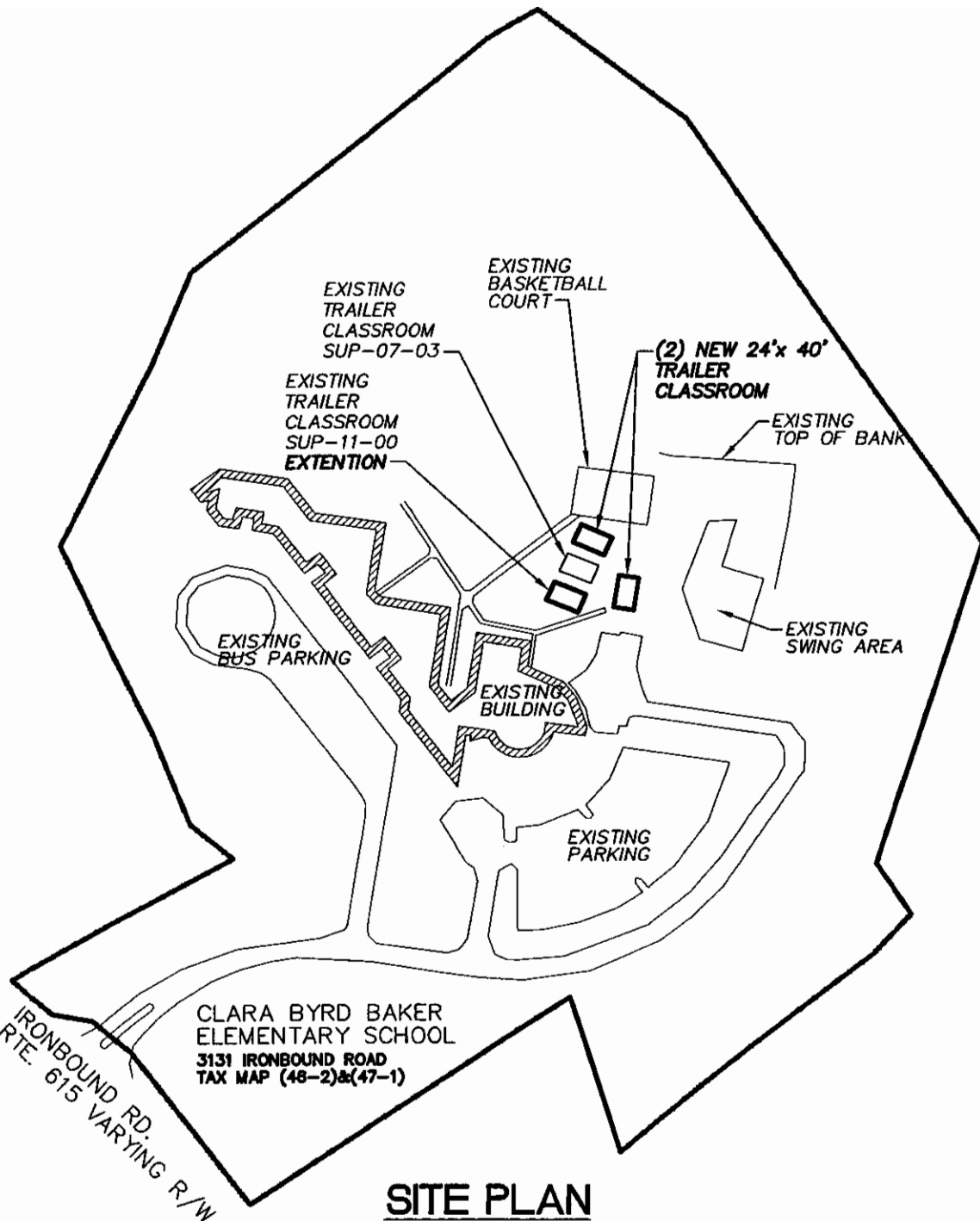
Engineers, Surveyors, Planners

Williamsburg, Virginia

TRAILER CLASSROOM
TOANO MIDDLE SCHOOL
 WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

STONEHOUSE DISTRICT

JAMES CITY COUNTY VIRGINIA



SITE PLAN
NOT TO SCALE



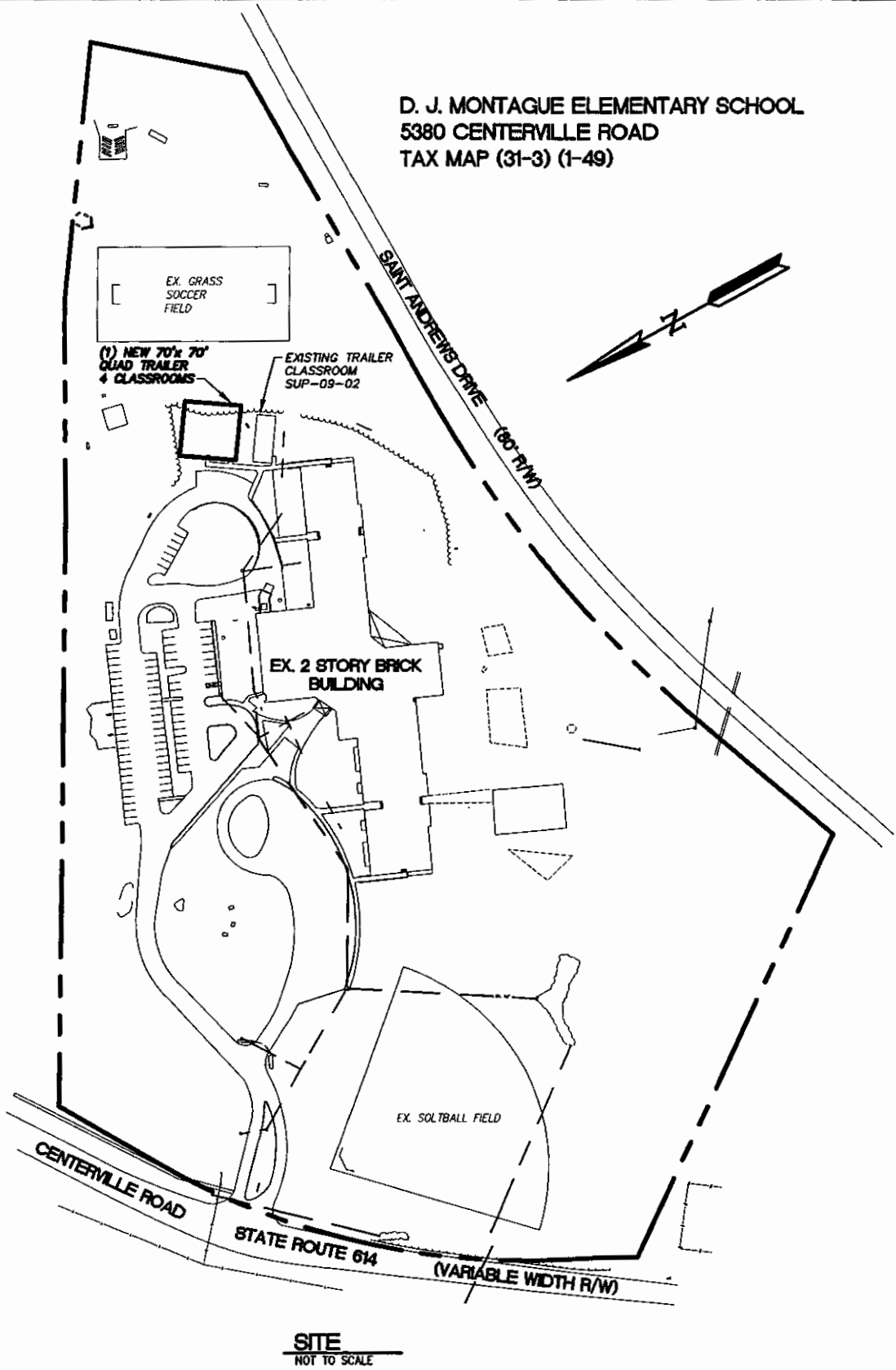
Consulting Engineers

Engineers, Surveyors, Planners

Williamsburg, Virginia

TRAILER CLASSROOM
CLARA BYRD BAKER ELEMENTARY SCHOOL
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

D. J. MONTAGUE ELEMENTARY SCHOOL
5380 CENTERVILLE ROAD
TAX MAP (31-3) (1-49)



SITE
NOT TO SCALE



Consulting Engineers

Engineers, Surveyors, Planners

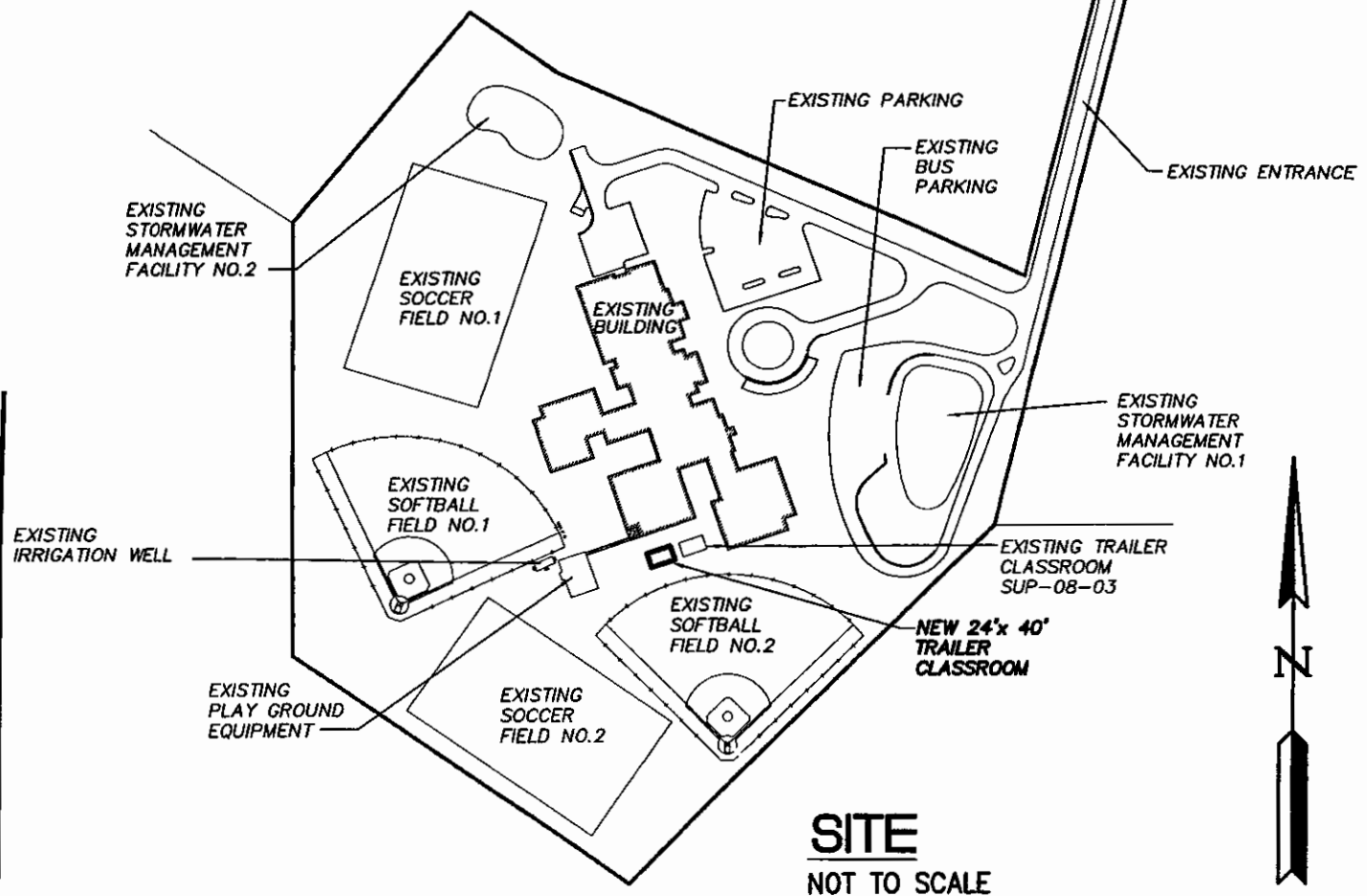
Williamsburg, Virginia

TRAILER CLASSROOM
D. J. MONTAGUE ELEMENTARY SCHOOL
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

STATE ROUTE NO. 30
ROCHAMBEAU DRIVE
250' ROW
(STATE HIGHWAY PLAT BOOK 3, PAGE 39)

STATE ROUTE NO. 746
OLD STAGE ROAD

STONEHOUSE ELEMENTARY SCHOOL
3651 ROCHAMBEAU DRIVE
TAX MAP # (13-1)(1-20)



SITE
NOT TO SCALE



Consulting Engineers

Engineers, Surveyors, Planners

Williamsburg, Virginia

TRAILER CLASSROOM
STONEHOUSE ELEMENTARY SCHOOL
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

STONEHOUSE DISTRICT

JAMES CITY COUNTY VIRGINIA

RESOLUTION

CASE NO. SUP-5-04. TOANO MIDDLE SCHOOL

CASE NO. SUP-6-04. CLARA BYRD BAKER ELEMENTARY SCHOOL

CASE NO. SUP-7-04. D. J. MONTAGUE ELEMENTARY SCHOOL

CASE NO. SUP-8-04. STONEHOUSE ELEMENTARY SCHOOL

TEMPORARY CLASSROOM TRAILERS

WHEREAS, all conditions for the consideration of these special use permit applications have been met; and

WHEREAS, temporary classroom trailers accessory to an existing school may be permitted upon the issuance of a special use permit by the Board of Supervisors; and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to extend the expiration date for three existing temporary classroom trailers at Toano Middle School on property owned and developed by the applicant located at 7817 Richmond Road and further identified as Parcel No. (1-51) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow two new temporary classroom trailers and extend the expiration date for one existing temporary classroom trailer at Clara Byrd Baker Elementary School on property owned and developed by the applicant located at 3131 Ironbound Road and further identified as Parcel No. (1-58) on James City County Real Estate Tax Map No. (47-1); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow one new temporary classroom trailer at D.J. Montague Elementary School on property owned and developed by the applicant located at 5380 Centerville Road and further identified as Parcel No. (1-49) on James City County Real Estate Tax Map No. (31-3); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow one new temporary classroom trailer at Stonehouse Elementary School on property owned and developed by the applicant located at 3651 Rochambeau Drive and further identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (13-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of special use permits for the placement of temporary classroom trailers as described above and on the attached site location maps with the following condition:

1. These permits shall be valid until July 1, 2007.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

classtrail.res

RESOLUTION

CASE NO. SUP-3-04. LAFAYETTE HIGH SCHOOL

CASE NO. SUP-4-04. JAMESTOWN HIGH SCHOOL

TEMPORARY CLASSROOM TRAILERS

WHEREAS, all conditions for the consideration of these special use permit applications have been met; and

WHEREAS, temporary classroom trailers accessory to an existing school may be permitted upon the issuance of a special use permit by the Board of Supervisors; and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow one new temporary classroom trailer and extend the expiration date of two existing temporary classroom trailers at Lafayette High School on property owned and developed by the applicant located at 4460 Longhill Road and further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (32-3); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow one new temporary classroom trailer and extend the expiration date of one temporary classroom trailer at Jamestown High School on property owned and developed by the applicant located at 3751 John Tyler Highway and further identified as Parcel No. (1-2D) on James City County Real Estate Tax Map No. (46-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of special use permits for the placement of temporary classroom trailers as described above and on the attached site location maps with the following condition:

1. These permits shall be valid until July 1, 2007.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

sup.3.04.res

MEMORANDUM

DATE: March 9, 2004
TO: The Board of Supervisors
FROM: Christy H. Parrish, Senior Zoning Officer
SUBJECT: Case No. ZO-3-03. Sign Ordinance Amendment

Staff has been requested to forward an amendment to exempt signs from the Zoning Ordinance which are within nonresidential developments in any zoning district that are not visible from a public road or abutting property line. Currently, Section 24-74 (11) Exemptions, states the following, "Signs within a business or manufacturing district which are not visible from a public road or abutting property line."

The proposed amendment would state, "Signs within a business or manufacturing district or within a nonresidential development in any zoning district which are not visible from a public road or abutting property line."

Types of nonresidential developments that may benefit from this change are uses such as churches, schools, and campgrounds. Under this proposed amendment, such signs could be constructed without a sign permit but "in accordance with the structural and safety requirements of the building code."

Staff finds this amendment provides consistency and flexibility within nonresidential developments. This amendment would only exempt signs that are not visible from any public road or abutting property line. Staff also feels that this change will not negatively affect or impact any surrounding properties. On February 2, 2004, the Planning Commission voted 7-0 to approve the Ordinance amendment. Staff recommends approval of this amendment.

Christy H. Parrish

CONCUR:

O. Marvin Sowers, Jr.

CHP/tlc
ZO-3-03bs.mem

Attachments:

1. Approved Planning Commission minutes
2. Sign Ordinance Amendment

APPROVED MINUTES TO THE FEBRUARY 2, 2004 PLANNING COMMISSION MEETING

ZO-3-03 – Zoning Ordinance Amendment.

Ms. Christy Parrish presented the staff report. Staff had been requested to forward an amendment to exempt signs from the Zoning Ordinance which are within nonresidential developments in any zoning district that are not visible from a public road or abutting property line. Staff recommended approval.

Mr. A. Joe Poole, III opened the public hearing.

Ms. Jackie Wilder, Jamestown High School Parent Teachers Association, showed a photo of the sign students want to erect. She explained how it would be utilized.

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

Mr. McCleary made a motion to approve the request.

Ms. Wildman seconded the motion.

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

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 3, EXTERIOR SIGNS, SECTION 24-74, EXEMPTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 3, Exterior Signs, Section 24-74, Exemptions.

Chapter 24. Zoning

ARTICLE II. SPECIAL REGULATION

DIVISION 3. EXTERIOR SIGNS

Sec. 24-74. Exemptions.

The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the building code:

- (11) Signs within a business or manufacturing district *or within a nonresidential development in any zoning district* which are not visible from a public road or abutting property line;

Ordinance to Amend and Reordain
Chapter 24. Zoning
Page 2

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2004.

signs_ch20.ord