

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

October 12, 2004

7:00 P.M.

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF SEPTEMBER, 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
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Cameron White, a tenth-grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. David Smith, Oleta Coach Lines, 103 Burgundy Road, stated concern that Williamsburg Area Transport may have taken business away from the private charter bus sector by providing a private charter for the Jamestown 2007 logistics committee and received a grant to provide the service that the Oleta Coach Lines or other private sector charter bus service could have provided.

Mr. Smith stated that Oleta Coach Lines was and is ready and willing to provide charter bus service in the County and requested that if the County is going to take away business from the tax-paying private sector, the County provide the private sector a tax break for the loss of business.

2. Mr. Howard W. Smith, President of Oleta Coach Lines, 101 Dogwood Drive, commented on the poor paving job of Treasure Island Road; stated that a meeting held on the 24th of August discussed discrimination in the workplace and requested a status on the concerns raised about discrimination; and inquired if anyone in the Board Room had been approached regarding discrimination in the County.

3. Mr. Otis Smith, 108 Brookhaven Drive, stated that his dismissal from the employment of Williamsburg Area Transport (WAT) was based on discrimination, and cited ongoing discrimination within WAT such as allocation of raises and assigned hours.

Mr. Smith stated that the Administrator of WAT has been approached regarding the perception of discrimination in his department and commented that the appropriate Federal agency will be contacted regarding the standards in WAT if it is not cleaned up.

4. Mr. M. O. Smith, 617 Treasure Island Road, recited from the Holy Bible, stated that citizens have lost their homes because the rich want the land for their own purposes, and stated that the people of James City County should not be mistreated nor should the land/homes be taken from them.

5. Mr. Ed Oyer, 139 Indian Circle, stated that traffic was stopped on Route 60 East on the 9th of September; stated that he checked with area military recruiters to see what quality of applicants they have been receiving; commented that Navy cut scores are increasing due to the quality of applicants; and stated that one recruiter commented that as long as schools teach to the SOLs, the scores will be low stated.

Mr. Goodson requested that Mr. Wanner reply to the comments.

Mr. Wanner stated that the Jamestown pilot program for Williamsburg Area Transport (WAT) was funded by a National Park Service grant and Oleta had filed a complaint with the Federal Transit Administration (FTA). The FTA upheld the WAT pilot program with the National Park Service and Colonial Williamsburg. However, since that time WAT has informed the FTA that it does not wish to compete with the private sector for such charter-type service to Jamestown Island unless such services are not available for 2007.

Mr. Wanner stated that the concerns highlighted by Mr. Otis Smith were brought forward to County Administration's attention and a meeting with appropriate staff was held and a Development Action Plan was created. Mr. Wanner provided an overview of the Plan to address the concerns that WAT employees and former WAT employees voiced and thanked the employees for their courage to speak up regarding their concerns.

Mr. Wanner stated that the Plan includes steps such as: interviewing WAT employees to get broader feedback, forming a team of WAT employees to include the drivers to review policies and procedure for concerns; filling vacant operations situation and other positions as soon as funding is identified with strong interpersonal skills; reviewing driver positions to see if appropriately categorized and whether any on-call drivers should be recommended for limited-term positions; providing 3 percent pay raise for all on-call drivers who have been an employee for at least a year as of July 1, 2004, and retroactive to July 1; and the creation of a County Diversity team to deal with issues of this type that employees can go directly to without having to go through the chain of command.

E. CONSENT CALENDAR

Mr. Goodson inquired if a Board member wished to pull an item from the Consent Calendar.

Mr. Bradshaw requested Item No. 4, Pond Dredging - Fieldcrest Pond, be pulled.

Mr. Brown requested Item No. 6, FY 2006-2011 Six-Year Improvement Program Priorities, be pulled.

Mr. Bradshaw made a motion to adopt the remaining items on the Consent Calendar including the amended Regular Meeting minutes of August 10, 2004.

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

1. Minutes -

- a. July 27, 2004, Work Session
- b. August 10, 2004, Work Session
- c. August 10, 2004, Regular Meeting

2. Contingency Transfer - Public Health

RESOLUTION

CONTINGENCY TRANSFER - PUBLIC HEALTH

WHEREAS, the Board of Supervisors of James City County has been requested to authorize the expenditure of \$2,633 as additional local funds for the Peninsula Health District, matching unanticipated State funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following budget transfer within the FY 2005 Operating Budget:

Expenditures:

Public Health	\$2,633
Operating Contingency	(\$2,633)

3. Contingency Transfer - Williamsburg Aquatics Club

RESOLUTION

CONTINGENCY TRANSFER - WILLIAMSBURG AQUATICS CLUB

WHEREAS, the Board of Supervisors of James City County has been requested to authorize the expenditure of \$15,000 in additional local funds for the purpose of constructing a bathhouse that adjoins the outdoor pool at Eastern State Hospital.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following budget transfer within the FY 2005 Operating Budget:

Expenditures:

Williamsburg Aquatic Club Bathhouse	<u>\$15,000</u>
Operating Contingency	<u>(\$15,000)</u>

5. Destruction of Paid Personal Property and Real Estate Tax Tickets

RESOLUTION

DESTRUCTION OF PAID PERSONAL PROPERTY AND REAL ESTATE TAX TICKETS

WHEREAS, the Code of Virginia § 58.1-3129 states that the Treasurer may, with the consent of the governing body, destroy all paid tax tickets at any time after five years from the end of the fiscal year during which taxes represented by such tickets were paid, in accordance with the retention regulations pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.); and

WHEREAS, the tax tickets hereby referred to are paid personal property tax records and paid real estate tax records from 1998.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the destruction of the tax tickets from 1998.

7. Change Full-Time Temporary Position to Full-Time Other at Olde Towne Medical Center

RESOLUTION

CHANGE FULL-TIME TEMPORARY POSITION

TO FULL-TIME OTHER AT OLDE TOWNE MEDICAL CENTER

WHEREAS, the Executive Director of the Williamsburg Area Medical Assistance Corporation (WAMAC) has completed a new staffing plan for Olde Towne Medical Center; and

WHEREAS, the WAMAC Board of Directors has approved changing an existing Full-Time Temporary Administrative Secretary (Clinic) to Full-Time Other; and

WHEREAS, James City County is the fiscal agent for the Williamsburg Area Medical Assistance Corporation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve changing the Administrative Secretary (Clinic) from Full-Time Temporary to Full-Time Other.

8. Dedication of a Street in Temple Hall Estates

RESOLUTION

DEDICATION OF A STREET IN TEMPLE HALL ESTATES

WHEREAS, the street described on the attached Additions Form SR-5(A), fully incorporated herein by reference, is shown on 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, that the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

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

4. Pond Dredging - Fieldcrest Pond

Mr. John T. P. Horne, Development Manager, stated that a portion of the Greensprings Trail will be located near the Fieldcrest neighborhood on land that forms the boundary between its stormwater pond and a nearby wetland area. Fieldcrest does not own the land, but it does have an easement on the parcel that is to be used to deposit dredging material from its stormwater pond. The development of the Trail on the parcel will eliminate Fieldcrest's easement. Fieldcrest has requested the performance of a limited dredge of inlet areas of the pond to extend the life of the pond and partially mitigate the loss of the easement.

Staff requested the Board authorize the expenditure of funds for a partial dredge of the Fieldcrest Pond should the Greensprings Trail be constructed by the Virginia Department of Transportation (VDOT).

Mr. Bradshaw stated that this is not the typical situation and there is public benefit beyond the Fieldcrest community.

Mr. Brown requested clarification on the obligation of the County with the vacating of the easement.

Mr. Horne stated that this action does not set up a recurring dredging, just a one-time up front dredging.

Mr. Bradshaw 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

POND DREDGING - FIELDCREST POND

WHEREAS, the Virginia Department of Transportation (VDOT) has proposed to construct the Greensprings Trail in James City County; and

WHEREAS, the trail would benefit County residents through the provision of a major new multiuse trail connection to the Jamestown area; and

WHEREAS, the Board of Supervisors has expressed its support for the Trail through previous actions; and

WHEREAS, the Fieldcrest Homeowners Association will need to forgo some access to nearby lands useful for maintenance of the neighborhood stormwater pond, and has requested that the County dredge some areas of the pond to help offset future maintenance costs; and

WHEREAS, this action would contribute toward the successful completion of the Greensprings Trail and would enhance the stormwater management function of the pond.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the expenditure of up to \$20,000 of County funds for a partial dredge of the Fieldcrest Pond, when and if the Greensprings Trail is constructed by VDOT.

6. FY 2006-2011 Six-Year Improvement Program Priorities

Mr. O. Marvin Sowers, Jr., Planning Director, presented an overview of the County's Six-Year Improvement Program for primary and interstate highway construction projects for which the County is requesting funding from VDOT in 2006 and beyond.

Mr. Bradshaw inquired if Newport News is giving the same priority and enthusiasm as James City County is for the relocation of Route 60 East and connection through Ft. Eustis.

Mr. Sowers stated that Newport News is not giving it the same endorsement.

Mr. Wanner stated that Newport News has other transportation projects they are placing as higher priorities.

Mr. Bradshaw 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

FY 2006-2011 SIX-YEAR IMPROVEMENT PROGRAM PRIORITIES

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

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

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

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

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

Mr. Goodson recognized Mr. Wilford Kale, Planning Commission member, in the audience.

F. PUBLIC HEARINGS

1. Tax Increase - Real Property

Mr. John E. McDonald, Manager of Financial and Management Services, provided an overview of the changes in assessment and the impacts of the actual Land Book on the FY 2005 Budget assumptions.

Mr. McDonald provided an overview of the total increase in real estate tax revenues due to reassessments and provided recommendations on the investment of the real estate tax receipts that have not been budgeted, presented a recommendation that the real estate tax rate be reduced to \$.83 with the residual tax receipts to be appropriated to Capital Contingency, and provided impacts of further reductions in the tax rate on the real estate tax receipts and the Budget.

Mr. Goodson opened the Public Hearing.

1. Mr. Robert Hogge, 2673 Jolly Pond Road, commented on an article in *The Virginia Gazette* that reported that assessments increased an average of 8 percent, and stated that in his neighborhood assessments went up somewhere between 60 to 220 percent this year; stated concern that his assessment would go up so dramatically when others in the County only got an average of 8 percent increases; and requested assistance in having his property reassessed.

Mr. Bradshaw and Mr. Goodson recommended Mr. Hogge follow the appeals process for assessments.

2. Mr. Harvey Young, 117 Cooley Road, stated that assessment increased by 17.5 percent in his neighborhood, and recommended the Board use \$.787 for a real estate tax rate to fully fund its adopted budget.

3. Mr. Dale Merriss, 104 Inverness, stated that citizens expect representatives to follow the principle that government will do what is essential for the citizens and tax accordingly, stated that the Board should not change what is essential and increase spending to use up real estate tax receipts, and voiced support for the suggestion Mr. Jarman will present.

4. Mr. David Jarman, 117 Landsdown, read a letter previously provided to the Board with a recommendation regarding the assessment process and setting tax rates, recommended that 100 percent of the real estate tax receipts above that was needed for the adopted budget should be returned to the citizens, recommended the real property tax rate be locked in after the spending and expenditures has been identified; commented that increased assessments do not reflect citizens ability to pay for such assessments, and requested the Board set the real estate tax rate at \$.825.

5. Mr. Donald Baker, 107 Formby, stated that the Board approved a budget earlier this year and an increase in assessment resulting in additional tax receipts does not give the excuse for the County to spend more; and requested the Board uphold a tax rate consistent with the established and approved budget.

6. Mr. Bob Warren, 104 Gullane, stated opposition to a tax-and-spend philosophy of government, stated concern that citizens have to go through the inconvenience of a paperwork trail to get service from the County, stated concern that the County would interfere with private business's ability to do business by taking away opportunities such as with Oleta, commented on the massive decline of standards of living of individuals in community as a result of the County's tax-and-spend philosophy; recommended the Board put into place a tax cut and to put into place a discipline planning process.

7. Ms. Janet Sprague, 175 Waterton, echoed Mr. M. O. Smith's comments regarding the rich and poor in community, requested lower tax rates, challenged the Board to keep tax rates acceptable, and requested the Board and its staff seek alternate means to provide revenue other than taxing the citizens through property.

8. Mr. Ed Oyer, 139 Indian Circle, inquired if the County is going to the General Assembly with a legislative package with some proposal allowing the Board to be flexible in its ability to tax, and stated that he hopes it is included in this year's Legislative Package.

9. Ms. Susan Baime, 110 Birmingham, stated concern that the Board is increasing taxes simply because it can and stated that type of action is not appreciated by its citizens.

10. Mr. William O'Neill, 109 Sheffield Road, commented that users will be responsible for volunteering to maintain the Greensprings Trail, commented dismay that there is funding for a dog park in the County, and recommended the Board use funding to provide preventative health and wellness programming to the community, and encouraged citizens and the Board to look outside the big box and think of the health and wellness of the community, and commented that as a citizen he does not wish to pay for activities that does not benefit the health and wellness of the community.

11. Mr. Otis Smith, 108 Brookhaven Drive, stated concern that his real estate taxes increased 21 percent this year as a result of new homes selling in the neighborhood and not the value of his older home, commented that citizens cannot afford the increasing assessments, and requested the Board assist its citizens.

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

Mr. Harrison inquired what the impacts on the approved contributions to the Greenspace and Purchase of Development Rights Program would be if the real estate tax rate was \$.83.

Mr. McDonald stated that the Board may place any tax receipts above what was approved in the Budget into Capital Contingency or into the Debt Services such as Greenspace and Purchase of Development Rights Program.

Mr. Harrison inquired if the General Assembly dictates when during the year the Land Book values are set and if the issues of the Land Book could be set prior to the budget process to allow the Board to develop a budget based upon actual numbers rather than on estimates.

Mr. McDonald stated that the County could return to a January 1 Land Book, however the difficulty would arise in billing in June and December with a fiscal year beginning in July; commented that forecasting what will happen with the Land Books is difficult; and stated that a July 1 Land Book is the best working relationship for budgeting.

Mr. Harrison recommended the County return to a January 1 Land Book to have the actual numbers for budgeting purposes.

Mr. McGlennon stated he objected to the elimination of the Contingency Fund last year and did not object to the Land Book values.

Mr. Bradshaw inquired if he was correct in his understanding that if the Land Book values were based on July 1, there would be certainty in the revenue for the first half of the year but the second half of the year would be speculative and certainly wrong.

Mr. McDonald stated that the understanding is correct.

The Board and staff discussed the impacts on planning for budgets based on estimates for assessments and tax revenues that will occur approximately 18 months in the future, limited staffing to perform on-site assessments on 27,000 parcels of property in the County, and the ability of citizens to appeal an assessment.

Mr. Bradshaw inquired if the increase in tax receipts for assessments is a result of new growth in the County, and if the current dollar amount budgeted for operations is sufficient to operate County services to accommodate the increased growth.

Mr. Wanner stated that the amount budgeted is sufficient for the operating budget; however, new growth will result in increased capital needs in out years and when capital investment increases then operational costs increase.

Mr. McGlennon stated that it would be prudent for the Board to take additional revenue generated from the development of property and set it aside for future capital needs, and stated that what the Board needs to do today is to determine to what extent to reduce the property tax rate and what portion of the tax receipts revenue to the set aside to offset future growth's impact on taxes.

Mr. Brown stated that he believes that the FY 2005 Budget funds all the priorities identified this year and accordingly this identified revenue net should be returned to the citizens; therefore the tax rate should be reduced 2.5 cents and the remainder of the revenue net be put toward the capital contingency for future years.

Mr. Brown made a motion to reduce the tax rate to \$.825 with the residual of tax revenue be put to the capital contingency.

The Board briefly discussed cash proffers as method to offset the costs associated with new growth.

Mr. McGlennon made a motion to amend the resolution to set the tax rate at \$.83.

The Board discussed the proposed amendment.

On a roll call vote, the vote was: AYE: Bradshaw, McGlennon (2). NAY: Harrison, Brown, Goodson (3).

Mr. Wanner called a vote on the motion made by Mr. Brown to reduce the tax rate to \$.825 per \$100 of assessed value with the net revenue in Real Estate to go into capital contingency and capital projects.

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

RESOLUTION

TAX INCREASE - REAL PROPERTY

WHEREAS, the Board of Supervisors has adopted a budget for the Fiscal Year 2005 and appropriated funds based on a real estate tax rate of 85 cents per \$100 of assessed value; and

WHEREAS, the Real Estate Land Book, issued with an estimate of values as of July 1, 2004, shows total billable, taxable property assessments increased by \$760,920,700 (12.6 percent) and 63.9 percent of that increase resulted from changes in the reassessment of property values; and

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

WHEREAS, the Real Estate Land Book, issued with an estimate of values as of July 1, 2004, is expected to generate estimated real property tax revenues that exceed the estimates contained within the adopted FY 2005 Budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts an amended real property tax rate of 82.5 cents per \$100 of assessed value established in the FY 2005 adopted budget.

BE IT FURTHER RESOLVED that the FY 2005 General Fund Budget be amended by an increase of \$250,629 in Real Estate revenues with an equal increase in Contributions to Capital Projects.

BE IT FURTHER RESOLVED that the FY 2005 Capital Budget be amended by an increase of \$250,629 in Contributions from the General Fund with an equal increase in Capital Contingency.

At 9:19 p.m. Mr. Goodson recessed the Board for a break.

At 9:25 p.m. Mr. Goodson reconvened the Board.

2. Case No. SUP-13-04. Williamsburg Winery - Country Inn

Mr. Matthew D. Arcieri, Planner, stated that Vernon Geddy, III, has applied on behalf of Williamsburg Farms, Inc., for a Special Use Permit to permit the construction and operation of a 36-room inn at the Williamsburg Winery on 282.3 acres zoned R-8, Rural Residential, and located at 5800 Wessex Hundred Road and further identified as Parcel No. (1-10) on the James City County Real Estate Tax Map No. (48-4).

Staff found the proposed use to be acceptable from a land use perspective as it will have minimal impacts on surrounding properties and is consistent with operations at the Winery.

At its meeting on August 16, 2004, the Planning Commission voted 4-2 to recommend approval of the applications.

Staff recommended approval of the application with conditions.

Mr. Goodson inquired if there is language in the conditions that stipulate land into conservation.

Mr. Arcieri stated that the tenth condition addresses land into conservation.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon Geddy, III, representing the applicant, provided an overview of the proposal and stated that the applicant intends to keep a majority of the property as open space.

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

Mr. Bradshaw 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

CASE NO. SUP-13-04. WILLIAMSBURG WINERY - COUNTRY INN

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 (SUP) process; and

WHEREAS, hotels and motels are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on August 16, 2004, recommended approval of SUP 13-04 by a 4-2 vote to permit the construction and operation of a 36-room hotel; and

WHEREAS, the property is located at 5800 Wessex Hundred Road and further identified as Parcel No. (1-10) on James City County Real Estate Tax Map No. (48-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP 13-04 as described herein with the following conditions:

1. This SUP shall be valid for the operation of a hotel with a 15,000-square-foot building footprint, and accessory uses thereto. The hotel shall be limited to a maximum of 36 rooms.
2. The property shall be developed generally in accordance with the conceptual layout submitted with the application titled "Conceptual Layout of Country Inn and Williamsburg Winery" prepared by Patrick Duffeler, dated March 22, 2004, with minor changes approved by the Development Review Committee.

3. The building shall be consistent, as determined by the Planning Director, with the building elevations submitted with this application titled "Wedmore Place at the Williamsburg Winery" prepared by Hopke and Associates, Inc., dated December 11, 2003. The building shall not exceed 30 feet in height.
4. Prior to the issuance of a certificate of occupancy, the Inn shall be connected to the James City Service Authority public water and sewer system.
5. 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.
6. There shall not be any special event, party, or gathering on the property, indoor or outdoor, which generates over 1,000 persons per day.
7. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles or other structures not to exceed 15 feet in height above ground level and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.
8. No outdoor amplified music or loud speakers in connection with the operation of the Inn shall be audible outside the boundaries of the property.
9. Any new signage on Lake Powell Road shall be combined with the existing sign in accordance with Article II, Division 3 of the Zoning Ordinance and shall be approved by the Planning Director. The sign shall only be externally illuminated.
10. Prior to final site plan approval, the applicant shall dedicate to the County or another County approved land conservation entity, a conservation easement of approximately 50 acres, identified on the drawing titled "Williamsburg Farms: Area proposed to be dedicated to Conservation Easement" dated June 2004, substantially in the form of the County's natural open space easement as approved by the County Attorney. The exact boundaries of the conservation easement shall be shown on the site plan for the Inn. The conservation easement shall remain undisturbed and in its natural state. With prior approval of the County Engineer, dead, diseased, and dying trees or shrubbery or poisonous or invasive plants may be removed from the conservation area.
11. Construction on this project shall commence within thirty (36) months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as obtaining permits for building construction, installation, and final inspection of footings and/or foundations.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case Nos. Z-4-04/MP-7-04. Ironbound Village

Ms. Ellen Cook, Planner, stated that James Peters of AES Consulting Engineers, applied to amend the Ironbound Village Master Plan by replacing approximately 4,500 square feet of un-built office area with additional parking spaces, and to update and modify proffers related to phasing, the landscaping along Ironbound Road, and the owners association on approximately 1.4 acres at 5300, 5304, 5320, 5324, and 5340 Palmer Lane, zoned Mixed Use, with proffers and further identified as Parcel Nos. (13-1A), (13-2B), (13-3), (13-4), and (13-1B) on the James City County Real Estate Tax Map No. (39-1).

Staff found the proposal would have little adverse impact on the Ironbound Village mixed-use development and surrounding properties.

Staff found the master plan and proffer amendment to be in accordance with the Comprehensive Plan.

At its meeting on August 16, 2004, the Planning Commission voted 6-0 to approve the case.

Staff recommended approval of the application and acceptance of the proffers.

Mr. Harrison inquired about the elimination of references to a 50-foot buffer setback along Ironbound Road.

Ms. Cook stated that the proffer will continue to contain language ensuring that the setback and landscaping will be visually compatible with the larger New Town area and compatible with Ironbound Road expansion with the 30-feet of reserved VDOT right-of-way for the widening of Ironbound Road and a 20-foot setback.

Mr. Goodson opened the Public Hearing.

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

Mr. Harrison 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

CASE NO. Z-4-04/MP-7-04. IRONBOUND VILLAGE

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 were notified, and a hearing was scheduled on Case No. Z-04-04/MP-07-04 for amending the existing Ironbound Village Master Plan and proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on August 16, 2004, recommended approval of Case No. Z-04-04/MP-07-04, by a vote of 6 to 0; and

WHEREAS, the proposed change is shown on the amended Master Plan prepared by AES Consulting Engineers, dated May 29, 2004, and entitled "Master Plan Revision: Ironbound Village"; and

WHEREAS, the property is located at 5300, 5304, 5320, 5324 and 5340 Palmer Lane and further identified as Parcel Nos. 13-1A, 13-2B, 13-3, 13-4, 13-1B on James City County Real Estate Tax Map No. (39-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-04-04/MP-07-04 and accept the voluntary proffers.

G. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented that there is a shortfall in qualified craftsman for blue-collar jobs.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the annual conference of the Virginia Municipal League (VML) will be held October 3-5 and requested the Board designate Mr. McGlennon as the Voting Delegate and Mr. Wanner as the Alternate Voting Delegate for the Business Section of the conference.

Mr. Harrison made a motion to appoint Mr. McGlennon as the Voting Delegate and Mr. Wanner as the Alternate Voting Delegate for the Business Section of the VML Conference.

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

Mr. Wanner stated that the Action Plan has been developed to respond with a series of issues raised regarding the operations at Williamsburg Area Transport (WAT) and stated that the Action Plan will be executed and any unfairness found will be corrected.

Mr. Wanner stated that with regard to Oleta Coach Lines, Inc.'s concerns about WAT infringing on the private sector, WAT has notified the Federal Transit Administration (FTA) that it would not like to be put in this type of situation again and requested they go directly to private companies in the future for such service.

Mr. Brown inquired if the use of the WAT bus to transport the Jamestown 2007 Logistics Committee has been examined by the FTA.

Mr. Anthony Conyers, Jr., Community Services Manager, stated that WAT provided transportation to the Jamestown 2007 Logistics Committee at no fee, WAT used non-fleet vehicles for the transport.

Mr. Brown requested clarification on the costs associated with providing the service.

Mr. Conyers stated that there were operating costs associated with providing the service, however there was no fee assessed for providing the service.

Mr. Brown requested what the legal standing is for this type of situation.

Mr. Rogers stated that staff will make a legal review of the situation; that counsel had looked at it initially and had worked out the charter route alongside the FTA; and stated that staff could look at WAT policies for such future uses.

Mr. Wanner recommended that the Board 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; pursuant to Section 2.2-3711(A)(3) of the Code of Virginia to consider the acquisition of real property for public use; pursuant to Section 2.2-3711(A)(7) of the Code of Virginia to consult with legal counsel and staff

members pertaining to actual or probable litigation; and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia to consider the condemnation of real property for public use.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw stated that the school year has started and 365 more students are in the public school system than last year.

Mr. Harrison invited the Board and citizens to Chickahominy Day to be held on September 18.

Mr. Harrison requested staff provide information regarding the projections on new growth based upon the developments that have been approved and are in the pipeline.

Mr. Harrison thanked Mr. Wanner and Mr. Conyers for addressing the issue within WAT and any discrimination concerns; and requested action models be considered for other departments outside WAT.

Mr. McGlennon thanked WAT employees for giving the Board members and the County an opportunity to respond to their concerns and perceptions.

J. CLOSED SESSION

Mr. Bradshaw 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; pursuant to Section 2.2-3711(A)(3) of the Code of Virginia to consider the acquisition of real property for public use; pursuant to Section 2.2-3711(A)(7) of the Code of Virginia to consult with legal counsel and staff members pertaining to actual or probable litigation; and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia to consider the condemnation of real property for public use.

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

At 9:52 p.m., Mr. Goodson convened the Board into Closed Session.

At 10:25 p.m., Mr. Goodson reconvened the Board into Open Session.

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; Section 2.2-3711 (A)(3), to consider the acquisition of real property for public use; Section 2.2-3711(A)(7), to consult with legal counsel and staff members pertaining to an actual or probable litigation; and Section 2.2-3711(A)(3) to consider the condemnation of real property for public use.

Mr. McGlennon made a motion to reappoint Willis Barnes to a three-year term on the Clean County Commission, term to expire September 30, 2007; and to appoint Diana Hutchens to a three-year term on the Colonial Community Services Board, term to expire September 30, 2007.

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

K. ADJOURNMENT

Mr. Brown made a motion to adjourn.

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

At 10:26 p.m. Mr. Goodson adjourned the Board until 4 p.m. on September 28, 2004.

Sanford B. Wanner
Clerk to the Board

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF SEPTEMBER, 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
Jay T. Harrison, Sr., Berkeley District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District

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

B. BOARD DISCUSSIONS

1. Trunked Radio System

Mr. Richard M. Miller, Fire Chief, provided an overview of the activities and action related to the trunked radio system project with York County.

Mr. Brown inquired how the transition from the old radio system to the new radio system will work.

Mr. Miller stated that it will occur through a cut-over plan which will involve a temporary installation in the County's system because York County cannot go live without the County being in the loop.

Chief Miller stated that actual cut over to the radio system will begin in the next 30 days, with the Schools first, next the County Administrative vehicles, followed by James City Service Authority, Fire, and then Police. The dual operating period, when both the old and new radio systems will be operating, will be about two weeks.

Mr. Brown inquired if a two week period would involve two radios for officers.

Chief Miller stated that day shifts will be on the new system and evening shifts on the old system and will phase in the evening shift.

Mr. Bradshaw inquired if there has been anything that will impact the cost of the system.

Chief Miller stated that construction costs associated with the 911 Center may increase as a result of significant increased concrete and steel costs in the last six to nine months.

Chief Miller stated that the York County building is ahead of the James City County 911 Center and the County is using the same architect and building design as York which should result in cost savings for both Counties as a result of the York County project.

2. Advanced Life Support/Basic Life Support Fee Report

Mr. Richard M. Miller, Fire Chief, introduced Diane Vick and Gary Matthews of Diversified Ambulance Billing who provided consulting services on the revenue recovery program and billing for ambulance services.

Chief Miller provided an overview of the cost the County incurs to provide Emergency Medical Services (EMS) service, why revenue recovery is being used by other localities, how revenue recovery programs are structured, and proposed recovery for FY06.

Mr. Brown inquired if the costs to provide the service in the County are in line with adjacent localities.

Chief Miller stated that the County has a higher per-capita-call for providing advanced life support than Fairfax.

Mr. Goodson inquired if the County has computed the amount of money generated by the E911 fee.

Chief Miller stated that amount was backed out because that revenue has to be directly applied to that service.

Mr. Bradshaw requested a chart that details the break out for the cost of delivering EMS service in James City County.

Mr. Brown inquired what type of response the County got during its focus groups.

Chief Miller stated that while citizens were not initially receptive to the cost recovery for service, acceptance was generated after the costs associated with providing the service was explained.

Mr. McGlennon inquired how long regional localities have been participating in cost recovery for its services.

Ms. Vick stated that some jurisdictions have been participating since the 70s.

Mr. Bradshaw inquired how many localities contract out for EMS service.

Ms. Vick stated that other jurisdictions contract out the actual equipment and paramedics, but provides the transportation side of it.

Chief Miller stated that some localities contract out the ambulance transportation when the volunteers are not available to perform the transportation.

Mr. Brown inquired what would be the normal expectation for revenue recovery as a percentage of the cost.

Ms. Vick stated that generally 70 to 72 percent of transport should be recovered.

Mr. Bradshaw inquired if there is a breakdown of the demographics of the individuals using the service.

Chief Miller stated that the County does not track that type of information, however collection of that information is being considered.

Mr. Bradshaw inquired how many calls are for residents and non-residents.

Mr. Goodson inquired how many calls occur on the Interstate or near tourist attractions.

Mr. McGlennon inquired how the insurance industry determines what is an appropriate reimbursement level for emergency service.

Ms. Vick stated that the Federal Government sets out guidelines for a base allowable fee for medical services and insurance agencies build from there, and from the track history of insurance reimbursements there is an idea of what will be reimbursed by insurance for EMS revenue recovery costs.

The Board, staff, and Ms. Vick discussed the various fees, deductibles, and reimbursement levels of insurance agencies.

Mr. Brown expressed interest in further information on how the "sliding scale" benefit in place in the County would apply to the cost recovery plan.

Mr. Brown inquired how many service users would pay for the service directly from their personal account.

Ms. Vick stated that typically 5 percent will directly pay for the service.

Mr. Harrison inquired if the sliding scale applies only to County residents.

Chief Miller stated that he would recommend it be applied to County residents only.

Ms. Vick stated that payment arrangements would be worked out with individuals who need assistance.

Mr. Brown inquired how the "EMS Passport", a subscription service, would be set up for collection.

Chief Miller stated that an introduction letter, application, and return envelope is distributed to residents and they have the opportunity to subscribe annually to the service.

Ms. Vick stated that following Federal Regulations, the "EMS Passport" fee must be paid in full upfront, and stated that new residents can register during the open enrollment period which lasts two months.

The Board, staff, and Ms. Vick discussed enrollments, demographics of individuals who subscribe, and the per-household benefit of the "EMS Passport" for all members of the household.

Mr. Bradshaw requested information on other jurisdictions that have reimbursed its volunteer rescue squads for revenue lost as a result of the "EMS Passport" and the long-term effect of the program on volunteer squads.

Chief Miller stated that volunteers do not stop volunteering because of funding issues, and stated that other jurisdictions have reimbursed volunteer rescue squads for revenue lost.

Mr. Brown inquired if the Medicaid and Medicare co-payments can be made on a sliding scale.

Ms. Vick stated that a user demonstrates an ability to pay, and if they cannot pay then the sliding scale is applied.

The Board and Ms. Vick discussed the sliding scale and how the scale is applied to user's bills.

Mr. Brown requested specific examples of what the financial impacts will be on the recommendations of the EMS cost recovery program.

Chief Miller stated that the hospital may make a change in its monitoring equipment and it may not be compatible with the emergency equipment used by the rescue squad. This would result in increased costs for emergency services.

The Board and Ms. Vick discussed the billings for emergency transportation service and how it has been standardized.

Mr. Wanner stated that the revenue recovery for Emergency Medical Services has been included, for planning purposes, as part of the FY06 Budget.

Mr. McGlennon inquired what a reasonable rate of recovery is expected.

Chief Miller stated that for planning purposes, \$1.2 million has been included in the FY06 Budget.

The Board, staff, and Ms. Vick discussed Medicare and Medicaid insurance reimbursement rates for various levels of life support services, national fee schedules for ambulance reimbursement rates, Federal guidelines for collection of ambulance services, hospital and County EMS staff in gathering information for the insurance claims, and administrative costs for a cost recovery service

Mr. McGlennon expressed long-term concerns with the proposal and if the County can depend upon this revenue as the population grows.

Mr. Goodson commented that the County is behind nationally in this initiative.

Ms. Vick concurred with Mr. Goodson.

Mr. Goodson inquired about EMS services provided to other localities and if the revenue recovery would apply to services offered there.

Chief Miller stated that service delivered to any patient would be billed for that service. York County is under a Mutual Aid Agreement with the County and service offered there would be billed accordingly.

Mr. Bradshaw stated that he is still skeptical about the proposal and its impacts on insurance rates.

Mr. Wanner recommended the Board discuss this item at its December budget retreat.

3. Information Resources Management Update

Mr. Thomas R. Pennington, Director of Information Resources Management, provided an overview of the activities of the Department of Information Resources Management during the past year and the fiber network prospects through 2010.

Mr. Brown inquired when the Cox Communications contract ends with the County.

Mr. Pennington stated that it ends in 2010.

Mr. Goodson inquired why the communication towers in the County cannot be used as a wireless backup system for the network communications.

Mr. Pennington stated that staff is reviewing it, and at \$25,000 for a single line communication will not result in the same backup service as through fiber.

Mr. Brown suggested that a wireless backup in place by December 2009 would be valuable to the County for network communications negotiations with Cox in 2010.

Mr. Pennington stated that the County's existing fiber system will act as an acceptable backup plan.

Mr. Brown inquired if it would be less expensive to lay fiber lines directly to the site.

Mr. Pennington stated that due to topography and costs associated with drilling through an interstate, the round-about way to connect the Virginia Peninsula Regional Jail is cost effective.

Mr. Goodson inquired about connecting the Thomas Nelson Community College to the County's communications network.

Mr. Pennington stated that there are a lot of factors in connecting with the Campus, such a proposal would be subject to a lot of conversation regarding the benefit of the connection, and it would add a lot of traffic to the internet connection and would slow service further.

Mr. Goodson inquired if the Cox quoted cost for fiber would apply to connecting potential school sites into the fiber network.

Mr. Pennington stated that the cost would apply to those sites.

Mr. Goodson inquired if the City of Williamsburg would connect into Matthew Whaley Elementary School, and if there is an opportunity for the County to interconnect with the City.

Mr. John E. McDonald, Manager of Financial and Management Services, stated that an opportunity exists and negotiations would have to be made to determine who pays connection costs and service fees.

Mr. Wanner commended Mr. Pennington for his vision of the County's fiber network and moving the County forward in its connectivity.

Mr. Pennington provided an overview on the complications associated with connecting Board member's homes into the County's network system, and what would be required to overcome those complications.

Mr. Pennington stated that by the end of the year the County should be able to connect to the Board member's homes.

C. RECESS

At 6:15 p.m. the Board took a break until 7 p.m.

Sanford B. Wanner
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF SEPTEMBER, 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
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Lakita Gilyard, an eighth-grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. David Steele, Acting Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), stated that VDOT is committed to the safety of area roads, stated that the Department is considering increasing the speed limit on Route 199 between Route 5 and Interstate 64 Lightfoot to 60 miles per hour, and stated that a drainage watch list will be presented to the Board at its next meeting and will be presented with updates regularly.

Mr. Bradshaw thanked VDOT for the repaving of Rochambeau Drive and for the progress on the intersection of Route 5 and Jamestown Road (Route 31).

Mr. Harrison requested VDOT review and improve the drainage along the Ironbound Square community.

Mr. Steele stated that he has visited the site and will get it addressed.

Mr. Brown expressed appreciation to VDOT staff working with the County Engineer regarding the Scott's Pond culvert; and requested the proposed traffic light on Longhill Road at the Regency Apartments and Fords' Colony West entrance be moved forward to alleviate traffic congestion.

Mr. Steele stated that traffic engineers will perform studies on that portion of Longhill Road and act accordingly.

Mr. McGlennon requested an update on the timing for pedestrian improvements on Route 5 near the Williamsburg Shopping Center.

Mr. Steele stated that three locations are being improved and will provide an update to the Board by email.

Mr. Goodson requested the vegetation along Route 60 near the City of Williamsburg limits be cut back from the road and curb.

Mr. Steele stated that it will be taken care of within the next few weeks.

Mr. Steele stated that curbs and gutters will be put on a yearly maintenance schedule.

E. PRESENTATIONS

1. President of Thomas Nelson Community College - Dr. Charles Taylor

Dr. Charles Taylor, President of Thomas Nelson Community College (TNCC), stated that he became the TNCC President in July, provided a brief overview of his qualifications and experience, thanked the Board, staff, and County citizens for the generosity extended; and stated that he is committed to providing improved, quality education to the community and is pleased to be a part of community and TNCC.

Mr. Goodson thanked Dr. Taylor for coming and introducing himself to the Board and citizens; and stated that he looks forward to working with him on the development of a campus in the County.

2. 2004 The Year of the Neighborhoods - Neighborhood of the Quarter - Kristiansand Homeowners Association

Mr. Goodson and Mr. Bradshaw presented Bob Ranson, representing the Kristiansand Homeowners Association, a resolution recognizing the Kristiansand Homeowners Association as the James City County Neighborhood of the Quarter.

Mr. Bradshaw added his personal congratulations to Mr. Ranson and the neighborhood.

Mr. Ranson thanked the Board and stated that the Kristiansand Homeowners Association is striving to be active for the people and the County.

3. Annual Report of the Clean County Commission

Mr. Alan Bennett, Chair of the Clean County Commission, recognized fellow members of the Commission in attendance, provided an overview of the Commission activities, accomplishments in the past year, the goals for the upcoming year, and invited the Board to participate in the Commission's activities.

Mr. Goodson thanked Mr. Bennett for the presentation and the Commission for its work in the County.

Mr. Brown thanked the Commission for the comprehensive and informative nature of the presentation.

4. Virginia Peninsula Regional Jail

Mr. John Kuplinski, Jail Administrator, provided an overview of the services offered at the Virginia Peninsula Regional Jail and showed a video produced by York County of the Jail's operations and programs.

Mr. Goodson thanked Mr. Kuplinski for making the presentation.

F. PUBLIC COMMENT

1. Mr. David Fuss, 3008 Chelsford Way, member of the Five Forks Area Study Committee, thanked the citizens for attending the meetings and for the input they provided, thanked fellow Committee members, County staff, and businesses that participated in the Committee; commented that in addition to the traffic issues raised, environmental concerns were voiced often during the Committee meetings as an area of interest; commented that stormwater management was lacking in the Five Forks area and that issue should be addressed before additional development exacerbates the situation for existing developments; and stated that the parties hope that future development will plan for stormwater management as part of its scope.

2. Mr. Randy Jackson, 140 Carriage Way, commented on the proposed High School Bond Referendum and expressed his concerns that the School Division did not uphold promises made to the community about an auxiliary gym at Jamestown High School with the last bond referendum, inquired what steps were being taken to hold the School Board accountable for promises made in connection with the upcoming Bond Referendum, and inquired why a high school is the focus when many of the problems exist at the elementary and middle school levels.

3. Mr. Ray Basley, 4060 Riverside Drive, requested the Board work with the School Board and the City of Williamsburg to be plan the fourth high school, another elementary school, and another middle school by taking a long-range view of 10 to 20 years not just a short-term five-year view on the community needs.

4. Mr. Hampton Jesse, 3500 Hunters Crossing, member of the Five Forks Area Study Committee, conveyed the input received at the public meetings of the Committee regarding limiting growth in the area, commented that the plan presented by the Committee takes into account anticipated limited development in the area, requested the Board review the July minutes of the Committee for public input regarding growth in the area, requested the Board adopt the Plan, and thanked those who participated in the Committee and lent support.

5. Mr. Jerry Johnson, 4513 Wimbledon Way, invited the Board and citizens to participate in the Greensprings Greenways tour to be held on October 3; and as President of the Historic Route 5 Association, expressed the concerns of the citizens and Association that the community character of the Five Forks area be preserved, requested the Board limit environmental impacts and address traffic concerns in the Five Forks area, and commented that the community needs more schools.

6. Mr. Ed Oyer, 139 Indian Circle, requested the Board enact zero-based tax rates and consider adjusting the Personal Property tax rates in the County; and stated concern regarding the possible arbitrary manner in which assessments are made.

G. CONSENT CALENDAR

Mr. Goodson inquired if a Board member wished to pull an item from the Consent Calendar.

Mr. Harrison requested Item No. 5, Budget Appropriation of U. S. Home Funds - \$38,800, be pulled.

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

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

1. Appointment of Alternate to Virginia Peninsula Regional Jail Authority Board

RESOLUTION

APPOINTMENT OF ALTERNATE TO

VIRGINIA PENINSULA REGIONAL JAIL AUTHORITY BOARD

WHEREAS, the County Administrator is appointed as the County's representative on the Virginia Peninsula Regional Jail Authority (VPRJA); and

WHEREAS, there are occasions that the representative is unable to attend VPRJA meetings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Suzanne R. Mellen, Acting Assistant County Administrator, is appointed as the County's alternate to the VPRJA Board.

2. 2004 The Year of the Neighborhoods - Neighborhood of the Quarter - Kristiansand Homeowners Association

RESOLUTION

2004 THE YEAR OF THE NEIGHBORHOODS -

NEIGHBORHOOD OF THE QUARTER - KRISTIANSAND HOMEOWNERS ASSOCIATION

WHEREAS, Kristiansand Homeowners Association is a voluntary self-managed association located in the Stonehouse district. The Kristiansand Homeowners Association was organized in 1997 and consists of 200 single-family homes; and

WHEREAS, Kristiansand Homeowners Association's mission is to preserve and protect the integrity of the neighborhood, and one of its major responsibilities is to maintain a three-acre park used by all its residents; and

WHEREAS, the key to the success of Kristiansand Homeowners Association lies in its active board, residents, and partnerships with other agencies working together through these efforts:

- C collection of \$5,000 from residents toward funding playground equipment;
- C grants awarded through Neighborhood Connections and Parks and Recreation for park improvements;
- C monthly board meetings;
- C quarterly newsletter and separate flyers distributed for special events;
- C Easter egg hunt and bunny paw prints put down on pavement throughout neighborhood;
- C annual spring yard sale;
- C annual "Picnic in the Park";
- C Fall Festival & Chili Cook-Off;
- C neighborhood Christmas tree lighting ceremony;
- C Santa visits homes delivering gifts for each child;
- C holiday house decorating contest/ribbons awarded in various categories; and
- C Wonderful Wednesdays in the Park (summer).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim Kristiansand Homeowners Association Neighborhood of the Quarter for the third quarter of 2004 in connection with the celebration of the 10th Anniversary of Neighborhood Connections.

3. Department of Motor Vehicles Grant - \$14,800

RESOLUTION

DEPARTMENT OF MOTOR VEHICLES GRANT - \$14,800

WHEREAS, the Department of Motor Vehicles has approved a grant in the amount of \$14,800 to the Police Department for traffic enforcement, overtime, and related equipment; and

WHEREAS, the grant only requires a soft money 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 Department of Motor Vehicles 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 05 Highway Safety \$14,800

Expenditure:

DMV - FY 05 Highway Safety \$14,800

4. Hazard Mitigation Grant Program (HMGP) - \$17,346

RESOLUTION

HAZARD MITIGATION GRANT PROGRAM (HMGP) - \$17,346

WHEREAS, the Federal Emergency Management Agency has approved a grant in the amount of \$17,346 to the Fire Department for emergency operations planning; and

WHEREAS, the grant has no local match requirements thus eliminating any additional spending by the Fire Department; and

WHEREAS, the grant is administered by the Virginia Department of Emergency Management. The grant period will end December 2005.

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:

VDEM - Mitigation Planning \$17,346

Expenditure:

VDEM - Mitigation Planning \$17,346

6. Transfer of Funds from Non-Departmental Water Quality Account to Capital Improvement Project Water Quality Account

RESOLUTION

TRANSFER OF FUNDS FROM NON-DEPARTMENTAL WATER QUALITY ACCOUNT TO CAPITAL IMPROVEMENT PROJECT WATER QUALITY ACCOUNT

WHEREAS, the Board of Supervisors wishes to allocate funds to the appropriate accounts to fund the necessary Water Quality projects and programs; and

WHEREAS, staff is requesting the transfer of funds in order for all FY 2005 projects to proceed.

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

From:

Non-Departmental Water Quality Account \$293,200.00

To:

Transfer to Capital Projects \$254,665.00

Development Management Professional Services Account 36,663.00

Cooperative Extension Operating Account 1872.00

Total \$293,200.00

BE IT FURTHER RESOLVED, that the Board also authorizes the following appropriation to the Capital Projects Fund:

Revenue:

Transfer from General Fund \$254,665.00

Expenditure:

Water Quality Improvement Account \$254,665.00

7. Turf Love Nutrient Management Program - Contract Approval

RESOLUTION

TURF LOVE NUTRIENT MANAGEMENT PROGRAM - CONTRACT APPROVAL

WHEREAS, the provision of environmental education is important to the achievement of overall water-quality goals in James City County; and

WHEREAS, nutrient management by homeowners during the maintenance of their turf and landscape plants is a valuable component of controlling nutrient pollution in the County's waterways; and

WHEREAS, the Turf Love Nutrient Management Program is an existing, highly effective program to provide this environmental education.

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 Virginia Polytechnic Institute and State University for the operation of the Turf Love Nutrient Management Program for FY 2005, in the amount of \$25,063.

8. Authorization for One Temporary Police Overhire

RESOLUTION

AUTHORIZATION FOR ONE TEMPORARY POLICE OVERHIRE

WHEREAS, the return to work status of a Police Officer severely injured in the line of duty is uncertain; and

WHEREAS, the reduced staffing in the Police Department adversely affects service delivery; and

WHEREAS, funds are available within the existing Police Department FY 2005 Budget to create an overhire position.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby establish one full-time permanent Police Recruit overhire position. If the employee is unable to return to work, the position will be permanently filled by the overhire position. If the employee returns to full-time employment and the Police Department is fully

staffed, the overhire position will remain in effect until a Police Officer vacancy occurs, then will be eliminated.

5. Budget Appropriation of U. S. Home Funds - \$38,800

Mr. John T. P. Horne, Development Manager, stated that the County granted an exception to the Chesapeake Bay Ordinance allowing U. S. Home to construct sanitary sewers in the Resource Protection Area with the condition that U. S. Home reimburse the County for third-party environmental inspection services during the construction of the sewer, and requested the Board approve the appropriation of reimbursements by U. S. Home to the Water Quality account.

Mr. Harrison 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

BUDGET APPROPRIATION OF U.S. HOME FUNDS - \$38,800

WHEREAS, the Board of Supervisors of James City County has been requested to approve the appropriation of funds from U.S. Home to the Water Quality account in the FY 2005 Operating Budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the General Fund Water Quality account:

Revenue:

Miscellaneous Revenue \$38,800

Expenditure:

Water Quality Account \$38,800

H. PUBLIC HEARINGS

1. Primary Principles for Five Forks Area of James City County

Mr. Joe McCleary, Planning Commission member and Five Forks Area Study Committee Vice Chair, presented the primary principles for Five Forks as developed by the Five Forks Area Study Committee and approved by the Planning Commission, introduced members of the Five Forks Area Study Committee in attendance, and thanked the Study Committee members, staff, and citizens for their contributions.

The Board thanked Mr. McCleary for the presentation and the Study Committee for their efforts.

Mr. McGlennon inquired if the Study Committee identified land or parcels for conservation or open space preservation.

Mr. McCleary stated that the Study Committee did not identify specific parcels because it felt the Comprehensive Plan and zoning ordinances adequately address that issue.

Mr. Harrison made a motion to adopt the resolution regarding the primary principles for the Five Forks area.

Mr. Goodson inquired if members wished to hold a discussion on the motion.

Mr. Brown stated that the Board has taken no action regarding an expansion of the Resource Protection Area buffer requirements to 300 feet and therefore proposed an amendment to the resolution as follows: change the now, therefore, be it resolved paragraph to read “. . . does hereby accept the following Vision and Principles to be considered alongside the 2003 Comprehensive Plan . . .” and on page five of the resolution, Section II, Environmental Principles, second point, to read: “. . . the Powhatan Creek Watershed Management Plan actually adopted by the Board of Supervisors at its meeting on February 26, 2002.” and delete “Watershed Management Plan Recommendations” and the three bullets following.

Mr. Goodson stated that his proposed amendment has been included in Mr. Brown’s motion and inquired if the Board wished to discuss the motion.

Mr. McGlennon noted that the motion made by Mr. Brown is not accurately reflected in the proposed resolution handed out to the Board.

Staff verified that a portion of Mr. Brown’s amendment was mistakenly omitted from the draft resolution and would be corrected accordingly.

Mr. McGlennon stated concern regarding the proposal to eliminate the Board’s endorsement of the primary principals set forth by a Committee appointed by the Board and endorsed by the Planning Commission.

Mr. Harrison concurred with Mr. McGlennon’s concern.

Mr. McGlennon requested clarification on the amendment to distinguish the Powhatan Creek Watershed Management Plan as the County has only adopted one Plan which was the amended proposed Plan.

Mr. Brown stated the distinction addressed the ideal concept of the 300-foot Resource Protection Area (RPA) buffer that the Board has not chosen to yet endorse, and the distinction lend consistency to those who wish to develop their property in consonance with the Comprehensive Plan and priorities adopted in the Powhatan Creek Watershed Management Plan.

Mr. McGlennon inquired if the removal of the three bullet points on page 5 of the resolution are accepted, then what is the point in identifying what Plan was actually adopted by the Board on February 26 rather than just referencing the Powhatan Creek Watershed Management Plan.

Mr. Brown stated that if a citizen looks at the Powhatan Creek Watershed Management Plan provided by the consultant, the document clearly calls for a 300-foot RPA buffer; the Board chose not to adopt that particular recommendation, and the Board needs to endorse those priorities that were adopted by the Board in 2002.

Mr. Brown stated there is a difference between what was adopted by the Board and what is contained in the Plan.

Mr. McGlennon stated that staff would provide applicants a copy of the Plan as adopted by the Board and does not understand the confusion.

Mr. Bradshaw stated that he did not get the impression the language in the original resolution was designed to circumvent or be in contravention with a policy, did not see an absence of date of adoption made

any difference to what Plan is referred to, stated that the language is “encourage” which is not a requirement; and nothing in the resolution is in contravention of the Comprehensive Plan as noted by Mr. McCleary.

Mr. Brown differed with Mr. Bradshaw and noted that the Board did not adopt all the recommendations of the Powhatan Creek Watershed Management Plan, only 20 of the 24 recommendations.

Mr. Brown stated that these become matters of practice through custom and become matters of negotiation between applicants and staff, and encouraging use of expanded buffers as negotiation is not something adopted by the Board and may unnecessarily result in the applicant extending more in negotiations as an effort to protect his proposal.

Mr. McGlennon stated that if the Board wishes to leave the bullet language on page 5 in and to send the message that while the committee feels wider buffers are a benefit but the Board does not require it, leave the language in.

Mr. Brown stated that all the negotiations take place prior to the application arriving before the Board for consideration and the bullet language infers the Board wants expanded buffers if the applicant wants any chance of their application to move forward.

Mr. McGlennon stated that he does not mind that increased buffers are desirable, because of the environmental conditions in the area; and nothing can be more clear than the language included in the resolution that states that the Board does not endorse the recommendation.

Mr. Harrison stated that the Five Forks Area Study Committee (Study Committee) approached the issue as guiding development principles for the Five Forks area, the recommendations are contained in the environmental section as guiding principles for environmental concerns expressed by the Study Committee and citizens.

Mr. Harrison stated the Study Committee discussed these points and inquired what impacts the removal of the bullets would have on the overall primary principles offered by the Study Committee.

Mr. Horne stated they were drafted with a specific intent that intentionally uses “encouraged” language, and there are a few parcels that would be impacted by development in the Five Forks area; and from a staff level, it is not reasonable to expect 300-foot buffers on the parcels and compromise is expected and is subject to individual parcels and owners.

Mr. Brown inquired if language using the word “encouraged” would result in negotiations with applicants would hold expectations by staff that the RPA buffers would be greater than what is required by Virginia Code.

Mr. Horne stated that is not the expectation, staff would go to the principles, then meet with the applicant and review the desired land use, and if there is opportunity for reasonable land use and expanded buffers, staff would discuss the opportunity. It would be an opportunity to discuss expanded buffers, not an expectation or requirement.

Mr. McGlennon inquired if the primary principles would be used by developers to anticipate community concerns.

Mr. Bradshaw inquired if the reference to the original resolution, does that mean something different that what the Board adopted.

Mr. Rogers stated that the Board only adopted one Plan and the County only has one Plan, and the proposed Plan presented by the consultant is not the adopted Plan.

Mr. Brown stated that the May 2002 Powhatan Creek Watershed Management Plan does not indicate the Board did not adopt all 24 recommendations, and citizens referring to that draft plan may expect those 24 requirements to be met.

Mr. Rogers stated that the Board only adopted one Plan.

Mr. Horne stated that applicants are presented the Board resolution adopting the 20 recommendations in the Powhatan Creek Watershed Management Plan, and the Board has not considered the other recommendations as of yet.

Mr. Horne stated that staff is not trying to create confusion regarding the Plan.

Mr. Brown stated that he wants to identify and clarify the specific, adopted Plan adopted by the Board and not the recommendations offered in the proposed Plan.

Mr. Harrison offered to amend the amended motion by Mr. Brown by excluding the word “actually.”

Mr. Brown accepted the recommendation.

Mr. Bradshaw offered to amend the amended motion by Mr. Brown further by excluding the words “at its meeting.”

A brief discussion followed regarding Mr. Bradshaw’s recommendation.

Mr. Brown accepted the recommendation to remove the words “at its meeting.”

Mr. Goodson inquired if there was further discussion on the removal of the bullet points.

Mr. McGlennon stated concern with the proposal to remove those points included by the Study Committee to reflect the concerns of the Study Committee and the citizens for the Five Forks Area. Mr. McGlennon also stated that the specific language within the bullets that addresses the lack of endorsement by the Board and should alleviate the concerns about the nature of the recommendation.

Mr. Harrison stated that he would like to have the language “not endorsed by the Board and subject to individual project discussions with applicants” and have that word-smithed to include language such as “principles recommended by Five Forks Committee.”

Mr. Brown stated opposition to Mr. Harrison’s recommendation and stated that expanded buffers has not been adopted by the Board at this point.

Mr. Bradshaw stated he still favors the bullets on page 5 of the resolution.

Mr. Harrison inquired if Mr. Brown would accept the additional words “where possible” in the bullets.

Mr. Brown stated he would not accept the change.

Mr. Brown recapped his amended motion to delete the word “actually” and “at its meeting.”

Mr. Rogers called a Point of Order and stated the first vote should be on Mr. Harrison’s motion which he has accepted into his motion.

Without objection from the Board, Mr. Goodson requested the roll call votes be in two stages, the first on the language for the first page of the resolution, and the second on the language on the fifth page of the resolution.

Mr. Goodson stated the first vote will be on the changing of “endorse” to “accept” and “used” to considered.”

On a roll call vote, the vote was: AYE:, Brown, Goodson (2). NAY: Bradshaw, Harrison, McGlennon (3).

Mr. Goodson called for a roll call vote on the motion on the removal of the three bullets on the fifth page of the resolution.

Mr. Harrison requested an amendment to the motion to include additional language to read “Non-tidal mainstream in the Five Forks area west of Ironbound and north of Ingram Road are encouraged in the use of expanded buffers along the Powhatan Creek mainstem.”

Mr. Brown did not accept the amendment to his motion.

On a roll call vote, the vote was: AYE:, Brown, Goodson (2). NAY: Bradshaw, Harrison, McGlennon (3).

Mr. Harrison amended his motion to adopt the entire plan with the addition language in the bullets of “in the Five Forks area” and the approved language of “Ensure that any new development in the Powhatan Creek Watershed implements the recommendations of the Powhatan Creek Watershed Management Plan adopted by the Board of Supervisors on February 26, 2002.”

Mr. Bradshaw commented the addition of “Five Forks area” to the bullets on page 5 is redundant to the resolution that identifies the location of application in the first paragraph of the resolve.

Mr. Harrison felt the need to eliminate self-interpretation of the requirements outside Five Forks area.

Mr. McGlennon stated that the additional language, although redundant, is not harmful.

Mr. Wanner stated that the amendment to the first two bullets on page 5 now reads:

“Non-tidal mainstem in the Five Forks area (west of Ironbound and North of Ingram Road): by encouraging the use of expanded buffers along the Powhatan Creek mainstem.”

“Tidal mainstem in the Five Forks area (West of Ironbound Road and South of Ingram Road) by encouraging the use of expanded buffers along the Powhatan Creek mainstem; stormwater management with an added focus on fecal coliform removal.”

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

RESOLUTION

PRIMARY PRINCIPLES FOR FIVE FORKS AREA OF JAMES CITY COUNTY

WHEREAS, Economic Development Action 12G of the 2003 Comprehensive Plan recommends that James City County evaluate redevelopment and land use issues in the Five Forks area; and

WHEREAS, on June 8, 2004, the Board of Supervisors created the Five Forks Area Study Committee to conduct a comprehensive study of the area and develop a set of guiding principles for future development; and

WHEREAS, these principles will be used by citizens, staff, Planning Commission, and the Board of Supervisors to guide recommendations and decisions in future land use cases and other development activity in the Five Forks area; and

WHEREAS, after four public meetings the Five Forks Area Study Committee unanimously adopted primary principles for the Five Forks area of James City County; and

WHEREAS, on September 13, 2004, the James City County Planning Commission recommended the adoption of the primary principles by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following Vision and Principles to be used alongside the 2003 Comprehensive Plan when reviewing Rezonings, Special Use Permits, and other development activities in the Five Forks area:

Primary Principles for the Five Forks Area of James City County

Five Forks is an area with a unique village character. Bounded to the east by Mill Creek and to the west by the Powhatan Creek, Five Forks is within a significant natural area. Five Forks also supports a thriving commercial center and boasts a quality elementary school at its southern edge. Five Forks is generally understood to encompass the area that lies within three quarters of a mile of the intersection of John Tyler Highway and Ironbound Road.

Five Forks has grown and changed. With new growth, however, come questions about traffic levels, housing capacity, and preservation of the village qualities that make the area unique.

The Five Forks Area Study Committee was created by the Board of Supervisors to listen to the views of County citizens, particularly those who live and work in Five Forks. The Committee's purpose was to recommend principles that preserve and build upon the many positive qualities of Five Forks. These principles seek to protect the watersheds and safeguard the village character of the area. The principles will address residential growth, commercial development, traffic concerns, and alternative transportation. The principles will be incorporated into the next regularly scheduled update of the County's Comprehensive Plan. Until that time, these principles, when approved, serve as an addendum to the 2003 Comprehensive Plan.

Vision Statement

Five Forks has a rich heritage and a community character unique to James City County. By cooperating with citizens and with local government we will preserve these qualities for future generations. Through these principles, the Committee envisions that Five Forks will be a place where future redevelopment or development:

- Improves or maintains water quality and other environmental features;
- Preserves Five Forks' unique village character;
- Does not overburden the road network beyond capacity;
- Provides adequate facilities for pedestrians and cyclists;
- Provides goods and services needed by citizens; and
- Ensures housing opportunities for all citizens.

I. Transportation Principles

1. Capitalize on and Enhance Existing Roadway Network (see the Environmental Principles for relevant information related to these recommended actions):
 - Inventory/validate existing pavement and right-of-way width.
 - Reconfigure pavement markings/lane delineations to accommodate a 150-foot full-width exclusive right-turn lane for southbound Ironbound Road (i.e., north leg).
 - Construct a 150-foot full-width right-turn lane along the northbound approach of Ironbound Road (i.e. south leg).
 - Reduce the speed limit to 35 mph approximately a half mile from the intersection of Ironbound Road and John Tyler Highway.
 - Implement AM, Noon, PM, and Off-Peak signal timing modifications to best process traffic, maximize available and enhanced capacity, and to sustain acceptable level of operations for the isolated signalized intersection of Ironbound Road and John Tyler Highway.

2. In conjunction with any development proposals using Ingram Road West for access, encourage developers to make road improvements (reopening access from Ingram Road East from John Tyler Highway was considered but was not recommended. Such reopening might prove to be unsafe and possible benefits appear to be minimal. The initiative might prove to be beneficial at some time in the future depending on future development on Ingram Road East.):
 - Developers using Ingram Road West for access should rebuild this road as a two-lane roadway in accordance with current VDOT street requirements. Improvements could include:
 - 12 - 14-foot lanes to include roadway as well as curb and gutter;
 - 4-foot buffer between curb and sidewalk on one side of roadway;
 - Street trees and other aesthetic improvements; and
 - 25 mph posted speed limit.

3. Promote pedestrian and bicycle facility interconnectivity within Five Forks area (see the Land Use and Environmental Principles for relevant information related to these recommended actions):
 - Utilize available funds in the Sidewalk Capital Improvement Program budget as well as alternate sources of funding including grants or private contributions to construct sidewalks and pedestrian crosswalks in accordance with the phasing plan listed below.
 - Ensure that new development either provides sidewalks along public road frontages in accordance with the recommendations of the sidewalk inventory, or contributes funds to the Sidewalk Capital Improvement Program.
 - Coordinate the design and construction of roadway improvement projects with bicycle and pedestrian facilities. Bicycle and pedestrian facilities should be designed with an emphasis on safety, adequate lighting, signage, and Americans with Disabilities Act (ADA) compliant features.

- Using the Five Forks area sidewalk inventory, and considering existing and potential development, and existing sidewalk connections as a guide, develop an implementation plan to extend sidewalks to serve pedestrian activity within the businesses at the Ironbound Road/John Tyler Highway intersection.
- Stripe crosswalks and provide crossing ramps and pedestrian signals for each approach to the Ironbound Road/John Tyler Highway intersection.
- Provide paved shoulders on John Tyler Highway west of the Ironbound Road intersection during the next VDOT repaving to decrease road maintenance and provide more travel space for bicycles and pedestrians.

Phase II

- Using the Five Forks area sidewalk inventory, existing and potential development, and existing sidewalk connections as a guide, develop an implementation plan to construct sidewalk segments that provide greater connectivity between the central business area and Clara Byrd Baker Elementary School, neighborhoods, and recreational areas.
 - In accordance with the Greenway Master Plan, construct a multi-use path along John Tyler Highway that can connect to Jamestown High School and the Greensprings Trail.
 - Construct shoulder bikeways along Ironbound Road using Federal grants. In accordance with the Greenway Master Plan, construct a multi-use path along Ironbound Road that can connect to Mid-County Park/Monticello Marketplace Shopping Center.
 - Utilize Greenway Funds in the Capital Improvement Program budget and other sources of funding such as grants to support the construction of the above multi-use paths.
4. Promote opportunities for bus service in Five Forks:
- Work with Williamsburg Area Transport (WAT) to investigate areas and routes with the highest ridership and potential for enhanced service (e.g., to serve activity/employment centers).
 - Work with WAT and Traffix to promote public transportation incentives and the use of alternative commuting modes (park-and-ride, ride sharing, express routes, etc.) to both employers and employees.
 - Investigate opportunities to increase ridership to/from centers of activity, businesses, residential areas and special event attractions.
5. Maintain a "C" level of service for traffic conditions in Five Forks by adhering to new trip generation thresholds established in the Five Forks Area Study Traffic Impacts Alternative Analysis prepared by Kimley Horn and Associates when approving new development through the rezoning and special use permit process (trip levels above the threshold result in the Level of Service decreasing from C to D. These new trip generation threshold numbers are on top of projected 2008 background trips.):
- Without Geometric Improvements

- AM peak should not exceed 350 new trips
- PM peak should not exceed 500 new trips
- With Geometric Improvements recommended by Principle I.1
 - AM peak should not exceed 500 new trips
 - PM peak should not exceed 650 new trips
- New development should be phased so that new trips do not exceed the lower thresholds until the improvements listed in Principle I.1 are either constructed or fully funded in the VDOT Six-Year Road Plan.
- New development should provide a pro-rata share of the costs associated with implementing the geometric and signal improvements.

II. Environmental Principles

1. Maintain and improve water quality and reduce flooding risk in the Mill Creek and Powhatan Creek Watersheds by minimizing the amount of additional impervious cover and treating existing and additional stormwater runoff:
 - Develop a coordinated stormwater master plan for Five Forks. The stormwater master plan should address possibilities for regional treatment or other treatment approaches for new and existing development as well as opportunities to reduce and/or treat runoff from the existing roadway into Powhatan Creek and Mill Creek.
 - Minimize drainage of new sidewalks, multiuse paths, or other transportation improvements. Encourage drainage of these improvements into a treatment facility such as a grassy swale, regional and structural Best Management Practices (BMP), or other appropriate options.
 - For new or modified residential or commercial development in the Powhatan Creek and Mill Creek watershed, encourage the use of Low Impact Design (LID) and Better Site Design (BSD) techniques such as, but not limited to, those listed in the 2003 Comprehensive Plan; the Builders for the Bay James City County Local Site Planning Roundtable consensus document (expected to be completed in Fall 2004); and the booklet entitled "*Better Site Design: An Assessment of the Better Site Design Principles for Communities Implementing Virginia's Chesapeake Bay Preservation Act.*"
 - Work with the Village Square Homeowners Association to ensure maintenance of the Village Square BMP and encourage the community to improve the existing BMP by pursuing a grant through the County PRIDE mini-grant program. Explore options for retrofitting and/or maintaining other Five Forks area BMPs.
 - Investigate options for and encourage the undertaking of stream restoration projects in the Powhatan Creek and Mill Creek Watersheds.
2. Ensure that any new development in the Powhatan Creek Watershed implements the recommendations of the Powhatan Creek Watershed Management Plan adopted by the Board of Supervisors on February 26, 2002:

Watershed Management Plan Recommendations:

- Non-tidal mainstem in the Five Forks area (west of Ironbound and north of Ingram Road): By encouraging the use of expanded buffers along the Powhatan Creek mainstem.
 - Tidal mainstem in the Five Forks area (west of Ironbound Road and south of Ingram Road): By encouraging the use of expanded buffers along the Powhatan Creek mainstem stormwater management with an added focus on fecal coliform removal.
 - Stormwater Recommendations: Use of Special Stormwater Criteria; specialized on-site BMP design with emphasis on removal of nutrients and bacteria; minimize stormwater outfalls on steep slopes.
3. Explore options for land conservation in Five Forks:
- Through the rezoning and special use permit process; encourage developers to set aside land as permanent open space.
 - Continue to target County Green Space Acquisition Funds to acquire properties that are environmentally sensitive or preserve the John Tyler Highway Community Character Corridor.

III. Land Use Principles

1. Promote mixed-use, pedestrian-friendly land-use patterns (see Principles III.6 for Land Use recommendations, including recommendations on moderate- and low-income housing):
- Pursue regulatory and investment strategies that promote a safe and healthy mix of uses (e.g., retail, residential, office, and public facilities).
 - Continue to promote Five Forks as a center of community activity with complementary mixed uses.
 - Promote development patterns that support compact development, interconnected streets (connections to existing neighborhoods should be permitted only where practical and desired by those residents), sidewalks, etc., in an effort to encourage walkable neighborhoods within the Five Forks area.

2. Identify and re-utilize vacant buildings and properties that are no longer utilized:
 - Encourage master planning of available land for redevelopment or new uses in order to promote shared parking, fewer entrances onto arterial roads, better utilization of land and increased open space.
 - Promote reuse and redevelopment of blighted and no longer utilized properties.
 - Target capital investments by James City County (e.g., infrastructure, underground utility lines, streetscape improvements, etc.) to support private reinvestment and redevelopment.
 - Through the Office of Housing and Community Development, investigate ways to renovate and rehabilitate the existing housing stock in the Five Forks area where appropriate. Work with private nonprofit groups such as Habitat for Humanity, the Community Action Agency and Housing Partnerships, Inc., to improve the condition and availability of the existing housing stock and assist residents that may be displaced by new development.
3. Reduce conflicts between incompatible land uses:
 - Promote transitional uses between different land uses.
 - Through the rezoning/special use permit process and standards in the subdivision and zoning ordinance, reduce the impacts of higher intensity on lower intensity uses (requirements for landscaping, buffering, signage, screening, noise, odor, light, traffic, etc.).
4. Connect the land use pattern to a supportive, multi-modal transportation system:
 - Establish compact, mixed-use development patterns that create a walkable environment and reduce the need to use the automobile by local residents.
 - Provide convenient pedestrian access from outlying residential areas to the Five Forks community activity center in accordance with Principle I.4.
5. Establish guidelines to define and maintain the historic, cultural, and aesthetic character of the Five Forks area:
 - As part of the 2008 Comprehensive Plan update, designate Five Forks as a Community Character Area and incorporate the following guidelines as part of the Community Character element:
 - Building architecture, scale, materials, spacing, height, and color should respect the architectural context of existing structures such as the historic schoolhouse and veterinary clinic and maintain the village character of Five Forks. New buildings should attempt to emulate distinguishing architectural elements of existing structures such as windows, roof lines, and cornices.
 - Buildings that are traditional in character, massing, and detailing are preferred. Contemporary interpretations of traditional architecture are acceptable, if based on the scale and proportions of traditional architecture, and compatible with the context of the Five Forks village character.

- Building facade materials and architectural treatment should be consistent on all sides of buildings, including side and rear elevations.
 - Where possible, parking should be located to the rear of buildings and should be well landscaped with shrubs and street trees. Shared access and parking should be pursued before constructing new access breaks and parking facilities.
 - Existing specimen trees and shrubs should be preserved to the extent possible. New landscaping should be of a type, size, and scale to complement and enhance the building and site design. Native plant and tree species are encouraged.
 - Signage should be of a scale, size, color, and materials to complement the village character of the area. Monument style signs, rather than pole signs, are the preferred type.
 - All mechanical equipment should be screened from view with architectural elements, fencing, or landscaping.
 - In addition to the above standards, residential buildings should have varied roof lines, wall articulations, window placements, and other features to reduce building mass and unbroken building lines. Arrangement and siting of buildings should preserve the buffers along the Community Character Corridor and complement existing structures such as the historic schoolhouse and maintain the village character of Five Forks.
- Develop and maintain defining traits that can be reflected through landscaping or streetscape design.
 - Protect and enhance the visual character of John Tyler Highway and Ironbound Road. Transportation improvements and new development should be carefully sited to minimize loss to the existing tree canopy over the roads.
6. Ensure that future residential and non residential development/redevelopment is compatible with the vision and principles for the Five Forks area:
- Ensure new trip generating developments do not exceed new trip thresholds in accordance with Principle I.5 through the rezoning/special use permit process.
 - Ensure proposed land uses are in compliance with the land use section of the 2003 Comprehensive Plan. The following descriptions provide additional guidance on acceptable land use proposals:
 - Low Density Residential: Recommended gross densities are 1 to 3 dwelling units per acre. Higher densities should provide public benefits such as setting aside property for low-and moderate-cost housing developments; low- and moderate-income (Low income housing is defined as housing for persons earning less than 50 percent of area median income. Moderate income housing is defined as housing for persons earning 50 percent to 80 percent of the area median income.) housing; mixed-cost housing; or extraordinary environmental protection, including low impact design, better site design, open space preservation and implementation of the Powhatan Creek Watershed Management Plan.

- Moderate Density Residential: Recommended gross densities are 4 to 10 dwelling units per acre. Higher densities should provide public benefits such as setting aside property for low- and moderate-cost housing developments; low-income housing (including persons earning less than 30 percent of area median income); moderate income housing; mixed cost housing; or extraordinary environmental protection, including low-impact design, better site design, open space preservation and implementation of the Powhatan Creek Watershed Management Plan. Recommended housing types include townhouses, apartments, or attached cluster housing.
 - Mixed Use: The recommended mix of uses includes offices and community commercial uses serving residents of the Five Forks area. Moderate-density housing may be a secondary use provided it is designed in accordance with these principles.
- As part of the 2008 Comprehensive Plan update, incorporate the above guidance into the Land-Use element.

IV. Economic Development Principle

1. Promote and facilitate economic growth through development/redevelopment:

- Facilitate the location of a new anchor tenant in Governor's Green Shopping Center should Winn-Dixie close.
- Support the development of remaining undeveloped commercial land and vacant buildings in Five Forks to provide goods and services desired by residents of the Five Forks area.
- Advise the Economic Development Authority on the outcomes of the Five Forks Study so that they may capitalize on future economic opportunities.

2. Request for Speed Limit Reduction - Ironbound Road at Five Forks

Ms. Ellen Cook, Planner, stated that Transportation Principle I.1 of the Primary Principles for the Five Forks Area recommends reducing the speed limit to 35 mph along John Tyler Highway and Ironbound Road in the Five Forks area to improve the flow of traffic and increase pedestrian and bicyclist safety.

Staff recommended the Board approve the resolution.

Mr. Harrison 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

REQUEST FOR SPEED LIMIT REDUCTION - IRONBOUND ROAD AT FIVE FORKS

WHEREAS, on September 28, 2004, the James City County Board of Supervisors adopted the Primary Principles for the Five Forks Area of James City County to guide recommendations and decisions in future land use cases and other development activity in the Five Forks area; and

WHEREAS, Transportation Principle I.1 recommends lowering the speed limit to 35 mph approximately half a mile in each direction from the intersection of Ironbound Road and John Tyler Highway; and

WHEREAS, in combination with other recommended improvements, a reduction in vehicle speed will improve traffic flow through the intersection of Ironbound Road and John Tyler Highway; and

WHEREAS, a reduction in vehicle speed will have a secondary benefit of increasing pedestrian and bicyclist safety in the Five Forks area.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation Resident Engineer reduce the speed limit on Ironbound Road to 35 mph approximately half a mile in each direction from the intersection with John Tyler Highway.

3. **High School Bond Referendum**

Mr. Wanner stated that on November 2, 2004, the voters will be asked to authorize General Obligation Bonds to finance the construction of the new high school.

Mr. Wanner read a resolution supporting the construction of the new high school and endorsing the use of General Obligation Bonds as the best way to finance it, and requested the Board adopt the resolution.

Mr. Bradshaw 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

HIGH SCHOOL BOND REFERENDUM

WHEREAS, the Board of Supervisors of James City County has approved a referendum question on the ballot for the November 2, 2004, general election; and

WHEREAS, that question seeks voter approval to borrow up to \$39,820,000 to fund the County's share of the costs of a new high school; and

WHEREAS, the General Obligation Bonds the County could issue, if approved by the voters, would be the least expensive and most flexible form of financing the County could obtain; and

- WHEREAS, new taxable growth, annual reductions in current debt service, and previously dedicated funds will allow the County to issue additional debt for a new high school without an increase in the tax rate; and
- WHEREAS, the Board of Supervisors has dedicated the equivalent of two cents of the existing real property tax collections, approximately \$1.3 million annually and increasing, toward the increased operating costs of the new high school when it is expected to open in August, 2007; and
- WHEREAS, current high school enrollment exceeds the capacity of the two existing high schools by more than 500 students and growth in high school enrollment over the past two years has been 350 students; and
- WHEREAS, the Williamsburg-James City County Public Schools has previously identified County-owned property at Warhill as the site of this new high school; and
- WHEREAS, the Board of Supervisors has endorsed the co-location of the Historic Triangle Campus of Thomas Nelson Community College to more efficiently use the resources of both the high school and the community college for the benefit of the County residents; and
- WHEREAS, the City of Williamsburg has been an active partner in the planning of this new school and will pay a portion of the costs of construction, based on a formula determined by percentage of enrollment; and
- WHEREAS, the proposed high school will provide needed job training opportunities, in partnership with Sentara and Thomas Nelson Community College, in fields such as health services, electronics and information technology.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports the construction of a new high school, partly funded by General Obligation Bonds as the least expensive and most flexible method of financing the project, to meet the needs of the community.

Mr. McGlennon stated that the Board has identified a need to address the Adequate Facilities Schools Test and decided a dialogue had to be started with the Schools to plan for the future.

Mr. McGlennon inquired about the time line for the talks.

Mr. Wanner stated that the Schools are conducting a study on school facility needs and coupled with the enrollment study, the Boards will be addressing this item later this year or the first of the new year.

Mr. McGlennon stated that the Board is concerned with those issues.

I. PUBLIC COMMENT - None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the Williamsburg Area Transport Board of Directors will be holding its meeting at the conclusion of the Board of Supervisors meeting.

Mr. Wanner recommended at the conclusion of the Board's meeting, it adjourn to 7 p.m. on October 12, 2004.

Mr. Wanner stated that the annual conference of the Virginia Association of Counties (VACo) will be held November 6 - 9 and requested the Board designate Mr. Goodson as the Voting Delegate, Mr. Brown as the Alternate Voting Delegate, and Mr. Wanner as the Proxy for the Business Meeting of the conference.

Mr. McGlennon made a motion to appoint Mr. Goodson as the Voting Delegate, Mr. Brown as the Alternate Voting Delegate, and Mr. Wanner as the Proxy for the Business Meeting of the VACo conference.

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

K. BOARD REQUESTS AND DIRECTIVES - None

L. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

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

At 9:07 p.m. Mr. Goodson adjourned the Board until 7 p.m. on October 12, 2004.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: October 12, 2004

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director

SUBJECT: Erosion and Sediment Control Ordinance Violation - Civil Charge - Donald W. Hicks

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Erosion and Sediment Control Ordinance. The case involves the disturbance of land for the purpose of clearing and improving drainage without a land disturbing permit or building permit. In accordance with provisions of the Ordinance, the County issued a notice of violation and a stop work order. The owner, Donald W. Hicks of Lanexa, Va., has abated the violation. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$2,000 as offered by the responsible party. Rather than go to court, Mr. Hicks agreed to a civil charge of \$300. Staff believes that a civil charge of \$300 is fair given the nature of the land disturbance and the cooperation of Mr. Hicks in correcting the violation.

Staff recommends that the Board adopt the attached resolution accepting a civil charge for the erosion and sediment control violation.

Darryl E. Cook

CONCUR:

Leo P. Rogers

DEC/gs
hicksviol.mem

Attachments

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION -

CIVIL CHARGE - DONALD W. HICKS

WHEREAS, on May 20, 2004, Donald W. Hicks of Lanexa, Va., violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at 9483 Richmond Road, designated as Parcel No. (01-38) on James City County Real Estate Tax Map No. (2-4) (the "Property"); and

WHEREAS, Mr. Hicks has abated the violation at the Property; and

WHEREAS, Mr. Hicks has agreed to pay \$300 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) 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 \$300 civil charge from Donald W. Hicks of Lanexa, Va., as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

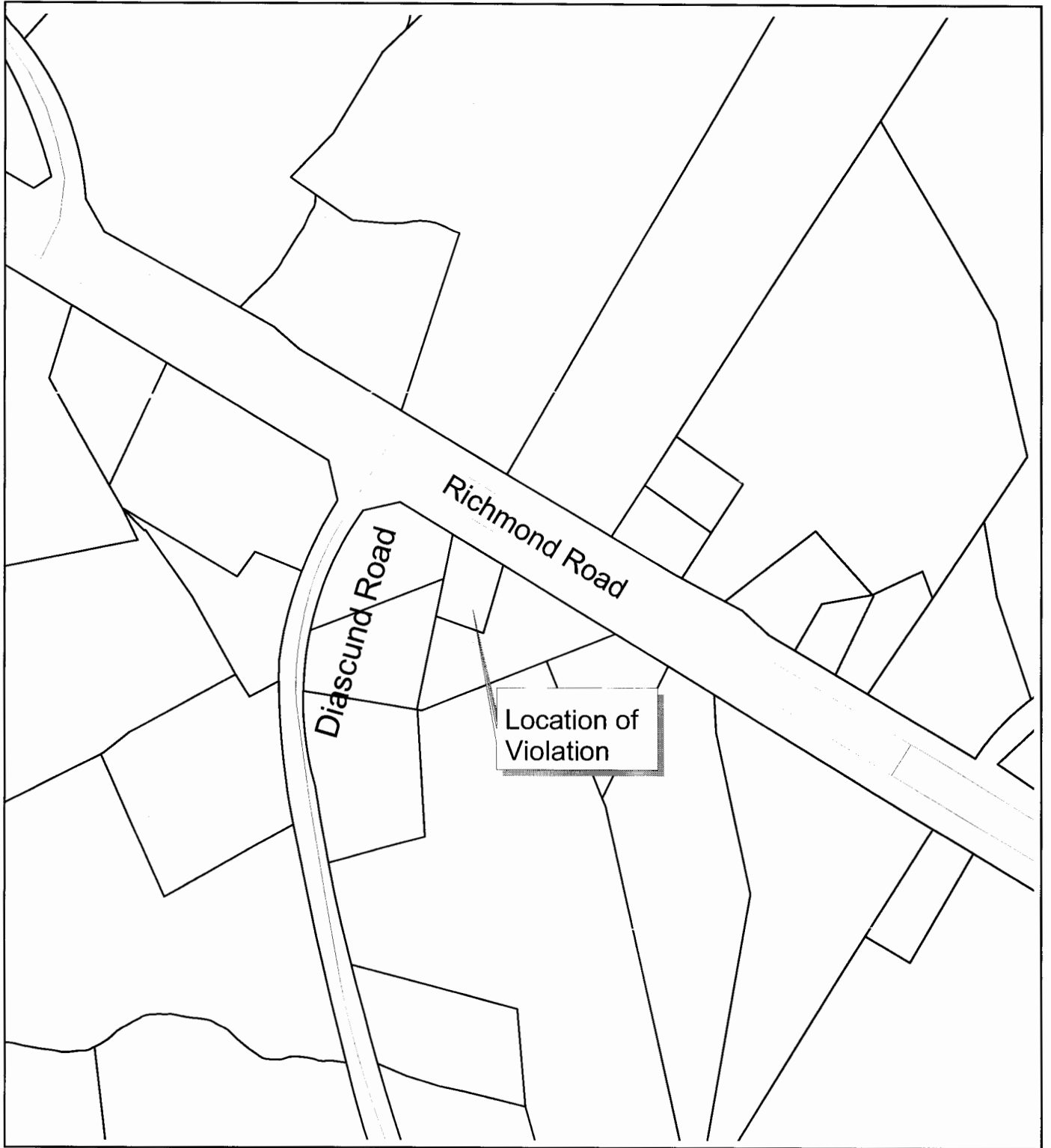
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of October, 2004.

hicksviol.res



**EROSION AND SEDIMENT CONTROL
ORDINANCE VIOLATION - DONALD HICKS**



MEMORANDUM

DATE: October 12, 2004
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Transportation Improvement District Properties

The Transportation Improvement District (TID) owns several parcels, small segments left over from right-of-way acquisitions for Monticello Avenue that front on the road. When the debt of the TID is completely repaid, the properties will revert to the County. Hurricane Isabel leveled many trees on the properties, visible to the road, particularly on the parcel at the intersection of Monticello Avenue and John Tyler Highway. Staff would like to contract for the removal of those trees and has gotten estimates of up to \$9,000 to clean up the properties. The TID has a small bank balance remaining—proffer payments and investment income are received periodically—that is sufficient to fund the cleanup.

The Board is requested to appropriate \$9,000 in the TID budget for the purposes of cleaning up TID properties and authorizes staff to issue contracts in amounts not to exceed \$9,000 for that purpose. Staff recommends approval of the attached resolution.

John E. McDonald

JEM/gb
TIDproperties.mem

Attachment

RESOLUTION

TRANSPORTATION IMPROVEMENT DISTRICT PROPERTIES

WHEREAS, the Board of Supervisors of James City County has funds available in the Transportation Improvement District (TID) account and has been asked to provide an amount not to exceed \$9,000 to contract for cleanup of downed trees and other debris on property owned by the TID.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, appropriates \$9,000 from the TID account for the purposes of cleaning up downed trees and other debris from TID-owned property and authorizes the expenditures of up to \$9,000 for that purpose.

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 12th day of October, 2004.

TIDproperties.res

MEMORANDUM

DATE: October 12, 2004
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Transfer of Funds - Sheriff's Office

The Sheriff's Office has received State Compensation Board approval to purchase LiveScan equipment. This is an electronic device to take fingerprints, and replaces the somewhat outdated ink-and-roll method of taking prints. The cost for the equipment is \$14,800 and was not originally appropriated in the Sheriff's Office.

The attached resolution allows funding for this purchase and staff recommends approval.

John E. McDonald

JEM/gs
livescan.mem

Attachment

RESOLUTION

TRANSFER OF FUNDS - SHERIFF'S OFFICE

WHEREAS, the State Compensation Board has approved the purchase of LiveScan equipment for fingerprinting at the Williamsburg-James City County Sheriff's Office.

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

From:

Operating Contingency	<u>\$14,800</u>
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To:

Sheriff's Office - Capital Outlay	<u>\$14,800</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 12th day of October, 2004.

livescan.res

MEMORANDUM

DATE: October 12, 2004

TO: The Board of Supervisors

FROM: William C. Porter, Jr., Assistant County Administrator

SUBJECT: Colonial Community Criminal Justice Board, Funding of Public Safety Services and Programs

The Colonial Community Criminal Justice Board (CCCJB) serves and is made up of representatives from the counties of James City, Charles City, New Kent, and York; and the cities of Williamsburg and Poquoson. The mission of the CCCJB is to enhance and promote the safety and well being of our citizens through effective, efficient administration of criminal and juvenile justice services. Annually, the CCCJB hosts a legislative breakfast. This year's Legislative Breakfast will be held on Friday, October 29 at 7:45 a.m. at the James City/Williamsburg Community Center. The theme for the Breakfast is "Who is Responsible for Public Safety in Our Community?" The speakers will focus on the consequences of the State's steady decrease in funding for public safety offices and programs.

As part of the information distributed to members of the General Assembly and the Administration, the CCCJB has requested each locality adopt the attached resolution requesting the General Assembly and the Governor to restore the revenue reductions made to public safety offices and programs during the past several years. Additionally, the resolutions will be recognized at the Legislative Breakfast.

Staff recommends adoption of the attached resolution.

William C. Porter, Jr.

WCP/gs
CCCJB.mem

Attachment

RESOLUTION

COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD,

FUNDING OF PUBLIC SAFETY SERVICES AND PROGRAMS

WHEREAS, funding for public safety services and programs on the local government level has historically been a partnership between local governments and the Commonwealth of Virginia; and

WHEREAS, the level of program funding received from the Commonwealth for public safety services and programs on the local level has been significantly reduced over the past several fiscal years, particularly funds in support of court constitutional offices and regional jails; and

WHEREAS, local governments, in order to avoid placing public safety in jeopardy, have been forced to allocate local revenues to offset the reductions in revenues historically received from the Commonwealth.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby petition the Commonwealth of Virginia to restore the revenue cutbacks made during the past several years and return to the historical partnership between the Commonwealth and its local governments for the funding of public safety services and programs.

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 12th day of October, 2004.

CCCJB.res

MEMORANDUM

DATE: October 12, 2004

TO: The Board of Supervisors

FROM: John T. P. Horne, Development Manager
Leo P. Rogers, County Attorney

SUBJECT: Underground Utilities Agreement - New Town

As part of the reconstruction of the intersection of Ironbound Road and Monticello Avenue, existing overhead utilities along a portion of Ironbound Road will need to be relocated. The County has informed the Virginia Department of Transportation (VDOT) and the respective utility companies that the utilities should be placed underground in order to improve the appearance of the corridor and to be supportive of the intent of the New Town design concept. In the event the County decides to place the utilities underground, the County will participate in the cost of relocating the utilities underground along the Ironbound Road right-of-way adjacent to Section 2 of New Town. A portion of the utilities fronts along the road in Sections 3 and 6 of New Town. New Town Associates has agreed to bear the costs of the project in that area and has proposed an agreement with the County to ensure that they pay these costs. The agreement has been reviewed by Development Management and the County Attorney.

Staff recommends approval of the attached resolution authorizing the County Administrator to execute the underground utilities agreement.

John T. P. Horne

Leo P. Rogers

JTPH/LPR/gs
NTutilagr.mem

Attachment

RESOLUTION

UNDERGROUND UTILITIES AGREEMENT - NEW TOWN

WHEREAS, the New Town Design Guidelines dated September 3, 1997, provide for the burying of utilities in New Town; and

WHEREAS, with the improvements to the intersection of Ironbound Road and Monticello Avenue and the expansion of Ironbound Road to four lanes, the existing overhead utilities will need to be relocated; and

WHEREAS, in the event the County decides to place the utilities underground, then the County will participate in the funding of relocating the utilities underground along the Ironbound Road right-of-way adjacent to Section 2 of New Town, and New Town Associates, L.L.C. will pay the additional costs of relocating the utilities underground along the Ironbound Road right-of-way adjacent to Section 3 of New Town; and

WHEREAS, the County is willing to coordinate the relocating of the utilities underground along both Section 2 and 3 of New Town and New Town Associates, L.L.C., is willing to reimburse the County for the actual costs of relocating the utilities adjacent to Section 3 of New Town.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute the Underground Utilities Agreement with New Town Associates, L.L.C., which allocates the responsibility for relocating utilities underground along Ironbound Road adjacent to New Town Sections 2 and 3.

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 12th day of October, 2004.

NTutility.res

**REZONING CASE NOS. Z-2-04 & Z-9-04. Oaktree Office Park and Airtight Self Storage Expansion and Proffer Amendment
Staff Report for the October 12, 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

Planning Commission:

Building F Board Room; County Government Complex

July 12, 2004, 7:00 p.m. (Deferred)

August 16, 2004, 7:00 p.m. (Deferred)

September 13, 2004, 7:00 p.m.

Board of Supervisors:

October 12, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant:

Ms. Jeanette Brady

Land Owner:

Jeanette Brady Descendants Trust

Proposal:

Construction of approximately 6,400 square feet of office space and approximately 60,000 square feet of warehouse mini-storage adjacent to the existing Oaktree development; amendment of the adopted Proffers to allow a portion of the proposed warehouse mini-storage building footprint to be constructed on the existing Oaktree site

Location:

3292 and 3356 Ironbound Road; Berkeley District

Tax Map and Parcel Nos.:

(47-1)(1-24) and (47-1)(1-26)

Parcel Size:

±1.4 acres and ±5.7 acres

Proposed Zoning:

B-1, General Business, with Proffers

Existing Zoning:

R-8, Rural Residential, and B-1, General Business, with Proffers

Comprehensive Plan:

Mixed Use

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposed expansion consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff also finds the proposed expansion consistent with the adopted Primary Principles for Five Forks. Staff recommends that the Board of Supervisors approve the proposed rezonings and accept the voluntary proffers for the expansion and amended and restated proffers for the existing Oaktree development.

Staff Contact:

Christopher Johnson

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On September 13, 2004, the Planning Commission recommended approval of the rezoning applications by a vote of 7 to 0.

Proffers:

Are signed and submitted in accordance with the James City County Proffer Policy.

PROJECT DESCRIPTION

Ms. Jeanette Brady has applied to rezone approximately 1.4 acres from R-8, Rural Residential, to B-1, General Business, with proffers, and rezone approximately 5.7 acres from B-1, General Business, with proffers, to B-1, General Business, with amended and restated proffers. The applicant proposes to develop approximately 6,400 square feet of office space and approximately 60,000 square feet of warehouse mini-storage adjacent to the existing Oaktree development just north of the Five Forks intersection. The properties are located at 3292 and 3356 Ironbound Road and are further identified as Parcel Nos. (1-24) and (1-26) on James City County Real Estate Tax Map No. (47-1).

The proposed offices would be in a two-story building located at the front of the parcel parallel to Ironbound Road. The mini-storage units would be located behind the office building at the rear of the parcel and housed in a four-story building, with the first floor located below ground. Both the office and mini-storage buildings would be constructed with architectural materials similar to the existing Oaktree development.

The existing Oaktree development was rezoned in 1997. The adopted proffers limit the building footprint for any mini-storage buildings on the site to 40,000 square feet. The existing Oaktree development includes approximately 39,000 square feet of mini-storage warehouse building footprint. The conceptual master plan submitted by the applicant for the proposed expansion (Case No. Z-2-04) shows a portion of the mini-storage warehouse to be constructed on the site of the existing Oaktree development. The applicant has submitted a rezoning application (Case No. Z-9-04) to amend the existing proffers and raise the development limitation from 40,000 to 55,000 square feet to accommodate the proposed mini-storage warehouse.

PUBLIC IMPACTS

Environmental Impacts

- **Watershed:** Mill Creek
- **Environmental Staff Comments:** The conceptual plan submitted with this application proposes a dry swale Best Management Practice (BMP) in the southeast corner of the parcel which appears to be an acceptable BMP for the site. Minimal improvements to the existing and downstream storm drainage systems may be necessary pending further review of the capacity of the BMP's outfall at the east end of the site and the accepting storm drainage system. Staff encourages the use of low-impact development principles and techniques for use in site design to reduce and control impacts associated with increased stormwater runoff.

Public Impact

- **Utilities:** The site is served by public water and sewer.
- **JCSA Comments:** No comments
- **Staff Comments:** The applicant has submitted a proffer which states that the site will be developed in accordance with water conservation standards which will be approved by the JCSA prior to site plan approval.

Traffic Impact

- **2003 Traffic Counts:** 11,183 vehicle trips per day on Ironbound Road from John Tyler Highway (Route 5) to News Road (Route 613) (12,959 VTD prior to completion of Monticello Avenue)
- **2026 Volume Projected:** 13,000 - "Watch" Category in the 2003 Comprehensive Plan
- **Road Capacity:** A two lane collector road with turn lanes has a capacity of 14,000 vehicle trips per day
- **VDOT Comments:** VDOT reviewed the traffic impact study submitted with the application and concurred with the analysis.
- **Staff Comments:** The County's consultant for the Five Forks Area Study, Kimley-Horn and Associates, Inc., completed a traffic study which defined new trip generation thresholds and necessary traffic improvements to maintain an acceptable level-of-service (LOS) "C" for Ironbound Road. The

County asked Kimley-Horn to review the traffic impact study submitted by the applicant for this project to determine if the proposed expansion would have any impacts on the Five Forks Area Study findings and recommendations.

Kimley-Horn concurred with the findings that queuing southbound left-turning traffic using the existing left-turn lane will not interfere with through traffic continuing southbound along Ironbound Road toward the Ironbound Road and John Tyler Highway intersection. The proposed expansion will only require a right-turn taper for northbound Ironbound Road traffic accessing the site from the south at Powhatan Springs Road. Right turn volumes are low and only warrant a right-turn taper and not a right turn lane with storage.

Trip generation associated with the proposed expansion introduces approximately 28 new AM peak hour vehicle trips and approximately 96 new PM peak hour trips. Trip generation thresholds presented in the Five Forks Area Study indicate the maximum number of vehicle trips that should be allowed within the Five Forks Area during either the AM or PM peak hours with or without geometric improvements. Trip generation thresholds assume that VDOT and the County will accept some lane groups operating at a LOS "D" during peak hours while the overall signalized intersection LOS continues to achieve LOS "C." The introduction of 28 new trips during the AM peak results in the use of approximately 8% of the new trip threshold without geometric improvements and approximately 5.6% with geometric improvements. Under the PM peak scenario, approximately 96 new trips result in the use of 19% of the new trip threshold without geometric improvements and 14.7% with geometric improvements. In both cases, the new trips result in no change to the previously determined LOS and delay for the southbound and northbound lane groups as well as the Ironbound Road and John Tyler Highway intersection as a whole.

COMPREHENSIVE PLAN

- Community Character Corridor The site is located on Ironbound Road just north of Five Forks. Ironbound Road is listed as a suburban Community Character Corridor (CCC) in the Comprehensive Plan.

The predominant visual character of the suburban CCC should be a balance of the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape.

Staff Comments:

The applicant has submitted proffers which give the Planning Director authority over the building materials and architectural design, and landscaping within the 50-foot CCC landscape buffer along Ironbound Road. The CCC designation and proffers will enable staff to recommend desirable design elements to help compliment and enhance the visual quality of the corridor and compatibility with the existing Oaktree development.

The conceptual plan submitted with the application proposes a single mini-storage warehouse building at the back of the site that would be four-stories tall (40 feet). While staff generally does not believe that a building of this height is consistent with the surrounding development in the Five Forks area, the proposed warehouse will take advantage of topography on the site, which slopes away from the front of the site along Ironbound Road, and construct the building with a first-floor basement and a flat roof. Staff is confident that the warehouse building will be effectively

screened by the office buildings along Ironbound Road and the existing natural open space easement on the Colonial Veterinary Clinic to the south of the site. In addition, the approval authority granted by the proffers to the Planning Director for building materials, architectural design, and landscaping will allow staff to work with the applicant to minimize the appearance of the warehouse building from adjacent properties in the surrounding area.

— Land Use Map Designation

The property is designated Mixed Use. The developed area in the immediate vicinity of the intersection of John Tyler Highway (Route 5) and Ironbound Road primarily serves nearby residential development. Limited commercial development of this nature may continue so long as the resulting land use mix of the area is limited primarily to community-scale and neighborhood commercial and office uses. Moderate-density residential development is encouraged as a secondary use.

The property on the east side of Ironbound Road, northeast of Powhatan Springs Road, south of the Colonial pipeline easement, and northwest of the Ingram Road Office Park is envisioned for mixed uses limited to community-scale office development and moderate-density residential development. New development should tie into the larger Five Forks area with complimentary building types and connections to surrounding commercial and residential development.

Staff Comments:

The proposed office development is consistent with the Mixed Use designation for the Five Forks area and this site specifically.

Primary Principles for Five Forks

The Primary Principles for Five Forks were adopted by the Board of Supervisors at the September 28, 2004, meeting. As a result, the applicant has submitted a revision to the voluntary proffers for the proposed expansion (Case No. Z-2-04) by adding an Intersection Improvements proffer that contributes a cash contribution of \$15,700 to the County to mitigate traffic impacts resulting, in part, from the development and operation of the proposed expansion. The cash contribution was determined using the formula developed by the County's consultant for the Five Forks Area Study. The binding conceptual plan for the expansion and the proffers submitted by the applicant address several of the proposed primary principles for Five Forks including protection of the CCC buffer, location of parking, sidewalks, and compatible architectural features.

RECOMMENDATION

Staff finds the proposed expansion consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff also finds the proposed expansion consistent with the adopted Primary Principles for Five Forks. On September 13, 2004, the Planning Commission recommended approval of the rezoning applications by a vote of 7 to 0. Staff recommends that the Board of Supervisors approve the proposed rezonings and accept the voluntary proffers for the expansion and amended and restated proffers for the existing Oaktree development

Christopher Johnson

CONCUR:

O. Marvin Sowers, Jr.

CJ/gb
z204&z904.wpd

ATTACHMENTS:

1. Minutes of the July 12, 2004, Planning Commission meeting
2. Minutes of the September 13, 2004, Planning Commission meeting
3. Location Map
4. Conceptual Site Layout
5. Adopted Primary Principles for Five Forks
6. Proffers for the proposed expansion (Z-2-04)
7. Portion of the adopted Proffers establishing development limitations for mini-storage warehouse
8. Amended Proffers for the existing Oaktree development (Z-9-04)
9. Kimley-Horn and Associates Traffic Analysis Letter
10. Resolution

APPROVED MINUTES TO THE JULY 12, 2004 PLANNING COMMISSION MEETING

CASE NO. Z-2-04. Oaktree Office Park and Airtight Self Storage.

Mr. Johnson delivered the staff report. Ms. Jeanette Brady has applied to rezone approximately 1.4 acres from R-8, Rural Residential, to B-1, General Business, with proffers. The applicant proposes to develop approximately 6,400 square feet of office space and approximately 60,000 square feet of warehouse storage adjacent to the existing Oaktree development just north of the Five Forks intersection at **3292 Ironbound Road** in the Berkeley District. The property can be further identified as Parcel No. (1-24) on James City County Real Estate Tax Map No. (47-1). The Comprehensive Plan Land Use Map designates this parcel as Mixed Use. Staff recommended deferral of the case.

Mr. Kale asked Mr. Johnson to elaborate on the traffic patterns existing at the current entrance to the Oaktree site.

Mr. Johnson responded that the current left hand turn lane on south Ironbound Road had always been intended as an entrance to both sites and that the only proposed traffic addition would be a right hand taper.

Mr. Kale asked if the application addressed the number of users that would be using the warehouse site, and the possible traffic impacts on the Five Forks Area.

Mr. Johnson related the consultant's conclusion that the proposed use would not adversely affect the traffic situation.

Mr. Kale spoke to the potential traffic problem posed by warehousing in relation to offices.

Mr. Johnson stated that the traffic report showed that the warehouse use would actually generate fewer trips than a comparable number of offices.

Mr. Kale reiterated the possible traffic problems.

Mr. Johnson stated that neither VDOT nor the consultant had cited a traffic problem with the application.

Mr. Fraley spoke to concerns of traffic around Five Forks and asked if staff had any figures for total square footage in JCC dedicated for mini-storage.

Mr. Johnson responded that staff had no independent study tracking total warehouse space and clarified that the application will not negatively impact the current level of traffic service at the Five Forks intersection.

Mr. Fraley asked if staff had any more information on the height of the building.

Mr. Johnson responded that the grade would be similar to the existing office building, and smaller than several other existing buildings.

Ms. Wildman asked how often customers for the mini-storage would utilize the facility.

Ms. Brady responded that typical customers travel to a storage space infrequently. As to the height of the building, Ms. Brady added that a ballet school tenant had been advising the Brady's as to the need for adequate building height for dance.

Mr. Kale asked Mr. Horne where funding for the improvements would be found.

Mr. Horne responded that any private investment must be made as a proffer during the rezoning process. If the entrance directly at the site were in question, then the site plan process would address these concerns. All off-site improvements, if not addressed through a proffer, would be sponsored out of county/state funding.

Mr. Kale confirmed that a right-turn lane into the development would be privately invested.

Mr. Horne responded that, if warranted, site changes could be made, but that traffic analysis had not demonstrated the need for a turn lane. If these projections later change, however, improvements would become a public investment.

Mr. Poole asked if the buffer on Ironbound Road would remain undisturbed.

Mr. Johnson responded that the ordinance requires a fifteen-foot construction setback and that staff can work with applicant to create a landscaping plan that will utilize as much as the existing cover as possible.

Mr. Poole stated that he would like to see this plan embrace as much natural character as possible.

Mr. Fraley noted that many of the dance times are scheduled at 5 o'clock, a heavy traffic period for Five Forks.

Mr. Poole opened the public hearing.

Mr. Wayne Brady related that his company had paid for all the traffic improvements in the initial rezoning and that their traffic engineer was present to answer questions.

Mr. Hampton Jesse, of 3500 Hunters Ridge, requested more information into the number of proposed storage units and asked the Planning Commission to be conscious of the height of the building and the landscape buffering. He also urged the need for architectural consistency with the rest of Five Forks.

Mr. Blair Wilson, design consultant for the project, related the trip generation statistics for the facility, which would generate 7 trips on average in the morning and 10 in the afternoon.

Mr. Aaron Williams of 3456 Hunters Ridge credited the Bradys for their willingness to meet with the community and related that the Powhatan Crossing residents were not opposed to the application.

Hearing no other requests to speak, Mr. Poole deferred the case till the August 16th meeting of the Planning Commission.

Mr. McCleary spoke to the need for this application to be held, as other applications for this area have been, to await the results and guiding principles from the Five Forks Area Study.

Mr. Fraley expressed his concern that two members of the PC will be absent for the August meeting and complimented Ms. Brady for her work with the Chamber Ballet studio.

Mr. McCleary said that the applicant should consider deferring the case, not because of the anticipated absences on the PC next month, but to bring it into accordance with the guiding principles of the Five Forks Area Study.

Mrs. Brady urged the Planning Commission to keep this case on a timeline.

Mr. Rogers informed the Planning Commission that action would need to be taken by its October meeting, or 100 days after the first public hearing on the case.

Mr. McCleary again urged the applicant to defer to the completion of the Five Forks area study.

Ms. Brady expressed her belief that, since the property is located between two commercial properties, the Five Forks committee was unlikely to change that designation.

Mr. Kale asked staff to work with the applicant to directly address the potential problems of traffic around the site and urged the Commission to consider the possibility that this application could aggravate the traffic situation around Five Forks in a way that is not at this time foreseen.

APPROVED MINUTES TO THE SEPTEMBER 13, 2004 PLANNING COMMISSION MEETING

Z-02-04/Z-09-04 Oaktree Office Park and Air Tight Storage Expansion

Mr. Chris Johnson presented the staff report. Ms. Jeanette Brady has applied to rezone approximately 5.7 acres from B-1, General Business, with proffers, to B-1, General Business, with amended proffers. The request seeks to amend a 1997 proffer which limits the total building footprint for mini-storage buildings on the site to 40,000 square feet. The amendment is necessary to accommodate a portion of the proposed 15,000 square foot mini-storage warehouse building footprint on the existing Oaktree site. The property is located just north of the Five Forks intersection at 3356 Ironbound Road in the Berkeley District and is designated Mixed Use on the Comprehensive Plan Land Use Map. Community-scale office development with complimentary building types and moderate density residential development are examples of uses that are envisioned for this Mixed Use area. The property is further identified as Parcel (1-26) on James City County Real Estate Tax Map No. (47-1).

Mr. McCleary affirmed with Mr. Johnson that the application, located in Five Forks, fulfills the requirement of maintaining the village feel set forth in the Five Forks Area Study.

Mr. Johnson confirmed this and added that the voluntary proffers included Development Review Committee review for the eventual site plan.

Mr. Poole added that the proffers additionally included enhanced landscaping.

Mr. Johnson stated that the existing office building would be used as a model for that landscaping.

Mr. Poole opened the public hearing

Ms. Jeanette Brady, the applicant, stated that she would comply with Five Forks committee recommendations, specifically with regard to landscaping and prorata share of road improvements.

Mr. Cleary clarified that prior to the Board of Supervisors' hearing the prorating would be addressed through an amended proffer.

Seeing no other speakers, Mr. Poole closed the public hearing.

Mr. Hunt moved to approve the application.

Ms. Wildman seconded the motion.

Ms. Wildman stated that she was pleased with the way applicant has worked with committee.

Mr. McCleary commended the applicant and other applicants who deferred or held applications for the Five Forks area until the committee concluded the Five Forks

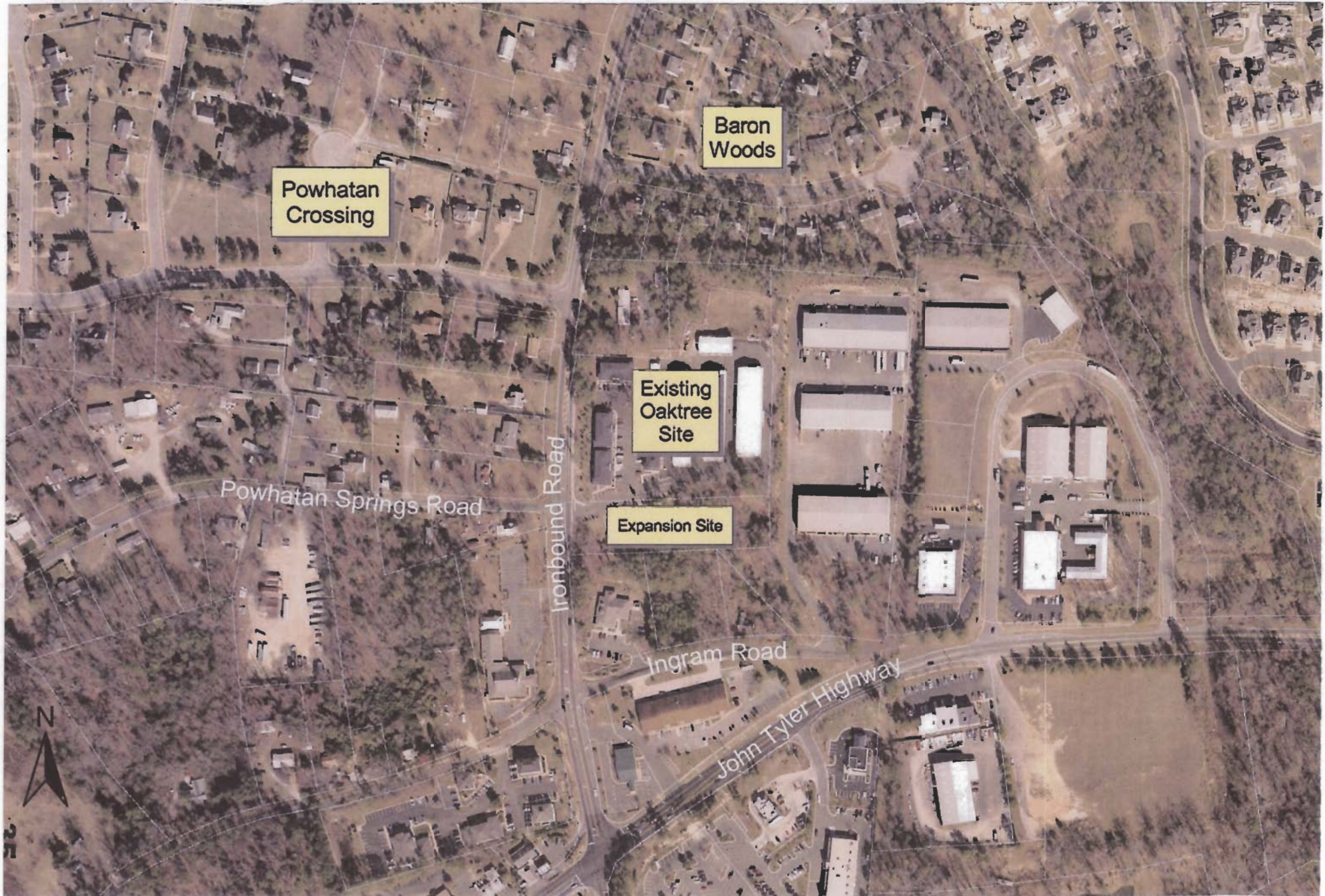
Area Study.

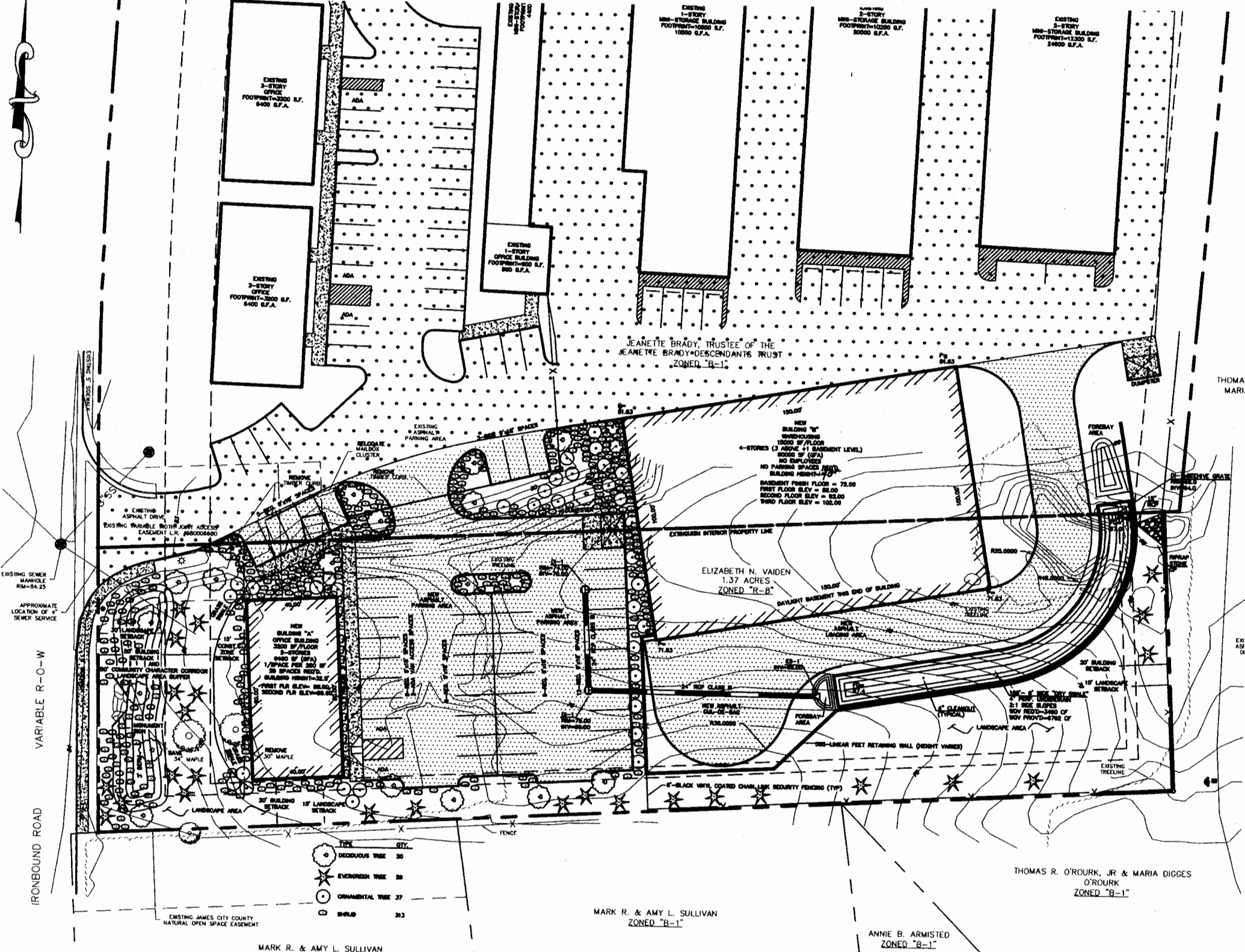
Mr. Poole stated that this application converted undeveloped land into viable uses and credited the applicant for including landscaping and Development Review Committee review in the proffers.

**The Planning Commission approved the application with by a vote of 7-0.
AYE: (7) Poole, Wildman, McCleary, Fraley, Hunt, Kale, Billups. NAY: (0).**

Case No. Z-2-04 + Z-9-04 OakTree Office Park and Airtight Self Storage Expansion and Proffer Amendment

Photo Copyright 2002 State of Virginia





TREE	QTY.
DECIDUOUS TREE	20
EVERGREEN TREE	26
ORNAMENTAL TREE	37
SHRUB	213

IRONBOUND ROAD

VARIABLE R-O-W

EXISTING SEWER MANHOLE RM-04.23

APPROXIMATE LOCATION OF 4" SEWER SERVICE

EXISTING JAMES CITY COUNTY NATURAL OPEN SPACE EASEMENT

MARK R. & AMY L. SULLIVAN

MARK R. & AMY L. SULLIVAN ZONED "B-1"

ANNNIE B. ARMISTED ZONED "B-1"

THOMAS R. O'ROURK, JR. & MARIA DIGGES O'ROURK ZONED "B-1"

RESOLUTION

PRIMARY PRINCIPLES FOR FIVE FORKS AREA OF JAMES CITY COUNTY

- WHEREAS, Economic Development Action 12G of the 2003 Comprehensive Plan recommends that James City County evaluate redevelopment and land use issues in the Five Forks area; and
- WHEREAS, on June 8, 2004, the Board of Supervisors created the Five Forks Area Study Committee to conduct a comprehensive study of the area and develop a set of guiding principles for future development; and
- WHEREAS, these principles will be used by citizens, staff, Planning Commission, and the Board of Supervisors to guide recommendations and decisions in future land use cases and other development activity in the Five Forks area; and
- WHEREAS, after four public meetings the Five Forks Area Study Committee unanimously adopted primary principles for the Five Forks area of James City County; and
- WHEREAS, on September 13, 2004, the James City County Planning Commission recommended the adoption of the primary principles by a vote of 7-0.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following Vision and Principles to be used alongside the 2003 Comprehensive Plan when reviewing Rezoning, Special Use Permits, and other development activities in the Five Forks area:

Primary Principles for the Five Forks Area of James City County

Five Forks is an area with a unique village character. Bounded to the east by Mill Creek and to the west by the Powhatan Creek, Five Forks is within a significant natural area. Five Forks also supports a thriving commercial center and boasts a quality elementary school at its southern edge. Five Forks is generally understood to encompass the area that lies within three quarters of a mile of the intersection of John Tyler Highway and Ironbound Road.

Five Forks has grown and changed. With new growth, however, come questions about traffic levels, housing capacity, and preservation of the village qualities that make the area unique.

The Five Forks Area Study Committee was created by the Board of Supervisors to listen to the views of County citizens, particularly those who live and work in Five Forks. The Committee's purpose was to recommend principles that preserve and build upon the many positive qualities of Five Forks. These principles seek to protect the watersheds and safeguard the village character of the area. The principles will address residential growth, commercial development, traffic concerns, and alternative transportation. The principles will be incorporated into the next regularly scheduled update of the County's Comprehensive Plan. Until that time, these principles, when approved, serve as an addendum to the 2003 Comprehensive Plan.

Vision Statement

Five Forks has a rich heritage and a community character unique to James City County. By cooperating with citizens and with local government we will preserve these qualities for future generations. Through these principles, the Committee envisions that Five Forks will be a place where future redevelopment or development:

- Improves or maintains water quality and other environmental features;
- Preserves Five Forks' unique village character;
- Does not overburden the road network beyond capacity;
- Provides adequate facilities for pedestrians and cyclists;
- Provides goods and services needed by citizens; and
- Ensures housing opportunities for all citizens.

I. Transportation Principles

1. Capitalize on and Enhance Existing Roadway Network (see the Environmental Principles for relevant information related to these recommended actions):
 - Inventory/validate existing pavement and right-of-way width.
 - Reconfigure pavement markings/lane delineations to accommodate a 150-foot full-width exclusive right-turn lane for southbound Ironbound Road (i.e., north leg).
 - Construct a 150-foot full-width right-turn lane along the northbound approach of Ironbound Road (i.e. south leg).
 - Reduce the speed limit to 35 mph approximately a half mile from the intersection of Ironbound Road and John Tyler Highway.
 - Implement AM, Noon, PM, and Off-Peak signal timing modifications to best process traffic, maximize available and enhanced capacity, and to sustain acceptable level of operations for the isolated signalized intersection of Ironbound Road and John Tyler Highway.
2. In conjunction with any development proposals using Ingram Road West for access, encourage developers to make road improvements (reopening access from Ingram Road East from John Tyler Highway was considered but was not recommended. Such reopening might prove to be unsafe and possible benefits appear to be minimal. The initiative might prove to be beneficial at some time in the future depending on future development on Ingram Road East.):
 - Developers using Ingram Road West for access should rebuild this road as a two-lane roadway in accordance with current VDOT street requirements. Improvements could include:
 - 12 - 14-foot lanes to include roadway as well as curb and gutter;
 - 4-foot buffer between curb and sidewalk on one side of roadway;
 - Street trees and other aesthetic improvements; and
 - 25 mph posted speed limit.

3. Promote pedestrian and bicycle facility interconnectivity within Five Forks area (see the Land Use and Environmental Principles for relevant information related to these recommended actions):

- Utilize available funds in the Sidewalk Capital Improvement Program budget as well as alternate sources of funding including grants or private contributions to construct sidewalks and pedestrian crosswalks in accordance with the phasing plan listed below.
- Ensure that new development either provides sidewalks along public road frontages in accordance with the recommendations of the sidewalk inventory, or contributes funds to the Sidewalk Capital Improvement Program.
- Coordinate the design and construction of roadway improvement projects with bicycle and pedestrian facilities. Bicycle and pedestrian facilities should be designed with an emphasis on safety, adequate lighting, signage, and Americans with Disabilities Act (ADA) compliant features.

Phase I

- Using the Five Forks area sidewalk inventory, and considering existing and potential development, and existing sidewalk connections as a guide, develop an implementation plan to extend sidewalks to serve pedestrian activity within the businesses at the Ironbound Road/John Tyler Highway intersection.
- Stripe crosswalks and provide crossing ramps and pedestrian signals for each approach to the Ironbound Road/John Tyler Highway intersection.
- Provide paved shoulders on John Tyler Highway west of the Ironbound Road intersection during the next VDOT repaving to decrease road maintenance and provide more travel space for bicycles and pedestrians.

Phase II

- Using the Five Forks area sidewalk inventory, existing and potential development, and existing sidewalk connections as a guide, develop an implementation plan to construct sidewalk segments that provide greater connectivity between the central business area and Clara Byrd Baker Elementary School, neighborhoods, and recreational areas.
- In accordance with the Greenway Master Plan, construct a multi-use path along John Tyler Highway that can connect to Jamestown High School and the Greensprings Trail.
- Construct shoulder bikeways along Ironbound Road using Federal grants. In accordance with the Greenway Master Plan, construct a multi-use path along Ironbound Road that can connect to Mid-County Park/Monticello Marketplace Shopping Center.
- Utilize Greenway Funds in the Capital Improvement Program budget and other sources of funding such as grants to support the construction of the above multi-use paths.

4. Promote opportunities for bus service in Five Forks:

- Work with Williamsburg Area Transport (WAT) to investigate areas and routes with the highest ridership and potential for enhanced service (e.g., to serve activity/employment centers).
- Work with WAT and Traffix to promote public transportation incentives and the use of alternative commuting modes (park-and-ride, ride sharing, express routes, etc.) to both employers and employees.
- Investigate opportunities to increase ridership to/from centers of activity, businesses, residential areas and special event attractions.

5. Maintain a "C" level of service for traffic conditions in Five Forks by adhering to new trip generation thresholds established in the Five Forks Area Study Traffic Impacts Alternative Analysis prepared by Kimley Horn and Associates when approving new development through the rezoning and special use permit process (trip levels above the threshold result in the Level of Service decreasing from C to D. These new trip generation threshold numbers are on top of projected 2008 background trips.):

- Without Geometric Improvements
 - AM peak should not exceed 350 new trips
 - PM peak should not exceed 500 new trips
- With Geometric Improvements recommended by Principle I.1
 - AM peak should not exceed 500 new trips
 - PM peak should not exceed 650 new trips
- New development should be phased so that new trips do not exceed the lower thresholds until the improvements listed in Principle I.1 are either constructed or fully funded in the VDOT Six-Year Road Plan.
- New development should provide a pro-rata share of the costs associated with implementing the geometric and signal improvements.

II. Environmental Principles

1. Maintain and improve water quality and reduce flooding risk in the Mill Creek and Powhatan Creek Watersheds by minimizing the amount of additional impervious cover and treating existing and additional stormwater runoff:

- Develop a coordinated stormwater master plan for Five Forks. The stormwater master plan should address possibilities for regional treatment or other treatment approaches for new and existing development as well as opportunities to reduce and/or treat runoff from the existing roadway into Powhatan Creek and Mill Creek.
- Minimize drainage of new sidewalks, multiuse paths, or other transportation improvements. Encourage drainage of these improvements into a treatment facility such as a grassy swale, regional and structural Best Management Practices (BMP), or other appropriate options.

- For new or modified residential or commercial development in the Powhatan Creek and Mill Creek watershed, encourage the use of Low Impact Design (LID) and Better Site Design (BSD) techniques such as, but not limited to, those listed in the 2003 Comprehensive Plan; the Builders for the Bay James City County Local Site Planning Roundtable consensus document (expected to be completed in Fall 2004); and the booklet entitled "*Better Site Design: An Assessment of the Better Site Design Principles for Communities Implementing Virginia's Chesapeake Bay Preservation Act.*"
 - Work with the Village Square Homeowners Association to ensure maintenance of the Village Square BMP and encourage the community to improve the existing BMP by pursuing a grant through the County PRIDE mini-grant program. Explore options for retrofitting and/or maintaining other Five Forks area BMPs.
 - Investigate options for and encourage the undertaking of stream restoration projects in the Powhatan Creek and Mill Creek Watersheds.
2. Ensure that any new development in the Powhatan Creek Watershed implements the recommendations of the Powhatan Creek Watershed Management Plan adopted by the Board of Supervisors on February 26, 2002:

Watershed Management Plan Recommendations:

- Non-tidal mainstem in the Five Forks area (west of Ironbound and north of Ingram Road):
By encouraging the use of expanded buffers along the Powhatan Creek mainstem.
 - Tidal mainstem in the Five Forks area (west of Ironbound Road and south of Ingram Road):
By encouraging the use of expanded buffers along the Powhatan Creek mainstem stormwater management with an added focus on fecal coliform removal.
 - Stormwater Recommendations: Use of Special Stormwater Criteria; specialized on-site BMP design with emphasis on removal of nutrients and bacteria; minimize stormwater outfalls on steep slopes.
3. Explore options for land conservation in Five Forks:
- Through the rezoning and special use permit process; encourage developers to set aside land as permanent open space.
 - Continue to target County Green Space Acquisition Funds to acquire properties that are environmentally sensitive or preserve the John Tyler Highway Community Character Corridor.

III. Land Use Principles

1. Promote mixed-use, pedestrian-friendly land-use patterns (see Principles III.6 for Land Use recommendations, including recommendations on moderate- and low-income housing):
- Pursue regulatory and investment strategies that promote a safe and healthy mix of uses (e.g., retail, residential, office, and public facilities).

- Continue to promote Five Forks as a center of community activity with complementary mixed uses.
 - Promote development patterns that support compact development, interconnected streets (connections to existing neighborhoods should be permitted only where practical and desired by those residents), sidewalks, etc., in an effort to encourage walkable neighborhoods within the Five Forks area.
2. Identify and re-utilize vacant buildings and properties that are no longer utilized:
- Encourage master planning of available land for redevelopment or new uses in order to promote shared parking, fewer entrances onto arterial roads, better utilization of land and increased open space.
 - Promote reuse and redevelopment of blighted and no longer utilized properties.
 - Target capital investments by James City County (e.g., infrastructure, underground utility lines, streetscape improvements, etc.) to support private reinvestment and redevelopment.
 - Through the Office of Housing and Community Development, investigate ways to renovate and rehabilitate the existing housing stock in the Five Forks area where appropriate. Work with private nonprofit groups such as Habitat for Humanity, the Community Action Agency and Housing Partnerships, Inc., to improve the condition and availability of the existing housing stock and assist residents that may be displaced by new development.
3. Reduce conflicts between incompatible land uses:
- Promote transitional uses between different land uses.
 - Through the rezoning/special use permit process and standards in the subdivision and zoning ordinance, reduce the impacts of higher intensity on lower intensity uses (requirements for landscaping, buffering, signage, screening, noise, odor, light, traffic, etc.).
4. Connect the land use pattern to a supportive, multi-modal transportation system:
- Establish compact, mixed-use development patterns that create a walkable environment and reduce the need to use the automobile by local residents.
 - Provide convenient pedestrian access from outlying residential areas to the Five Forks community activity center in accordance with Principle I.4.
5. Establish guidelines to define and maintain the historic, cultural, and aesthetic character of the Five Forks area:
- As part of the 2008 Comprehensive Plan update, designate Five Forks as a Community Character Area and incorporate the following guidelines as part of the Community Character element:
 - Building architecture, scale, materials, spacing, height, and color should respect the architectural context of existing structures such as the historic schoolhouse and veterinary

clinic and maintain the village character of Five Forks. New buildings should attempt to emulate distinguishing architectural elements of existing structures such as windows, roof lines, and cornices.

- Buildings that are traditional in character, massing, and detailing are preferred. Contemporary interpretations of traditional architecture are acceptable, if based on the scale and proportions of traditional architecture, and compatible with the context of the Five Forks village character.
 - Building facade materials and architectural treatment should be consistent on all sides of buildings, including side and rear elevations.
 - Where possible, parking should be located to the rear of buildings and should be well landscaped with shrubs and street trees. Shared access and parking should be pursued before constructing new access breaks and parking facilities.
 - Existing specimen trees and shrubs should be preserved to the extent possible. New landscaping should be of a type, size, and scale to complement and enhance the building and site design. Native plant and tree species are encouraged.
 - Signage should be of a scale, size, color, and materials to complement the village character of the area. Monument style signs, rather than pole signs, are the preferred type.
 - All mechanical equipment should be screened from view with architectural elements, fencing, or landscaping.
 - In addition to the above standards, residential buildings should have varied roof lines, wall articulations, window placements, and other features to reduce building mass and unbroken building lines. Arrangement and siting of buildings should preserve the buffers along the Community Character Corridor and complement existing structures such as the historic schoolhouse and maintain the village character of Five Forks.
- Develop and maintain defining traits that can be reflected through landscaping or streetscape design.
 - Protect and enhance the visual character of John Tyler Highway and Ironbound Road. Transportation improvements and new development should be carefully sited to minimize loss to the existing tree canopy over the roads.
6. Ensure that future residential and non residential development/redevelopment is compatible with the vision and principles for the Five Forks area:
- Ensure new trip generating developments do not exceed new trip thresholds in accordance with Principle I.5 through the rezoning/special use permit process.
 - Ensure proposed land uses are in compliance with the land use section of the 2003 Comprehensive Plan. The following descriptions provide additional guidance on acceptable land use proposals:

- **Low Density Residential:** Recommended gross densities are 1 to 3 dwelling units per acre. Higher densities should provide public benefits such as setting aside property for low- and moderate-cost housing developments; low- and moderate-income (Low income housing is defined as housing for persons earning less than 50 percent of area median income. Moderate income housing is defined as housing for persons earning 50 percent to 80 percent of the area median income.) housing; mixed-cost housing; or extraordinary environmental protection, including low impact design, better site design, open space preservation and implementation of the Powhatan Creek Watershed Management Plan.

- **Moderate Density Residential:** Recommended gross densities are 4 to 10 dwelling units per acre. Higher densities should provide public benefits such as setting aside property for low- and moderate-cost housing developments; low-income housing (including persons earning less than 30 percent of area median income); moderate income housing; mixed cost housing; or extraordinary environmental protection, including low-impact design, better site design, open space preservation and implementation of the Powhatan Creek Watershed Management Plan. Recommended housing types include townhouses, apartments, or attached cluster housing.

- **Mixed Use:** The recommended mix of uses includes offices and community commercial uses serving residents of the Five Forks area. Moderate-density housing may be a secondary use provided it is designed in accordance with these principles.

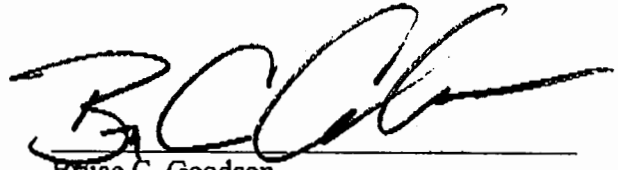
- As part of the 2008 Comprehensive Plan update, incorporate the above guidance into the Land-Use element.

IV. Economic Development Principle

1. Promote and facilitate economic growth through development/redevelopment:
 - Facilitate the location of a new anchor tenant in Governor's Green Shopping Center should Winn-Dixie close.

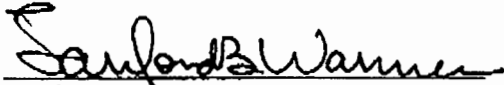
 - Support the development of remaining undeveloped commercial land and vacant buildings in Five Forks to provide goods and services desired by residents of the Five Forks area.

 - Advise the Economic Development Authority on the outcomes of the Five Forks Study so that they may capitalize on future economic opportunities.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
BRADSHAW	AYE
HARRISON	AYE
BROWN	NAY
MCGLENNON	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2004.

fiveforkredev.res

OAKTREE OFFICE PARK AND
AIRTIGHT SELF STORAGE
PROFFERS

These proffers are made as of this 28 day of September 2004, by JEANETTE BRADY DESCENDENTS TRUST, Jeanette Brady Trustee.(Together with their successors and assigns, the "Owner").

RECITALS

- A. Owner is the owner of certain real property (the "Property") Exhibit "A" in James City County, Virginia containing approximately 1.5 acres and being more Particularly described as 3292 Ironbound Road, tax parcel (47-1)(1-0-0024) hereto and made a part thereof.
- B. The Property is now zoned R-8 and is designated Mixed Use on the James City County Comprehensive Plan Land Use Map. Owner has applied for a rezoning of the Property to B-1, General Business, with Proffers. Owner has submitted to the County a conceptual plan entitled "Oaktree Office Park and Airtight Self Storage" prepared by Mitchell-Wilson Associates, Inc. dated 4-12-04 (the "Conceptual Plan").
- C. Owner agrees to offer to the County certain conditions on the development of the Property not generally applicable to land zoned B-1. Therefore, and in consideration of the approval by The Board of Supervisors of the rezoning, and pursuant to Section 15.2-2296, et sec of the Code of Virginia, 1950, as amended, and Section 24-16, of the Zoning Ordinance. Owner agrees that in developing the Property, all of the following conditions shall be met and satisfied. If the requested rezoning is not granted by the County, these Proffers shall be null and void

CONDITIONS

- 1. Conceptual Plan. The property shall be developed generally in accordance with the Conceptual Plan, which such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
- 2. Community Character Corridor Landscape Area Buffers. (a) The Owner shall designate a landscape buffer of 50 feet in width along the Property's Route 615 frontage . The landscape buffer shall be landscaped liberally as shown on the Conceptual Plan.
- 3. Architectural. The office buildings and the mini-storage building on the Property shall be developed in a harmonious and uniform manner with an architectural design and color scheme approved by the Director of Planning . Owner shall design the office building and the mini-storage on

the Property in a manner compatible with the architectural style of the existing office development located at 3356 Ironbound Road and further identified Tax Parcel(47-1)(01-0-0026). With each site plan for office development or mini-storage building within the Property, the Owner shall submit architectural plans, including architectural, elevations, proposed building materials and colors, to the Director of Planning for his review and approval for consistency with the intent of this Proffer. The intent of this Proffer is to insure the office building and the mini-storage building constructed on the Property are of high quality and are compatible with (but not necessarily of the same design), as the surrounding development and to minimize the visual impact from Route 615 of the min-storage buildings, to the greatest extent possible.

4. Landscaping. Enhanced landscaping (as defined below) shall be provided within the 50 foot landscape buffer along Route 615 and in the area between the office development and the mini-storage development on the Property as shown on the Conceptual Plan. The enhanced landscaping shall be shown on the site plan for development within this portion of the Property and shall be subject to the approval of the Director of Planning. As used herein "enhanced landscaping" means landscaping that exceeds the numerical requirements of the Landscaping Ordinance by at least 25%, with credit given for the preservation of existing trees in accordance with the Landscaping Ordinance.
5. Sidewalk. A five foot wide sidewalk shall be installed across the Route 615 frontage of the property.
6. Lighting. All exterior site lighting on the Property shall have recessed fixtures with no lens bulb, or globe extending below the casing. The covers shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, as defined as 0.1 foot candle or higher, shall extend outside the Property line.
7. Severability. Each condition, or portion thereof, is severable. The invalidity of any particular Condition, or portion thereof, shall not affect the validity of the remaining conditions, or portions thereof.
8. Definitions. All terms used herein and defined in the County Zoning Ordinance shall have the meaning set forth therein unless otherwise specifically defined herein.
9. Water Conservation. Water conservation standards shall be submitted to and approved by the James City Service Authority and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measure as limitations on the installation and use of irrigation systems and irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the James City Service Authority prior to final site plan or subdivision approval.

10. Intersection Improvements. A cash contribution of \$15,700.00 as determined by the formula developed by Kimley-Horn and Associates, Inc. as a part of the Five Forks Area Study, shall be made to the County prior to final site plan approval in order to mitigate traffic impacts resulting, in part, from the physical development and operation of the Property. The County shall use these funds towards the construction of intersection improvements to the Ironbound Road/John Tyler Highway Area of James City County, adopted by the Board of Supervisors on September 28, 2004.

Witness the following signature and seal:
Jeanette Brady Descendants Trust (Jeanette Brady Trustee)

Jeanette Brady
Trustee

State of Virginia

City/County of *James City* to wit: *Jeanette Brady*

The foregoing instrument was acknowledged before me this
Day of *29th*, 2004, by

Melinda C. Husband
Notary Public

My commission expires: *March 31, 2006*

Prepared by:

EXHIBIT "A"
Legal Description

Tax Map No. (47-1) (1-0-0024)

All that certain piece or parcel of land with buildings and improvements thereon, situate in Jamestown District, James City County, Virginia, on the southeasterly side of Iron Bound Road, containing one and one-half (1- ½) acres, more or less, situate near five forks, bounded and described as follows:

Beginning at a pine stump on the southeasterly side of Iron Bound Road, which stump marks the dividing line between the property hereby conveyed and that of William Armistead; thence, along the southeasterly side of said road in a southwesterly direction the distance of 125 feet to a stob; thence in a southeasterly direction between parallel lines the distance of 500 feet to the lands of Williams Armistead to two point; one of which in on the dividing line of William Armistead marked by a white oak and the other by an iron stob.

040005380

Exhibit A

DEED

Tax Map No. 4710100004

Consideration: \$190,000.00

THIS DEED is made this 31st day of January, 2004, by and between **ELIZABETH N. VAIDEN**, widow, hereinafter referred to as GRANTOR, and **JEANNETTE BRADY**, Trustee of the **Jeanette Brady Descendants Trust** dated the 7th day of December, 1997, (the "Trust Agreement"), hereinafter referred to as GRANTEE. The address for which trust is 3356 Ironbound Road, Williamsburg, VA 23188.

WITNESSETH: That for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantors do hereby grant and convey, with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE, unto the Trustees, the following described property (the "Property"):

All that certain piece or parcel of land with buildings and improvements thereon, situate in Jamestown District, James City County, Virginia, on the southeasterly side of Iron Bound Road, containing one and one-half (1- 1/2) acres, more or less, situate near five forks, bounded and described as follows:

Beginning at a pine stump on the southeasterly side of Iron Bound Road, which stump marks the dividing line between the property hereby conveyed and that of William Armistead; thence, along the southeasterly side of said road in a southwesterly direction the distance of 125 feet to a stob; thence in a southeasterly direction between parallel lines the distance of 500 feet to the lands of Williams Armistead to two point; one of which is on the dividing line of William Armistead marked by a white oak and the other by an iron stob.

1. **Project Information:**
 1. The property is located at: 3292 Ironbound Road
 2. The Property is owned by: Jeanette Brady Descendants Trust as evidence by deed from John W. Shelton & Laura Shelton recorded in Book 352, Page 219, Registry of James City County, Virginia.
 3. Tax map & Parcel ID: 4710100024

widens Route 615 to a four lane road adjacent to the Property, Owner shall install or cause to be installed contemporaneously with construction of the widening project curb and gutter, including necessary drainage improvements, in accordance with VDOT standards and as approved by VDOT in the approved plans for the widening project.

7. Development Limitations: Until such time as the commencement of construction of the office buildings shown on the Conceptual Plan, the sites for such office buildings shall remain undisturbed and in their natural states, provided that Owner may construct the parking lot shown on the Conceptual Plan at the time of construction of the first office building constructed. The mini-storage buildings on the Property shall have building footprints of no more than 40,000 square feet. Owner shall construct at least the exterior shell of all 12,000 square feet of office building at or before the time of construction of the mini-storage buildings.

8. Sidewalk. A four foot wide sidewalk shall be installed by Owner across the Route 615 frontage of the Property.

9. Conceptual Plan. The Property shall be developed generally in accordance with the Conceptual Plan showing 12,000 square feet of office development and 40,000 square feet of building footprint for the mini-storage buildings, with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.

10. Lighting. All exterior light fixtures on the Property

JAN 13 02 13

AMENDED AND RESTATED PROFFERS

These AMENDED AND RESTATED PROFFERS are made as of this 9 day of August, 2004 by JEANETTE BRADY, Trustee of the Jeanette Brady Descendants Trust, under the provisions of a Trust Agreement dated December 9, 1997 (the "Owner:").

RECITALS

A. Owner is the owner of certain real property (the "Property") located in James City County, Virginia containing approximately 5.7 acres and being more particularly described on Exhibit A attached hereto and made a part hereof.

B. The Property is now zoned B-1, General Business and is subject to proffered conditions set forth in Proffers dated as of December 4, 1997 which proffers are recorded in the Clerk's Office for the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 980000546 (the "Existing Proffers").

C. Owner now desires to amend and restate the Existing Proffers set forth below. If the requested proffered amendment is not approved by James City County, these amended and restated proffers shall be void and the Existing Proffers shall remain unchanged and in full force and effect.


AMENDMENT AND RESTATEMENT

1. Amendment. The second sentence of condition 7 of the Existing Proffers is hereby amended to read as follows:

"The mini-storage buildings on the Property shall have building footprints of no more than 55,000 square feet."

2. Restatement. Except as specifically amended in Section 1 above, the Existing Proffers are hereby restated and incorporated herein by reference and remain in full force and effect.

WITNESS the following signatures.



JEANETTE BRADY, as Trustee of the
Jeannette Brady Descendants Trust under
Trust Agreement dated December 9, 1997

STATE OF VIRGINIA
CITY/ COUNTY OF James City, to wit:

This instrument was acknowledged before me this 9th day of August,
2004 by JEANETTE BRADY, as Trustee of the Jeannette Brady Descendants Trust under Trust
Agreement dated December 9, 1997



NOTARY PUBLIC

My commission expires: My Commission Expires September 30 2005

Exhibit A
Property Description

All that certain parcel of land in the present Berkeley Magisterial District (formerly part of Jamestown Magisterial District) of James City County, Virginia, which is a part of what is known as "Pine Hill", and which contains approximately 5.7 acres, more or less, described by metes and bounds on January 29, 1996, as follows:

Commencing with the intersection of the eastern boundary of the right of way of Ironbound Road, with the Southern boundary of Baron Woods, as described in Plat Book 48, at page 69, as the point of beginning: Thence easterly with the line of Baron Woods to its intersection with the western boundary of Thomas W. and Maria D. O'Rourke, as described in Deed Book 520 at page 196; Thence southerly with the line of O'Rourke to its intersection with the northern boundary of Elizabeth N. Vaiden, as described in Deed Book 352 at page 219; Thence westerly on the line of Vaiden to the eastern boundary of the right of way for Ironbound Road; thence northerly with the right-of-way for Ironbound Road to the point of beginning.

Excepting from such metes and bounds that parcel of real estate heretofore conveyed by the said Annie Armstead to Phil Stanley Armistead and Roselee Armistead, husband and wife, by deed of gift, dated August 5, 1970, and recorded in James City County Deed Book 127, at page 432.



Kimley-Horn
and Associates, Inc.

Suite 300
501 Independence Parkway
Chesapeake, Virginia
23320

June 29, 2004

Mr. Christopher Johnson
James City County Planning Division
101-E Mounts Bay Road
Williamsburg, VA 23187

Re: Traffic Analysis for Expansion of Oaktree Office Park & Airtight Self Storage

Dear Mr. Johnson:

Per the direction of the James City County Planning Division, Kimley-Horn and Associates has conducted a review of the traffic analysis (TA) materials prepared for James City County regarding the proposed expansion of the existing Oaktree Office Park and Airtight Self Storage, located along the east side of Ironbound Road and north of the Ironbound Road/John Tyler Highway intersection. It is noted that Kimley-Horn has recently completed the Five Forks Area Study and within that study defined new trip generation thresholds and necessary intersection improvements to maintain an acceptable level-of-service (LOS C). The review of the Oaktree Office Park and Airtight Self Storage expansion was conducted to determine if the expansion would have any impacts on the findings and recommendations outlined in the Five Forks Area Study. KHA reviewed the analysis prepared for the site's main site access driveway (Powhatan Springs Road at Ironbound Road), trip generation of the proposed expansion, and level-of service (LOS) impacts at the Ironbound Road/John Tyler Highway intersection to the south.

The information provided to Kimley-Horn includes the following:

- Traffic Analysis Report (April 25, 2004) – prepared by DRW Consultants, Inc.
- Conceptual site layout plan (May 17, 2004).

This memorandum summarizes Kimley-Horn's review and evaluation of the above information.

General Comments

It is our understanding that the TIA submitted by DRW Consultants, Inc. includes the proposed expansion of the existing Oaktree Office Park and Airtight Self Storage. The proposed land uses in the TIA include general office space totaling 6,400 ft², and additional mini-storage space resulting in 346 new units.

Trip generation characteristics are consistent with the ITE Trip Generation, 7th Edition (2003). Trip distribution for the development is consistent and reflective of surrounding area residential development and commercial development. Trip assignment for the proposed expansion by itself is consistent with the trip distribution presented.

Traffic projections reflect the general application of a 2% annualized growth rate for the area over the next 5 years. Socio-economic data reflect an annualized growth rate for this area of the County closer to 3% when taking into account population, households, and employment variables versus simply historic traffic volumes. The reduction in volumes is attributable to roadway network improvements along Monticello Avenue to the north and Route 199 in the east. However, for purposes of this review 2% is acceptable.

Kimley-Horn concurs with the left-turn storage length analysis. The *VDOT Road Design Manual and the Minimum Standards of Entrances to State Highways* indicates that the left-turn traffic volume (i.e., the southbound Ironbound Road traffic entering the site) associated with the development warrants an exclusive left-turn lane with a minimum 100' storage length. This is based on an existing design speed of less than 50 mph and 60 or fewer vehicles turning left during the peak hour. This analysis also indicates that the right-turn traffic volume associated with the development warrants only a right-turn taper.

Trip generation associated with the proposed expansion reflects the introduction of approximately 28 new trips during the AM peak hour and approximately 96 new trips during the PM peak hour. Trip generation thresholds presented in the Five Forks Area Study indicate the maximum number of new trips that should be allowed within the Five Forks Area during either the AM or PM peak hours without and with geometric improvements. Additionally, the trip generation thresholds assume that VDOT and the County will accept some lane groups operating at LOS D during peak hours while the overall signalized intersection LOS continues to achieve LOS C.

- Without Geometric Improvements
 - AM peak should not exceed 350 new trips
 - PM peak should not exceed 500 new trips

- With Geometric Improvements
 - AM peak should not exceed 500 new trips
 - PM peak should not exceed 650 new trips

The introduction of 28 new trips during the AM peak results in the use of approximately 8% of the new trip threshold without geometric improvements and approximately 5.6% of the new trip threshold with geometric improvements. In both cases the new trips result in no change in the previously determined LOS (i.e., LOS D) for the intersection of Ironbound Road and John Tyler Highway. Under the PM peak hour scenario, approximately 96 new trips are introduced to the area resulting in the use of 19% of new trip threshold without geometric improvements and 14.7% of the new trip threshold with geometric improvements. Of the 96 new trips introduced during the PM peak hour it is estimated that 38 of those trips will be oriented southbound toward the Ironbound Road/John Tyler Highway intersection.

This results in minor impacts on level of service and delay for the southbound and northbound lane groups as well as the intersection as a whole. With no geometric improvements, the intersection under all scenarios will remain at a LOS D. With geometric improvements, the previously attained LOS C for scenarios 1A and 1B is reduced to LOS D. The introduction of the additional trips into scenario 2 has some minor impacts on delay but a LOS C is maintained for the Ironbound Road/John Tyler Highway intersection.

Summary

KHA concurs with DRW Consultants, Inc. traffic operations at the Powhatan Springs Road/Ironbound Road intersection. Queuing southbound left-turning traffic will not interfere with through traffic continuing southbound along Ironbound Road toward the Ironbound Road/John Tyler Highway intersection based on volumes, queue length analysis, and the maintaining of a 100' full-width left-turn lane.

KHA concurs with DRW Consultants, Inc. with the needs of only a right-turn taper for northbound Ironbound Road traffic accessing the site from the south at Powhatan Springs Road. Right-turn volumes are low and only warrant a taper and not a right turn-lane with storage.

As previously noted, Kimley-Horn has completed the Five Forks Area Study and within that study defined new trip generation thresholds and necessary intersection improvements to maintain an acceptable level-of-service (LOS C). Kimley-Horn was asked to determine if the Expansion of the Oaktree Office Park and Airtight Self Storage would have any impacts on the previous analysis and recommendations.

In reviewing the trip generation impacts associated with the expansion, there are minimal impacts to existing level of service (i.e., LOS D with no geometric improvements at the Ironbound Road/John Tyler Highway intersection) and a LOS C for the Ironbound Road/John Tyler Highway intersection can be maintained under Scenario_2. The reduction in LOS for two of the scenarios will play a role in defining the best mix of land uses for the area during the public participation process.

Because such changes in delay and LOS are minimal, neither the additional analysis of the Five Forks Area traffic impacts study nor the redefining of new trip thresholds is determined necessary at this time. However, further refinement of the land use scenarios, densities, and a mixture of such will be addressed during the public participation process to ensure adequate land use mix and maintenance of acceptable level-of-service.

Thank you for the opportunity to be of service. If there are any questions, if we can provide additional analysis, or further guidance is necessary, please don't hesitate to contact us.

Sincerely,
KIMLEY-HORN AND ASSOCIATES, INC.

Carroll E. Collins, AICP
Transportation Planner

RESOLUTION

CASE NOS. Z-2-04 & Z-9-04. OAKTREE OFFICE PARK AND AIRTIGHT SELF STORAGE

EXPANSION AND 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 were notified, and a hearing was scheduled on Zoning Case Nos. Z-2-04 and Z-9-04 for rezoning ±1.4 acres from R-8, Rural Residential, to B-1, General Business, with Proffers; and rezoning ±5.7 acres from B-1, General Business, with Proffers to B-1, General Business, with Amended and Restated Proffers; and

WHEREAS, the properties are located at 3292 and 3356 Ironbound Road and further identified as Parcel Nos. (1-24) and (1-26) on James City County Real Estate Tax Map No. (47-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-2-04 and Z-9-04 and accept the voluntary proffers and amended and restated 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 12th day of October, 2004.

z204&z904.res

REZONING 5-04/MASTER PLAN 5-04. New Town Sections 3 and 6 Rezoning and Master Plan and MASTER PLAN-8-04. New Town Sections 2 and 4 Master Plan Amendment. Staff Report for the October 12, 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

Planning Commission:

7:00 p.m.; Building F Board Room; County Government Complex

August 16, 2004 (Deferred)

September 13, 2004

Board of Supervisors:

October 12, 2004

SUMMARY FACTS

Applicant:

Mr. Greg Davis and Mr. Tim Trant of Kaufman & Canoles

Land Owner:

New Town Associates, LLC

Proposal:

To amend Design Guidelines and rezone approximately 69.2 acres to Mixed Use (MU), with proffers to construct a maximum of 470 dwelling units with an overall density cap of 4.5 dwelling units per acre and construct a maximum of 220,000 nonresidential square feet. The New Town Sections 2 and 4 Master Plan will be amended by transferring 150 dwelling units and 70,000 nonresidential square feet from Sections 2 and 4 to Sections 3 and 6. There is no proposed change to the overall New Town permitted residential units and nonresidential square footage.

Location:

Adjacent to Ironbound Road and located west of the intersection of Ironbound Road and Monticello Avenue in the Berkeley District.

Tax Map/Parcel Nos.:

(38-4) (1-50), (38-4) (1-57), (38-4) (24-6), (38-4) (24-1A)

Parcel Size:

160.4 acres

Existing & Proposed Zoning:

Rural Residential (R-8), with proffers and an approved Master Plan and Mixed Use (MU), with proffers to MU, with proffers.

Comprehensive Plan:

Mixed Use

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds this proposal for New Town Sections 3 and 6 generally consistent with the adopted 1997 New Town Master Plan and Design Guidelines. The proposed development is compatible with surrounding zoning and development and consistent with the 2003 Comprehensive Plan recommendations. Staff also finds the proposed proffers sufficiently mitigate anticipated impacts. Staff recommends the Board of Supervisors approve this rezoning and master plan applications with the voluntary proffers.

Staff Contact:

Karen Drake, Senior Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On September 13, 2004, the Planning Commission voted 5 to 2 to approve this application.

Proposed Changes Made Since Planning Commission Meeting

1. The Virginia Department of Transportation (VDOT) has recommended approval on the traffic study addendum. The Planning Commission recommendation was contingent on staff receiving final approval from VDOT.
2. Regarding underground utilities, the applicant originally submitted a non-binding letter stating they would pay to have the utilities placed underground along Ironbound Road in Sections 3 and 6. A binding agreement has now been submitted and will be reviewed as a separate consent agenda item at the October 12, 2004, Board of Supervisors meeting.
3. Affordable Housing. Sixteen units are proffered to be sold as affordable housing units in Sections 3 and 6. At the time of this writing, the applicant has submitted a *Declaration of Convents, New Town Pricing of Residential Units* that the County Attorney is reviewing. This Declaration allows New Town to shift the location of the sixteen affordable units to other sections of New Town allowing the possibility of apartments to be constructed in Sections 3 and 6. See page 6 for more details regarding Affordable Housing.

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy.

Brief History and Description of New Town

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

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

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

On what is commonly referred to as the west side of New Town due to its location west of Route 199, the WindsorMeade Retirement Community rezoning application (Case Z-02-01/MP-02-01) was approved by the

Board of Supervisors on October 23, 2001. WindsorMeade Retirement Community will provide 300 residential units of various levels of continuous health care and have a maximum of 19,500 square feet of commercial office space. WindsorMead Marketplace (Case Z-05-03/MP-06-03) was approved on October 14, 2003, and will include approximately 200,000 square feet of commercial and retail space fronting Monticello Avenue.

On the east side of New Town, Sections 2 and 4, or the New Town Center, was rezoned to Mixed Use, with proffers on December 11, 2001, (Case No. Z-03-01) and amended when approximately three acres were added on October 14, 2003, (Case No. Z-06-03/MP-4-03). Sections 2 and 4 border both Ironbound Road and Monticello Avenue and contain the initial development opened in New Town: the Corner Pocket and the SunTrust Building. Proposed, featured architectural and design highlights of Sections 2 and 4 include Court Square, the Civic Green, the Village Square, the Village Green, and Pecan Square.

Accessed from Tewning Road and separated by wetlands from the core of New Town East, Section 5 was rezoned to M-1, Limited Business/Industrial, with proffers, on June 8, 2004 (Case Z-1-04/MP-2-04).

Description of The Current Rezoning Proposal

The current request is to rezone approximately 70 acres in Sections 3 and 6 from R-8, with proffers, to MU, with proffers. The following description of Sections 3 and 6 is an excerpt from the introduction of the attached *New Town Discovery Park Sections 3 and 6: Design Guidelines*:

Sections 3 and 6, also know as Discovery Park, is located on a lobe of land adjacent to and north of the mixed-use town center. The site is bounded by Ironbound Road to the east, Discovery Boulevard to the south and west, the lands of Eastern State Hospital to the north and east and an industrial neighborhood (Section 5 and Tewning Road) directly to the north. Within the Discovery Park neighborhood, two primary land uses are proposed, although a mixture of office and research, residential, and civic uses are allowed and encouraged. An office/research district runs along Discovery Boulevard from Ironbound Road to New Town's border with Eastern State Hospital. A multi-family residential area is nestled to the north among wetland "fingers" and ravines.

At Discovery Park's eastern edge along Ironbound Road are two important open spaces within New Town. Pecan Square serves as a gateway to both the Town Center and Discovery Park at the Intersection of Discovery Boulevard and Ironbound Road. Further north, the Northern Focal Open Space serves as an entry to the new neighborhood and New Town, as well as an amenity for the existing neighborhood and surrounding community.

The proposed plan leaves open the possible extension of Discovery Boulevard to both the lands of Eastern State Hospital to the northwest and those of the College of William & Mary to the east.

Discovery Park is linked directly to New Town's commercial center via New Town Avenue, Courthouse Street, and Casey Boulevard. This proximity and direct linkage will enable office workers and residents to easily walk to shops, restaurants, and other activities within the town center during the day and into the evening. This district should function as a visual and physical extension of the town center.

Plan Flexibility

When New Town was originally rezoned in 1997, rather than set finite square footages and dwelling uses for each use in each section, the adopted Master Plan establishes certain uses for each section and then describes in tables the maximum square footages and dwelling units, which would occur under two market scenarios.

The first scenario assumes the residential uses are built out to the maximum extent, whereas the second scenario assumes nonresidential uses are built out to the maximum extent. This system is intended to provide flexibility in determining the mix of residential and nonresidential uses in each section. The 1997 results for the entire east side of the New Town development (Sections 1-10) are summarized on the following page:

EAST SIDE OF NEW TOWN, SECTIONS 1-10		
	Maximum Residential Scenario	Maximum Nonresidential Scenario
Residential	1,972 dwelling units	1,171 dwelling units
	4.5 du/acre overall cap	4.5 du/acre overall cap
Nonresidential	1,361,157 square feet	2,008,657 square feet

To achieve the current development proposed in Sections 3 and 6, the approved Master Plan for Sections 2 and 4 governing approximately 86 acres currently zoned Mixed Use, with Proffers is being amended in conjunction with this rezoning by transferring 150 dwelling units and 70,000 square feet from Sections 2 and 4 to Sections 3 and 6. **It should be noted that the overall limits on total number of residential units and nonresidential square footage for New Town are not being changed with this application, nor are the sizes of the sections being changed.** The revised land use tabulations for Sections 2 and 4 and Sections 3 and 6 are proposed as follows:

PROPOSED SECTIONS 3 AND 6		
	Maximum Residential Scenario	Maximum Nonresidential Scenario
Residential	470 dwelling units	150 dwelling units
Nonresidential	220,000 square feet	550,000 square feet

PROPOSED SECTIONS 2 AND 4		
	Maximum Residential Scenario	Maximum Nonresidential Scenario
Residential	803 dwelling units	375 dwelling units
Nonresidential	357,500 square feet	655,000 square feet

The other change in land use calculations proposed with this rezoning is that Sections 2 and 4 and Sections 3 and 6 are now treated officially as only two different sections instead of four separate sections. This change to the land use calculations better reflects the proposed physical development and land use patterns since development in New Town Center in Sections 2 and 4 is intertwined and is being constructed simultaneously.

Please refer to the attached Exhibit A: New Town Density, which was submitted by the applicant to illustrate combining these New Town sections and the associated density transfers. Staff supports this request from New Town Associates.

The Design Guidelines

Design guidelines were implemented with the original rezoning to ensure the vision of the winning town plan and establish the Design Review Board, a process from which to review and approve proposed developments.

The Design Guidelines for Sections 3 and 6 address street design, streetscape, parking, block design, architecture, and landscaping. The New Town Design Review Board has reviewed the proposed Master Plan and revised Design Guidelines for Sections 3 and 6 and has approved them for conformance with the adopted Master Plan and original New Town design guidelines.

Staff Comments on the Master Plan

Staff believes that the proposed Master Plan is compatible with surrounding zoning and development and is consistent with the approved 1997 New Town Master Plan. In general, nonresidential development is located internally along Discovery Boulevard with residential areas located appropriately between the Northern Focal Open Space and existing wetlands. In addition, staff supports the alignment of Discovery Boulevard with optional connections to Eastern State Hospital and to property owned by the College of William & Mary.

PUBLIC IMPACTS

Archaeology

- ◆ **Proffers:** The County Archaeological Policy is proffered.
- ◆ **Staff Comment:** The applicants have performed a Phase I Study with the appropriate treatment plans for the appropriate areas. Phase II and III studies will be performed as necessary and reviewed by the Virginia Department of Historic Resources. The proffer is in compliance with the 1997 policy and current County policies.

Environmental Impacts

- ◆ **Watershed:** Powhatan Creek
- ◆ **Proffers:** The binding Master Plan has shown a variable width buffer around environmentally sensitive areas and other areas. A 15-foot setback from these buffers shown on the Master Plan is proffered.
- ◆ **Environmental Staff Comments:** The proposed land use development plan is based on the assumption that two regional stormwater management ponds will be constructed in the ravines located within Sections 3 and 6. Construction of the regional stormwater management ponds is monitored by the Army Corps of Engineers who issued a letter on July 28 denying New Town's wetland permit application. New Town now has the chance to revise its application. The complete review process by the Army Corps of Engineers will extend through the next couple of months and if approval is granted, any conditions will be taken into consideration as development plans for specific buildings are engineered. If New Town's revised wetland permit application is denied again, the proposed master land use plan will be impacted and could prompt a revision to the Master Plan that would require a second public hearing.

New Town has proffered that no building shall be closer than 15 feet to any Resource Protection Area (RPA) area in order to protect the entire RPA during construction. This is to provide space for clearing and grading without impinging on the RPA. This proffer is a precursor of a policy that is currently being considered by staff and will be presented shortly to the Planning Commission Policy Committee.

Detailed stormwater management plans will be engineered along with development plans. Staff encourages the use of Low Impact Development practices (LID) where possible. For example, shared parking is one such technique used in Sections 2 and 4 that is resulting in less impervious surface, with approximately 17 percent less parking spaces being constructed than would be required with free-standing buildings.

Fiscal Impacts

- ◆ **Proffers:** Cash contributions for various public facilities have been proffered to offset the project's fiscal impact. In addition, a Fiscal Impact Study has been submitted in accordance with Zoning Ordinance Requirements.
- ◆ **Staff Comments:** Overall fiscal impact is generally positive. Transferring 70,000 square feet of commercial space and 150 dwelling units from Sections 2 and 4 to Sections 3 and 6 has no net effect from a fiscal standpoint. However, the time line of actual construction has not been as rapid as was projected by previous studies. Based on the 1997 study, 400,000 square feet of commercial and 150 dwelling units should be in place. Thus, New Town is not having the fiscal impacts on the County's real estate books as projected. By constructing only commercial first, New Town is "stockpiling" positive gains since later

rezonings will be predominately residential. With the approval of the 1997 Master Plan and the subsequent rezonings of each section, an informal phasing plan of New Town has been adopted. Staff notes that there is not a proffered phasing construction plan that requires residential and nonresidential buildings to be built simultaneously. Instead, New Town's construction schedule is responding to market demands. Staff does not believe that a formal phasing plan is needed at this time due to the current market. However, when the next sections of New Town are submitted for rezoning, staff will undertake a very close review of what has been built to date to determine whether a balance of residential dwelling units and nonresidential buildings will continue to be constructed.

Housing

- ◆ **Proffers:** Sixteen units of the possible 150 to 470 dwelling units in Sections 3 and 6 will initially be sold as affordable or lower-cost housing. Six units will initially be sold at or below \$109,034 and ten units will initially be sold between \$109,034 and \$145,989. New Town Associates will work with the James City County Housing and Community Development office for referrals. The applicant has submitted a *Declaration of Covenants New Town, Pricing of Residential Units* that at writing, is currently under review by the County Attorney. The Declaration allows New Town Associates to locate the sixteen affordable housing units in other sections of New Town.
- ◆ **Staff Comments:** Sections 2 and 4 proffers require that 40 dwelling units of the 375 to 803 possible units be sold at the same price ranges as above (15 units at the lower range, 25 units at the higher range). Of the potential 1,273 housing units in Sections 2 and 4 and Sections 3 and 6 to be constructed, 4 percent or 56 units will initially be sold as affordable housing units. No guarantee is proffered for when the sixteen affordable housing units will initially be sold or that when the affordable housing units are resold, the units will be sold at an affordable price or at the market price. Sixteen units in Sections 3 and 6 to be sold initially as affordable housing will somewhat adequately mitigate the affordable housing shortage issue within the County, and considering Sections 7, 8, 9, and 10 of New Town have yet to be rezoned, there will be future affordable housing opportunities.

Regarding the Declaration of Covenants, staff supports the flexibility for New Town Associates in Sections 3 and 6 to sell affordable housing units or to construct rental apartments depending on the market demands. However, if the sixteen affordable units are relocated to a future section of New Town, staff will still consider these sixteen units towards mitigating the affordable housing issue in Sections 3 and 6 and not towards another section of New Town. With future New Town rezonings, staff will be closely monitoring the proffered affordable housing ratio, location, and construction sequence.

Public Utilities

- ◆ **Proffers:** Water conservation measures will be developed and approved by the James City Service Authority (JCSA) in conjunction with development plans for residential areas and for the nonresidential areas. A contribution of \$780 for each residential unit is proffered to JCSA for development of water supply alternatives or other projects deemed necessary by JCSA.
- ◆ **JCSA Comments:** The site is served by public water and sewer. The proffered dollar amount is consistent with the need indicated by the JCSA and other recent rezonings with adjustments made for inflation.

Schools

- ◆ **Proffers:** A contribution of \$295 per residential unit for the initial 155 units is proffered.
- ◆ **Staff Comments:** Per the "Adequate Public School Facilities Test" policy adopted by the Board of Supervisors, all special use permits or rezoning applications should pass the test for adequate public school facilities. In regards to the test, staff finds the following:

<u>Schools Serving New Town</u>	<u>2003 Enrollment</u>	<u>Design Capacity</u>	<u>Program Capacity</u>
Clara Byrd Baker Elementary	722	804	691
Berkeley Middle	816	725	828
Jamestown High	1,331	1,250	1,250

The Adequate Public Facilities Test policy uses design capacity to determine if a project passes the test.

Assuming that all of the units developed in Sections 3 and 6 are rental apartment units, the project will generate the following numbers of school students (based on the Master Plan low of 150 units and high of 470 units):

22-70	elementary school students
10-31	middle school students
<u>8-25</u>	<u>high school students</u>
40-126	total students

Since both the middle and high schools are already over design capacity, this proposal fails the test at both the higher and lower student projection ranges. The proposal passes the elementary school test at both the higher and lower student projection ranges. Please note that the fiscal impact study projects 225 units will be constructed.

To offset project-wide impacts, the 1997 proffers state that New Town and the County “acknowledge that it is the expectation of the County that at the time of approval of rezoning for residential development that significantly contributes to the need for a new public school, New Town will either contribute an elementary school site, or make cash contributions to the County in the amount and upon terms agreed to.”

New Town has chosen to make cash contributions. Therefore, the proffered amount is based on the number of units likely to be constructed in all of New Town and the cost needed to acquire a new elementary school site off-site (approximately \$240,000 based on the 1997 Comprehensive Plan standards for acreage and the cost per acre of acquiring the Stonehouse elementary site). Most specifically, as reflected in the current proffers, this formula results in a \$147.50 per unit contribution for all the units within New Town, including the units in Sections 3 and 6 for the average number of units to be potentially constructed, or 310 units. In an effort to provide the County with funding in a more expeditious manner, the developer proffered to double the per unit contribution to \$295 per unit for the first half of the average of the number of allowable units within Sections 3 and 6 or 155 units, for a total of \$45,725 towards acquisition of school sites and/or school construction.

Libraries

- ◆ **Proffers:** A cash contribution of \$60 for each residential unit is proffered for Library needs.
- ◆ **Library Comments:** In the near future, another library facility will need to be considered to adequately service demands. The proffered amount helps offset building construction costs but does not provide sufficient funds for the opening day collection needs.

Fire and EMS

- ◆ **Proffers:** A cash contribution of \$70 per residential unit is proffered for fire and rescue equipment and facilities.
- ◆ **Staff Comment:** This figure is consistent with the need indicated by the Fire Department and consistent with other recent rezonings.

Parks and Recreation

- ◆ **Proffers:** The proffers provide for community spaces referred to as “Northern Focal Open Space” and “Neighborhood Community Spaces” and which are also shown on the Master Plan. The proffers also provide for one playground, one urban park (which may also serve as one of the community spaces previously mentioned), and pedestrian/jogging paths as shown on the Master Plan, all in accordance with the County’s Parks and Recreation Master Plan. Further, the proffers provide for a cash contribution of \$67 per residential unit above 294 units and a cash contribution of \$74 per unit applied to all units.
- ◆ **Staff Comments:** In addition to these items, the Master Plan also calls for pedestrian connections throughout the development and the Design Guidelines call for sidewalks along most roads and bikeways along Discovery Boulevard and Ironbound Road.

The Parks and Recreation Master Plan contain proffer guidelines which address the need for recreation in new developments. The proffer guidelines, which were established for more traditional suburban development, are based on recreation standards for neighborhood parks and recreation facilities. Each development should, however, be considered on the basis of its own needs.

The Parks and Recreation Master Plan allow both the provision of facilities and/or cash in lieu of the provision of facilities. The applicant has chosen to do a combination of both. Given the facilities and cash provided by the proffers, pedestrian connections shown on the Master Plan and the bikeways depicted in the Design Guidelines, staff finds that the Park and Recreation standards are adequately addressed.

Transportation

- ◆ **Proffers:** The following transportation-related items are proffered: two bus pull-offs with shelters along Discovery Boulevard and/or New Town Avenue; right-of-way for the widening of Ironbound Road; a maintenance fund for the property owners association responsible for the maintenance of any private streets; and road improvements to the intersection of Ironbound Road/Watford Lane on the New Town side of Watford and on Ironbound Road. Specific proffered intersection improvements include: on Ironbound Road at Watford, a northbound left-turn lane and a southbound right-turn lane; on Watford, two lanes approaching Ironbound and two lanes departing Ironbound; and a signal and signal coordination. Right-turn in and out driveways along Ironbound Road are also anticipated, which may require turn tapers or full width right-turn lanes at the development plan stage. The Master Plan also shows a left-turn lane only and crossover into Sections 2 and 4.

The following information pertains to Ironbound Road:

2003 Traffic Counts:	10,287
1999 Traffic Count:	17,353
2026 Projected Volumes:	14,000
Proposed Road Improvements:	Widen from 2 to 4 lanes with bikeways and sidewalks

- ◆ **VDOT Comments:** Were first issued on August 9 with a revised addendum submitted by the traffic engineer to VDOT on August 24. VDOT approved the addendum on September 10, 2004.
- ◆ **Staff Comments:** Street design within all of New Town is based on street design cross sections contained in the Design Guidelines. The cross sections include street trees, medians, lighting, and pedestrian/bicycle facilities. All streets within Sections 3 and 6 have the potential to be privately owned and maintained (non-gated); however, the intention is that most all streets will be publicly owned, maintained, and constructed to VDOT standards, unless VDOT will not approve the streets as substantially described in the Guidelines. The proffers provide an acceptable mechanism for the maintenance of any private streets.

The 1997 proffers required an updated Traffic Impact Study to be submitted with the rezoning of each section from R-8 to MU. These proffers also specify the methodology and criteria for the studies. The

1997 proffers require the provision of road improvements to maintain an overall level of service (LOS) C for the design year of 2015 at all New Town intersections. Of note, however, is a relaxed level of service standard in the 1997 proffers that permits lane groups to have LOS D if they are part of a coordinated traffic signal system and the overall intersection maintains LOS C. Although LOS C is the accepted standard for roads in the County by both staff and VDOT, it is a very suburban-type standard that produces very wide roads. LOS D is an accepted urban standard and produces more pedestrian-friendly design and is used in most cities. In an effort to reduce the scale of the road network and the related improvements (i.e., dual left-turns), the relaxed standard was accepted given New Town's unique character.

The updated traffic impact study evaluates all nine New Town intersections on Ironbound Road and Monticello Avenue. The updated study concludes that an overall level of service LOS C is achieved at all intersections by 2015 in accordance with the 1997 proffer requirements. It also points out that LOS C is not achieved for some lane groups at some intersections. Finally, the study concludes that the four-laning of Ironbound Road is not required to maintain LOS C.

As noted above, the applicant intends to construct an entrance/exit from Section 2 on Ironbound Road. As required by VDOT, left turns out of Section 2 will not be permitted. Left turns into Section 2 will be permitted as well as right turns in and out. Channelization will be required to ensure the entrance/exit functions as intended. The developer will be expected to pay for a left-turn lane on Ironbound Road to accommodate the entrance/exit.

COMPREHENSIVE PLAN

- ◆ **Proffers:** The proffers address a number of issues in the Comprehensive Plan, many of which are also addressed above. In regard to other Comprehensive Plan issues, the proffers also require development to be developed generally in accordance with the Master Plan, and adherence to design guidelines, New Town Design Review Board recommendations, and streetscape standards.

Underground Utilities: As part of the reconstruction of the intersection of Ironbound Road and Monticello Avenue, existing overhead utilities along a portion of Ironbound Road will need to be relocated. The County has informed VDOT that staff wishes for the utilities to be placed underground to improve the appearance of the corridor and to be supportive of the intent of the New Town design concept. The County will share the expense of the cost of underground relocation with VDOT along most of the road frontage, which is in Sections 2 and 4 of New Town. A portion of the utilities fronts along the road in Sections 3 and 6 of New Town. New Town Associates has agreed to bear the cost of the project along Ironbound Road in Sections 3 and 6. A separate agreement between the County and New Town Associates will be reviewed as part of the October 12 Board of Supervisors Consent Agenda.

- ◆ **Staff Comments:** The 2003 Comprehensive Plan shows the entire New Town master planned area, which includes all the property requested for rezoning, as Mixed Use on the Land Use Plan map. The Comprehensive Plan states that mixed-use areas:
 - are centers within the Primary Service Area where higher-density development, redevelopment, and/or a broader spectrum of use is encouraged;
 - are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial uses when located at or near the intersections of major thoroughfares;
 - are intended to provide flexibility in design and land uses in order to protect and enhance the character of the area; and

- require nearby police and fire protection, arterial road access, access to public utilities, large sites, environmental features such as soils and topography suitable for intense development, and proximity to large population centers.

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

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

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

The other primary consideration in the Comprehensive Plan for this master planned area is its location in the New Town Community Character Area (CCA) and along the Monticello Avenue, Ironbound Road, and Route 199 Community Character Corridors (CCC). The CCA generally calls for a superior design which provides a balanced mixture of businesses, shops, and residences in close proximity to one another in an urban environment. It also describes more specific design standards to which development in that area should adhere. The Ironbound Road CCC and Monticello Avenue CCC are primarily suburban/urban in nature along the New Town borders, and as such, the built environment, formal landscaping, and pedestrian amenities should dominate the streetscapes in these corridors.

Staff finds that Sections 3 and 6 are consistent with the Comprehensive Plan land use, and CCC and CCA designations, given the uses and densities proposed in the Master Plan, the proposed proffers, and the standards set forth in the design guidelines. Moreover, the design guidelines establish land uses and streetscape standards for the Monticello Avenue and Ironbound Road corridors which meet the intent of the CCC and CCA language in the Comprehensive Plan.

RECOMMENDATION

Staff finds this proposal for New Town Sections 3 and 6 generally consistent with the adopted 1997 New Town Master Plan and Design Guidelines. The proposed development is compatible with surrounding zoning and development and consistent with the 2003 Comprehensive Plan recommendations. Staff also finds the proposed proffers sufficiently mitigate anticipated impacts. Staff recommends the Board of Supervisors approve this rezoning and master plan application with the voluntary proffers.

Karen Drake

CONCUR:

O. Marvin Sowers, Jr.

KD/gs

Z-05-04_MP-05-04_MP-08-04.doc

ATTACHMENTS:

1. Minutes from the September 13, 2004, Planning Commission Meeting
2. Location Map
3. Sections 2 and 4 Master Plan
4. Sections 3 and 6 Master Plan
5. Exhibit A: New Town Density
6. September 2, 2004, approval letter from the New Town Design Review Board
7. New Town Discovery Park Sections 3 and 6 Design Guidelines, September 2, 2004
8. Proffers
9. Resolutions

APPROVED MINUTES TO THE SEPTEMBER 13, 2004 PLANNING COMMISSION MEETING

Z-05-04/MP-05-04 New Town Section 3 & 6 and MP-08-04 New Town Section 3 & 6

Ms. Karen Drake presented the staff report. Mr. Greg Davis and Mr. Tim Trant of Kaufman & Canoles have applied on behalf of New Town Associates, LLC, to rezone approximately 69.2 acres of land in Section 3&6 that is currently zoned R-8, Rural Residential with proffers to MU, Mixed Used with proffers to construct a maximum of 470 dwelling units with an overall density cap of 4.5 dwelling units per acre and construct a maximum of 220,000 non-residential square feet. The New Town Section 2&4 Master Plan includes approximately 91.2 acres of land currently zoned MU with Proffers that will also be amended by transferring 150 dwelling units and 70,000 non-residential square feet from Section 2&4 to Section 3&6 but will not change the overall New Town permitted number of dwelling units or non-residential square footage. The Comprehensive Plan Land Use Map designates this property for Mixed Use development with the principal suggested uses being a mixture of commercial, office and limited industrial with some residential secondary uses. This property is adjacent to Ironbound Road and is located west of the intersection of Ironbound Road and Monticello Avenue, at 4803 Courthouse Street, at 5206 Monticello Avenue and is more specifically identified as a portion of Parcels (1-50), (1-57), (24-6) and (24-1A) on the JCC Real Estate Tax Map No. (38-4). Staff found the proposal for New Town Section 3 & 6 generally consistent with the adopted 1997 New Town Master Plan and Design Guidelines. Staff also found the proposed proffers sufficiently mitigate anticipated impacts. Staff recommended approval.

Mr. McCleary noted that the transportation figures for Ironbound Road reflected that, due to the recent development, the road would be less frequently used.

Mr. Sowers stated that Mr. McCleary's assessment was correct due to the opening of Monticello Avenue and the Route 199 extension.

Mr. Kale confirmed that the proffers for underground utilities applied specifically to Ironbound Road.

Mr. Sowers related that staff had recommended such a proffer but that the proffer had not been included.

Mr. Billups asked for more information about staff's work with VDOT, specifically as to whether the application will meet minimum traffic standards.

Mr. Sowers responded that a letter of approval had not been received from VDOT, but the individual from VDOT that gave verbal approval to the application was the same individual that approved the traffic studies.

Mr. Poole opened the public hearing.

Mr. Greg Davis of Kaufman and Canoles, the applicant, gave a short overview of the project application, specifically highlighting the amenities and advantages envisioned for the area. He continued to address proposed architectural appearance of the area, the

positive fiscal impact of the application, and the applicant's position on proffering the underground utilities on Ironbound Road, where the obligation would be undertaken by the applicant on a contractual, rather than a proffered, basis.

Mr. Billups asked if the applicant perceived any problems in finding tenants for commercial and research space.

Mr. Davis responded that the demand for this space was very high.

Mr. Kale asked if this demand for space prompted this proposed increase in commercial space.

Mr. Davis confirmed that this was the case and that residential rezonings would likely follow.

Ms. Wildman inquired into the current plans for landscaping along Ironbound Road.

Mr. Davis responded that the New Town Design guidelines required significant landscaping along road frontage.

Mr. Sowers added that staff was proceeding with road widening plans which will create the streetscape along Ironbound Road and in the median.

Mr. Hunt confirmed that the aforementioned utilities along Ironbound Road are not located on the New Town property.

Mr. Davis responded that the utilities at issue are those existing utilities.

Mr. Kale asked staff for more background into the necessity to institute balance requirements between commercial and residential development in New Town.

Mr. Sowers responded that, unlike Stonehouse for instance, a property which was rezoned all at once, New Town's plan to rezone in phases ensures that checks and balances regarding commercial and residential balance could be handled as part of each section's rezoning. Mr. Sowers also gave a bit of background into the residential development of New Town.

Mr. Davis gave specific numbers of residential projects currently under construction or review.

Mr. Fraley said that he was excited to see the progress in New Town.

Seeing no other speakers, Mr. Poole closed the public hearing.

Mr. McCleary agreed with Mr. Fraley and stated that he supported New Town's commitment to attracting high tech and research facilities.

Mr. Poole agreed with Mr. McCleary but stated that he remains cautious about the residential aspect of the application when the adequate public facilities test fails and the larger community does not appear willing to fund additional facilities

Mr. Kale agreed with Mr. Poole on the issue of schools and stated his concern about the timing and county funding levels required by these types of projects to provide the necessary public facilities. He stated that similar phases would be more desirable.

Mr. Poole stated that he was unsure how citizens feel about bearing costs for new and expanded schools and stated that he felt more comfortable voting on this case after the November referendum.

Mr. Fraley stated his support for the case, citing the positive fiscal impact, but also mentioned his concerns about the Adequate Public Facilities test.

Mr. McCleary motioned to approve the application.

Ms. Wildman seconded the motion

Mr. Billups asked if for some background into the remaining phases of New Town to be rezoned.

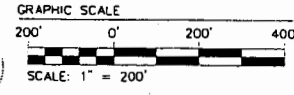
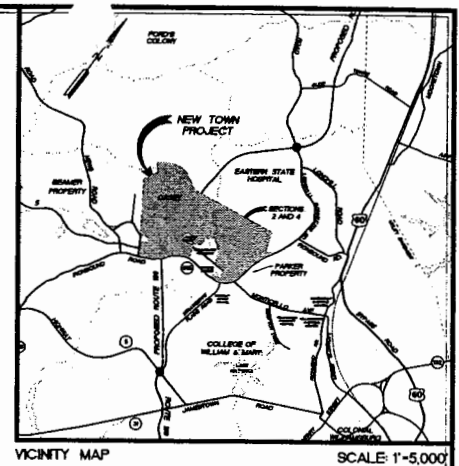
Mr. Sowers stated that the remaining rezonings would primarily be residential in character, but that there would still be some primarily commercial sections.

The Planning Commission approved the application by vote of 5-2. AYE: Wildman, McCleary, Fraley, Hunt, Billups (5). NAY: Poole, Kale (2).

Z-05-04/MP-05-04. New Town Section 3&6
MP-08-04. New Town Section 2&4



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- AREA ADDED TO SECTION 4
- OLD SECTION LINE
- SECTION LINE
- BUILD TO ZONE (100% FRONTAGE)
- FRONTAGE ZONE (80% FRONTAGE)
- FRONTAGE ZONE (60% FRONTAGE)
- REQUIRED OPEN SPACE
- PARKING PLACEMENT ZONE*
- VIEW TRIANGLE (NO BUILDING)

*PER EXEMPTION IN GUIDELINES, OVERLAY TO BUILDING PLACEMENT ZONE

DRIVEWAY ACCESS

NOTES:

EXISTING ZONING IS R-8, M-1, AND MU WITH PROFFERS.

PROPOSED ZONING AMENDMENT TO THE MU WITH PROFFERS.

ALL STREETS WITHIN THE SECTION 2 AND 4 PROPERTY HAVE THE POTENTIAL TO BE PRIVATE; HOWEVER THE INTENTION IS THAT ALL STREETS WITHIN THE PROPERTY BE PUBLIC AND CONSTRUCTED IN CONFORMANCE WITH VDOT CONSTRUCTION STANDARDS, UNLESS VDOT WILL NOT APPROVE THE STREETS AS SUBSTANTIALLY DESCRIBED IN THE SECTION 2 AND 4 GUIDELINES, IN WHICH EVENT SUCH STREETS NOT APPROVED AS PUBLIC SHALL BE PRIVATE.

STREET NAMES INCLUDED ON THIS PLAN ARE FOR INFORMATIONAL PURPOSES ONLY AND IN NO WAY ARE FOR THE PURPOSE OF PERMANENTLY IDENTIFYING THE NAMES OF STREETS.

EXACT LOCATION OF DRIVEWAYS FOR VEHICULAR ACCESS TO IRONBOUND ROAD AND MONTECELLO AVENUE EXTENDED TO BE DETERMINED AT FINAL ENGINEERING.



SECTION 4

SECTION 2

LIMIT OF WETLAND RESTRICTED AREA
EX. SWM/BMP FACILITY
JCC BMP ID CODE PC-173
JCC #SP-125-97

AREA ADDED TO SECTION 4

RIGHT IN ONLY ACCESS WOODLAND PRESERVE COURT SQUARE

PECAN SQUARE
VILLAGE SQUARE
REQUIRED STREET CONNECTION PREFERRED LOCATION

NEW TOWN

SECTIONS 2 AND 4

AMENDED MASTER PLAN

BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA
JUNE, 2001
REVISED: SEPTEMBER 14, 2001
AMENDED: JUNE 23, 2003
REVISED: SEPTEMBER 1, 2004

OWNER/DEVELOPER: NEW TOWN ASSOCIATES, L.L.C.
LAND PLANNER: COOPER, ROBERTSON & PARTNERS
CIVIL ENGINEER: AES CONSULTING ENGINEERS



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LAND USE AND DENSITY TABULATIONS									
RESIDENTIAL DENSITY APRIL 2004									
SECTION	PERMITTED USES	Total Area (ac)	Devel. Area (ac)	Master Planned Open Space (ac)	Master Planned Open Space (% of Dev. ac)	Max. du at Max. Non-Res. Density	Max. du at Max. Res. Density	Max. du/ac at Max. Non-Res. Density	Max. du/ac at Max. Res. Density
1	I,G,M(GI),M(GE),J	22.1	21.8	1.5	6.9%	0	0	0	0
2,4	E,G,C,D,M(CE),M(CG),M(GE),M(GI),A,B,I,J	86.5	81.1	3.4	4.2%	375	803	4	9
3,6	B,I,G,C,D,M(GI),M(GE),M(CG),M(CE),J	69.2	63.6	2.2	3.5%	159	470	2	7
5	H,F,J	8.9	6.9	0.0	0.0%	0	0	0	0
7	A,B,C,D,I,J	56.7	52.3	0.0	0.0%	317	317	6	6
8	A,B,C,D,I,J	61.4	52.9	12.8	24.2%	279	279	5	5
9	E,G,C,D,M(CE),M(CG),M(GE),M(GI),A,B,I,J	42.7	37.6	0.8	2.1%	50	103	1	2
10	E,G,M(GE),I,J	12.0	12.0	0.0	0.0%	0	0	0	0
Total		359.47	328.17	20.7	6.3%	1,171	1,972	3.3	5.5

Per the Master Plan as Amended

Minimum Open Space at Final Build Out: 32.8 Overall Cap: 1,650 Overall Cap: 4.5

LAND USE AND DENSITY TABULATIONS									
NON-RESIDENTIAL DENSITY APRIL 2004									
SECTION	PERMITTED USES	Total Area (ac)	Devel. Area (ac)	Master Planned Open Space (ac)	Master Planned Open Space (% of Dev. ac)	Max. Sq. Ft. at Max. Res. Density	Max. Sq. Ft. at Max. Non-Res. Density	Max. s.f./ac at Max. Res. Density	Max. s.f./ac at Max. Non-Res. Density
1	I,G,M(GI),M(GE),J	22.1	21.8	1.5	6.9%	218,000	218,000	9,864	9,864
2,4	E,G,C,D,M(CE),M(CG),M(GE),M(GI),A,B,I,J	86.5	81.1	3.4	4.2%	357,500	655,000	4,133	7,572
3,6	B,I,G,C,D,M(GI),M(GE),M(CG),M(CE),J	69.2	63.6	2.2	3.5%	220,000	550,000	3,179	7,948
5	H,F,J	8.9	6.9	0.0	0.0%	63,357	63,357	7,143	7,143
7	A,B,C,D,I,J	56.7	52.3	0.0	0.0%	28,800	28,800	508	508
8	A,B,C,D,I,J	61.4	52.9	12.8	24.2%	33,500	33,500	546	546
9	E,G,C,D,M(CE),M(CG),M(GE),M(GI),A,B,I,J	42.7	37.6	0.8	2.1%	330,000	350,000	7,728	8,197
10	E,G,M(GE),I,J	12	12	0.0	0.0%	110,000	110,000	9,167	9,167
Total		359.47	328.17	20.7	6.3%	1,361,157	2,008,657	3,787	5,588

Per the Master Plan as Amended

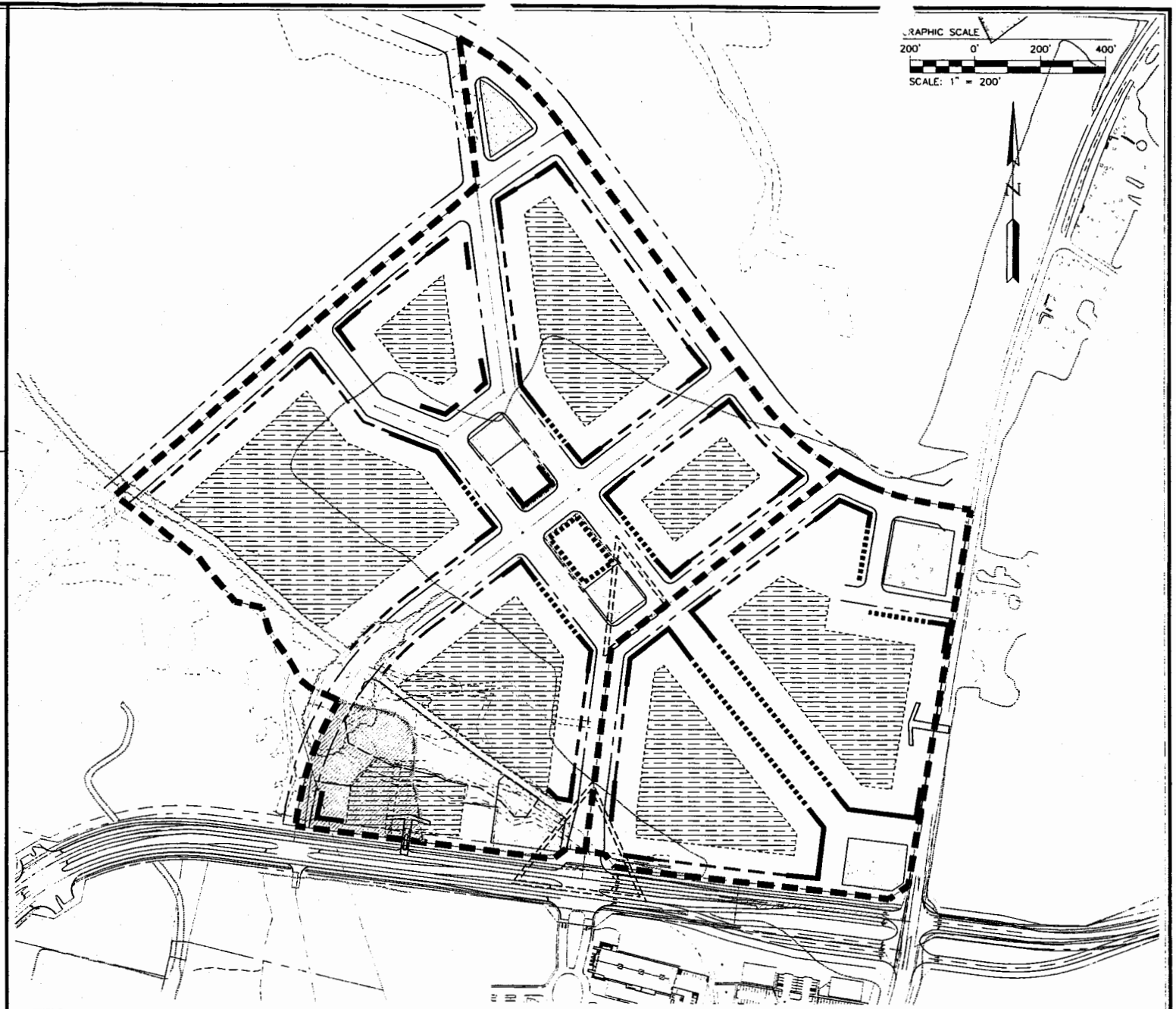
Minimum Open Space at Final Build Out: 32.8 Overall Cap: 10%

* SEE ALSO - DENSITY TRANSFER NARRATIVE FOR DETAILS REGARDING RELATIONSHIP OF RESIDENTIAL UNITS TO NON-RESIDENTIAL SQ. FOOTAGE IN AFFECTED SECTIONS.



DEVELOPMENT TYPES

A SINGLE FAMILY	F WHOLESALE AND WAREHOUSES
B TWO/THREE/FOUR FAMILY	G OFFICE
C TWO STORY TOWNHOUSES AND APARTMENTS	H INDUSTRIAL
D THREE STORY TOWNHOUSES AND APARTMENTS	I INSTITUTIONAL AND PUBLIC
E COMMERCIAL	J COMMON OPEN SPACE
	M MIXED USE STRUCTURES



- NOTES:
- UNLESS OTHERWISE APPROVED BY THE ENVIRONMENTAL DIRECTOR AND EXCEPT FOR APPROVED ROAD AND UTILITY CROSSINGS, ALL DEVELOPMENT WITHIN NEW TOWN SECTIONS 2 AND 4 SHALL BE EAST OF THE EASTWARD LINE OF THE JAMES CITY SERVICE AUTHORITY GRAVITY SEWER EASEMENT AS DEPICTED ON THE PLAN SHOWN ON THIS SHEET 2 OF 2, OR ANY JURISDICTIONAL WETLANDS DELINEATED AS DEPICTED ON THE PLAN SHOWN ON THIS SHEET 2 OF 2, WHICHEVER IS GREATER.
 - UNLESS OTHERWISE APPROVED BY THE ENVIRONMENTAL DIRECTOR, ALL PIPED STORMWATER OUTFALLS WILL BE DIRECTED TO A BEST MANAGEMENT PRACTICE (BMP).
 - AS PRACTICABLE, OWNER WILL EVALUATE THE POSSIBLE USE OF CIVIC SPACES, PARKING ISLANDS, AND OTHER LANDSCAPED AREAS AS WATER QUALITY ENHANCEMENT FEATURES.
 - PRIOR TO COMPLETION OF BUILD-OUT OF NEW TOWN SECTIONS 2 AND 4, IN ADDITION TO THE BMPS SHOWN ON THE PLAN DEPICTED ON THIS SHEET 2 OF 2, THAT BMP IDENTIFIED AS BMP #2 ON THE "MASTER STORMWATER PLAN, OPTION 4 CASEY PROPERTY", DATED 1/8/00, ON FILE WITH THE ENVIRONMENTAL DIRECTOR, OR OTHER SUITABLE ALTERNATIVE BMP(S) AS APPROVED BY THE ENVIRONMENTAL DIRECTOR, SHALL BE COMPLETED. THE TIMING OF CONSTRUCTION OF BMP #2 OR ALTERNATIVE BMP(S) SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THE INTERIM STORMWATER MANAGEMENT PLAN DEVELOPED FOR THE CASEY PROPERTY AS PRESENTED IN A LETTER DATED NOVEMBER 18, 1997, FROM WILLIAMSBURG ENVIRONMENTAL GROUP TO THE ENVIRONMENTAL DIVISION.

NEW TOWN
SECTIONS 2 AND 4
MASTER STORMWATER
MANAGEMENT PLAN & DEVELOPMENT
TABULATIONS

BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA
 JUNE, 2001

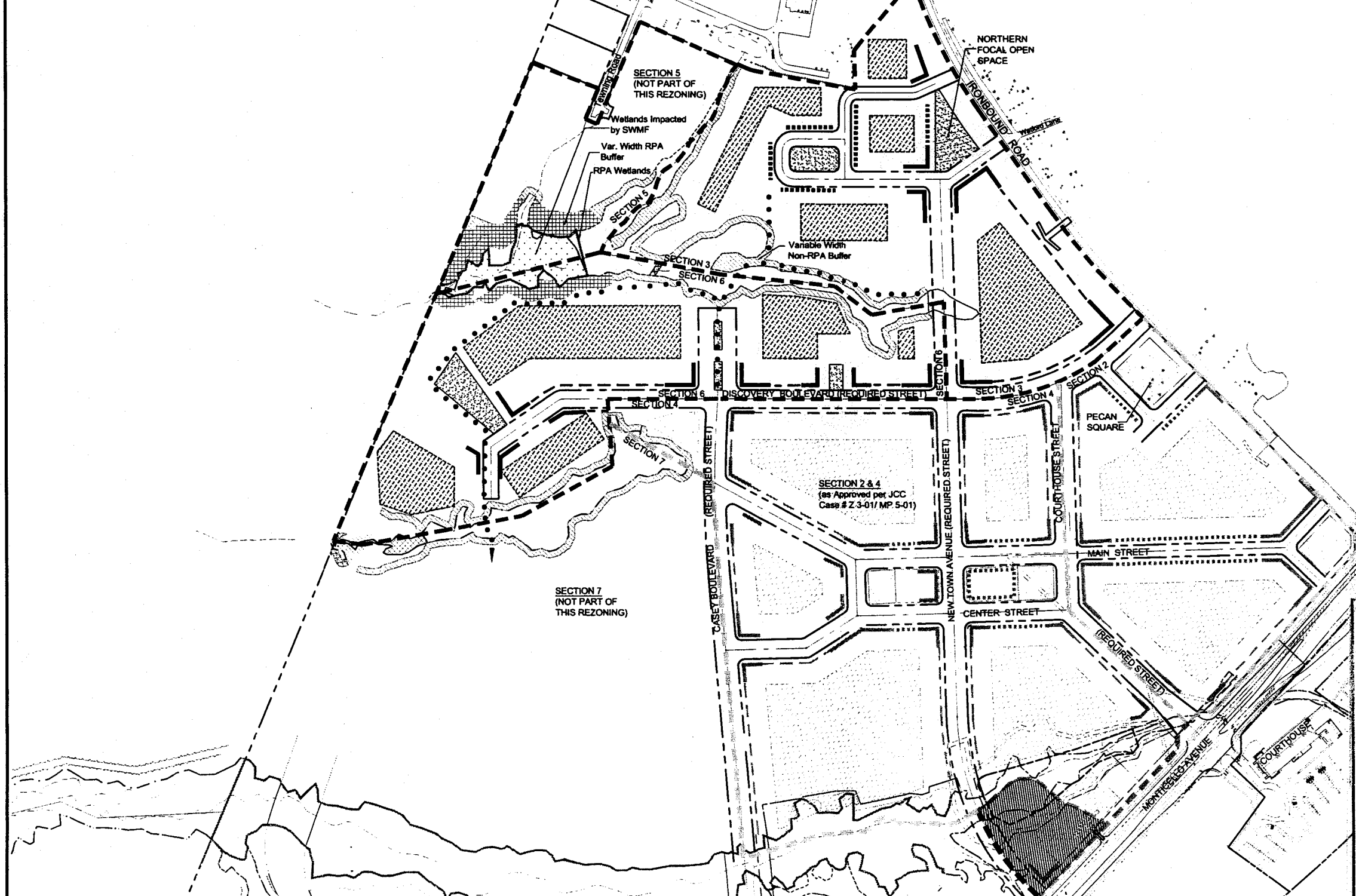
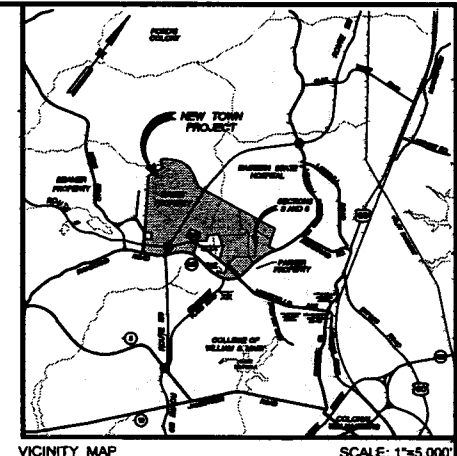
REVISED: SEPTEMBER 14, 2001
 AMENDED: JUNE 23, 2003
 REVISED: SEPTEMBER 1, 2004

OWNER/DEVELOPER: NEW TOWN ASSOCIATES, L.L.C.
 LAND PLANNER: COOPER, ROBERTSON & PARTNERS
 CIVIL ENGINEER: AES CONSULTING ENGINEERS



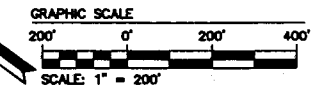
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PLANNING DEPARTMENT
AUG 2004



- SECTION LINE
- BUILD TO ZONE (100% FRONTAGE)
- FRONTAGE ZONE (80% FRONTAGE)
- - - FRONTAGE ZONE (40% FRONTAGE)
- [Stippled Box] REQUIRED OPEN SPACE
- [Cross-hatched Box] PARKING PLACEMENT ZONE
- [T-shaped symbol] DRIVEWAY ACCESS
- [Dotted line symbol] PEDESTRIAN CONNECTIONS

- NOTES:
1. EXISTING ZONING IS R-8 WITH PROFFERS.
 2. PROPOSED ZONING IS MU WITH PROFFERS.
 3. ALL STREETS WITHIN THE SECTION 3 AND 6 PROPERTY HAVE THE POTENTIAL TO BE PRIVATE; HOWEVER THE INTENTION IS THAT ALL STREETS WITHIN THE PROPERTY BE PUBLIC AND CONSTRUCTED IN CONFORMANCE WITH VDOT CONSTRUCTION STANDARDS, UNLESS VDOT WILL NOT APPROVE THE STREETS AS SUBSTANTIALLY DESCRIBED IN THE SECTION 3 AND 6 GUIDELINES, IN WHICH EVENT SUCH STREETS NOT APPROVED AS PUBLIC SHALL BE PRIVATE.
 4. STREET NAMES INCLUDED ON THIS PLAN ARE FOR INFORMATIONAL PURPOSES ONLY AND IN NO WAY ARE FOR THE PURPOSE OF PERMANENTLY IDENTIFYING THE NAMES OF STREETS.
 5. EXACT LOCATION OF DRIVEWAYS FOR VEHICULAR ACCESS TO IRONBOUND ROAD TO BE DETERMINED AT FINAL ENGINEERING.



NEW TOWN

SECTIONS 3 AND 6 MASTER PLAN

BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA
JUNE 1, 2004
REVISED: JUNE 21, 2004

OWNER/DEVELOPER: NEW TOWN ASSOCIATES, L.L.C.
LAND PLANNER: COOPER, ROBERTSON & PARTNERS
CIVIL ENGINEER: AES CONSULTING ENGINEERS

MAP PREPARED BY
AES
CONSULTING ENGINEERS
WILLIAMSBURG • RICHMOND

SHEET 1 OF 2

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LAND USE AND DENSITY TABULATIONS									
RESIDENTIAL DENSITY APRIL 2004									
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1	I, G, M(G), M(GE), J	22.1	21.8	1.5	6.9%	0	0	0	0
2, 3, 4	E, G, C, D, M(CE), M(CG), M(GE), M(G), A, B, I, J	96.2	61.1	3.4	5.6%	373	613	3.4	6.1
5, 6	B, I, S, C, D, M(G), M(GE), M(CG), M(CE), J	99.2	63.8	2.2	3.5%	150	620	1.5	6.2
5	H, F, J	8.9	6.9	0.0	0.0%	0	0	0	0
7	A, B, C, D, I, J	56.7	52.3	0.0	0.0%	317	317	6	6
8	A, B, C, D, I, J	61.4	52.9	12.8	24.2%	279	279	5	5
9	E, G, C, D, M(CE), M(CG), M(GE), M(G), A, B, I, J	42.7	37.6	0.8	2.1%	50	103	1	2
10	E, G, M(GE), I, J	12.0	12.0	0.0	0.0%	0	0	0	0
Total		359.47	328.17	20.7	6.3%	1,171	1,972	3.3	5.5

Per the Master Plan as Amended

Minimum Open Space at Final Build Out:	Overall Cap:	Overall Cap:
32.8	1,650	4.5
10%		

LAND USE AND DENSITY TABULATIONS									
NON-RESIDENTIAL DENSITY APRIL 2004									
SECTION	PERMITTED USES	Total Area (ac)	Devel. Area (ac)	Master Planned Open Space (ac)	Master Planned Open Space (% of Dev. ac)	Max. Sq. Ft. at Max. Res. Density	Max. Sq. Ft. at Max. Non-Res. Density	Max. s.f./ac at Max. Res. Density	Max. s.f./ac at Max. Non-Res. Density
1	I, G, M(G), M(GE), J	22.1	21.8	1.5	6.9%	218,000	218,000	9,864	9,864
2, 3, 4	E, G, C, D, M(CE), M(CG), M(GE), M(G), A, B, I, J	96.2	61.1	3.4	5.6%	357,500	357,500	5,867	5,867
5, 6	B, I, S, C, D, M(G), M(GE), M(CG), M(CE), J	99.2	63.8	2.2	3.5%	220,000	350,000	3,472	7,248
5	H, F, J	8.9	6.9	0.0	0.0%	63,357	63,357	7,143	7,143
7	A, B, C, D, I, J	56.7	52.3	0.0	0.0%	28,800	28,800	508	508
8	A, B, C, D, I, J	61.4	52.9	12.8	24.2%	33,500	33,500	546	546
9	E, G, C, D, M(CE), M(CG), M(GE), M(G), A, B, I, J	42.7	37.6	0.8	2.1%	330,000	350,000	7,728	8,197
10	E, G, M(GE), I, J	12	12	0.0	0.0%	110,000	110,000	9,167	9,167
Total		359.47	328.17	20.7	6.3%	1,361,157	2,008,657	3,787	5,588

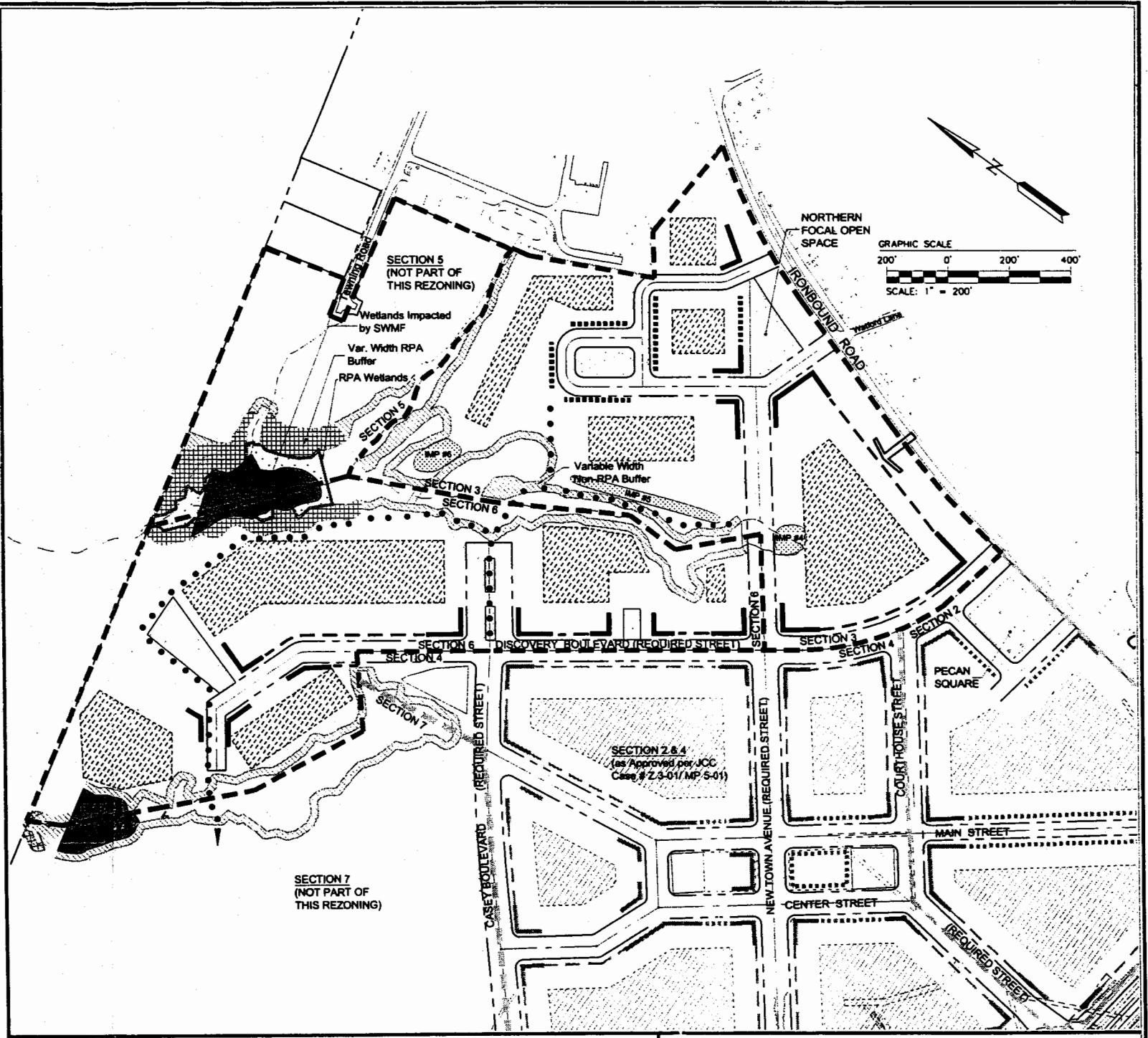
Per the Master Plan as Amended

Minimum Open Space at Final Build Out:	Overall Cap:	Overall Cap:
32.8	10%	

SEE ALSO - DENSITY TRANSFER NARRATIVE FOR DETAILS REGARDING RELATIONSHIP OF RESIDENTIAL UNITS TO NON-RESIDENTIAL SQ. FOOTAGE IN AFFECTED SECTIONS.

DEVELOPMENT TYPES

A SINGLE FAMILY	F WHOLESAL AND WAREHOUSES
B TWO/THREE/FOUR FAMILY	G OFFICE
C TWO STORY TOWNHOUSES AND APARTMENTS	H INDUSTRIAL
D THREE STORY TOWNHOUSES AND APARTMENTS	I INSTITUTIONAL AND PUBLIC
E COMMERCIAL	J COMMON OPEN SPACE
	M MIXED USE STRUCTURES



GENERAL NOTES FOR SWM:

- UNLESS OTHERWISE APPROVED BY THE ENVIRONMENTAL DIRECTOR, ALL PIPED STORMWATER OUTFALLS WILL BE DIRECTED TO A BEST MANAGEMENT PRACTICE (BMP).
- AS PRACTICABLE, OWNER WILL EVALUATE THE POSSIBLE USE OF CIVIC SPACES, COMMON AREAS, PARKING ISLANDS, AND OTHER LANDSCAPED AREAS AS WATER QUALITY ENHANCEMENT FEATURES AT THE TIME OF SUBMISSION OF SPECIFIC PLANS OF DEVELOPMENT FOR THESE SUBJECT SECTIONS.
- INTEGRATED MANAGEMENT PRACTICES (IMP'S #4, #5, & #6) ARE CONCEPTUAL ONLY AND SUBJECT TO FINAL SITE PLAN DESIGN, IN ACCORDANCE WITH THE NEW TOWN MASTER STORMWATER MANAGEMENT PLAN.

**NEW TOWN
SECTIONS 3 AND 6
MASTER STORMWATER
MANAGEMENT PLAN & DEVELOPMENT
TABULATIONS**

BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA
 JUNE 1, 2004
 REVISED: JUNE 21, 2004
 OWNER/DEVELOPER: NEW TOWN ASSOCIATES, L.L.C.
 LAND PLANNER: COOPER, ROBERTSON & PARTNERS
 CIVIL ENGINEER: AES CONSULTING ENGINEERS



Exhibit A

New Town Density

	Sections	Residential		Non-Residential	
		Max. DU at Max. Res. Density	Max. DU Max. Non- Res. Density	Max SF at Max. Res. Density	Max SF at Max. Non- Res. Density
Master Plan	2	80	0	200,000	245,000
	4	873	525	227,500	480,000
Combined	2&4	953	525	427,500	725,000
Transfer to 3 & 6		(150)	(150)	(70,000)	(70,000)
Amended Master Plan	2&4	803	375	357,500	655,000
Master Plan	3	150	0	100,000	140,000
	6	170	0	50,000	340,000
Combined	3&6	320	0	150,000	480,000
Transfer from 2&4		150	150	70,000	70,000
Amended Master Plan	3&6	470	150	220,000	550,000

Note: Based on the 1997 Master Plan residential and non-residential density, for sections 2 & 4, the ratio is 1 residential home per 695 non-residential square feet; for sections 3 & 6, the ratio is 1 residential home per 1,031 square feet.

New Town Design Review Board
4801 Courthouse Street, Suite 329
Williamsburg, VA 23188
(757) 565-6200

September 2, 2004

James City County Board of Supervisors
James City County Planning Commission
101 E-Mounts Bay Road
Williamsburg, VA 23185

*Re: New Town Associates, LLC
Rezoning of Sections 3 & 6 of New Town
Approval of Master Plan and Design Guidelines*

Dear Ladies & Gentlemen:

This board has received and reviewed the proposed Master Plan entitled "New Town Sections 3 and 6 Master Plan Berkeley District James City County, Virginia" dated June 1, 2004, revised June 21, 2004, prepared by AES Consulting Engineers, and the proposed the proposed Design Guidelines entitled "New Town Discovery Park Sections 3 & 6: Design Guidelines" dated August 3, 2004, prepared by Cooper, Roberston & Partners. We have reviewed these plans and guidelines in light of the factors set forth in the New Town Design Guidelines and the New Town Plan and have determined that they are consistent with the same. We support any further refinements to the master plan and design guidelines that are mutually agreeable to the James City County Planning Department and New Town Associates, LLC and that do not materially alter the design concept for Sections 3 & 6 as proposed in the aforementioned versions of the master plan and design guidelines.

This letter shall serve as our written advisory recommendation to the James City County Planning Commission and Board of Supervisors with respect to such consistency as required under the New Town Proffers, dated December 9, 1997. We further recommend and support any Master Plan amendments that are necessary to approve this project as described in the above documents.

Sincerely,

NEW TOWN DESIGN REVIEW BOARD

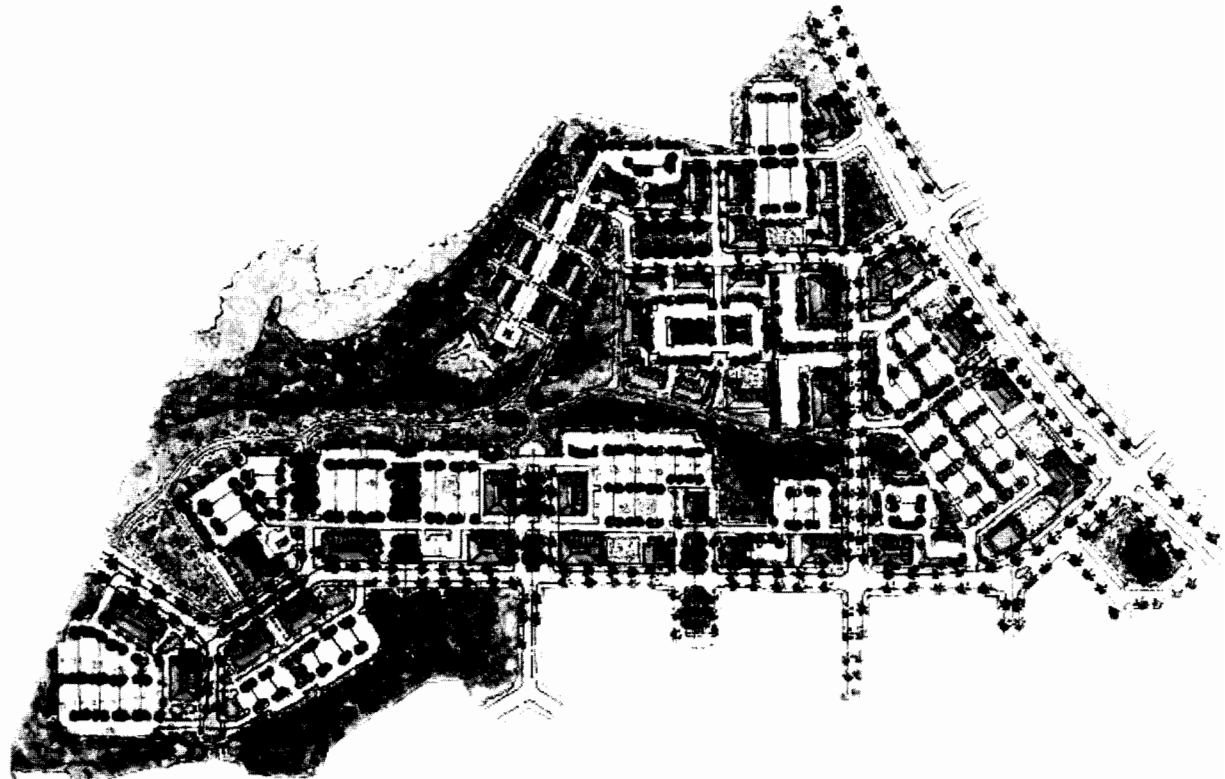
By: 

Its: Chairman

cc: John T. P. Home
John C. McCann
Gregory R. Davis, Esq.
#6056193 v1

New Town Discovery Park Sections 3 & 6: Design Guidelines

New Town Associates



September 2, 2004

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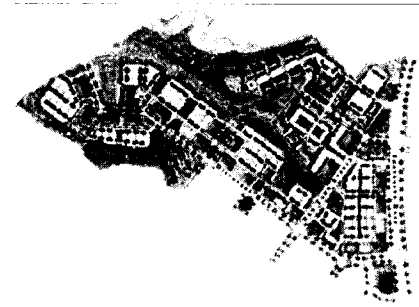
I. Sections 3 & 6 Guidelines

Introduction

In accordance with the proffers and adopted Design Guidelines for New Town in James City County, Virginia, New Town Associates presents these Specific Design Guidelines and Mixed-Use Plan for Master Plan Sections 3 and 6 to the New Town Design Review Board and James City County. For this rezoning effort, these master plan sections are treated as one mixed-use neighborhood, known as Discovery Park.

New Town's Discovery Park neighborhood is located on a lobe of land adjacent to and north of the mixed-use town center. The site is bounded by Ironbound Road to the east, Discovery Boulevard to the south and west, the lands of Eastern State Hospital to the north and east and an industrial neighborhood directly to the north. Within the Discovery Park neighborhood, two primary land uses are illustrated, though a mixture of office and research, residential, civic, and institutional uses are allowed and encouraged. An office/research district runs along Discovery Boulevard from Ironbound Road to New Town's border with Eastern State Hospital. A multi-family residential area is nestled to the north among wetland "fingers" and ravines. Based on the illustrative site plan presented in this document, which is one of many ways the neighborhood can be configured, approximately 500,000 SF of office and 200 residential units are accommodated.

At the neighborhood's eastern edge along Ironbound Road are two important open spaces within New Town. Pecan Square serves as a gateway to both the Town Center and Discovery Park at the intersection of Discovery Boulevard and Ironbound Road. Further north, the Northern Focal Open Space serves as an entry point to the new neighborhood and New Town, as well as an amenity for the existing neighborhood and surrounding community.



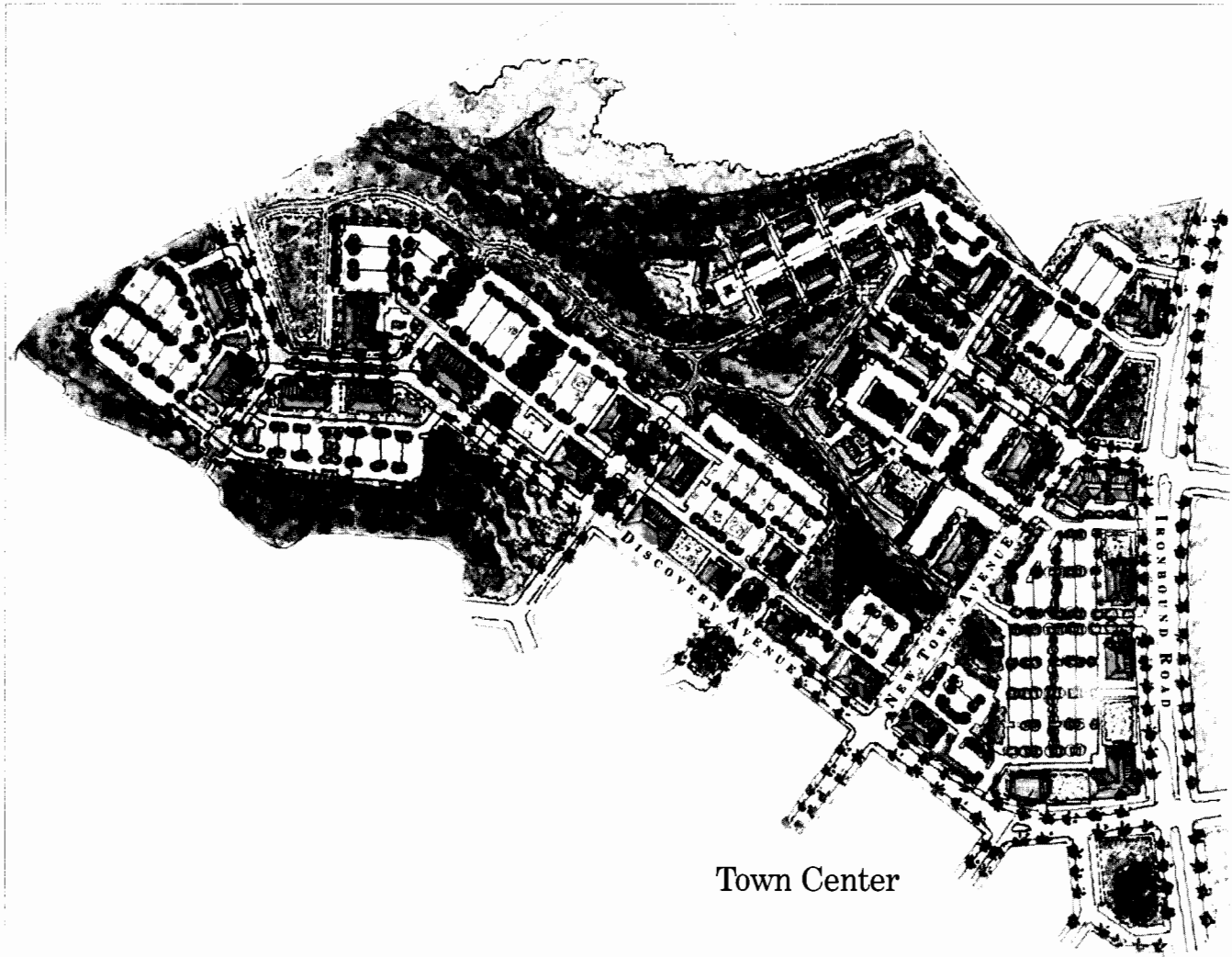


Regional plan showing context

The plan leaves open the possible extension of Discovery Boulevard to both the lands of Eastern State Hospital to the northwest and those of the College of William & Mary to the east.

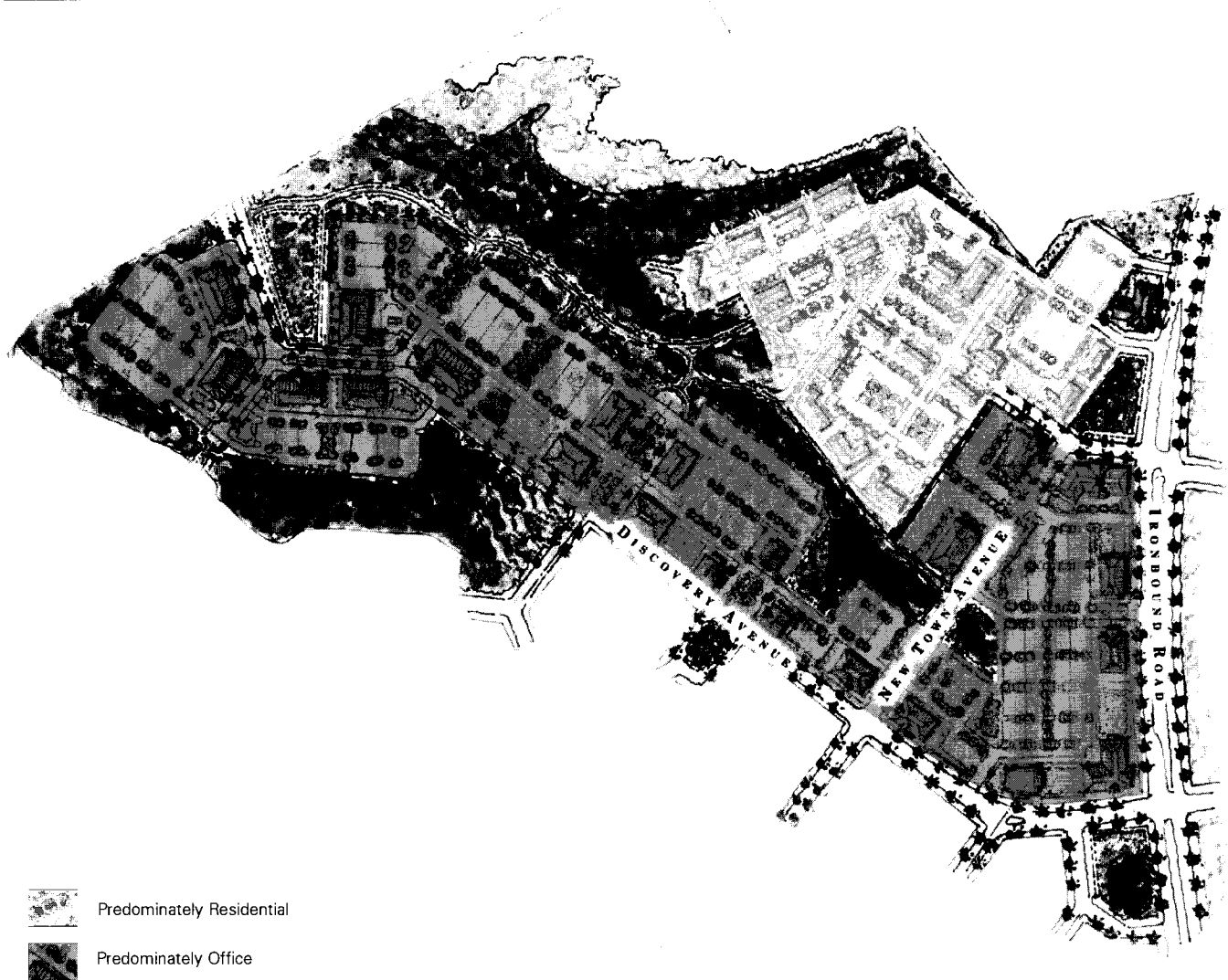
Discovery Park is linked directly to New Town's commercial center via New Town Avenue, Courthouse Street, and Casey Boulevard.

This proximity and direct linkage will enable office workers and residents to easily walk to the shops, restaurants and other activities within the town center during the day and into the evening. This district should function as a visual and physical extension of the town center.



Town Center

Illustrative Concept Plan



Land Use

2. Street Design

Primary Streets

The primary streets defining or located within Discovery Park are Ironbound Road, Discovery Boulevard, and New Town Avenue. The design of Ironbound Road will ultimately include its expansion to 4 moving lanes and is to comply with the proposed section in this document. Discovery Boulevard will be a common address for office, town center, and civic uses, linking each in a coherent way. Its siting will also keep open the possibility of future connection between the lands of Eastern State Hospital to those of William and Mary, allowing for the creation of additional development through these areas.

Sidewalks, tree planting and pedestrian lighting are to be designed on either side of these drives to enable and encourage pedestrians to stroll along the length, or to walk to the various destinations within New Town. Trees planted outside of the more urban town center may be spaced farther apart at a maximum of 50' o.c. Discovery Boulevard trees should be spaced at 30' o.c. Bikeways and bus stops should be provided along Ironbound Road and Discovery Boulevard and connected with the overall system established in James City County to afford people economical and healthy transportation alternatives. Bus stops will be coordinated with WAT.



2.1 Discovery Boulevard

The address street for Discovery Park is Discovery Boulevard. Discovery Boulevard starts at Pecan Square and keeps open the option of a future connection to Eastern State Hospital. Sidewalks, tree planting (spaced at a maximum of 30' o.c.) and pedestrian lighting are to be designed on either side of the office drive to enable and encourage pedestrians to stroll along the length or to walk to and from the northern civic center and the town center. A bikeway should be provided along Discovery Boulevard.

2.2 New Town Avenue

New Town Avenue, an important cross town link, originates at the Northern Focal Open Space (at Watford Lane near Ironbound Road), and connects to the Town Center. As a primary road, it should accommodate pedestrians.

2.3 Internal Streets

Internal streets and drives within Discovery Park serve primarily as drop-offs to the office buildings or to define parking areas. Within the residential neighborhood, they serve as the address and primary orientation for the residential buildings. A coherent, interconnected pattern of streets should organize the larger district into smaller, more humanly scaled areas. Sidewalks, tree planting (spaced at a maximum of 50' o.c.) and pedestrian lighting should be provided on both sides of the internal streets and drives enabling workers, visitors and residents to comfortably and safely walk from the parking areas to the building entrances day and evening.

2.4 Street Sections

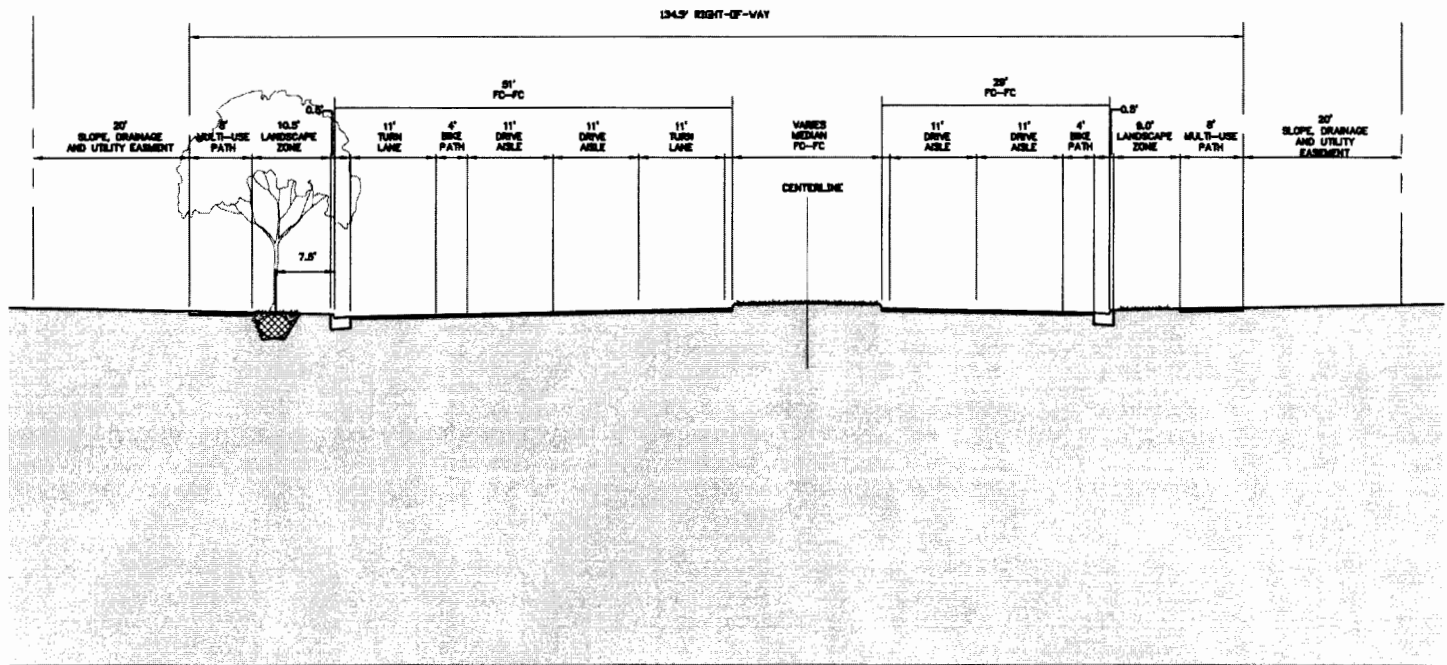
The following street sections are proposed for Discovery Park:

Ironbound Road

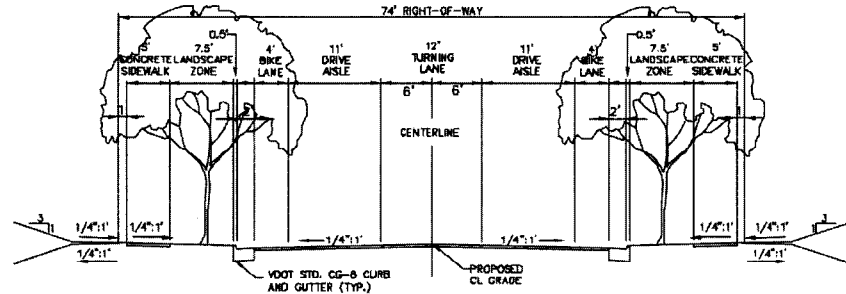
Discovery Boulevard

New Town Avenue

Internal Street

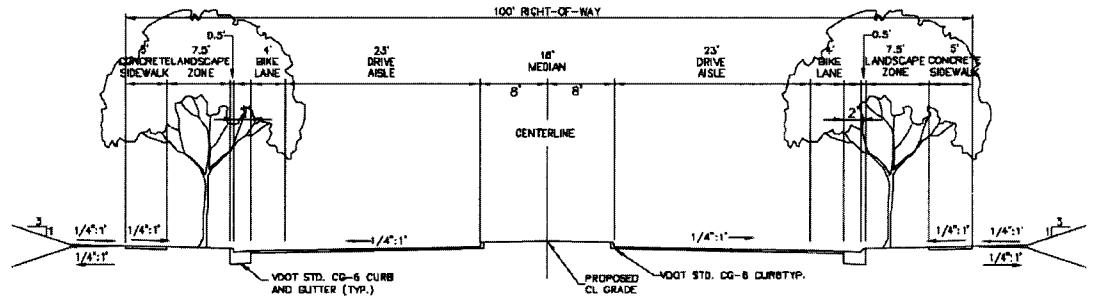


*Ironbound Road
Street Section*



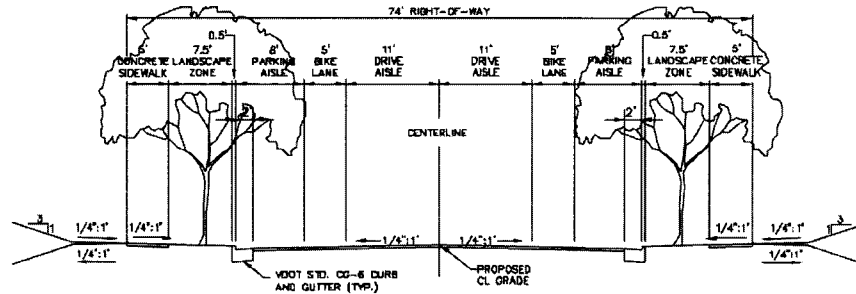
1. PROVIDE 2 - 11' LANES, SLOPE 1/4" PER FT.
2. PROVIDE 2 - 4' BIKE LANES, SLOPE 1/4" PER FT.
3. PROVIDE 12' TURNING LANE, SLOPE 1/4" PER FT. FROM
4. PROVIDE 7.5' LANDSCAPE ZONE, SLOPE = 1/4" PER FT.
5. PROVIDE 5' SIDEWALK, SLOPE = 1/4" PER FT.
6. PROVIDE SSV = 10 OR GREATER

**Discovery Boulevard
Between New Town Avenue
and Courthouse Street**



1. PROVIDE 2 - 23' LANES, SLOPE 1/4" PER FT.
2. PROVIDE 2 - 4' BIKE LANES, SLOPE 1/4" PER FT.
3. PROVIDE 16' CENTER MEDIAN, SLOPE 1/4" PER FT. FROM
4. PROVIDE 7.5' LANDSCAPE ZONE, SLOPE = 1/4" PER FT.
5. PROVIDE 5' SIDEWALK, SLOPE = 1/4" PER FT.
6. PROVIDE SSV = 10 OR GREATER

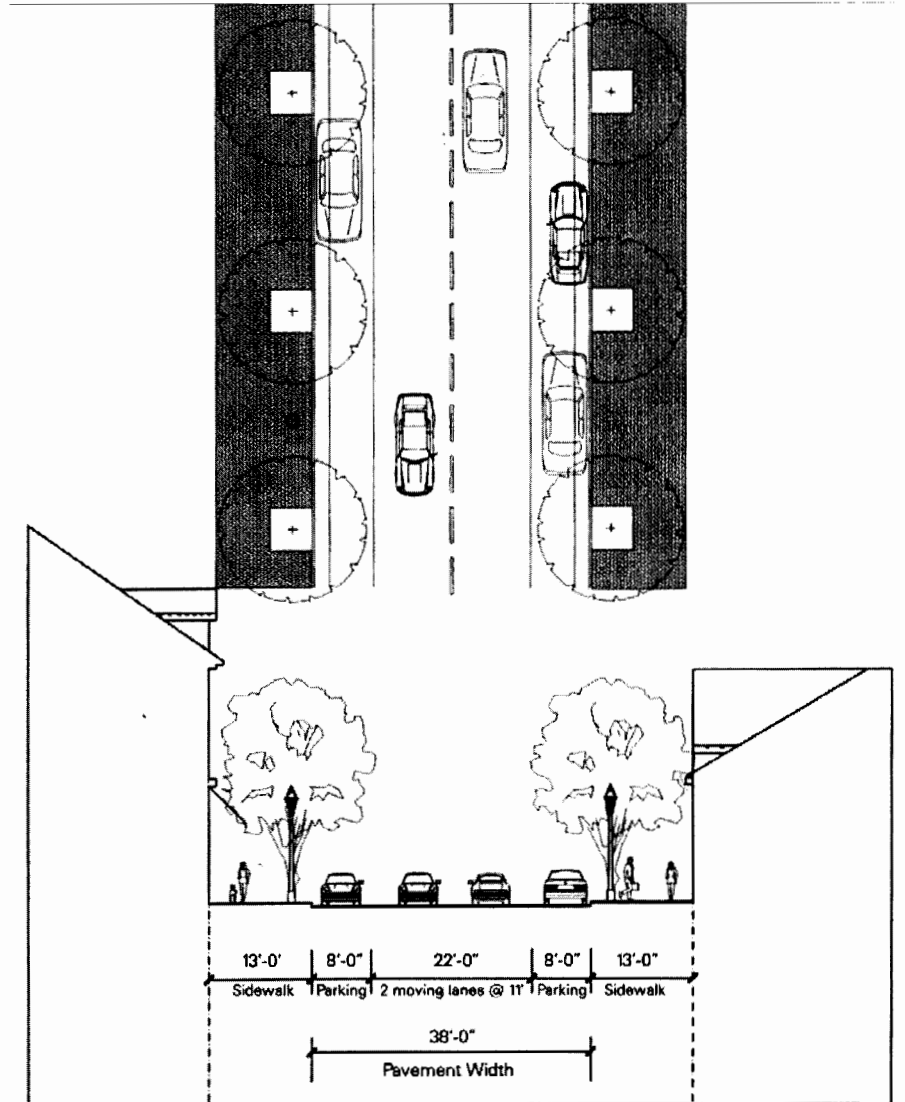
**Discovery Boulevard
Between Courthouse Street
and Ironbound Road**



1. PROVIDE 2 - 11' LANES, SLOPE 1/4" PER FT.
2. PROVIDE 5' BIKE LANE, SLOPE 1/4" PER FT.
3. PROVIDE 8.0' PARKING AISLE, SLOPE 1/4" PER FT.
4. PROVIDE 7.5' LANDSCAPE ZONE, SLOPE = 1/4" PER FT.
5. PROVIDE 5' SIDEWALK, SLOPE = 1/4" PER FT.
6. PROVIDE SSV = 10 OR GREATER

**Discovery Boulevard
West of New Town Avenue**

*Discovery Boulevard
Typical Street Sections*



New Town Avenue
Street Section

3. Building Placement and Massing

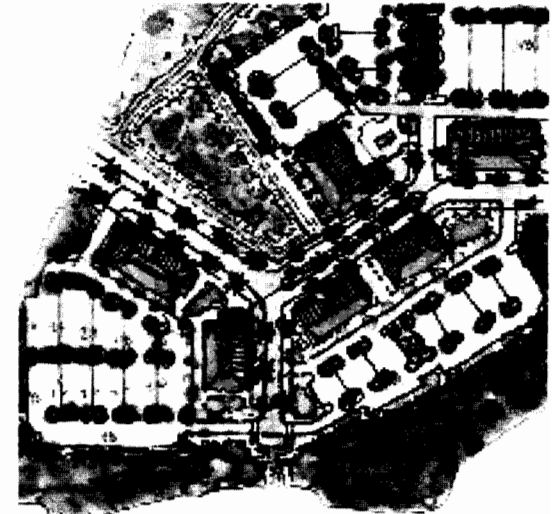
3.1 Building Orientation

Buildings and major open spaces within Discovery Park should primarily orient toward the street serving as their respective addresses. Buildings or groups of buildings should face the drive as a rule, thus ensuring the physical and visual relationship with the town center. Parking areas are to be located at the rear or, if necessary, at the sides of the buildings rather than interposed between buildings and the drive. The intent is that the buildings not be perceived as free standing isolated elements but as part of an integrated, spatially defined edge which is proximate to the activity of the town center and Village Square, thus linking them.

The appearance of an internally focused office-style campus is not encouraged as it would remove the buildings further from the town, both physically and experientially.

3.2 Building Shape and Footprint

Buildings throughout Discovery Park's office/mixed-use and residential areas should be predominantly rectangular in shape or composed of simple rectangular pieces.



Odd building shapes employing acute angles (such as in the letters "Z", "W", and "Y") are not encouraged. Simpler shapes are preferred (similar to the letters "I", "H", "L", "T", and "U").

Single building footprints should be predominantly between 5,000 square feet and 20,000 square feet. Floor plates may not be larger than 20,000 square feet without being offset into what appears to be two or more buildings. Building depths may not be greater than 100' without being divided into what appears to be two buildings. The use of offsets are encouraged when building footprints are greater than 10,000 square feet.

3.3 Building Height

An appropriate building height is desirable to establish a scale consistent with the village. Discovery Park is to have predominantly 2–3 story buildings. One story buildings are to be a minimum of 20' height to the top of a parapet or, if a sloped roof is provided, a minimum of 15' to the eave with a minimum of 10' of visible roof. Dormers are encouraged if a sloped roof is provided. Buildings which face an open space may have one story wings at less than 15' eave height if set back from the main body of the building a minimum of 5'. The floor area of such wings may not exceed 25% of the total building footprint. Buildings may not exceed 4 stories except for tower elements with a maximum footprint of 400 sf.



3.4 The Building Setback /Frontage Zone

Building setbacks from the property line are to generally occur within a specified "frontage zone" so that a defined streetscape or streetwall will result. Streetwalls help to create a pedestrian environment which, in turn, reinforces commercial uses. The "frontage zone" is a zone in which the front wall of a building is built.

3.4 a) Building Setback/Frontage Zone Requirements

Along public rights-of-way, a minimum of 60% of an individual building's front should be built within the frontage zone to avoid buildings that are set perpendicular to a street.

<i>Street type or condition</i>	Frontage Zone	
	<i>Minimum setback from R.O.W.</i>	<i>Maximum setback from R.O.W</i>
Ironbound Road	20'	30'
Discovery Boulevard	10'	15'
New Town Avenue	10'	15'
Internal Street	10'	15'
Exterior property line	10'	N. A.
Wetland	25'	N. A.

3.4 b) Block Face Setback/Front Zone Requirement

A certain percentage of building façades should occur within the frontage zones established above. Refer to the Mixed Use Plan for Block Face Setback requirements.

3.5 Build-To Zones

Build-To Zones are portions of the site frontage where buildings are required and where such buildings should occupy the established frontage zone.

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

Build-To Zones are established on page 4 of the MU Plan.

4. Parking and Access

4.1 Parking Standards

Parking lots within Discovery Park should be located at the rear or, if necessary, at the sides of the buildings, rather than be interposed between buildings and streets.

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

Discovery Boulevard:	15' min.
Other Public Rights-of-Way:	10' min.
Exterior Property Line:	10' min. (except if combined with that of an adjacent parcel or property)
Wetlands:	25' min.

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

Trash, utility and service areas are to be located behind buildings but are permitted within the parking areas, subject to the screening standards described in Section 5.1 (pages 15–16).





4.2 Access

4.2 a) Vehicular Access

Internal street systems and parking lots should be accessed primarily from Discovery Boulevard and Ironbound Road. Access points should align with streets which intersect the internal drive when possible, thus acting as a continuation of those streets. The rhythm of access points along the office drive should emulate that of the block system within the town center. When possible, buildings should share common access points to keep to a minimum the number of curb cuts along the office drive.

4.2 b) Pedestrian Access

Pedestrians are encouraged to access the office/mixed-use buildings from Discovery Boulevard, Ironbound Road and the internal street system which organizes the parking areas.

4.2 c) Building Access/Entrances

Building entrances may face the parking and drop-off areas of the site, but at least one clearly defined entrance should face the public right-of-way to allow pedestrians approaching from off-site to easily and coherently enter the buildings. Principal entrances are encouraged to be located at the center of the longer façade.



5. Visual Character

5.1 Edge Definition and Screening

5.1 a) General Provisions

Walls, fences, and planting are to be employed to improve the visual environment as well as to reinforce a streetwall condition. These elements are intended to define street edges and parking areas or to conceal undesirable views into parking and service areas where buildings do not occupy the frontage zone.

Parking areas which occur along the public right-of-way are to be screened with a fence or wall a maximum of 42" in height. Hedges may also be used as a screen. Fences, walls and hedges should be placed within the frontage zone described in Section 3.4a "Building Setback/Frontage Zone Requirements" (refer to chart on page 12). The screening should be consistent in character with the adjacent buildings. Walls are to be made of stuccoed concrete block or brick. Fences are to be made of hedges, wood or painted metal. Chain link fences are not permitted. Landscaping may be used in conjunction with fences and walls to better screen parking areas. The canopy of trees planted within the parking areas or other positive features should dominate the view over such walls and fences to soften the effect of parking area along street rights-of-way.

Loading, service and trash areas, as well as mechanical equipment, are to be located in a manner that minimizes views of such areas from adjacent buildings and roadways and should be screened with walls or fences a minimum of 5' in height, combined with planting where appropriate, and consistent



in character with adjacent buildings, or may be screened by buildings themselves. Where services areas are open for vehicular access, wood or painted metal gates, also a minimum of 5' high, are to be provided.

Outside storage of any materials, supplies, or equipment is expressly prohibited.

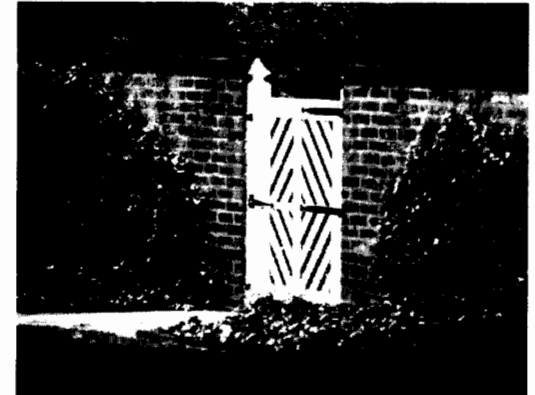
5.1. b) Mechanical Equipment

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

Grade mounted air handling equipment is to be screened from view as described above. Vents, louvers, exposed flashing, tanks and overhead doors should be located to eliminate views of such areas from adjacent buildings and roadways.

5.2 Planting

Planting is encouraged in all setback areas and throughout parking areas. In restrained setbacks (5'-10') plantings should be of low height with preference given to native and drought-resistant species. Setback areas that extend beyond 10' may use larger specimen trees, especially between parking areas and public rights-of-way. Within large areas of parking, planting should be designed to break down large parking lots into smaller parking areas. The preservation of existing mature trees and use of drought-resistant plants within a planting area is encouraged. Street trees and other right-of-way plant materials should be considered as part of the landscaping requirement. See Section II, "Landscape & Open Space Standards."





5.3 Signage

All signage should be compatible with the architecture of the buildings and is limited to signs in shop windows, hanging (shingle) signs, post mounted signs (non-rotating, limited to 14' in height), signs on the exterior building wall, placed at a consistent height, and to monument signs if designed as an architectural feature consistent with the buildings. Signs are encouraged to be externally lit when illuminated. Individual letters in signs may be internally lit provided the buildings are not located within 100' of Monticello Avenue. All signs should comply with the James City County Zoning ordinance. Refer to the New Town Streetscape Package.



5.4 Site Lighting

Well-designed outdoor lighting at night benefits everyone, increases safety and enhances the nighttime character of New Town. Appropriate and sufficient site lighting should be designed to insure the safety and security of pedestrian and vehicular movement while eliminating problems of glare, minimizing light trespass and helping to reduce energy costs. All business, residential and community driveway, sidewalk, and property luminaries should be installed with the idea of being a "good neighbor," including attempts to keep unnecessary direct light from shining onto abutting properties or streets.

All site lighting should prevent light from shining directly up and should be full cut-off fixtures with the light source fully shielded, except for low wattage and fossil fuel sources, temporary emergency lighting, seasonal lighting, sports field lighting, and other special situations as approved by the DRB. Pedestrian luminaries that permit the limited and controlled visibility of indirect light from the source as an aid to way finding and spatial definition are permitted at the discretion of the DRB.



Acceptable light sources include incandescent, fluorescent and metal halide lamps, and should produce a color temperature close to daylight. Other sources may be approved at the discretion of the DRB, but mercury vapor sources are not permitted.

The maximum height for on-site fixture poles is as follows:

1. *Pedestrian Walks, Plazas:* 14'
2. *Streets and Drives:* 25'
3. *Large Parking Areas:* 30'

The exterior illumination of civic or special buildings that enhances architectural elements is encouraged.



5.5 Scale and Articulation

Effort should be given to visually reduce the overall size of large buildings. This may be achieved through two devices: thoughtful building massing and the use of architectural elements. Buildings with large profiles may be designed to appear smaller if the overall massing is articulated as a collection of component masses. The use of architectural elements such as bays, balconies, porches, loggias and arcades can add interest to building facades and aid in relating the scale of any building to human dimensions. Roofs may be articulated through the use of dormers, lanterns, monitors, widow-watches and other roof-top elements. Each of these devices add character and interest to the buildings of the town which, in turn, reinforces the village character intended by these guidelines.

Office District Buildings

Office or mixed-use buildings should not appear monolithic. The buildings may range from 1–4 stories and should utilize simple geometric shapes in plan and elevation. Small building wings and ancillary buildings may be one story provided they have a pitched roof. The overall massing of any building should be a collection of simple volumes. Buildings are encouraged to have pitched roofs, especially to screen roof-mounted mechanical equipment. Wings and additions should be simple rectangles in plan and oriented parallel or perpendicular to the main body of the building or toward a street frontage.



Residential Buildings

Townhouses or garden buildings may range from 2–3 ½ stories and should be individually expressed through window patterns, roof massing, porch expression or placement relative to the front build-to line.

Apartment buildings should be articulated through the use of 1–2 story porches or covered balconies or ground floor recesses rising the full height of the building to express end bays, wings or center bays of a building.

Single family units are not permitted.

For other types of housing, if any, refer to Section IX, paragraphs 5.2 and 5.3 of the New Town Design Guidelines dated September 3, 1997.



5.6 Site Furnishing

Site furnishing (i.e. tables, chairs, benches, trash receptacles) should be consistent in character with the adjacent buildings and designed as an integral part of the site plan. Commercial grade, permanent furnishings should be provided. Refer to the New Town Streetscape Package.

5.7 Architectural Expression

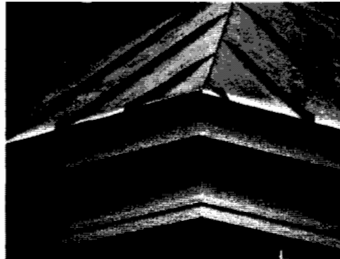
1. Walls: Recommended Materials

- Building walls: brick, with limited use of stucco or synthetic stucco, wood or fiber cement shingle, wood or fiber cement clapboard, board and batten
- Exposed Foundation Walls: brick or brick facing, or stucco finished poured concrete block or cast-in-place concrete

2. Building Elements: Recommended Materials

- Chimneys: brick, stucco or synthetic stucco
- Arcades and colonnades: brick, stucco, synthetic stucco, wood, or high grade synthetic wood alternative
- Porches, columns: various materials
- Posts, spindles, balusters: painted wood, painted metal
- Stoops, exterior stairs: brick, concrete
- Decks: wood, concrete
- Signs: wood, painted metal
- Awning and canopies: canvas-covered metal structure, designed to be compatible in configuration and color with the architecture of the buildings





3. Roofs: Recommended Materials

- Roofs: Wood shingles, metal standing seam, copper, lead-coated copper, slate, synthetic slate, architectural asphalt shingle; built-up roofs are allowed
- Gutters and downspouts: painted metal, copper
- Flashing: copper, lead coated copper, anodized aluminum

Configurational Standards:

Complete configurational standards of roofs and roof-top elements will be considered at the time of DRB review of specific building improvements. Some items to be considered are:

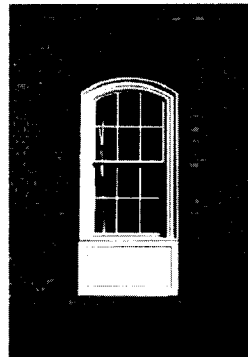
- Principal Roofs: Gabled, hipped, hipped gables, gabled hips or gambrel in a symmetrical fashion with a slope of 4:12 to 8:12
- Secondary Roofs: Shed with minimum slope of 3:12
- Flat Roofs: Flat roofs are to have parapets or railings
- Parapets: Horizontal or gabled in elevation
- Dormers: Pitched or eyebrow
- Special roof-top elements: Symmetrically situated or aligned with the rhythm of structural bays and fenestration
- Roof-top mechanical enclosures: Concealed from view by parapets of the character described above



4. Openings: Recommended Materials

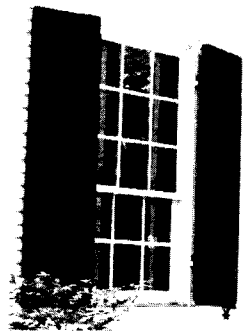
- Windows: wood, painted metal
- Bay windows: wood, painted metal, with metal tops
- Doors: painted wood, painted metal
- Storefronts: painted wood, painted metal
- Security doors and grilles: metal

Configuration standards of the above opening types will be considered at the time of DRB review of specific building improvements.



5. Paved Areas: Recommended Materials

- Streets: black aggregate asphalt roadbed, or brick or concrete pavers at special locations; concrete curb and gutter
- Parking Areas: black aggregate asphalt, brick or concrete pavers
- Curbs (within parking areas): concrete
- Pedestrian Areas: brick or concrete pavers and concrete, or local river rock at special locations



II. Landscape & Open Space Standards

Introduction

The land on which New Town is built has long been thought of as an area of great natural beauty and resource. Thick forests, wetlands and ravines and protected plant species occur throughout the land and should be preserved and celebrated as a major principle of the town.

The landscape designs which are introduced as part of the development of the town should promote a compatible and consistent treatment throughout the neighborhoods and complement the preserved natural features. A palette of plant species should be used throughout New Town that will provide for the ability to establish hierarchy among the public streets and common open spaces. Landscape treatments may also be used to enhance or reinforce building placements or to solve issues of screening.

Because the vision of the town is founded upon an interconnected system of streets and open spaces which individually establish neighborhood identity and collectively form town character, the execution of landscape designs becomes crucial to fulfillment of that vision.



2. Streets

2.1 General Requirements

The general requirements for street landscape standards are to be established by the street sections provided in these guidelines. In general, a common streetscape design theme should be carried throughout the town providing for a shade tree canopy along all public streets. These designs should recognize the hierarchy among street types serving local, town-wide and regional uses.

Where possible, streets should be located along an existing stand of preserved trees to promote a sense of maturity of the town landscape. Typically, trees planted along public rights-of-way are to be spaced a maximum of 50' o.c. Residential streets are to have trees spaced a maximum of 40' o.c. Street trees planted along Discovery Boulevard should be spaced a maximum of 30' o.c.

2.2 Ironbound Road

The design of Ironbound Road should establish an entrance character for New Town and be consistent with certain elements provided along Monticello Avenue. Specific recommendations for the design of the landscape are indicated as follows:

1. 20' minimum setback on Town Side

On the town side of Ironbound, the setbacks from the right-of-way to the face of buildings and edge of parking lots should be landscaped with lawns and varied shrubs and tree plantings to establish "front yards" for these uses.

2.2 Ironbound Road (continued)

2. Town Fence

At the right-of-way line on the town side of the road, install a continuous "Town Fence," except at the following locations: Between Monticello Avenue and Discovery Boulevard. The fence should be based on established Williamsburg fence types (see approved fence options in streetscape package).

3. Roadside Lawn

On the town side of the roadway, from the fence to the curb, a mowed lawn should be maintained. On the town side, adjacent to the multi-use path, a continuous row of straight-trunked street trees planted by way of example with such species as Willow Oak, Red Maple, London Planetree and Green Ash, at a regular spacing of 50' on center. Trees should also be planted between the curb and the multi-use path.



3. Open Space and Focal Points

Whenever possible, existing natural features such as wetlands and ravines, high points of topography or a special grouping of existing trees should serve as the basis for a neighborhood open space. The natural features are thus preserved and celebrated as public gestures. Designed open spaces should possess individual character in their scale and articulation and by the uses which front them. The landscape of each open space should reflect its internal character and use. In general, the landscape of open spaces should define its edges (along with buildings), acting as the walls of an outdoor room. Public open spaces (parks, squares and greens) are required to be bordered by streets or other vehicular access along at least 50% of their perimeter.

4. Street Frontage and Building Landscape

The landscape treatment along the frontage of a site and directly near buildings should receive the primary emphasis in the overall planting scheme. These areas should typically convey a more finished, urban character consistent with the village.

5. Parking Areas

Parking lots should be designed to meet or exceed the landscape standards of the James City County Zoning Ordinance. Whenever possible, existing large trees are to be saved within the lots to promote a sense of maturity of the town landscape and to shade the paved areas.

6. Open Spaces of the Plan

6.1 Northern Focal Open Space

There are two areas of major civic uses which anchor the north and south ends of Ironbound Road. These civic places act as gateways and establish the initial impression of the town to those who arrive from Williamsburg. Together, the two civic areas along with Ironbound Road form the “front door” of the town from the north and the east.

The northern district may be home to civic and community uses in addition to office and residential uses. As one approaches the site along Ironbound Road from the North, the lanes within the roadbed separate to accommodate a widened green median. At this location one may enter the town at Watford Lane and then on to New Town Avenue, which diagonally transects the neighborhood and arrives at the Town Center. At the nexus of these movements, a focal open space should be designed to act as a gateway and site for civic uses and as an address for other uses.

The focal open space is an opportunity to organize these uses in a proximate manner which will enable patrons of each use to easily walk to and from the different parking areas. The space should have a strong geometric shape and should be generally open. In addition to the buildings, large trees should define the edge of the space, enhancing the intended effect of a gateway. Flagpoles, monuments, water features or small open structures may occur within the open space. The size of the Northern Focal Open Space should not be less than $\frac{3}{4}$ acre nor exceed $1\frac{1}{2}$ acres.

6.2 Pecan Square

The Pecan Square is to serve as a gateway to the village from Ironbound Road at Discovery Boulevard as well as a potential address for small retail or office buildings. Five large pecan trees, a recognized landmark in the community, planted by the Caseys’ grandfather are to be preserved and celebrated by the design of the square. No other trees (with the exception of ornamental trees and replacement trees) are to be planted within the square, but trees may be planted along the opposite frontages of streets bordering the square. Angled parking may be provided along the opposite west and south frontages which form the square.

6.3 Neighborhood Focal Open Spaces

Located through the village are open spaces that serve to organize and add character and identity to the neighborhoods. The spaces may be formed from compelling natural features such as wetlands and ravines, high points of topography or an existing mature stand of trees. Focal spaces may also be purely designed within the organization of interconnected streets and open spaces which form the town. The uses which front these spaces should be consistent in character to assure an intended identity. Commercial, civic and higher density residential uses are all appropriately located on these spaces. The size of the Neighborhood Focal Open Space should not be less than $\frac{3}{4}$ acre nor exceed $1\frac{1}{2}$ acres.

6.4 Pedestrian Connectivity

A trail system will be created along the wetlands to provide pedestrian access between Sections 3 & 6 and adjacent sections, which will connect to the sidewalk system and then eventually to the Town Center.

7. Recommended Planting Practices

7.1 Minimum Sizes of Planting For All New Landscaping

1. Trees: Deciduous Shade
 - Location on streets and street frontages
 - 3 ½" caliper, 16–18' height min.
2. Trees: Deciduous Shade
 - Location in parking areas
 - 2 ½" caliper, 16–18' height min.
3. Trees: Evergreen
 - Well shaped, full, 8' height min.
4. Ornamental: Single-Stemmed Deciduous or Evergreen
 - 2 ½" caliper, 8 – 10' height min.

7.1 Minimum Sizes of Planting For All New Landscaping (continued)

5. Ornamental: Multi-Stemmed Deciduous or Evergreen

- 1" caliper, 3 canes minimum, 6 – 8' height

6. Shrubs

- Three gallon container size or balled and burlapped equivalents min.

7. Ground Cover

- One-Quart container

8. Grasses

- One-Gallon container

9. Annuals

- 3 ½" pot

7.2 Planting Practices and Zoning

While parking lots shall be designed to meet or exceed the landscape standards of the James City County Zoning Ordinance, all new planting practices as well as existing vegetation preservation applications should meet or exceed the intent of these guidelines and shall be subject to the review and approval of the Design Review Board. Preference in selecting plants should be given to drought-resistant species.

NEW TOWN - SECTIONS 3 and 6 - PROFFERS

THESE PROFFERS are made as of this 30th day of September, 2004, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (together with its successors and assigns, "Owner") (index as a "grantor"), and the **COUNTY OF JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County") (index as the "grantee").

RECITALS

R-1. Owner is the owner of certain real property located in James City County, Virginia, being more particularly described on EXHIBIT A attached hereto and made a part hereof (the "Property"). Owner is also the owner of certain real property, including the Property, located in James City County, Virginia, being more particularly described on EXHIBIT B attached hereto and made a part hereof (the "New Town Property").

R-2. The Property is subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as Instrument Number 980001284.

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

Prepared by:
Kaufman & Canoles, P.C.
4801 Courthouse St., Suite 300
Williamsburg, VA 23188

VIRGINIA", dated September 3, 1997, prepared by Cooper, Robertson & Partners. A copy of the New Town Master Plan and New Town Design Guidelines are on file with the County Planning Director.

R-4. In furtherance of the vision embodied in the New Town Master Plan and New Town Design Guidelines, Owner has applied for a rezoning of the Property from R-8, Rural Residential with proffers to MU, Mixed-Use with proffers. The rezoning of the Property to MU, with proffers, is consistent both with the land use designation for the Property on the County Comprehensive Plan and the statement of intent for the MU zoning district set forth in Section 24-514 of the County Zoning Ordinance, Section 24-1 *et seq.* of the County Code of Ordinances, in effect on the date hereof (the "Zoning Ordinance").

R-5. Owner has submitted an update to the Community Impact Statement entitled "Community Impact Statement for the Casey Newtown", dated March 21, 1997, previously filed with the County Planning Director which satisfies the requirements of Section 24-515(c) of the Zoning Ordinance and the New Town Proffers, which update to the Community Impact Statement includes, without limitation, an updated Fiscal Impact Study which has been reviewed and accepted by the County in connection with the rezoning request referenced above. The update to the Community Impact Statement, as well as the original Community Impact Statement, are on file with the County Planning Director.

R-6. In accordance with the requirements of paragraph 4 of the New Town Proffers, Owner has submitted to the County an updated traffic study (the "Traffic Study") entitled "TRAFFIC STUDY FOR SECTIONS 3 & 6 OF NEW TOWN, JAMES CITY COUNTY, VIRGINIA", dated June 2004, prepared by DRW Consultants, Inc., Midlothian, Virginia, which is on file with the County Planning Director.

R-7. Pursuant to subparagraph 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") for development of the property subject to the New Town Proffers.

R-8. Pursuant to the New Town Proffers, the DRB is charged with the responsibility of rendering a written advisory recommendation to the County Planning Commission and to the County Board of Supervisors as to the general consistency with the New Town Master Plan and the New Town Design Guidelines of any proposed master plans and design guidelines in future rezonings of the property subject to the New Town Proffers.

R-9. Owner has previously submitted to the DRB, and the DRB has previously approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, a conceptual plan of development (the "Sections 3 and 6 Master Plan") entitled "NEW TOWN SECTIONS 3 & 6 MASTER PLAN BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA", dated June 1, 2004, revised June 21, 2004, prepared by AES Consulting Engineers, and design guidelines (the "Sections 3 and 6 Guidelines") entitled "New Town Discovery Park Sections 3 & 6 Design Guidelines", dated September 2, 2004, prepared by Cooper Robertson & Partners, for the Property, copies of which Sections 3 and 6 Master Plan and Sections 3 and 6 Guidelines are on file with the County Planning Director.

R-10. A Phase I Archaeological Study (the "Casey Study") was conducted on the Property as detailed in that certain report entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and Mary Archaeological Project Center, which report has been submitted to, reviewed and approved by the County Planning Director. The Casey Study identified only one (1) area of archaeological significance on the Property, Site

44JC617, and recommended such site for Phase II evaluation. Subsequent to the Casey Study, Owner commissioned a second Phase I Archaeological Study (the "Associates Study") of, *inter alia*, Site 44JC617 as detailed in that certain report entitled "Phase I Archaeological Investigations of Sites 44JC617, 44JC618, 44JC619, and 44JC620 on the New Town Tract James City County, Virginia", dated January, 2004, prepared by Alain C. Outlaw, Principal Investigator, Timothy Morgan, Ph.D., and Mary Clemons, which report has been submitted to, reviewed and approved by the County Planning Director. The Associates Study determined that Site 44JC617 is an isolated finds area and recommended no further treatment of the site.

R-11. A small whorled pogonia survey was conducted on the Property revealing that no small whorled pogonia plants exist on the Property. The report generated from that survey is entitled "SEARCHES FOR THE SMALL WHORLED POGONIA, ISOTRIA MEDEOLOIDES, ON THE CASEY TRACT, CHISEL RUN WATERSHED, WILLIAMSBURG/JAMES CITY COUNTY, VIRGINIA SPRING/SUMMER 1996" (the "1996 Report"), prepared by Dr. Donna M. E. Ware of the College of William & Mary for Williamsburg Environmental Group, Inc. The results of the 1996 Report are illustrated on sheet 6, entitled "Master Stormwater Plan", of the New Town Master Plan. A copy of the 1996 Report is on file with the County Planning Director.

R-12. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Owner, in furtherance of its application for rezoning, desires to proffer certain conditions which are 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-13. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the Sections 3 and 6 Master Plan, the Sections 3 and 6 Guidelines and all related documents described herein, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code, Section 24-16 of the Zoning Ordinance and the New Town Proffers, Owner agrees that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

1. Application of New Town Proffers, Master Plan and Design Guidelines. These Proffers, the Sections 3 and 6 Master Plan and the Sections 3 and 6 Design Guidelines shall supercede, amend and restate in their entirety the New Town Proffers, the New Town Master Plan and the New Town Design Guidelines, but only as to the Property. Accordingly, this document contains the only proffers hereinafter applicable to the Property.

2. New Town Owner's Association.

(a) A supplemental declaration ("Supplemental Declaration") shall be executed and recorded in the Clerk's Office to submit all or a portion of the Property to the New Town Master Association, a Virginia non-stock corporation (the "Commercial Association"), and to the Master Declaration of Covenants, Easements and Restrictions for New Town, dated June 22, 1998, recorded in the Clerk's Office as Instrument Number 980013868 (including the articles

of incorporation and the bylaws governing the Association, as any of the foregoing have been or may be hereafter supplemented, amended or modified pursuant to the terms thereof).

(b) For any of the Property not submitted by Supplemental Declaration to the Commercial Association, a separate association (the "Residential Association") shall be formed. In addition to the Commercial Association and the Residential Association, one or more separate owners or condominium associations may be organized for portions of the Property (each individually a "Separate Association") as subordinate associations of the Commercial Association and/or Residential Association and supplemental restrictive covenants may be imposed on the corresponding portions of the Property.

(c) The Residential Association and the Commercial Association shall develop shared facilities agreements ("Shared Facilities Agreements") between the associations as necessary to fairly and reasonably apportion fiscal responsibility for the operation and maintenance of common elements, recreation facilities, stormwater management facilities, roadways, or other facilities benefiting or serving the members of both associations. The apportionment of such fiscal responsibility shall be based upon such factors as impervious surface area, building square footage, numbers of "Residential Units" (hereinafter defined) within a particular association, number of members, land area of the membership, intensity of use of such shared facilities by the membership of each association and/or such other factors agreed to between the associations.

(d) Any Supplemental Declaration and any articles of incorporation, bylaws and declaration associated with the Residential Association or a Separate Association for the Property (collectively, the "Governing Documents") and the Shared Facilities Agreements, if any, shall be submitted to and reviewed by the County Attorney for general consistency with this

proffer. The Governing Documents shall (i) require that the applicable association adopt an annual maintenance budget and assess all of its members for the maintenance of the properties owned or maintained by such association, (ii) grant such association the power to, and require that such association, file liens on its member's properties for non-payment of such assessments and for the cost to remedy violations of, or otherwise enforce, the Governing Documents, (iii) provide that the DRB shall serve as a design review board for each association formed with respect to the Property, and (iv) provide for the implementation and enforcement of the water conservation standards proffered herein.

3. Development Process and Land Use.

(a) Development. The Property shall be developed in one or more phases generally in accordance with the Sections 3 and 6 Master Plan and the Sections 3 and 6 Design Guidelines, including, but not limited to, the land uses, densities and design set forth therein. All of such development shall be expressly subject to such changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over such development.

(b) DRB Authority, Duties and Powers. All site plans, exterior architectural plans, building materials, building elevation plans and other development plans for the Property shall be submitted to the DRB for review and approval in accordance with the manual entitled "NEW TOWN DESIGN PROCEDURES JAMES CITY COUNTY" as the same may be amended by the DRB from time to time, a copy of which is on file with the County Planning Director, and such other rules as may be adopted by the DRB from time to time, for general consistency with the Sections 3 and 6 Master Plan and Sections 3 and 6 Guidelines. Evidence of DRB approval of plans required to be submitted to the County for approval shall be provided

with any submission of such plans to the County Department of Development Management. The County shall not be required to review any development plans not receiving the prior approval of the DRB. In reviewing applications, development plans and specifications, the DRB shall consider the factors set forth in the Sections 3 and 6 Master Plan and/or the Sections 3 and 6 Guidelines. The DRB shall advise of either (i) the DRB's recommendation of approval of the submission, or (ii) the areas or features of the submission which are deemed by the DRB to be materially inconsistent with the applicable Sections 3 and 6 Guidelines and/or the Sections 3 and 6 Master Plan and the reasons for such finding and suggestions for curing the inconsistencies. The DRB may approve development plans that do not strictly comply with the Sections 3 and 6 Master Plan and/or the Sections 3 and 6 Guidelines, if circumstances, including, but not limited to, topography, natural obstructions, design/development hardship, economic conditions or aesthetic or environmental considerations, warrant approval. All structures, improvements, open space, wetlands and other natural features on the Property shall be constructed, improved, identified for preservation, left undisturbed or modified, as applicable, substantially in accordance with the plans and specifications as finally approved by the DRB.

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

4. Transportation Improvements. Owner shall construct/install the following entrance and road improvements (“Transportation Improvements”) to Virginia Department of Transportation (“VDOT”) standards and specifications for the Watford Lane (as designated in the Traffic Study) intersection with Ironbound Road:

- (a) A northbound left turn lane on Ironbound Road at Watford Lane;
- (b) A southbound right turn lane on Ironbound Road at Watford Lane;
- (c) A minimum of two lanes approaching Ironbound Road and two lanes departing Ironbound Road on Watford Lane in New Town Section 3; and
- (d) A traffic signal which shall include: i) signal coordination equipment at the request of VDOT, and ii) traffic signal preemption equipment acceptable to the County Fire Chief.

The Transportation Improvements shall be completed or guaranteed (“Guaranteed”) in accordance with Section 15.2-2299 of the Virginia Code (or such successor provision) and the applicable provisions of the County Code of Ordinances (such performance assurances to be hereinafter referred to as a “Guarantee” or “Guarantees”) prior to final site plan or subdivision plan approval for residential and/or non-residential construction on the Property exceeding 400,000 square feet unless earlier warranted and/or deemed needed by VDOT. The deadline established by the preceding sentence may be extended by the County Planning Director based upon such objective criteria as, *inter alia*, the rate of residential development of the New Town Property and/or traffic generated by development of the New Town Property and surrounding properties.

5. Mix of Housing Types. A minimum of six (6) “Residential Units” constructed on the Property shall be initially offered for sale for a period of nine (9) continuous months (if not

earlier sold pursuant to such offer) after the issuance of a building permit for such "Residential Units" at a price at or below One Hundred Nine Thousand Thirty-Four Dollars (\$109,034), subject to adjustment as set forth herein, and a minimum of ten (10) "Residential Units" constructed on the Property shall be initially offered for sale for a period of nine (9) continuous months after the issuance of a building permit for such "Residential Units" at prices between One Hundred Nine Thousand Thirty-Four Dollars (\$109,034) and One Hundred Forty-Five Thousand Eight Hundred Ninety-Eight Dollars (\$145,898), subject to adjustment as set forth herein. The County Planning Director shall be provided with a copy of the listing agreement and sales literature for each "Residential Unit" offered for sale at a price at or below the adjusted price set forth above, and with respect to the sale of such "Residential Units", consultation shall be made with, and referrals of qualified buyers shall be accepted from, the County Department of Housing and Community Development. With the approval of the County Planning Director, Owner may satisfy the requirements of this proffer by encumbering, in a manner satisfactory to the County Attorney, other property within the New Town Property with the obligation to construct and offer for sale the "Residential Units" with the above-proffered pricing upon the same terms and conditions. Such encumbrance on other New Town Property may be changed with the prior written approval of the County Planning Director.

6. Community Spaces. The Sections 3 and 6 Master Plan and the Sections 3 and 6 Guidelines set forth a "Northern Focal Open Space" ("Northern Community Space"). The site plan for the Northern Community Space shall be submitted to the County prior to final approval of the site plan for that portion of New Town Avenue located on Sections 3 and 6. The Northern Community Space shall be completed or Guaranteed on or before the earlier of: i) such date as the road way striping for that portion of New Town Avenue located on Sections 3 and 6 is

completed, and ii) such date that any widening of the portion of Ironbound Road adjacent to the Property has been completed. Other open space areas (“Neighborhood Community Spaces”) shall be constructed on the Property as generally depicted on the Sections 3 and 6 Master Plan. Each Neighborhood Community Space shall be completed or Guaranteed prior to the issuance of certificates of occupancy for the first building(s) adjacent to such Neighborhood Community Space. The configuration, composition, location and design of the Northern Community Space and the Neighborhood Community Spaces (collectively, the “Community Spaces”) is subject to the provisions of paragraph 3(b) hereof, and shall be further expressly subject to such changes in configuration, composition and location as required by governmental authorities, other than the County, having jurisdiction. The Community Spaces shall be maintained by the Commercial Association, the Residential Association and/or a Separate Association, and shall be subject to rules and regulations as may be promulgated, from time to time, by the responsible association; provided, however, no permanent barriers shall be erected or maintained to prohibit pedestrian access to the Community Spaces and the Community Spaces shall be open to the owners of the Property, their respective mortgagees, and tenants and occupants of buildings constructed on the Property and, *inter alia*, the subtenants, licensees, concessionaires, business invitees, employees and customers of all such persons.

7. Open Spaces. The Property shall be developed in compliance with applicable County open space requirements, including Section 24-524 of the Zoning Ordinance. With the approval of the County Planning Director, the applicable open space requirements in developing the Property may be met by specifically designating open space on other property within the New Town Property as and when the Property is developed if such open space requirements applicable to the Property cannot reasonably be met by identifying open space located on the

Property. Such designation of open space on the New Town Property may be changed with the prior written approval of the County Planning Director. Owner may utilize the Community Spaces or portions thereof to meet the open space requirements for the Property, provided such space meets the applicable definition of open space contained in the Zoning Ordinance.

8. Ironbound Road Right-of-Way. At such time as VDOT is prepared to improve Ironbound Road, there shall be conveyed, free of charge to the County or VDOT, in a single conveyance, an additional variable width portion of the Property lying adjacent to, and along, Ironbound Road as is necessary for the upgrade of Ironbound Road to a variable width four lane road with medians and bikeways generally as described in the Sections 3 and 6 Guidelines, which area conveyed shall be limited to, but not necessarily include all of, that portion of the Property along the easterly property line of Section 3 of the Property adjacent to Ironbound Road thereby providing additional right-of-way for Ironbound Road of a variable width up to a maximum additional area conveyed of 72 feet in width which additional width is measured from the existing western right-of-way line of Ironbound Road as shown on the applicable VDOT roadway plans on the date of conveyance.

9. Streetscapes. All site plans and subdivision plans for development within the Property shall include: (i) pedestrian connections on the Property, or the portion thereof so developed, along main roads adjoining the Property; (ii) streetscape plans for streets within the subject portion of the Property; and (iii) streetscape plans for those portions of the Property adjacent to Ironbound Road, all of which pedestrian connections and streetscapes shall be consistent with the Sections 3 and 6 Guidelines applicable to the Property. The approved streetscape plans, including, where required by the DRB pursuant to the Sections 3 and 6 Design Guidelines, street trees, the town wall or fence, sidewalks, walking trails, crosswalks, street

lighting, street furniture, and bike lanes, and any other miscellaneous improvements required by the Sections 3 and 6 Design Guidelines and approved by the DRB, shall be implemented incrementally when development on adjoining portions of the Property is completed.

10. Bus/Transit Facilities. At least two (2) bus pull-off areas with bus stop shelters shall be constructed on the Property at locations along the proposed Discovery Boulevard and/or New Town Avenue within Sections 3 and 6 of the Property or, at the request of Owner, at such reasonable alternative locations as are approved by the County Planning Director. Design of any pull-offs and shelters shall be approved in advance by the DRB. The pull-offs and shelters shall be installed at the direction of the Planning Director, but in no event before the adjacent roadways are constructed.

11. Recreation Facilities. The Property is being developed in furtherance of a comprehensive town plan that is subject to the Sections 3 and 6 Guidelines and the Sections 3 and 6 Master Plan which provide for a more urban approach to the design of buildings and public spaces in order to avoid conventional suburban patterns and promote an environment conducive to walking. Implementation of such development design will provide for a network of sidewalks, alleyways and community areas. Specifically, in furtherance of the County Comprehensive Parks and Recreation Plan proffer guidelines (the "County Recreation Guidelines"), as in effect on the date hereof, recreation facilities in the form of the community spaces to be established on the Property shall be provided, open to all residents of the development, and maintained and regulated by the Commercial Association, the Residential Association and/or a Separate Association. Further, prior to final site plan or subdivision plan approval for more than one hundred (100) "Residential Units" on the Property, Owner shall install or Guarantee: (i) one (1) playground; (ii) one (1) urban park area; and (iii) a system of

pedestrian/jogging paths as shown on the Sections 3 and 6 Master Plan, all in accordance with the currently adopted version of the County Parks and Recreation Master Plan and as approved by the DRB and County Planning Director. Subject to review by the County Planning Director, Owner may utilize the Community Spaces to meet the aforementioned requirement to construct an urban park area.

12. Water Conservation. The owner(s) of the Property, the Residential Association, the Commercial Association and/or Separate Association(s) shall be responsible for developing and enforcing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority ("JCSA"). The standards shall address such water conservation measures as limitations on use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to accomplish the limitation on use of public water and groundwater. The standards shall be submitted to and reviewed by the County Attorney for general consistency with this proffer and shall be approved by JCSA prior to final approval of the first site plan or subdivision plan for development of the Property or any portion thereof.

13. Contribution for Public Facilities.

(a) Water. A contribution shall be made to the County in the amount of Seven Hundred Eighty Dollars (\$780), for each individual residential dwelling unit (individually, a "Residential Unit", and collectively, the "Residential Units") developed on the Property (the "Per Unit Water Contribution"). The County shall make these monies available for development

of water supply alternatives, the need for which is deemed by the County to be generated by the development of the Property.

(b) Recreation. A playground contribution shall be made to the County in the amount of Sixty-Seven Dollars (\$67), for each Residential Unit developed on the Property in excess of two hundred ninety-four (294) Residential Units (the "Per Unit Playground Contribution"). A courts/softball field contribution shall be made to the County in the amount of Seventy-Four Dollars (\$74), for each Residential Unit developed on the Property (the "Per Unit Courts/Softball Field Contribution"). The County shall make these monies available for development of recreational facilities, the need for which is deemed by the County to be generated by the development of the Property.

(c) School Facilities. A contribution shall be made to the County in the amount of Two Hundred Ninety Nine Dollars (\$299) per Residential Unit for the initial one hundred fifty-five (155) Residential Units developed on the Property (the "Per Unit School Contribution"). The calculation of such contributions is premised upon a need for a total financial contribution for the entire New Town development of Two Hundred Forty Thousand Dollars (\$240,000.00) (in 2002 dollars), said need being deemed by the County to be generated by the anticipated development of the residential components of New Town. The County shall make these monies available for acquisition of school sites and/or construction of school facilities, the need for which is deemed by the County to be generated by the development of the Property.

(d) Library Facilities. A contribution shall be made to the County in the amount of Sixty Dollars (\$60.00) for each Residential Unit developed on the Property (the "Per Unit Library Contribution"). The County shall make these monies available for the development

of library space, the need for which is deemed by the County to be generated by the development of New Town.

(e) Fire/EMS Facilities. A contribution shall be made to the County in the amount of Seventy Dollars (\$70.00) for each Residential Unit developed on the Property (the "Per Unit Fire/EMS Contribution"). The calculation of such contributions is premised upon a need for a total financial contribution for the entire New Town development of Seventy Thousand Dollars (\$70,000.00) (in 2004 dollars), said need being deemed by the County to be generated by the anticipated development of New Town. Such contribution is deemed by the County to satisfy the entire need for fire and rescue equipment and facilities generated by New Town. The County shall make these monies available for the acquisition of fire and rescue facilities and equipment, the need for which is deemed by the County to be generated by the development of New Town.

(f) The Per Unit Water Contribution, Per Unit Playground Contribution, Per Unit Courts/Softball Field Contribution, Per Unit School Contribution, Per Unit Library Contribution, and Per Unit Fire/EMS Contribution (collectively, the "Per Unit Contributions") shall be payable for each of the Residential Units to be developed within the Property at the time of final site plan or subdivision plan approval for the particular Residential Unit or grouping of Residential Units or at such other time as may be approved by the County Planning Director.

(g) Notwithstanding any other provision of these Proffers, none of the Per Unit Contributions shall be assessed for any Residential Unit with proffered pricing at or below One Hundred Nine Thousand Thirty-Four Dollars (\$109,034) as such amount may be adjusted in accordance with paragraph 17 of these Proffers.

14. Private Streets. Any and all streets within Sections 3 and 6 of the Property may be private. Pursuant to Section 24-528 of the Zoning Ordinance, private streets within the Property shall be maintained by the Residential Association, Commercial Association and/or a Separate Association, as applicable. The party responsible for construction of a private street shall deposit into a maintenance fund to be managed by the applicable Commercial Association, Residential Association, or Separate Association responsible for maintenance of such private street an amount equal to one hundred fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT – Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee amount at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the street to be designated as private.

15. Prohibition of Restrictions on Vehicular Access. Notwithstanding anything in the Sections 3 and 6 Master Plan, the Sections 3 and 6 Guidelines and/or these Proffers to the contrary, no private streets installed pursuant to the provisions of paragraph 14 above for the purpose of providing access from Ironbound Road to the Property or adjacent properties now owned by Owner shall have erected thereon at Ironbound Road any permanent fence, gate or other structure to prohibit or restrict (except for curbs, landscaping features and other forms of traffic control measures, including, without limitation, one way streets, truck traffic limitations and traffic signals) public vehicular access from Ironbound Road to the Property and/or adjacent properties now owned by Owner.

16. Building Setback from Wetland and Other Areas. The Sections 3 and 6 Master Plan identifies a “Var. Width RPA Buffer” and a “Variable Width Non-RPA Buffer”

(collectively, the "Buffer") on the Property. No building shall be constructed on the Property within fifteen (15) feet of the Buffer.

MISCELLANEOUS PROVISIONS

17. Consumer Price Index Adjustment. All cash contributions and pricing contained in these Proffers (collectively, the "Proffered Amounts"), to include but not be limited to housing sales prices and Per Unit Contributions, shall be adjusted annually beginning January 1, 2005 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 Proffered Amounts be adjusted to a sum less than the amount initially established by these Proffers. The adjustment shall be made by multiplying the Proffered Amounts 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 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the Proffered Amounts shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the 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 Proffered Amounts to approximate the rate of annual inflation in the County.

18. Disposition of Proffered Property and Payments. In the event payment of cash and dedication of real property are proffered pursuant to these Proffers and any of such property

and cash payments are not used by the County or, with respect to real property, the Commonwealth of Virginia, for the purposes designated within twenty (20) years from the date of receipt by the County, the amounts and property not used shall be used at the discretion of the Board of Supervisors of the County for any other project in the County capital improvement plan, the need for which is deemed by the County to be generated by the development of the Property.

19. 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. Any obligation(s) of Owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

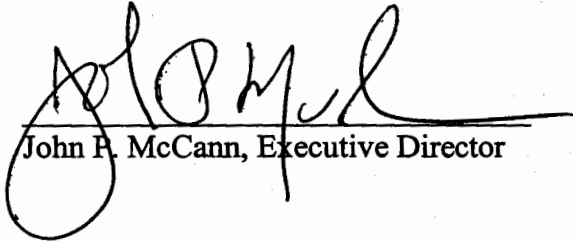
20. Severability. In the event that any clause, sentence, paragraph, subparagraph, section or subsection of these Proffers shall be judged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth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

21. Headings. All paragraph and subparagraph headings of the Proffers herein are for convenience only and are not a part of these Proffers.

WITNESS the following signatures, thereunto duly authorized:

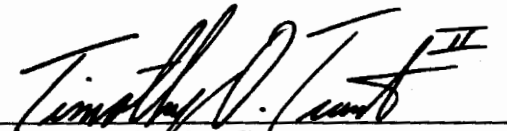
NEW TOWN ASSOCIATES, LLC

By:


John P. McCann, Executive Director

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 30th day of September, 2004 by John P. McCann as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.


NOTARY PUBLIC

My commission expires: 2/28/2005

#6056453 v8

EXHIBIT A

All those certain pieces, parcels, or tracts of land shown as "Section 3" and "Section 6" on that certain plan entitled "NEW TOWN SECTIONS 3 & 6 MASTER PLAN BERKELEY DISTRICT JAMES CITY COUNTY, VIRGINIA", dated April 26, 2004, prepared by AES Consulting Engineers, a copy of which is on file with the County Planning Director.

EXHIBIT B

All those certain lots, pieces or parcels of land owned by New Town Associates, LLC as of the date of execution of these Proffers lying and situate in Sections 2, 3, 4, 6, 7, 8, and 9 of the "New Town" development area in the Berkeley District, James City County, Virginia, as the same are shown on that certain plat entitled "Master Plan" dated July 23, 1997, revised December 2, 1997, prepared by AES Consulting Engineers and Cooper, Robertson & Partners, a copy of which is on file with the James City County Planning Director as a part of case number Z-04-97.

RESOLUTION

CASE NOS. Z-5-04/MP-5-04. NEW TOWN - SECTIONS 3 AND 6

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 were notified, and a hearing was scheduled on Case No. Z-5-04 for the rezoning of approximately 70 acres from R-8, Rural Residential, with proffers, and MU, Mixed Use, with proffers, to MU, with proffers; and

WHEREAS, on September 13, 2004, the Planning Commission recommended approval of this application by a vote of 5-2; and

WHEREAS, the property to be rezoned is identified as a portion of Parcel No. (1-57) on James City County Real Estate Tax Map No. (38-4), more particularly shown on the plan entitled "New Town Sections 3 and 6 Master Plan," prepared by AES Consulting Engineers, and dated June 1, 2004, with a revision date of June 21, 2004.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-5-04/MP-5-04 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 12th day of October, 2004.

z5-04_MP5-04.res

RESOLUTION

CASE NO. MP-8-04. NEW TOWN - SECTIONS 2 AND 4

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a Public Hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Case No. MP-8-04 for the rezoning of approximately 91 acres from MU, Mixed Use, with proffers, to MU, with proffers; and

WHEREAS, on September 13, 2004, the Planning Commission recommended approval of this application by a vote of 5-2; and

WHEREAS, the property to be rezoned is identified as a portion of Parcel Nos. (1-50), (24-6), and (24-1A) on James City County Real Estate Tax Map No. (38-4), more particularly shown on the plan entitled "New Town Sections 2 and 4 Master Plan," prepared by AES Consulting Engineers, and dated June 1, 2004, with a revision date of September 1, 2004.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. MP-08-04 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 12th day of October, 2004.

mp804.res

MEMORANDUM

DATE: October 12, 2004

TO: The Board of Supervisors

FROM: Sanford B. Wanner, County Administrator

SUBJECT: Offer and Conveyance of a Portion of Properties Located at 6450 Centerville Road and 5700 Warhill Trail to the State Board for Community Colleges

On April 27, 2004, the Board of Supervisors adopted a resolution offering a 73.46-acre portion of the Warhill Tract to the State Board for Community Colleges as the location of the Historic Triangle Campus of Thomas Nelson Community College (TNCC). The Board retained an 8.77-acre parcel (Parcel 3) for economic development purposes. The Board understood that the shape and size of the 8.77-acre parcel may have to be adjusted once TNCC knew the location of the access road to serve the Historic Triangle Campus, the third High School, and Community Sports Facility.

TNCC has identified the location of the access road and has requested adjustments in the 8.77-acre tract. The requested adjustments alter the shape of Parcel 3 as shown on the attached plat. Staff has reviewed the requested adjustment and believes the adjusted Parcel 3 meets the intent and purpose of the Board in retaining the original Parcel 3.

Should the Board adopt the attached resolution, the offer to transfer the 73.46 acres would be forwarded to the State Community College Board for acceptance. Prior to the transfer of the property, the Board and the State Community College Board will enter into a dedication agreement. The dedication agreement would be the controlling document for the transfer of the property.

Following the Public Hearing, staff recommends adoption of the attached resolution.

Sanford B. Wanner

SBW/gs
parcel3adj.mem

Attachments

RESOLUTION

OFFER AND CONVEYANCE OF A PORTION OF PROPERTIES LOCATED AT

6450 CENTERVILLE ROAD AND 5700 WARHILL TRAIL TO THE

STATE BOARD FOR COMMUNITY COLLEGES

WHEREAS, James City County currently owns a certain parcel containing approximately 67.7 acres located at 6450 Centerville Road in the Powhatan District designated as Tax Parcel No. 3210100013, and currently owns a certain parcel containing approximately 521.7 acres located at 5700 Warhill Trail in the Powhatan District designated as Tax Parcel No. 3210100012; and

WHEREAS, the State Board for Community Colleges, on behalf of Thomas Nelson Community College, has indicated a desire to acquire a portion of the properties located at 6450 Centerville Road and 5700 Warhill Trail, for the purpose of constructing the new Historic Triangle Campus; and

WHEREAS, James City County desires to convey to the State Board for Community Colleges a portion of the aforementioned properties, said portion consisting of approximately 73.46 acres and further described in accordance with that certain plat made by AES Consulting Engineers dated September 22, 2004, entitled "Plat Showing Boundary Line Adjustment and Boundary Line Extinguishment Between Parcel 1 And Parcel 2, Warhill Tract And Subdivision Of Parcel 3 & Parcel 4 Warhill Tract," said parcel to be conveyed labeled as "Adjusted Parcel 2" and hereafter referred to as the "Campus Parcel;" and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the County should offer to convey the Campus Parcel by Deed of Gift to the State Board for Community Colleges, with actual conveyance subject to acceptance of the offer by the State Board for Community Colleges with approval by the Governor, and subject to the Board of Supervisors' approval of a Dedication Agreement between James City County and the State Board for Community Colleges.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct Sanford B. Wanner, County Administrator, to offer to convey by Deed of Gift the aforementioned Campus Parcel to the State Board for Community Colleges to be utilized for the purpose of constructing the new Historic Triangle Campus.

BE IT FURTHER RESOLVED that the Board of Supervisors does hereby authorize and direct Sanford B. Wanner, County Administrator, to execute a deed and any other documents required to convey by Deed of Gift the Campus Parcel to the State Board for Community Colleges on behalf of Thomas Nelson Community College, such conveyance being subject to acceptance of the offer to convey by the State Board for Community Colleges with the approval by the Governor, and subject to the Board of Supervisors of James City County

approval of a Dedication Agreement between James City County and the State Board for Community Colleges.

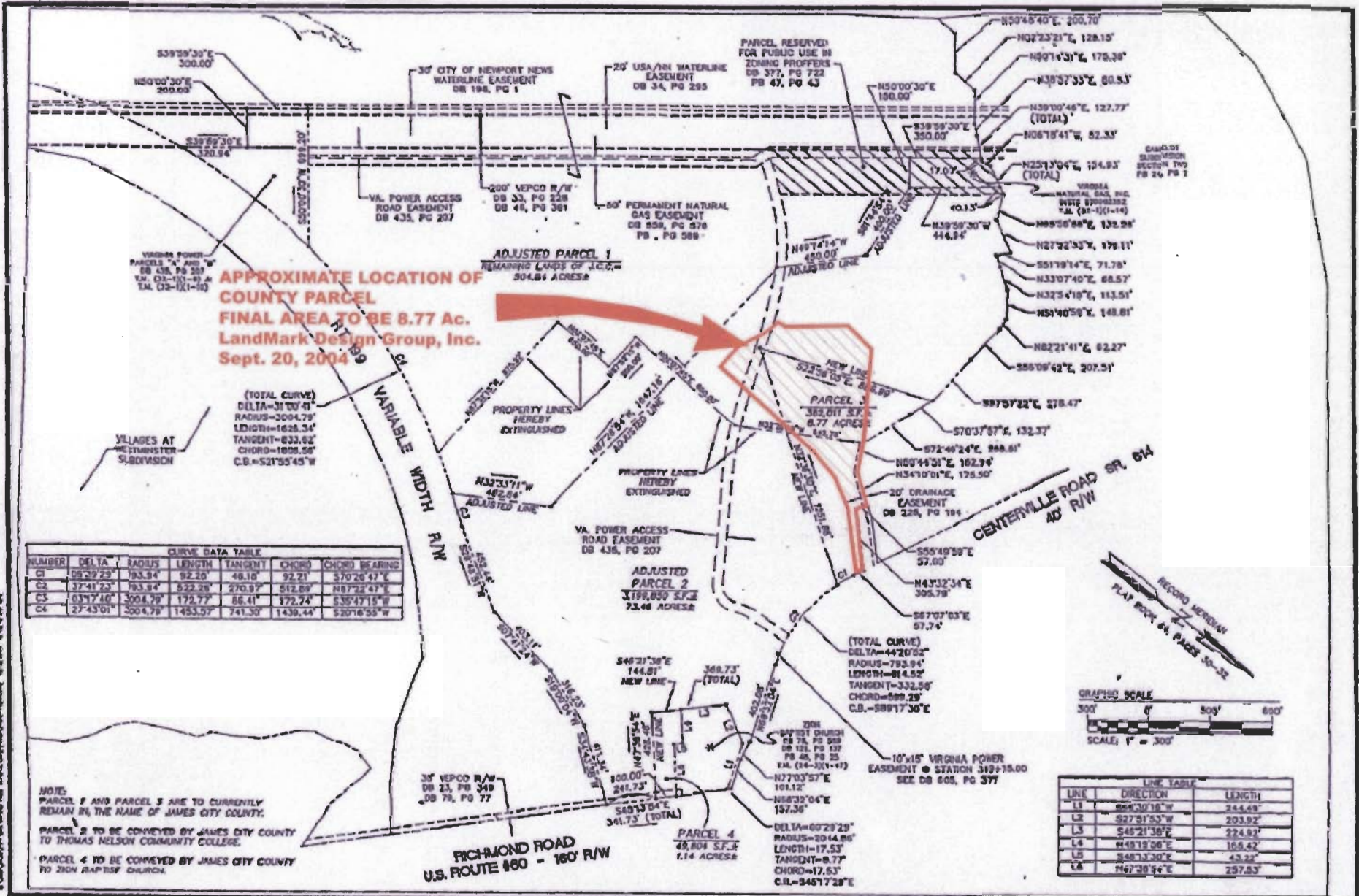
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of October, 2004.

parcel3adj.res



**APPROXIMATE LOCATION OF
COUNTY PARCEL
FINAL AREA TO BE 8.77 Ac.
LandMark Design Group, Inc.
Sept. 20, 2004**

CURVE DATA TABLE						
NUMBER	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CHORD BEARING
C1	05°29'23"	193.84'	92.20'	46.16'	92.21'	S70°26'47"E
C2	37°41'23"	193.84'	522.28'	270.89'	512.89'	N87°22'47"E
C3	03°17'40"	3004.79'	172.77'	86.41'	172.74'	S35°47'15"W
C4	27°43'01"	3004.79'	1483.57'	741.30'	1439.44'	S20°16'55"W

NOTE
PARCEL 1 AND PARCEL 3 ARE TO CURRENTLY
REMAIN IN THE NAME OF JAMES CITY COUNTY.
PARCEL 2 IS TO BE CONVEYED BY JAMES CITY COUNTY
TO THOMAS NELSON COMMUNITY COLLEGE.
PARCEL 4 IS TO BE CONVEYED BY JAMES CITY COUNTY
TO 20th BAPTIST CHURCH.

ES
CONSULTING ENGINEERS
PLANNING & SURVEYING
5248 Old Towne Road, Suite 1
Williamsburg, Virginia 23168
(757) 253-0040
Fax (757) 220-8994

PLAT SHOWING BOUNDARY LINE ADJUSTMENT
AND BOUNDARY LINE EXTINGUISHMENT
BETWEEN PARCEL 1 AND PARCEL 2,
WARHILL TRACT
AND
SUBDIVISION OF PARCEL 3 & PARCEL 4,
WARHILL TRACT
FORHANAN DISTRICT, JAMES CITY COUNTY, VIRGINIA



LINE	DIRECTION	LENGTH
L1	86°30'16"W	244.49'
L2	82°21'52"W	203.92'
L3	34°21'38"E	224.82'
L4	N48°19'06"E	165.42'
L5	S48°13'00"E	43.22'
L6	N47°20'54"E	237.83'

NO.	DATE	REVISION / COMMENTS / PAGE	BY

Drawn	Date	Checked	Date
GW/CMA	4/16/04	CMA	4/16/04
Scale	1"=300'	Date	4/16/04
Project No.	5430-79	Sheet No.	2 OF 2