

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

December 14, 2004

7:00 P.M.

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I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

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L. CLOSED SESSION

1. Consideration of Personnel Matters Involving the Appointment of an Individual to County Board and/or Commission, Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Board of Building Adjustments and Appeals
 - b. Planning Commission
 - c. Purchase of Development Rights (PDR) Advisory Committee
2. Consideration of the Acquisition of Real Property for Public Use, Pursuant to Section 2.2-3711 (A)(3) of the Code of Virginia

M. ADJOURNMENT

MEMORANDUM

DATE: December 14, 2004
TO: The Board of Supervisors
FROM: Richard Costello, Water Conservation Committee
SUBJECT: Report of the Water Conservation Committee

Water Conservation Committee

Margaret Mondul, Vice Chair; Tom Belden, Sarah Kadec, Louise Menges, and Richard Jones

Introduction

The Board of Supervisors asked the Water Conservation Committee to evaluate concerns about high water bills expressed by residents in the Wellington Development. The Committee met three times with representatives of Wellington. The Committee appreciates the insight and objectivity offered by the Wellington representatives.

Wellington Development

The Wellington Development is a relatively new neighborhood located on Rochambeau Road near Norge. The neighborhood will eventually have approximately 300 homes. Approximately 100 homes have been constructed over the past 18-24 months. The neighborhood is being developed in previously cultivated areas with highly erodible soils under a thin layer of topsoil and vegetative cover. In an effort to stabilize the soils, the developer encouraged new homeowners to install sod to establish grass. Sod requires significant irrigation until it develops an adequate root system. Many of the new homeowners in the Wellington development were unaware of the James City Service Authority's Increasing Block Rate fee system and were therefore surprised upon receiving their first water and sewer bill. These homeowners attended the October 12 and 26, 2004, Board of Supervisors meetings to express concern about the fees. As a result, the Board referred the issue to the Water Conservation Committee.

Legal Constraints

The County Attorney's Office informed the Committee that there is no legal authority to adjust individual water bills and any adjustment in the water rate structure had to occur during the next budget cycle.

Water Conservation Committee Meetings

As referenced earlier, the Committee met on three occasions with staff support provided by the JCSA. Wellington representatives participated openly in the discussion. In light of the insight offered by the Wellington representatives, the Committee has:

- Evaluated the JCSA's rate structure: a) including the rates for each tier; b) water allocation in each tier; and c) flat commercial rate.
- Discussed the basis for Increasing Block Rate System's implementation.
- Listened to the perspectives of the Wellington residents as new JCSA customers who had limited, if any, knowledge of water supply issues in James City County.

Recommendations

- 1) Retain the current three-tier rate structure as an effective tool in encouraging water conservation.
- 2) Retain the current commercial flat rate.
- 3) Consider billing residential customers every two months versus every three months. This will afford customers timely information regarding water use and reduce the opportunity for misconception that there is a preferable (less costly) summer billing cycle. Implementation will require reducing tier structure by one-third.
- 4) Improve communications with new customers and development community about the JCSA Rate System.

Communication Accomplishments

While there is more to be done, the Committee has reviewed materials prepared by JCSA staff to provide water rate information to a new customer. This material includes:

- 1) Brochures (door hangers) to be provided to all new customers that include information on rates and the Outdoor Water Use Ordinance;
- 2) Additional information about water rates on Outdoor Water Use Waiver Form for new lawns, so the customer will know that establishing a new lawn has a financial impact;
- 3) Information about water rates on the invoice that is mailed soon after a new account is established; and
- 4) When a new billing system is selected include the capability to chart a customer's water use over the past year.
- 5) Continue efforts on educating developers on James City County water issues.

Conclusion

The Water Conservation Committee thanks the Board for the opportunity to make a recommendation on this issue. The assignment gave the Committee an opportunity to re-evaluate the JCSA Rate System after several years of its use as a tool to encourage water conservation. Our belief is that the Increasing Block Rate Structure is an effective tool to encourage water conservation. Education of new customers is an area where improvements can be made. The items described above and already in the process of being implemented will improve this area significantly.

Water supply for our growing community will continue to be a challenge. To meet this challenge, the County needs to continue its efforts toward developing new and additional water supply. In addition, the County needs to use every tool available to encourage the wise use of our existing water supply.

RC/gb

waterrates.mem

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF NOVEMBER, 2004, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

William C. Porter, Jr., Deputy Clerk
Leo P. Rogers, County Attorney

B. BOARD DISCUSSIONS

1. Stormwater Task Group – Special Stormwater Criteria and Offsite Open Space Program

Mr. Darryl Cook, Director of Environmental, introduced Scott Thomas, Senior Engineer, Doug Beisch, Williamsburg Environmental Engineer, Jeff Hancock, Virginia Department of Conservation & Recreation, and John Schmerfeld, Friends of Powhatan Creek Watershed, to present the report and recommendation of the Stormwater Task Group (STG) in the development of a Special Stormwater Criteria as outlined in Priority No. 7 of the approved Powhatan Creek Watershed Management Plan and development of an offsite open space program (for Stormwater compliance purposes) consistent with the 1998 Policy Study.

Mr. Hancock provided a brief background and history of the development of the Special Stormwater Criteria and offsite open space program.

Mr. Beisch provided a brief overview of the members of the STG, the tasks for the STG, and the meeting schedules and agenda topics.

The Board and staff discussed what the additional cost would have been under the new criteria versus the old criteria, the expected benefits of the new criteria, and reviewing the impervious cover criteria for parking spaces at businesses to identify ways to reduce the amount of impervious cover,

Mr. Thomas presented the proposed Special Stormwater Criteria.

The Board and staff discussed what areas of the County would be subject to the proposed criteria and what other parcels may come under the criteria, the avenue available for appeals to the application of the criteria to for a proposed development, and not applying the criteria to a single-family lot but rather apply it to a subdivision development.

The Board, with concurrence from the STG, directed staff to amend page 8 of the Special Stormwater Criteria to indicate that the criteria does not apply to single-family lots.

The Board and staff discussed the proposed application of the Special Stormwater Criteria, and utilizing language for the citizens to understand the criteria.

Mr. John T. P. Horne, without objection from the Board, recommended the group move forward to the recommendations for the implementation of the Criteria and Offsite Open Space Program (Program).

Mr. Schmerfled requested the Board authorize staff to incorporate the Criteria and Program into the revised County BMP Manual, submit the revised County BMP Manual to appropriate State regulatory agencies for review and comment, use the revised County BMP Manual effective January 1, 2005, or later and follow appropriate notification to all known manual users, incorporate language for use of Criteria into an appropriate section of the County's Chesapeake Bay Preservation Ordinance at an appropriate time, and conduct follow-up implementation meetings with the STG and report to the Board as necessary or as directed.

Mr. Goodson recommended the item be put on the December 14 Agenda to receive public input.

The Board requested language regarding the single-family lots be addressed and clarification be incorporated in the application of the Criteria in the Tables located on pages 5-7 of the Criteria as to how those do not apply to certain groups such as single-family lots.

Mr. Brown requested clarification on how and if the Criteria may be applied to parcels located outside the area marked in yellow of the Powhatan Creek Watershed and parcels marked in the Yarmouth Creek Watershed, and what the threshold levels might be.

Mr. Brown requested the item be brought forward as a Public Hearing item to receive public input.

The Board and staff discussed the request to bring the proposal as a Public Hearing and concurred to advertise the proposal for a Public Hearing to be held on December 14, 2004.

Mr. Goodson recessed the Board for a brief break at 5:16 p.m.

Mr. Goodson reconvened the Board at 5:20 p.m.

2. Joint Meeting with the Parks and Recreation Advisory Commission

Mr. Alan Robertson, Chair of the Parks and Recreation Advisory Commission, introduced members of the Parks and Recreation Advisory Commission that were present.

Members of the Parks and Recreation Advisory Commission provided an overview of the growth and development of programs and facilities in the County and requested guidance for future growth and development.

To meet Community needs, the Commission recommended the Board consider funding options to increase funding to maintain and operate existing programs and facilities, light identified practice areas for evening use, look for ways to implement Joint Use Agreement with schools, and establish adequate mechanism to fund Greenway Master Plan.

Mr. Robertson also requested guidance regarding the joint use of facilities including aquatic facilities.

The Board requested the Parks and Recreation Advisory Commission review the list of projects, program needs, and facility needs and prioritize them for the Board to review with the focus on available resources.

The Board and staff discussed providing lights on fields at the school facilities, balancing practice facility needs with competition facility needs, and the consideration of recreational open space when new development proposals comes forward.

Mr. Goodson requested priorities for next year and future years, as well as priorities for facilities on County property for potential bonding opportunities, be forwarded to the Board through staff before the Board's budget retreat in January.

C. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson stated that the High Growth Coalition is requesting an administrative assistant for the Commission that will result in an increase in dues.

Mr. Goodson inquired if the Board would support the increase in dues to support the establishment of an administrative assistant for the Commission.

Mr. Goodson stated that caps on proffers will be presented to the General Assembly and inquired if the Board would like to pursue that issue.

D. RECESS

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

William C. Porter, Jr.
Deputy Clerk

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF NOVEMBER, 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

William C. Porter, Jr., Deputy Clerk
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

Sungmin Song, an eleventh-grade student at Jamestown High 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 Section I of the Jamestown 2007 Corridor project has been completed ahead of schedule and all lanes of traffic are open on Route 199 between Route 60 East and the Parkway overpass.

Mr. Steele stated that Section III, the improvement of turn lanes at the Jamestown Road and Route 199 intersection, is underway and it is anticipated that segment will be completed six to eight weeks early. Mr. Steele stated that in consideration of the anticipated heavy traffic, the construction work will be suspended during the Thanksgiving holiday and the eastbound and westbound lanes of traffic will be open including the turning lanes.

The Board thanked VDOT and the contractors for the work, inquired about an overlay on the eastbound lanes of Route 199 from the Parkway overpass to Route 60 East, and the status of the left-turn lane onto Route 31 from Route 199.

Mr. Steele stated that the overlay is scheduled for next year and the turn lane will have to be repaved to bring the lane up to grade.

E. PRESENTATIONS

1. Thomas Nelson Community College – Presentation to the Board of Supervisors

Dr. Charles Taylor, President, Thomas Nelson Community College, introduced Joseph A. Guitierrez, Jr., James City County College Board Representative, and William C. Monroe, Chair of the College Board.

Mr. Monroe and Mr. Guitierrez presented a resolution of the Thomas Nelson Community College Local College Board to Mr. Goodson, who accepted on behalf of the Board of Supervisors, for the County's diligent efforts and commitment to the community and higher education.

2. Annual Financial Report – KPMG LLP

Ms. Elizabeth P. Foster, Partner at KPMG LLP, provided the Board with an overview of KPMG's independent audit results of the County's financial statements for the year ended June 30, 2004, and stated that the results of the operations and cash flows of the County's proprietary fund types for the year ended in conformity with generally accepted accounting principals. Ms. Foster stated that this year's audit was a clean and unqualified audit, the highest you can get.

Ms. Foster stated that the Federal Emergency Management Agency Awards were audited and reported that there were no findings in that area and that of the audits that she was in charge of, James City County was the only locality that had no findings in this area.

The Board and Ms. Foster discussed the reported findings and the various reporting formats for land and easement assets.

Mr. Goodson thanked Ms. Foster for the report.

3. Annual Report of the Planning Commission

Joe Poole, Chairman of the Planning Commission, presented the annual report of the Planning Commission, stated that Peggy Wildman has resigned from the Commission, and that he is resigning after ten years of service.

The Board expressed its appreciation to the Commission members for their service to the County, for the annual report, and to Mr. Poole for his service.

F. PUBLIC COMMENT

1. Mr. Richard Bradshaw, Commissioner of the Revenue, reminded citizens that Personal Property Tax payments are due on December 6 and encouraged citizens to make payments early due to the limited number of walk-up windows at the temporary relocation site of the Commissioner of the Revenue and Treasurers' offices in Building A.

2. Mr. Bill Christensen, 117 Congressional, stated support for the proposed Regional Dog Park and requested the Board approve the resolution.

3. Mr. Ed Oyer, 139 Indian Circle, thanked Joe Poole for his service to the community as a member of the Planning Commission and commented on a recent newspaper article regarding the traffic flow in the Hampton Roads Bridge Tunnel.

G. CONSENT CALENDAR

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

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

1. Minutes – November 9, 2004, Regular Meeting
2. 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 a plat recorded in the Clerk’s Office of the Circuit Court of James City County; and

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

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

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

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

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

BE IT FURTHER RESOLVED, this Board hereby rescinds the resolution adopted September 14, 2004, requesting dedication of this same street into the Secondary System of State Highways.

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

3. Award of Bid – Trunked Radio System - Furniture

RESOLUTION

AWARD OF BID - TRUNKED RADIO SYSTEM - FURNITURE

WHEREAS, James City County and York County are constructing a joint 800-MHz trunked radio system; and

WHEREAS, the radio system requires installation of radio/telephone console furniture in the 911 Center; and

WHEREAS, York County advertised for and awarded a contract to Watson Furniture Group with permission for James City County to purchase from the same contract; and

WHEREAS, James City County finds the furniture installed in York County acceptable for use with our operations and building design.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a contract with Watson Furniture Group to purchase the console furniture in the amount of \$123,352.

4. Award of Bid – Enhanced 911 Telephone Equipment

RESOLUTION

AWARD OF BID - ENHANCED 911 TELEPHONE EQUIPMENT

WHEREAS, James City County and York County are constructing a joint 800-MHz trunked radio system; and

WHEREAS, the radio system requires an upgrade in Customer Premise Equipment (CPE) to receive and process 911 calls; and

WHEREAS, York County and James City County jointly reviewed all proposals received; and

WHEREAS, York and James City County staff negotiated a lease/purchase agreement with Motorola for the procurement and installation of CPE to provide Enhanced 911.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a contract with York County and Motorola to lease/purchase the Customer Premise Equipment in the amount of \$922,453.65.

H. BOARD CONSIDERATION

1. Regional Dog Park

Mr. Needham S. Cheely, III, CLP, Director of Parks and Recreation, presented a resolution to the Board to endorse the concept of a regional dog park at Waller Mill Park and to authorize the County Administrator to execute a Letter of Agreement with the City of Williamsburg for the project.

The Board and staff briefly discussed the anticipated \$50,000 cost and six-month completion date for the proposal.

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

REGIONAL DOG PARK

WHEREAS, the citizens of James City County have expressed the need for a “dog park” in order to provide a safe and clean environment for dogs and other park users; and

WHEREAS, staff has met with interested citizens in order to determine the appropriate design requirements and operating procedures for such a local “dog park”; and

WHEREAS, the City of Williamsburg also has a need to develop a dog park; County and City Parks and Recreation staffs recommend a jointly funded “dog park” to be constructed at Waller Mill Park; and

WHEREAS, it is in the mutual best interest of James City County, the City of Williamsburg, and their citizens to jointly fund and construct this facility; and

WHEREAS, on November 12, 2004, the Williamsburg City Council did approve the attached Joint Recommendation and directed the City Manager of the City of Williamsburg to work with the County Administrator of James City County to execute a Letter of Agreement needed to implement the project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the concept of a regional dog park at Waller Mill Park and authorizes the County Administrator of James City County to execute a Letter of Agreement with the City of Williamsburg needed to implement the project.

BE IT FURTHER RESOLVED that the Board authorizes the expenditure of \$25,000 from the Miscellaneous Grants account in the FY 05 General Fund budget.

I. PUBLIC HEARING

1. Petition for Review of Zoning Administrator's Enforcement Action – Fernbrook Scenic Easement

Mr. Allen J. Murphy, Jr., Zoning Administrator, stated that Patrick and Josephine Garcia and Edward and Laura Lansford have petitioned to appeal the Zoning Administrator's enforcement action related to two properties located at 2784 and 2792 Jonas Profit Trail.

Mr. Murphy stated that the Fernbrook Homeowners Association (Association) brought to the attention of staff that several of the properties in the subdivision have fences built into the scenic easement along Greensprings Road and some of the natural vegetation has been cleared.

It is staff's opinion that the clearing of natural vegetation and/or placement of fences or other structures in the scenic easement that belongs to the County is a violation of the proffers associated with Fernbrook. The provision of the proffered scenic easement as a greenbelt buffer was an important factor in determining the consistency of the Fernbrook development with the Comprehensive Plan as part of the original rezoning. The County has attempted to protect the Greensprings Road Community Character Corridor as the natural tree canopy has great historical significance and aesthetic value for residents in the area and throughout the County.

In October 2004 staff cited the property owners Patrick and Josephine Garcia of 2792 Jonas Profit Trail and Edward and Laura Lansford of 2784 Jonas Profit Trail for a violation of the proffers and gave them a time frame within which to abate the violation. The two cited owners filed an appeal in accordance with Section 24-19 (a) of the James City County Code.

Staff recommends the enforcement of the proffers as written as the best and simplest way to ensure the perpetual integrity of the buffer in this corridor, and stated that allowing the fences or to reduce the depth of the easement will encourage the further conversion of lot space within the easement to actual yard space by these or future owners as well as create questions of maintenance in perpetuity, architectural style and color, and landscaping, etc.

Mr. Goodson opened the Public Hearing.

1. Ms. Josephine Garcia, 2792 Jonas Profit Trail, stated that they have complied with James City County and the Association by amending the floor plan of the home and by not clear cutting the property, by submitting an application for the fence to the Association which was then approved; referenced a letter containing signature of 30 neighbors who have no objection to the fences located at 2784 and 2792 Jonas Profit Trail; stated that they would be willing to provide additional landscaping to minimize the impact of the fence; stated concern that there is no tax break on the portion of land the County has an easement over; and requested the Board endorse a modification to the Zoning Administrator's decision.

2. Ms. Laura Lansford, 2784 Jonas Profit Trail, cited safety concerns for children and requested the proffers be amended to permit wooden fences in the easement.

3. Mr. Robert Gott, 2788 Jonas Profit Trail, stated that he does not object to the fences and inquired if there was a compromise to permit fences with landscaping to keep the area scenic.

4. Mr. Richard Foley, 2780 Jonas Profit Trail, requested specific justification for the preservation easement; inquired why it appears that only the Fernbrook portion of Greensprings Road has the easement and development limitations; stated objection limitations on land use/development when taxes

are being paid; and stated that the easement is not very effective and the homes can be seen clearly from the road.

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

Mr. Harrison inquired why staff did not include additional landscaping as part of an option for mitigation.

Mr. Murphy stated that the proffered easement offers the greatest protection, that fences naturally encourage clearing of land within its boundaries, and recommended enforcement of the proffers as written.

Mr. Bradshaw requested confirmation from the County Attorney that the proffers are properly recorded and indexed in the County so landowners have constructive notice of the easement.

Mr. Rogers stated that the easement and proffer is in the chain of title, the subdivision plat shows the easement, and it is recorded in the deeds of the property owners.

Mr. Harrison inquired if there is proposed legislation in Richmond for tax relief for easements over parcels of property.

Mr. Rogers stated that a similar issue has been raised in Richmond, however in this case the effect of the publicly owned easement over the property is reflected in the value or assessed value of the property for Property Taxes purposes.

Mr. Bradshaw made a motion to uphold the enforcement action of the Zoning Administrator in regard to 2784 and 2792 Jonas Profit Trail.

The Board held a brief discussion on the understanding of the property owners, however proper notification was given regarding the easement, and the easement is in place not just for the neighborhood but rather for the preservation of the integrity of the community character of this corridor.

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

J. PUBLIC COMMENT

1. Mr. Richard Foley, 2780 Jonas Profit Trail, inquired why the easement is applied only to this half-mile of Greensprings Road; suggested that if landowners cannot use it despite paying taxes on it the County should condemn it; stated the preservation efforts should apply to the length of the road; and stated objection to the easement based upon principle.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Porter recommended that at the conclusion of the Board meeting, the Board of Supervisors adjourn to 7 p.m. on December 14, 2004.

L. BOARD REQUESTS AND DIRECTIVES - None

M. ADJOURNMENT

Mr. Harrison made a made a motion to adjourn.

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

At 8:10 p.m. Mr. Goodson adjourned the Board until 7 p.m. on December 14, 2004.

William C. Porter, Jr.
Deputy Clerk

112304bs.min

MEMORANDUM

DATE: December 14, 2004


TO: The Board of Supervisors

FROM: Barbara E. Watson, Director, Neighborhood Connections

SUBJECT: 2004 The Year of the Neighborhoods - Neighborhood of the Quarter - Peleg's Point Owners' Association

The Board proclaimed 2004 The Year of the Neighborhood at its January 13 meeting. In celebration of County neighborhoods and all that they do, Neighborhood Connections is recognizing a Neighborhood of the Quarter. The neighborhood receiving that recognition for the fourth quarter of 2004 is Peleg's Point Owners' Association.

Staff recommends approval of the attached resolution proclaiming Peleg's Point Owners' Association the James City County Neighborhood of the Quarter.


Barbara E. Watson

CONCUR:

Carol M. Luckam

BEW/tlc
pelegspt.mem

Attachment

RESOLUTION

2004 THE YEAR OF THE NEIGHBORHOODS -

NEIGHBORHOOD OF THE QUARTER - PELEG'S POINT OWNERS' ASSOCIATION

WHEREAS, Peleg's Point Owners Association is a mandatory, self-managed association located in the Jamestown District. Peleg's Point Owners' Association was organized in 1993 and consists of 72 homes with another 36 homes to be built; and

WHEREAS, the Board of Directors of the Peleg's Point Owners' Association is comprised of volunteers dedicated to preserving the integrity and equality of life at Peleg's Point with effective leadership of the association to ensure the covenants made between neighbors are upheld; and

WHEREAS, the key to the success of Peleg's Point Owners' Association lies in its active Board and its communication with residents in promoting interest in and around the neighborhood and County through these efforts:

- Ⓒ A neighborhood "Disaster Preparedness Plan";
- Ⓒ "Yard of the Quarter";
- Ⓒ "Green Thumb Day" clean-up day to spruce up the front entrance followed by "Driveway Cookout";
- Ⓒ neighborhood yard sale;
- Ⓒ neighborhood gatherings – pool party at the President of the HOA's house; and
- Ⓒ monthly Board meetings – announced on Channel 48; minutes e-mailed or hard copied to residents including information from Neighborhood Connections monthly mailing.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim Peleg's Point Owners' Association Neighborhood of the Quarter for December 2004 in connection with the celebration of the 10th Anniversary of Neighborhood Connections.

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 14th day of December, 2004.

pelegspt.res

MEMORANDUM

DATE: December 14, 2004

TO: The Board of Supervisors

FROM: Needham S. Cheely, III, Director of Parks and Recreation

SUBJECT: Award of Contract-Mid County Park Trail

Bids for the construction of Mid County Park Trail were received on Tuesday, November 23, 2004. The low base bid of \$174,547 was submitted by David A. Nice Builders. The bid amount is within the present Capital Improvement Budget allocated to the Division of Parks and Recreation. This 10-foot wide, 2,700-foot-long paved multiuse trail will complement an existing 900-foot segment to create an approximate 3,600-foot loop when completed.

The following contractors submitted base bids for the Mid County Park Trail:

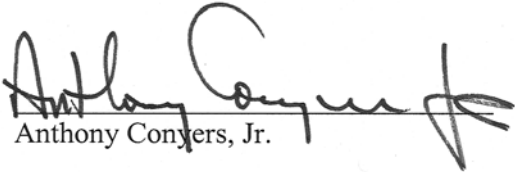
<u>Bidder</u>	<u>Amount</u>
David A. Nice Builders	\$174,547
B & H Contractors	\$184,900
Hudgins Contractors	\$186,444

Staff recommends that the Board of Supervisors approve the attached resolution authorizing the County Administrator to execute contract documents with David A. Nice Builders, the lowest responsive and responsible bidder.



Needham S. Cheely, III

CONCUR:



Anthony Conyers, Jr.

NSC/nb
midcopktrail.mem

Attachments

RESOLUTION

AWARD OF CONTRACT - MID COUNTY PARK TRAIL

WHEREAS, bids have been received for Mid County Park Trail; and

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

WHEREAS, the bid is within the capital budget allocated to the Division of Parks and Recreation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the necessary contract documents for award of base bid to David A. Nice Builders, the lowest responsive and responsible Bidder, in the amount of \$174,547.

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 14th day of December, 2004.

midcopktrail.res

EXISTING CONCRETE SIDEWALK
MATCH ASPHALT TRAIL TO EXISTING CONCRETE SIDEWALK
MAINTAIN MAX 5% SLOPE
TRANSITION FOR ASPHALT TRAIL FIELD ADJUST AS NECESSARY
RELOCATE EXISTING FENCE TO TOP OF NEW SLOPE, CONFIRM ON SITE OPENING 5' FROM EDGE OF TRAIL

N/F JAMES-OXFORD LIMITED PARTNERSHIP
D.B. 290, PG. 67
P.B. 41, PG. 85
TAX PARCEL (38-3)(1-13)

10' WIDE ASPHALT TRAIL WITH 2' SHOULDERS (TYP)

REMOVE EXISTING FENCE (BOTH SIDES)

ADD 6' HIGH FENCE 5' FROM TRAIL AND CONNECT TO EXISTING FENCE

EXISTING FITNESS STATION COORDINATE RELOCATION WITH JAMES CITY COUNTY

STATION 1+00.81
24" SMOOTH WALL HOPE PIPE, AASHTO M254 TYPE S WITH 1 FLARED END SECTION AND VDOT D11 LENGTH 51'
INVERT IN 78.62
INVERT OUT 78.10
INSTALLATION OF CULVERT MUST CONFORM TO ASTM D2521 STANDARDS. FOR PIPE AND INLET PROFILE SEE NEG PLANS. (SMA-1 and Bmp-2)

N/F PRICHARD TAX PARCEL (38-3)(1-16)

ADJUST GRADE AT LEVEL SPREADER-SEE NOTE

STATION 1+04.61
15" SOLID SMOOTH WALL HOPE PIPE, AASHTO M254 TYPE S, WITH 2 FLARED END SECTIONS LENGTH 10'
INVERT IN 82.45
INVERT OUT 81.85
INSTALLATION OF HOPE PIPE MUST CONFORM TO ASTM D2521 STANDARDS.

TEMPORARILY REMOVE POUL POLE AND REPLACE TO ORIGINAL POSITION FOLLOWING GRADING. REPLACE IF DAMAGED WITH SAME.

NEG-TRAIL CONNECTION SHOWN DASHED AT STATION 12+50 IS FOR FUTURE DEVELOPMENT

EXISTING WATER METER AND BACKFLOW DEVICE. PROTECT FROM DAMAGE AND RADING DISTURBANCE

12" PAINTED SOLID WHITE STRIPING, 3" OC
POINT OF BEGINNING CONFIRM POSITION IN FIELD

CURB RAMP, TRUNCATED DOME PAVERS, CROSSING BOLLARDS & STOP. INSTALL PER DETAIL F SHEET D2.

5" HOPE PIPE LENGTH 148' STANDARD VDOT D11 REPAIR OR REPLACE SIDEWALK CURBING AND ASPHALT MATCH TO EXISTING FOLLOWING INSTALLATION OF PIPE

FLARED END SECTION INVERT OUT 84.00

ADJUST GRADE AT LEVEL SPREADER-SEE NOTE IN THIS SHEET (TYP)

IF NECESSARY, TEMPORARILY REMOVE PORTION OF EXISTING BALL FIELD FENCE TO ALLOW INSTALLATION OF HOPE PIPE. REPLACE FOLLOWING INSTALLATION. MATCH TO ORIGINAL POSITION. IF DAMAGED, REPLACE WITH SAME.

MAINTAIN 2% SLOPES ALONG DITCHLINE AREA ONLY
12" SMOOTH HOPE PIPE WITH 2 FLARED END SECTIONS LENGTH 41' RADIUS 25'
INVERT IN 85.60
INVERT OUT 82.40

JAMES CITY COUNTY D.B. 213, PG. 228
P.B. 36, PG. 81
P.B. 64, PG. 89-92
TAX PARCEL (38-3)(1-13)

STD. VDOT D11 MATCH RIM TO PARKING LOT GRADE ASSIGNED AT 88.00
INVERT IN 84.75

TRAIL SIGNATURE SIGN WITH BIRCH PILES AND REGULATIONS 24" X 36" STANDARD GREEN ON ALUMINUM ON STANDARD 4X4 POST (BY JCC-NIC)

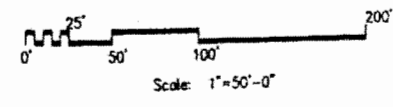
FROM STATION 18+00 TO 20+54.49 MAINTAIN 14' SEPARATION FROM EDGE OF TRAIL TO FACE OF CURB

STATION 22+44.71 CENTER OF 5' WIDE ASPHALT SIDEWALK RESGRADE AREA TO PROVIDE POSITIVE DRAINAGE TO SPALE

- NOTES:
- 1) LEVEL SPREADER-FILL CAVITIES AROUND THREE EXISTING LEVEL SPREADERS WITH 21-A AND COMPACT. ADD AMOCO 2044 FABRIC (OR EQUAL) ON TOP OF 21-A. TOP WITH 4" VDOT #1 STONE.
 - 2) INTERSECTION CROSSINGS: ALL INTERSECTION CROSSINGS SHOWN ON PLANS ARE FOR FUTURE PLANNING AND COORDINATION BETWEEN VDOT AND JAMES CITY COUNTY, AND ARE LABELED "NOT IN CONTRACT"
 - 3) VDOT IS NOT RESPONSIBLE FOR THE MAINTENANCE OF THE SIDEWALKS, TRAILS, AND THE MOBILITY IMPAIRED RAMPS ON COUNTY LAND.
 - 4) INSTALL HOPE PIPE PER MANUFACTURER'S SPECIFICATIONS. FOR PIPE NEAR STATION 15+00 DO NOT EXCEED MANUFACTURER'S RECOMMENDATIONS FOR DEFLECTION
 - 5) CONTRACTOR SHALL MOVE ALL EXCAVATED TOPSOIL TO THE SIDE OF TRAIL EXCAVATION AND REDRESS FOLLOWING TRAIL INSTALLATION, RATHER THAN STRIPPING AND STOCKPILING THE TOPSOIL IN A CENTRALIZED LOCATION ON SITE. IF ADDITIONAL TOPSOIL IS ENCOUNTERED, FEATHER INTO EXISTING GRADE OR USE IN AREAS NEEDING ADDITIONAL TOPSOIL.
 - 6) SOIL SPOIL AREA WILL BE PROVIDED ON SITE OR AT ANOTHER COUNTY SITE WITHIN 5 MILES AT NO COST TO THE CONTRACTOR. SPOIL OF SURPLUS SOIL PROVIDED BY CONTRACTOR AT THE COST TO COUNTY.

LINE TABLE		
LINE	LENGTH	BEARING
L1	121.59	S71°24'35"W
L2	201.88	S39°1'02"E
L3	130.25	S30°35'01"E
L4	112.47	S30°35'01"E
L5	13.14	S30°35'01"E
L6	82.99	S62°24'31"E
L7	6.90	S38°21'02"E
L8	48.08	S37°28'48"E
L9	16.71	S46°11'51"E
L10	13.70	S58°26'42"E
L11	22.07	S72°30'30"E
L12	30.21	S62°27'55"E
L13	55.47	N08°21'04"E
L14	111.52	N62°12'44"E
L15	5.87	N13°38'10"E
L16	62.75	N32°35'40"E
L17	230.73	N32°2'09"E
L18	268.38	N47°42'41"W
L19	2.70	N32°12'17"E
L20	6.47	S65°27'47"E

CURVE TABLE			
CURVE	LENGTH	RADIUS	CHORD
C1	77.29	40.00	65.82
C2	46.78	100.00	46.38
C3	46.38	100.00	45.95
C4	28.14	150.00	28.70
C5	16.40	80.00	16.39
C6	81.31	300.00	81.26
C7	28.43	120.00	29.35
C8	218.13	115.00	185.70
C9	136.41	500.00	137.97
C10	80.81	300.00	80.51
C11	83.38	250.00	83.09
C12	271.57	150.00	194.48
C13	55.48	35.00	48.88



REVISIONS

1. Sheet as JCC Engineering	MS
2. Add Revision 6-23-04	MS

Mid County Park Trail

LAYOUT AND GRADING PLAN

JAMES CITY COUNTY, VIRGINIA

COULD QUALITY OF DESIGN

JOHN G. SCHMIDT
No. 000842
7-22-04

LPDA, Inc.
LAND PLANNING & DESIGN ASSOCIATES, INC.
LANDSCAPE ARCHITECTURE & LAND PLANNING
110 New Market Square, Suite 200
Charlottesville, Virginia 22902
630.963.0108 Fax: 630.963.0109
www.lpda.net

DATE: 7-28-04
SCALE: GRAPHIC
DRAWN BY: MCH
TITLE: Layout Plan
SHEET NO: L.1

MEMORANDUM

DATE: December 14, 2004
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Resolutions for Reimbursement

In order to consider the use of tax-exempt financing, the Board of Supervisors is required by the U.S. Treasury Department to adopt a resolution of reimbursement that establishes a date after which project expenditures may be reimbursed by a future debt issue. The resolution also sets out a maximum principal amount of indebtedness. Four resolutions of reimbursement are attached for the Board's consideration:

For the acquisition of Greenspace -	\$15,000,000 maximum principal indebtedness
For Thomas Nelson Community College -	\$10,000,000 maximum principal indebtedness
For a community sports facility -	\$ 8,000,000 maximum principal indebtedness
For the acquisition of PDRs -	\$ 8,000,000 maximum principal indebtedness

The adoption of the reimbursement resolutions attached does not obligate this Board or any future Board to either spend or borrow money. The purpose is to set a starting date for which expenditures may be reimbursed from a possible future borrowing. The dollar amounts shown in each resolution are maximums and exceed the projected expenditures of the four projects. If the maximum dollar amounts prove to be inadequate, then an amended resolution may be adopted. In each case reimbursement of expenditures may occur with debt issued by either the County or the Economic Development Authority. The format of the resolutions was provided by Troutman, Sanders – the County's bond counsel.

Staff recommends your approval of the attached resolutions.

John E. McDonald

JEM/tlc
resforreimb.mem

Attachments

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES - GREENSPACE

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the acquisition of land to be held as greenspace or to be developed for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

WHEREAS, the County or the Authority may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County or the Authority from the proceeds of one or more tax-exempt obligations to be issued by the County or by the Authority, on behalf of the County (the "Indebtedness").

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$15,000,000.
3. This Resolution shall take effect immediately upon its adoption.

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 14th day of December, 2004.

reimexpenses.res

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES - COMMUNITY COLLEGE

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the site development and off-site costs for the new campus of Thomas Nelson Community College for the County's public purposes, including the furtherance of economic development in the County; and

WHEREAS, such Expenditures may be made directly by the County or indirectly (together the "Project") through the Economic Development Authority of James City County, Virginia (the "Authority"); and

WHEREAS, the County or the Authority may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County or the Authority from the proceeds of one or more tax-exempt obligations to be issued by the County or by the Authority, on behalf of the County (the "Indebtedness").

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$10,000,000.
3. This Resolution shall take effect immediately upon its adoption.

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 14th day of December, 2004.

reimexpenses3.res

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES - SPORTS FACILITY

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the construction of a community sports facility for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

WHEREAS, the County or the Authority may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County or the Authority from the proceeds of one or more tax-exempt obligations to be issued by the County or by the Authority, on behalf of the County (the "Indebtedness").

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$8,000,000.
3. This Resolution shall take effect immediately upon its adoption.

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 14th day of
December, 2004.

reimexpenses4.res

CERTIFICATE

The undersigned Clerk of the Board of Supervisors of James City County, Virginia, hereby certifies that the foregoing constitutes a true, correct, and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on the 14th day of December, 2004 and during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
M. Anderson Bradshaw		
Michael J. Brown, Vice Chair		
Bruce C. Goodson, Chair		
Jay T. Harrison, Sr.		
John J. McGlennon		

WITNESS, MY HAND and the seal of the Board of Supervisors of James City County, Virginia, this 15th day of December, 2004.

Clerk, Board of Supervisors of
James City County, Virginia

(SEAL)

#1319806v1
215964.tba

reimexpenses4.res

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES -
PROPERTY DEVELOPMENT RIGHTS

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the acquisition of property development rights for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

WHEREAS, the County or the Authority may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County or the Authority from the proceeds of one or more tax-exempt obligations to be issued by the County or by the Authority, on behalf of the County (the "Indebtedness").

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$8,000,000.
3. This Resolution shall take effect immediately upon its adoption.

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 14th day of December, 2004.

reimexpenses2.res

CERTIFICATE

The undersigned Clerk of the Board of Supervisors of James City County, Virginia, hereby certifies that the foregoing constitutes a true, correct, and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on the 14th day of December, 2004 and during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
M. Anderson Bradshaw		
Michael J. Brown, Vice Chair		
Bruce C. Goodson, Chair		
Jay T. Harrison, Sr.		
John J. McGlennon		

WITNESS, MY HAND and the seal of the Board of Supervisors of James City County, Virginia, this 15th day of December, 2004.

Clerk, Board of Supervisors of
James City County, Virginia

(SEAL)

#1319806v1
215964.tba

reimexpenses2.res

MEMORANDUM

DATE: December 14, 2004
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Jamestown-Scotland Ferry

Attached is a resolution endorsing the construction of a new ferry to be ready for use in time for the Jamestown 2007 Commemoration.

Currently, the ferry system does not handle the current commuter traffic without significant wait times. The number of vehicles using the ferry system will only increase with the 400th anniversary of Jamestown in 2007 and with the general population growth in the area.

Staff recommends adoption of the resolution.

Sanford B. Wanner

SBW/gb
ferry.mem

Attachment

RESOLUTION

JAMESTOWN-SCOTLAND FERRY

WHEREAS, the Jamestown-Scotland Ferry is an important and vital part of the transportation network and the economy of both sides of the James River, with the number of vehicles using the ferry currently averaging 3,000 per day; and

WHEREAS, there are not sufficient ferries to handle the existing number of vehicles in an efficient manner, resulting in long lines and frustrating delays for persons waiting to ride the ferry; and

WHEREAS, the number of vehicles will only increase with the 400th anniversary of Jamestown in 2007 and with the general population growth in the area; and

WHEREAS, a new ferry would help to alleviate the current problem and would also allow visitors to the area for the Jamestown 2007 commemoration to have a quality experience visiting historic areas and sites on both sides of the James River; and

WHEREAS, in order for a new ferry to be built and ready for use in time for the Jamestown 2007 Commemoration, it is necessary that a decision to build a new ferry and fund the cost of construction be made immediately.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it is of vital importance for the citizens of James City County, the surrounding jurisdictions, and the Commonwealth of Virginia to build and finance a new ferry for the Jamestown-Scotland Ferry and that such ferry be placed into service in time for the Jamestown 2007 Commemoration.

BE IT FURTHER RESOLVED that the County Administrator send copies of this resolution to the Governor of the Commonwealth, the Virginia General Assembly, the Commonwealth Transportation Board, and other appropriate Federal and State officials who may be in a position to make the decision to finance and construct a new ferry to serve the Jamestown-Scotland Ferry route.

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 14th day of December, 2004.

ferry.res

RESOLUTION

DEDICATION OF STREETS IN STONEHOUSE, PHASE 1, SECTION 6A

AND STONEHOUSE, PHASE 1, SECTION 6B

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

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

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

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

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

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

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 14th day of December, 2004.

MEMORANDUM

DATE: December 14, 2004
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Dedication of Streets in Stonehouse, Phase 1, Section 6A and Stonehouse, Phase 1, Section 6B

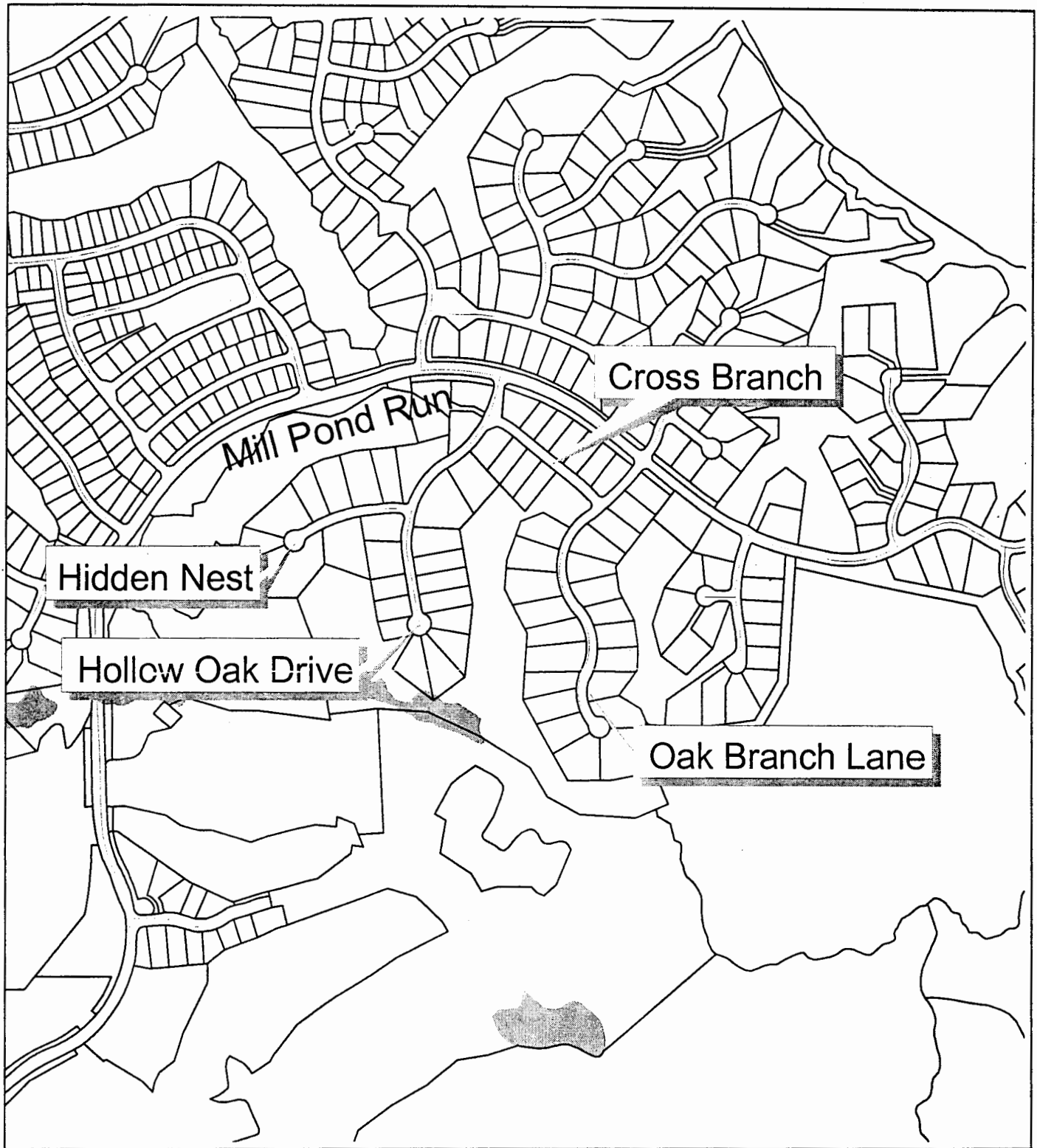
Attached is a resolution requesting acceptance of certain streets in Stonehouse, Phase 1, Section 6A and 6B into the State Secondary Highway System. These streets have been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.

Darryl E. Cook

DEC/tlc
sec6A6B.mem

Attachment



DEDICATION OF STREETS IN STONEHOUSE - SECTIONS 6A & 6B



Street Being Dedicated



In the County of James City

By resolution of the governing body adopted December 14, 2004

The following Form SR-5A is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee Signed (County Official): _____

Report of Changes in the Secondary System of State Highways

Form SR-5A
Secondary Roads Division 5/1/99

Project/Subdivision

Stonehouse, Phase 1, Sections 6A and 6B, Hollow Oak

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, New subdivision street

Pursuant to Code of Virginia Statute: **§33.1-229**

Route Number and/or Street Name

Cross Branch, State Route Number 1234

Description: From: Rt 1228 (Hollow Oak Drive)

To: Rt 1235 (Oak Branch Lane)

A distance of: 0.13 miles.

Right of Way Record: Filed with the Land Records Office on 6/18/1998, Document # 980011356, with a width of 50'

Hidden Nest, State Route Number 1229

Description: From: Rt 1228 (Hollow Oak Drive)

To: End of cul-de-sac

A distance of: 0.12 miles.

Right of Way Record: Filed with the Land Records Office on 1/22/1999, Document #990001458, with a width of 50'

Hollow Oak Drive, State Route Number 1228

Description: From: Rt 1221 (Mill Pond Run)

To: Rt 1234 (Cross Branch Lane)

A distance of: 0.05 miles.

Right of Way Record: Filed with the Land Records Office on 6/18/1998, Document #980011356, with a width of 50'

Description: From: Rt 1234 (Cross Branch Lane)

To: Rt 1229 (Hidden Nest)

A distance of: 0.12 miles.

Right of Way Record: Filed with the Land Records Office on 6/18/1998, Document #980011356, with a width of 50'

Description: From: Rt 1229 (Hidden Nest)

To: End of cul-de-sac

A distance of: 0.09 miles.

Right of Way Record: Filed with the Land Records Office on 6/18/1998, Document #980011356, with a width of 50'

Report of Changes in the Secondary System of State Highways

Form SR-5A
Secondary Roads Division 5/1/99

Oak Branch Lane, State Route Number 1235

Description: From: Rt 1221 (Mill Pond Run)

To: Rt 1234 (Cross Branch)

A distance of: 0.06 miles.

Right of Way Record: Filed with the Land Records Office on 3/31/1999, Document #990006891, with a width of 50'

Description: From: Rt 1234 (Cross Branch)

To: End of cul-de-sac

A distance of: 0.24 miles.

Right of Way Record: Filed with the Land Records Office on 3/31/1999, Document #990006891, with a width of 50'

County of James City, Date of Resolution: December 14, 2004 Page 2 of 2

MEMORANDUM

DATE: December 14, 2004
TO: The Board of Supervisors
FROM: Steven W. Hicks, General Services Manager
SUBJECT: Installation of "Watch for Children" Sign - Church Lane in Toano

Effective July 1, 1997, the Code of Virginia was amended to allow counties to request that the Virginia Department of Transportation (VDOT) install and maintain "Watch for Children" signs. The law requires that a Board of Supervisors resolution be submitted to VDOT authorizing it to take this action and allocating secondary road system maintenance funds for this purpose.

Residents of the Church Lane in Toano have requested the Board of Supervisors seek approval for a "Watch for Children" sign to be installed on Church Lane. The attached resolution requests VDOT install and maintain one "Watch for Children" sign on Church Lane.

Staff recommends adoption of the attached resolution.

Steven W. Hicks

SWH/gb
ChurchLn.mem

Attachment

RESOLUTION

INSTALLATION OF “WATCH FOR CHILDREN” SIGN - CHURCH LANE IN TOANO

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

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

WHEREAS, residents of Church Lane in Toano have requested that a “Watch for Children” sign be installed on Church Lane.

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

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 14th day of December, 2004.

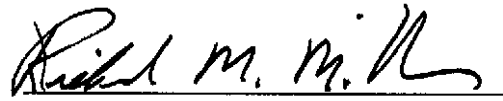
ChurchLn.res

MEMORANDUM

DATE: December 14, 2004
TO: The Board of Supervisors
FROM: Richard M. Miller, Fire Chief
SUBJECT: Grant Appropriation – FEMA HMGP Housing Elevation

The Federal Emergency Management Agency (FEMA) has awarded the James City County Fire Department a grant totaling \$161,050 through its Hazard Mitigation Grant Program (HMGP). The grant will allow the County to elevate three flood-vulnerable homes in Chickahominy Haven. The grant consists of \$120,788 of Federal funds, \$32,210 of State funds, and \$8,052 of local match. The local match consists of in-kind costs, and not required in this appropriation. Therefore, the attached appropriation includes the Federal and State funds.

Staff recommends the Board of Supervisors adopt the attached resolution authorizing a budget appropriation of \$152,998 to the Special Projects/Grants fund.


Richard M. Miller

RMM/tlc
houselevation.mem

Attachment

RESOLUTION

GRANT APPROPRIATION - FEMA HMGP HOUSING ELEVATION

WHEREAS, the Federal Emergency Management Agency has awarded the James City County Fire Department a housing elevation grant of \$152,998; and

WHEREAS, there is no local match required.

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

Revenue:

FEMA HMGP Elevation Grant - State	\$ 32,210
FEMA HMGP Elevation Grant - Federal	<u>120,788</u>
	<u>\$152,998</u>

Expenditure:

FEMA HMGP Elevation Grant	<u>\$152,998</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 14th day of December, 2004.

houselevation.res

MEMORANDUM

DATE: December 14, 2004
TO: The Board of Supervisors
FROM: Bernard M. Farmer, Jr., Capital Projects Administrator
SUBJECT: Conveyance of Easement to Newport News Waterworks - Fire Station No. 2

Attached for consideration is a resolution authorizing the County Administrator to execute an easement for extension of Newport News waterlines serving the replacement Fire Station No. 2 building. These waterlines were extended to provide water service, additional hydrants, and fire protection to the new building. As part of the agreement with Newport News Water Works authorizing extension of its waterlines, the County is obligated to provide appropriate easements for access and maintenance. The easement proposed and represented on the attached plat is the standard 10-foot easement requested by the Water Works and has some additional area for hydrants and associated fire suppression equipment vaults.

Staff recommends approval of the attached resolution.

Bernard M. Farmer, Jr.

CONCUR:

Steven W. Hicks

BMF/gb
fs2easement.mem

Attachments

RESOLUTION

CONVEYANCE OF EASEMENT TO NEWPORT NEWS WATERWORKS -

FIRE STATION NO. 2

WHEREAS, James City County owns a parcel located at 8421 Pocahontas Trail designated as Tax Parcel No. 5230100001; and

WHEREAS, James City County Fire Station No. 2 is located on the Parcel; and

WHEREAS, James City County desires to convey to the City of Newport News an easement for the purpose of constructing waterlines and appurtenances in accordance with that certain plat made by Mitchell-Wilson Associates, P.C. dated October 27, 2004.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute a deed of easement and any other documents required to convey an easement to the City of Newport News for the purpose of constructing waterlines and appurtenances

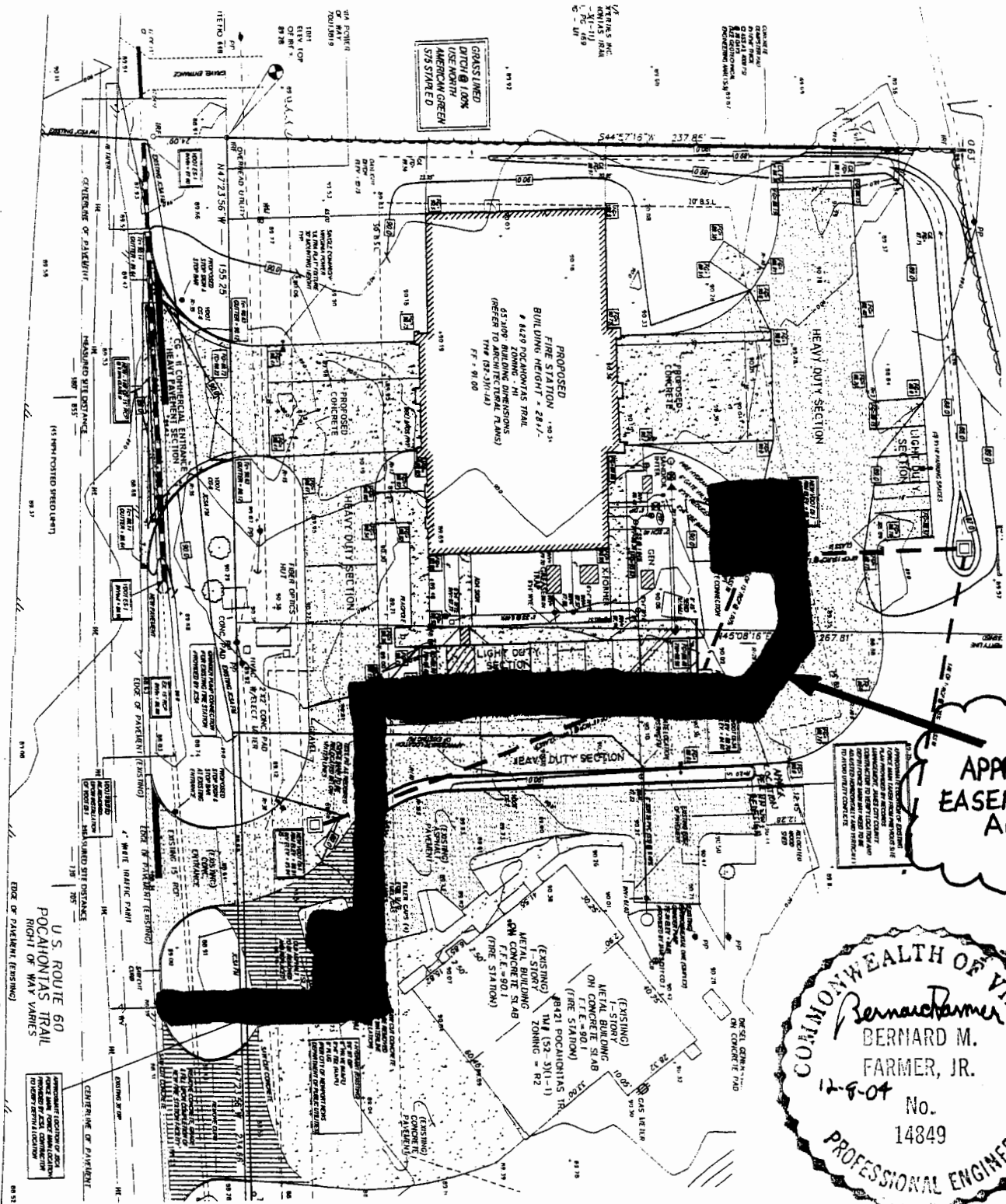
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of December, 2004.

fs2easement.res



**James City County
Capital Projects
Sketch**

Prepared By B. F.
Date December 8, 2004
Project Fire Station 2



**SPECIAL USE PERMIT-26-04. Gross Family Subdivision
Staff Report for the December 14, 2004, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Building C Board Room; County Government Center

Planning Commission:

N/A

Board of Supervisors:

December 14, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant:

Michael and Melina Gross

Landowner:

Raymond and Marian Eveland

Proposed Use:

Family Subdivision

Location:

9040 Barnes Road, Stonehouse District

Tax Map and Parcel No.:

(10-2)(2-1)

Primary Service Area:

Outside

Parcel Size:

Proposed Parcel 1B: 2.740 acres
Remaining Parent Lot 1A: 2.269 acres

Existing Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

STAFF RECOMMENDATION:

Staff finds the proposal to be consistent with the surrounding zoning and development and Section 19-17 of the James City County Subdivision Ordinance. Staff recommends approval of this application with the attached conditions.

Staff Contact:

Matthew D. Arcieri

Phone: 253-6685

PROJECT DESCRIPTION

Michael and Melina Gross have requested that the Board approve a family subdivision on land zoned A-1, General Agricultural. The new lot would be conveyed to Ms. Gross's parents, Laura and Richard Vossel. The existing parcel is located on Barnes Road. It totals 5.01 acres and approval of the proposed family subdivision would create two lots. Lot 1A would front on Barnes Road and total 2.269 acres. Lot 1B would take access off Barnes Road through a twenty-foot easement (which is permitted by the Family Subdivision Ordinance) and totals 2.740 acres.

For A-1 zoned property, although the minimum lot size for residential dwelling units is three acres, lots of less than three acres are allowed for immediate family members (children 18 years of age or older or parents of an owner) with an approved Special Use Permit (SUP). The Zoning Ordinance requires only the Board of Supervisors to review and approve this type of SUP.

PUBLIC UTILITIES

Public water and sewer are not currently available to this site; therefore, each lot will have to be served by a septic system and well. The Health Department has approved the locations of the septic systems for both lots.

ACCESS

The site is located on Barnes Road. The lot to be created (1B), as well as the parent lot (1A) will be served by a minimum 10-foot gravel drive located in a 20-foot right-of-way. This drive will meet the criteria for access as stated in Section 19-17 of the James City County Subdivision Ordinance, Special Provisions for Family Subdivisions. In addition, Condition No. 2 allows for only one entrance onto Barnes Road.

COMPREHENSIVE PLAN

The site is located outside the Primary Service Area (PSA) and the Land Use Map designates the property as Rural Lands. According to the Comprehensive Plan, rural lands contain farms, forests, and scattered houses. In accordance with the rural land use standards listed in the Plan, conventional large lot residential development in the rural areas should be discouraged. While a family subdivision is not the ideal tool to accomplish this goal, staff believes the creation of the additional lot does not represent a large-scale residential development and will not negatively impact any agricultural or forestal uses.

RECOMMENDATION:

Staff finds the proposal to be consistent with the surrounding zoning and development and Section 19-17 of the James City County Subdivision Ordinance. Staff recommends approval of this application with the conditions listed in the attached resolution.

Matthew D. Arcieri

CONCUR:

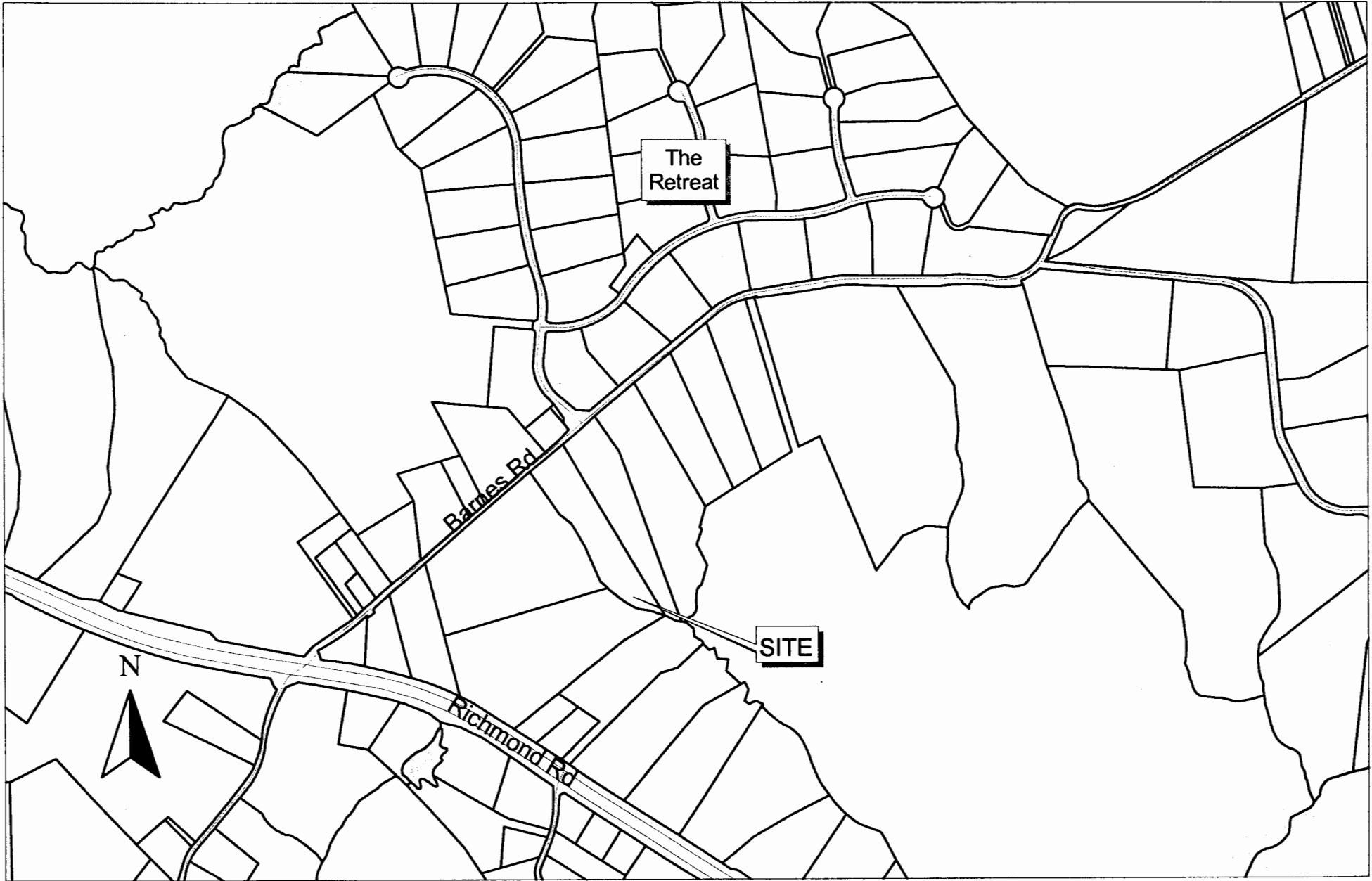
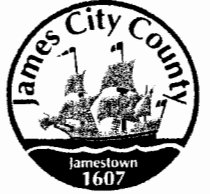
O. Marvin Sowers, Jr.

MDA/gb
sup-26-04.wpd

ATTACHMENTS:

1. Subdivision Plat (separate)
2. Location Map
3. Affidavit
4. Resolution

SUP-26-04; Gross Family Subdivision



10/19/04
(Date)

State of Virginia

County of James City

I, Melina R. Gross, am requesting James City County, Virginia, to approve a family subdivision of 2 parcel(s), consisting of 5.01 acres as set forth and designated on a plat entitled "Lot 1 A and Lot 1 B, Sunny Lane Crest made by DJG Incorporated, dated 10/11/04.

This subdivision is being made for the purpose of transferring a lot by sale or gift to: Richard A and Laura J Vossel (an immediate family member(s), and specifically my parents, and is not made for the purpose of circumventing Section 19-17 of the Code of the County of James City, Virginia.

It is my intention that the deed(s) of transfer will be drawn and duly recorded as soon as reasonably possible subsequent to the approval of the plat submitted herewith.

Subscribed and sworn before me this 19 day of October 2004

Valerie B. Amedee
Notary Public

Melina R. Gross
Owner

My commission Expires 11/30/2008.

approval.fm



**SPECIAL USE PERMIT-28-04. Leon Avery Family Subdivision
Staff Report for December 14, 2004, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Building F Board Room; County Government Center

Planning Commission:

N/A

Board of Supervisors:

December 14, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant:

Sonya Miles

Land Owner:

Frederick Lee and Rebecca Lee Jones

Proposed Use:

Family Subdivision

Location:

3918 Rochambeau Drive, Stonehouse District

Tax Map/Parcel No.:

(13-1)(1-14)

Parcel Size:

Proposed Parcel 1B: 1.00 acre
Remaining Parent Lot 1A: 2.23 acres

Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

STAFF RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding zoning and development and Section 19-17 of the James City County Subdivision Ordinance. Staff recommends approval of this application with the attached conditions.

Staff Contact:

Trey Davis

Phone: 253-6685

PROJECT DESCRIPTION

Sonya Miles has requested that the Board approve a family subdivision on land zoned A-1, General Agricultural. The new lot would be conveyed to Ms. Miles from her parents, Frederick Lee and Rebecca Lee Jones. The existing parcel is located on Rochambeau Drive. It totals 3.23 acres and approval of the proposed family subdivision would create two lots. Lot 1B would front on Rochambeau Drive and total 1.00 acre. Lot 1A will total 2.23 acres and access to Rochambeau Drive will be via a 25-foot-wide easement along the edge of lot 1B.

For A-1 zoned property, although the minimum lot size for residential dwelling units is three acres, lots of less than three acres are allowed for immediate family members (children 18 years of age or older or parents of an owner) with an approved Special Use Permit (SUP). The Zoning Ordinance requires only the Board of Supervisors to review and approve this type of SUP.

PUBLIC UTILITIES

Public water and sewer are not currently available to this site; therefore, each lot will have to be served by a septic system and well. Locations for these will be determined and approved by the Health Department during the subdivision process.

ACCESS

The site is located on Rochambeau Drive. Both lots will have frontage on Rochambeau Drive and will be served by a shared minimum 10-foot gravel drive. This drive will meet the criteria for access as stated in Section 19-17 of the James City County Subdivision Ordinance, Special Provisions for Family Subdivisions. In addition, Condition No. 2 allows for only one entrance onto Rochambeau Drive.

COMPREHENSIVE PLAN

The site is located outside the Primary Service Area (PSA) and is designated Rural Lands. According to the Comprehensive Plan, rural lands contain farms, forests, and scattered houses. In accordance with the rural land use standards listed in the Plan, conventional large lot residential development in the rural areas should be discouraged. While a family subdivision is not the ideal tool to accomplish this goal, staff believes the creation of the additional lot does not represent a large-scale residential development and will not negatively impact any agricultural or forestal uses.

RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding zoning and development and Section 19-17 of the James City County Subdivision Ordinance. Staff recommends approval of this application with the conditions listed in the attached resolution.

Trey Davis

CONCUR:

O. Marvin Sowers, Jr.

TD/gb
sup-28-04.wpd

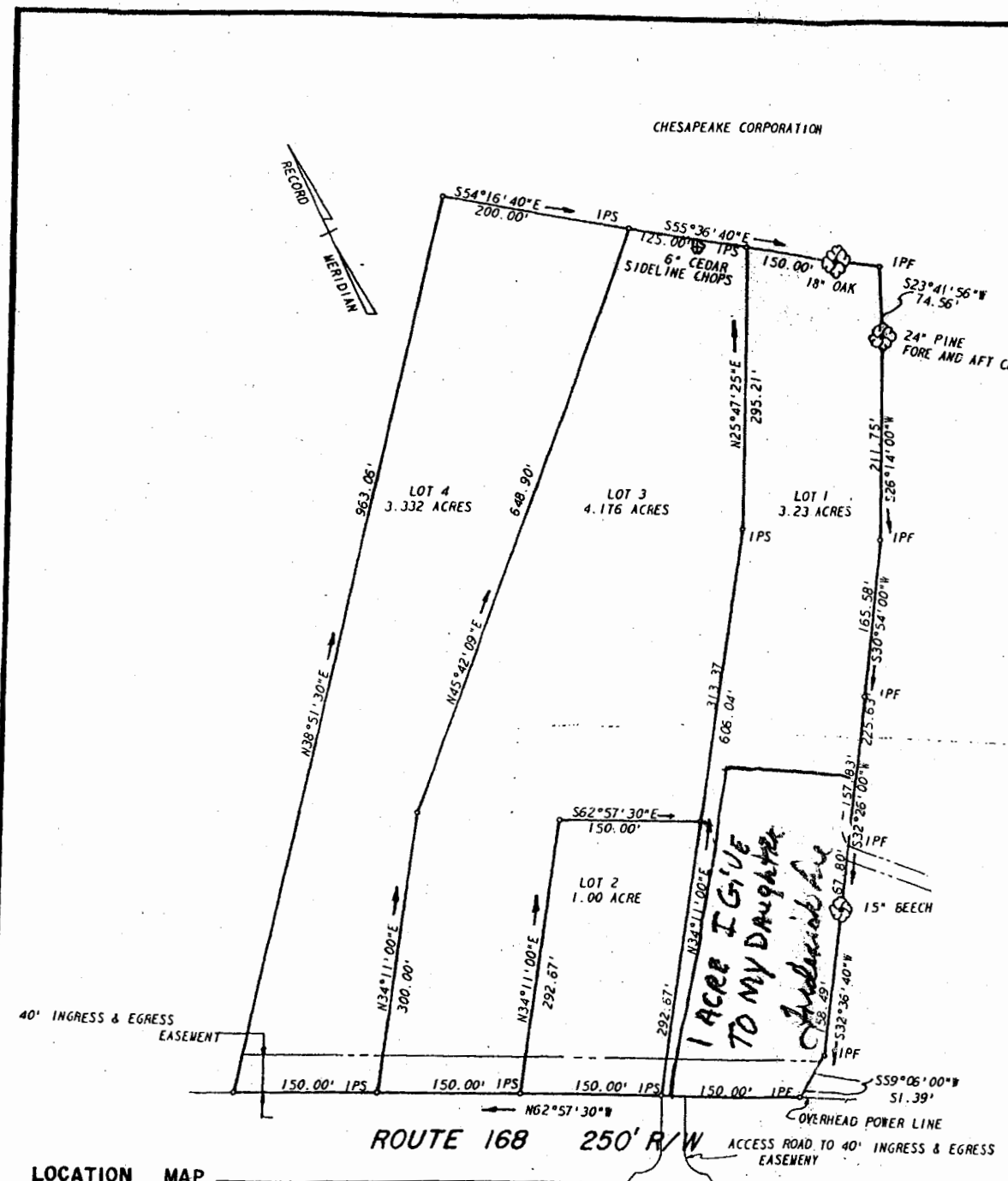
ATTACHMENTS:

1. Subdivision Plat
2. Location Map
3. Affidavit
4. Resolution

SUP-28-04



BOOK 34 PAGE 62



SUBDIVISION CERTIFICATE: THIS SUBDIVISION OF LAND AS SHOWN ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER.

Leon C. Avery

NOTARIZATION: STATE OF VIRGINIA CITY/COUNTY OF TO WIT: I, Thomas H. Wood, A NOTARY PUBLIC IN AND FOR THE CITY/COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT THE PERSON WHOSE NAME IS SIGNED TO THE FOREGOING WRITING HAS ACKNOWLEDGED THE SAME BEFORE ME IN MY CITY/COUNTY AFORESAID.

GIVEN UNDER MY HAND AND SEAL THIS 14th DAY OF JULY 1977 MY COMMISSION EXPIRES JUNE 7, 1980

SOURCE OF TITLE: THE PROPERTY SHOWN ON THIS PLAT WAS CONVEYED TO LEON CARR AVERY AS RECORDED IN WILL BOOK 6, PAGE 116, IN THE CIRCUIT COURT OF JAMES CITY COUNTY, VIRGINIA.

CERTIFICATE OF APPROVAL: THIS SUBDIVISION AS SHOWN ON THIS PLAT IS APPROVED BY THE UNDERSIGNED IN ACCORDANCE WITH SUBDIVISION REGULATIONS AND MAY BE COMMITTED TO RECORD.

AGENT OF GOVERNING BODY Henry H. Steg DATE 8/12/77

HIGHWAY DEPARTMENT R.O. Yates DATE 8-9-77

HEALTH DEPARTMENT E. Bagge DATE 7-19-77

STATE OF VIRGINIA, COUNTY OF JAMES CITY IN THE CLERK'S OFFICE OF THE CIRCUIT COURT FOR THE COUNTY OF JAMES CITY. THE MAP SHOWN HEREON WAS PRESENTED AND ADMITTED TO RECORD AS THE LAW DIRECTS.

TESTE DATE 8/19/77 PLAT BOOK 34 PAGE 62

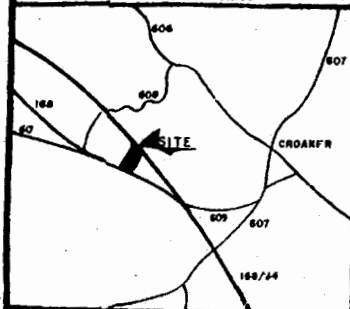
SURVEYOR'S CERTIFICATE: TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL OF THE REQUIREMENTS SET FORTH IN THE ORDINANCE FOR APPROVING PLATS OF SUBDIVISIONS FOR RECORDATION IN JAMES CITY COUNTY, VIRGINIA, HAVE BEEN COMPLIED WITH.

B. D. Littlepage, C.L.S.

Recorded 19th day of Aug. 1977

Jubette C. Clarke, Clerk

LOCATION MAP



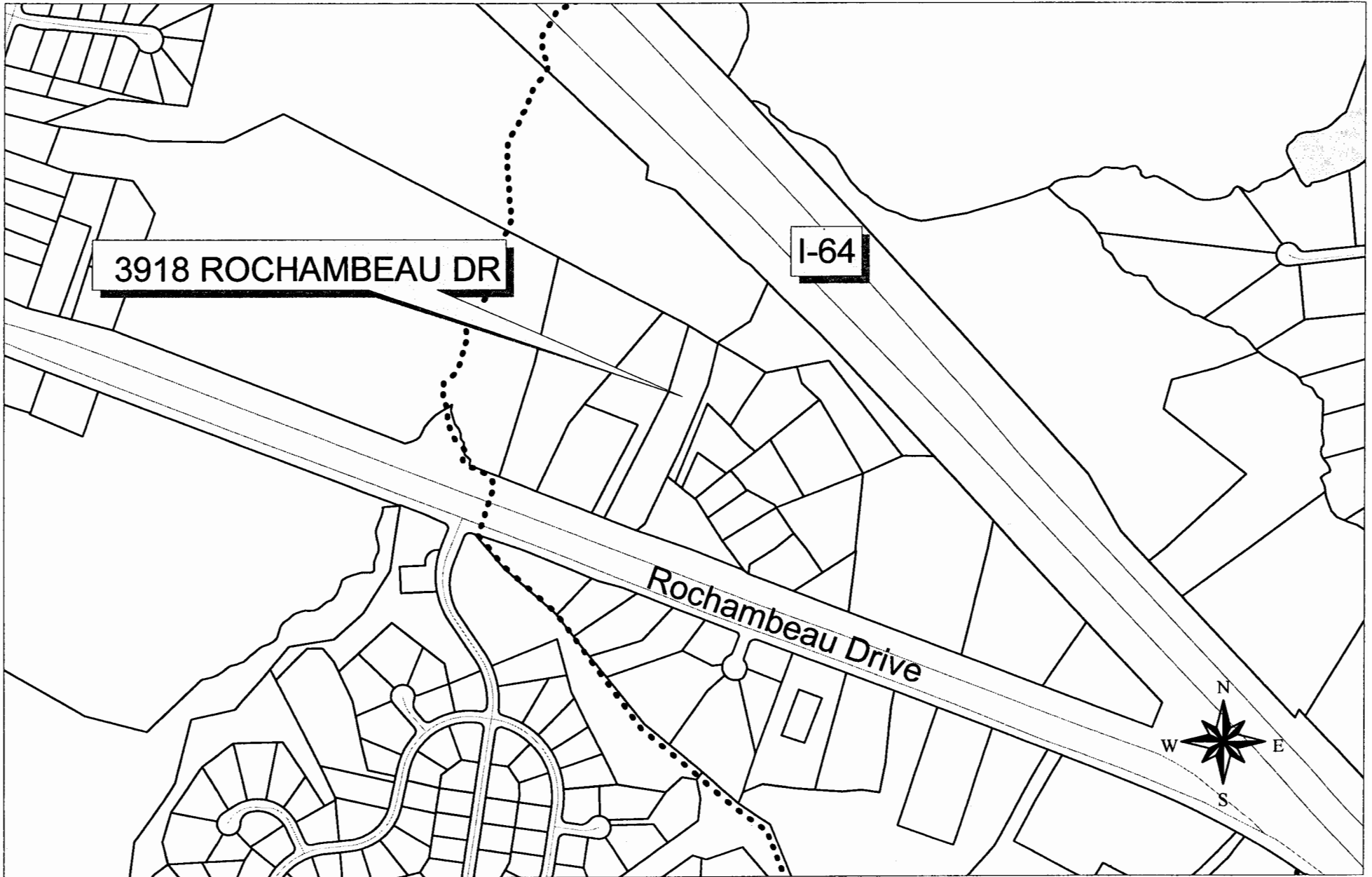
NOTE: ACCESS TO LOTS WILL BE FROM SERVICE ROAD WHEN COMPLETED.

Professional information block including Woodson, Littlepage & Dayoung, Inc., Leon C. Avery Subdivision Section One, and scale/date information.



SUP-28-04

Leon Avery Family Subdivision



10/21/04
(Date)

State of Virginia

County of James City

I, FREDERICK MILTON LEE & Rebecca Lee Jones, am requesting James City County, Virginia, to approve a family subdivision of (13-1)(1-14) parcel(s), consisting of 3.23 acres as set forth and designated on a plat entitled "LEON C. AVARY SUBDIVISION SECTION ONE", made by _____, dated MAY 25, 1977.

This subdivision is being made for the purpose of transferring a lot by sale or gift to: SONYA LATRICE MILES, (an) immediate family member(s), and specifically my DAUGHTER, and is not made for the purpose of circumventing Section 19-17 of the Code of the County of James City, Virginia.

It is my intention that the deed(s) of transfer will be drawn and duly recorded as soon as reasonably possible subsequent to the approval of the plat submitted herewith.

Subscribed and sworn before me this 12th day of October 2004.

Susan C. Kohlman
Notary Public

Fredrick M. Lee
Owner

My commission Expires 6/30/2008.

Subscribed and sworn before me this 12th day of October 2004.

Susan C. Kohlman
Notary Public

Rebecca L. Jones
Owner

approval firm My commission expires: 6/30/2008

RESOLUTION

CASE NO. SUP-28-04. LEON AVERY FAMILY SUBDIVISION

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, the applicant has requested an SUP to allow for a family subdivision in an A-1, General Agricultural District, located at 3918 Rochambeau Drive, further identified as Parcel No. (1-14) on James City County Real Estate Tax Map No. (13-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 28-04 as described herein with the following conditions:

1. This SUP is valid for a family subdivision for the creation of one new lot of 1.00 acre with one parent lot of 2.23 acres remaining generally as shown on the subdivision plat submitted with this application.
2. Only one entrance serving both lots shall be allowed onto Rochambeau Drive.
3. Final subdivision approval must be received from the County within twelve months from the issuance of this SUP or the permit shall become void.
4. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of December, 2004.

sup-28-04.res

**SPECIAL USE PERMIT 25-04. Bay Lands Federal Credit Union at Norge
Staff Report for the December 14, 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:
Board of Supervisors:

Building F Board Room; County Government Center

November 1, 2004, 7:00 p.m.
December 14, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant: Tom Derrickson, AES Consulting Engineers

Land Owner: Bay Lands Federal Credit Union

Proposed Use: Bank with drive-through, ATM, and a future operations center. A bank is a by-right use in the B-1, General Business, zoning district; however, a commercial Special Use Permit is required for any use which generates more than 75 peak hour vehicle trips.

Location: 7031 Richmond Road; Stonehouse District

Tax Map/Parcel No.: (24-1)(1-13)

Parcel Size: 3.4± acre site

Zoning: B-1, General Business

Comprehensive Plan: Low-Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION:

Staff finds the proposed use consistent with surrounding zoning and development patterns on Richmond Road but inconsistent with the Low-Density Residential Comprehensive Plan land use designation. With the proposed Special Use Permit (SUP) conditions, staff believes that the impact of the credit union and operations center will be adequately mitigated through the conditions regarding traffic, landscaping, and architecture. Staff recommends the Board of Supervisors approve this SUP application with the conditions listed in the attached resolution.

Staff Contact: Karen Drake Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended approval by a vote of 5-0 (with Billups and Wildman absent).

Proposal Changes Made after Planning Commission Consideration

No changes have been made to the application since the Planning Commission meeting.

PROJECT DESCRIPTION

Mr. Tom Derrickson of AES Consulting Engineers has applied for a SUP on behalf of Bay Lands Federal Credit Union, who has recently purchased the property from the Violet J. Beck Estate for a 3,500-square-foot credit union and a future second-phase 15,000-square-foot credit union operations center. Located at 7031 Richmond Road in Norge, the credit union would be located next to the Econo Lodge on the western side of Richmond Road (Route 60 West) generally opposite Hill Pleasant Farms. The proposed development includes four drive-through teller stations and an Automatic Teller Machine (ATM) drive-through. A bank is a by-right use in the B-1, General Business, zoning district. A commercial SUP is necessary when traffic generation exceeds 75 or more peak-hour vehicle trips for a building.

The site is currently wooded, but has previously been a residential site with some clearing. Since the site has been previously developed and there are no known archeological sites on the property, an archeological study was not required with the application.

Regarding billboards, there were three billboards on the site that have now been removed, thus losing their grandfather status. Additional off-site signage will not be permitted per the Zoning Ordinance.

PUBLIC IMPACTS

Environmental Impacts

- ◆ **Watershed:** Yarmouth Creek
- ◆ **Environmental Comments:** A stormwater management plan is proposed on the property that staff will review in greater detail at the development plan stage. The applicant is currently discussing the possibility of a regional Best Management Plan (BMP) to be located on the adjacent property to the north with the general location marked on the attached SUP Plan. The proposed regional BMP would better serve the Bay Lands Federal Credit Union site and immediate adjacent sites. Both the Environmental and Planning staffs support the regional BMP that would be reviewed in greater detail at the development plan stage.

Public Utilities

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

Traffic Impacts

- ◆ **Proposed Traffic:** 2,221 vehicles trips per day
- ◆ **2003 Traffic Counts:** 18,828 vehicle trips per day
- ◆ **Road Capacity:** A four-lane road with turn lanes has a capacity of 30,000 vehicle trips per day according to the 2003 James City County Comprehensive Plan.
- ◆ **VDOT Comments:** Option No. 1 to access to the site is currently proposed via a driveway directly on Richmond Road from the property. Warranted improvements include left-turn lanes at both Richmond Road median crossovers located north and south of the site, a channelized entrance so right-in/right-out turns only are permissible from Richmond Road and right-turn lane improvements to the site. These improvements are illustrated on the attached SUP Plan.

However, the applicant is currently negotiating with the two adjacent property owners to the north for Option No. 2, access to the credit union via the existing entrance to the Econo Lodge that is aligned with a crossover median point in Richmond Road. Warranted improvements for Option No. 2 include left-turn lane improvements only at the Richmond Road median crossover to the north of the credit union. Virginia Department of Transportation (VDOT) and staff strongly support Option No. 2, the shared entrance between the Econo Lodge and the proposed credit union. Staff notes that if a traffic light is ever warranted at the median crossover entrance to the Econo Lodge, a signal would be more likely if it serves one entrance with multiple users. A condition is proposed that the applicant will be limited to one access, either from the property or through the existing Econo-Lodge site and that the VDOT warranted traffic improvements will be constructed with either access option.

COMPREHENSIVE PLAN

- ◆ **Community Character Area:** Norge
- ◆ **Community Character Road:** Richmond Road

While Norge continues to have a unique, very identifiable residential component located off Richmond Road and some pedestrian-oriented storefronts. The 2003 Comprehensive Plan states that the early 20th-century “village” character of its business and residential areas along Richmond Road has been significantly visually impacted by infill automobile-oriented development. Newer development from the east has substantially blurred the distinction between Norge and Lightfoot, a clearly automobile-dominated suburban commercial corridor, although voluntary efforts by both residents and businesses have helped retain the visual attractiveness of Norge.

Outlined below are specific design standards intended to guide future development and redevelopment in these two areas:

- The architecture, scale, materials, spacing, and color of buildings should complement the historic character of the area.
 - Building setbacks should be consistent with nearby historic buildings and structures.
 - Where possible, parking should be located to the rear of buildings. Parking should be screened from roadway and adjacent properties.
 - 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 historic character of the area.
 - Pedestrian and bicycle access and circulation should be promoted through the provision of sidewalks, bike racks, benches, cross-walks, street trees, and other design features which help accomplish this goal.
 - Efforts to maintain and reinforce the boundaries of Norge and Toano through open space and site design measures are strongly encouraged.
- ◆ **Staff Comments:** Through site design and the proposed SUP conditions regarding architectural, landscaping and site lighting, staff believes that the proposed credit union meets the general intent of the Norge Community Character Area considering that the site is located on the outskirts of the area.

- ◆ **Land Use Map Designation:** Low-Density Residential
Low-density areas are residential developments or for land suitable for such developments with gross densities up to one-dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, and buffers. Nonresidential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located and should have traffic, noise, lighting, and other impacts similar to surrounding or planned residential uses. Limited commercial establishments, schools, churches, and community-oriented facilities should generally be located on collector or arterial roads at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding areas.

- ◆ **Staff Comments:** While the proposed credit union and future operations center property uses do not match the low-density residential designation of the property, we must recognize that it is already zoned for business use. Staff notes that the SUP is required due to proposed traffic impacts of the credit union, not because of the proposed land use itself. Given the sites existing B-1 zoning, this proposal provides an opportunity to develop the site in a manner more consistent with the Comprehensive Plan. Staff believes that the proposed SUP conditions listed below will mitigate the impacts of the proposed credit union which is similar to other proposed nonresidential developments fronting on Richmond Road.

CONCLUSIONS & CONDITIONS

Staff finds the proposed use consistent with surrounding zoning and development patterns on Richmond Road but inconsistent with the Low-Density Residential Comprehensive Plan land use designation. With the proposed SUP conditions, staff believes that the impact of the credit union and operations center will be adequately mitigated through the conditions regarding traffic, landscaping, and architecture. At its November 1, 2004, meeting, the Planning Commission voted 5-0 (Billups and Wildman absent) to recommend approval of this application. Staff recommends the Board of Supervisors approve this SUP application with the conditions listed in the attached resolution.

Karen Drake

CONCUR:

O. Marvin Sowers, Jr.

KD/gb
Sup-25-04.doc

ATTACHMENTS:

1. Planning Commission Minutes, November 1, 2004
2. Location Map
3. Special Use Permit Plan, October 18, 2004
4. Architectural Elevations, October 15, 2004
5. Resolution

APPROVED MINUTES TO THE NOVEMBER 1, 2004 PLANNING COMMISSION MEETING

CASE NO. SUP-25-04 Bay Lands Federal Credit Union

Ms. Drake presented the staff report. Mr. Tom Derrickson of AES Consulting Engineers has applied for a Special Use Permit on behalf of Bay Lands Federal Credit Union and property owner Violet J. Beck Estate, to allow the construction of a bank and office building on approximately 4.3 acres at **7031 Richmond Road**. The property can be further identified as Parcel (1-12) on James City County Real Estate Tax Map No. (24-1). The property is zoned B-1 and is designated Low Density Residential on the Comprehensive Plan Land Use Map. Staff recommended approval of the case.

Mr. McCleary spoke to citizen comments he received concerning the architectural appearance of the new building. He asked if the development plan would be reviewed by the DRC.

Ms. Drake stated that the eventual site plan would go to the DRC.

Mr. Fraley asked if staff perceived any future problems with compliance to the Norge Community Character Area (CCA).

Mr. Kale asked if the portion of the property fronting on the road was the first phase of development.

Ms. Drake outlined the two phases of development proposed for the property.

Mr. Kale confirmed that the special use permit applied to both phases of construction.

Mr. Poole opened the public hearing.

Mr. Rich Costello of AES Consulting Engineers made himself available to answer questions.

Mr. Poole asked what effect the CCA guidelines for the Norge area would have on the applicant's development plan.

Mr. Costello stated that he did not perceive any future conflicts with CCA guidelines and pointed to other Baylands branches which were built in compliance with local architectural guidelines.

Mr. Poole asked that the eventual design of the bank incorporate these guidelines.

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

Mr. Fraley asked Mr. Hunt for his impressions of the neighborhood reaction to the application.

Mr. Hunt responded that he felt it would be a positive addition to the community.

Mr. McCleary moved approval of the application.

Mr. Hunt seconded the motion.

The Planning Commission approved the application by a vote of 5-0. AYE: (5) Poole, Fraley, Hunt, Kale, McCleary. NAY: (0). NOT PRESENT: Wildman, Billups.

SUP-24-04. Bay Lands Federal Credit Union 7031 Richmond Road



Hill Pleasant Farm
A-1

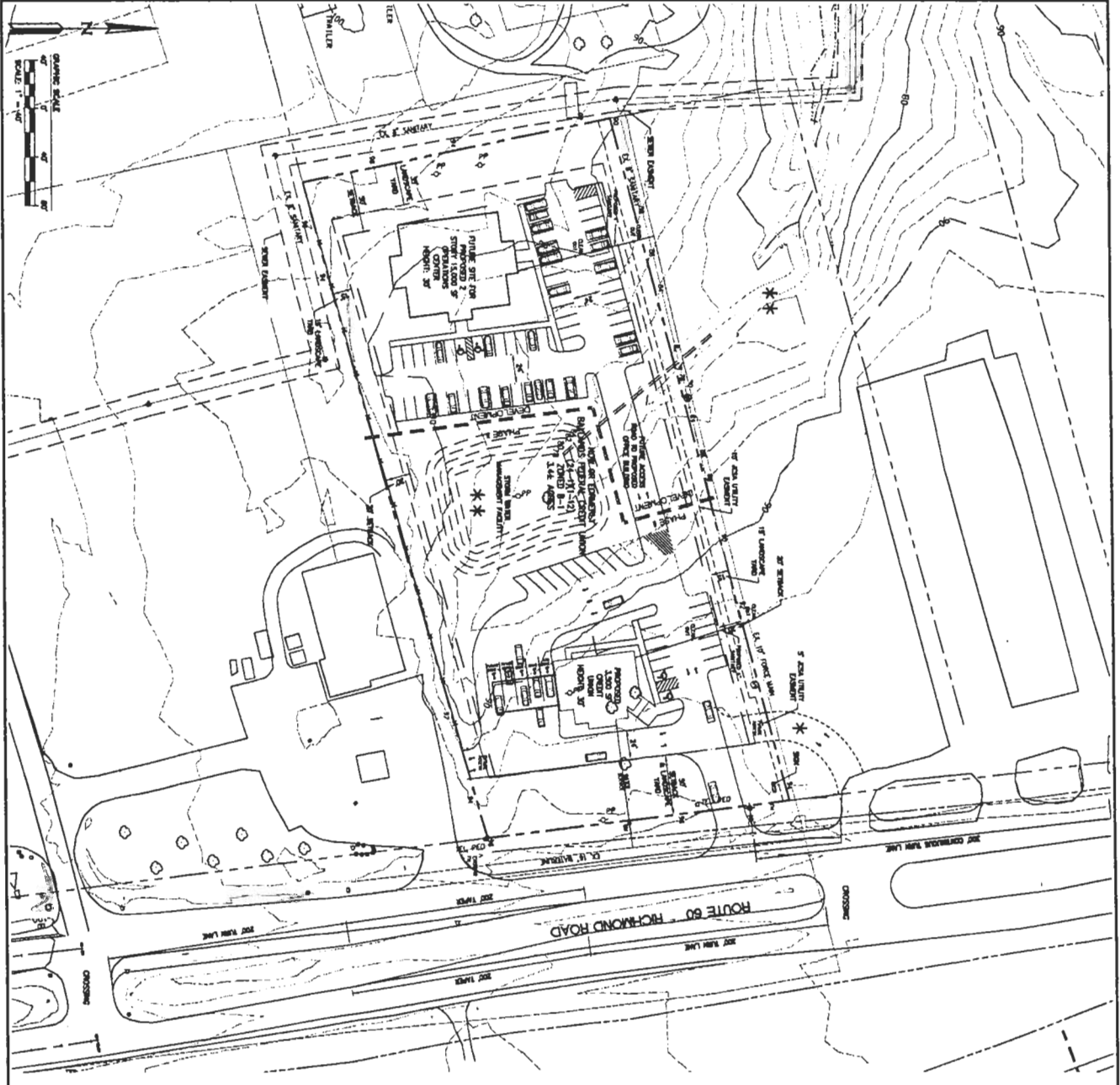
Econo Lodge
B-1

SITE
B-1

Colonial Heritage
MU

B-1

Richmond Road



- GENERAL NOTES**
1. CONSENT OWNER: BAYLANDS FEDERAL CREDIT UNION
 2. PROJECT ADDRESS: 201 RICHMOND ROAD
 3. TOTAL AREA: 3.44 ACRES
 4. ZONING: RESIDENTIAL, B-1 - GENERAL BUSINESS AND AIR
 5. PROPOSED: ONE FUTURE OFFICE SPACE
 6. BANK AND FINANCIAL INSTITUTION IS A REGULATED USE IN THE B-1 ZONE
 7. PER HOUR TRAFFIC EXCESS FOR THIS PROJECT IS 200 VEHICLES PER HOUR
 8. ACCORDING TO TRVA ADDRESSING PLAN, 3/10/01 - DATED FEB. 6, 1991, THERE IS NO TRAFFIC PENALTY FOR THE PROPOSED BANK SITE
 9. THERE IS NO TRAFFIC PENALTY FOR THE PROPOSED BANK SITE
 10. THERE ARE NO OTHER SITES ON THIS PROPERTY APPROXIMATE TO JAMES CITY COUNTY
 11. APPROVED TO JAMES CITY COUNTY HISTORICAL SPONSORSHIP MAP, THERE ARE NO
 12. HISTORIC MARKET ANALYSIS IS IN SEPARATE BOOKLET WITH THIS APPLICATION

- REQUIREMENTS AND REGULATIONS**
1. MINIMUM LOT SIZE: 20,000 SQ. FT.
 2. SITE AREA: 3.44 ACRES
 3. SETBACKS: 30 FT. FRONT, 30 FT. SIDE, 30 FT. REAR
 4. SIDE AND REAR YARDS AND STRIPES: 30 FT.
 5. FRONT: 50' COMMUNITY CHARACTER CORRIDOR BUFFER
 6. SETBACK: 30' NEXT TO RESIDENTIAL ZONING
 7. THIS SITE FRONT ON A COMMUNITY CHARACTER CORRIDOR REQUIRING A 50' SETBACK FROM ROOF OF WAY
 8. 3,500 SQ. FT. OF OFFICE SPACE PERMITTED FOR THIS PROJECT
 9. PROPOSED OFFICE SPACE: 1,000 SQ. FT.
 10. PROPOSED F.A.R. 0.05
 11. 1,750 G.P.A. REQUIRED
 12. 1,750 G.P.A. TOTAL
 13. 1,750 G.P.A. PERMITTED FOR BAYLANDS UNDER 3,001 SF.
 14. OPEN SPACE REQUIREMENTS: 20%
 15. OPEN SPACE REQUIRED: 500
 16. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 17. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 18. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 19. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 20. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 21. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 22. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 23. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 24. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK
 25. 10% OF TOTAL DEVELOPABLE AREA SHALL BE SETBACK

12. ACCORDING TO SECTION 24-11(4)(3) THIS SITE IS EXEMPT TO OBTAIN RECORD A SPECIAL USE PERMIT. ALSO, ACCORDING TO SECTION 24-11(0)(5) THE FUTURE 15,000 SQ. FT. OFFICE BUILDING IS EXEMPT FROM THE RECORDING OF UTILITY LINES TO BE RELOCATED OR REPAIRED AS NECESSARY.
13. *ACQUISITION OF 97' SITE ACCESS CURRENTLY UNDER NEGOTIATION. THERE IS NO GUARANTEE THAT THE ACCESS WILL BE OBTAINED.
14. *ACQUISITION OF 97' SITE ACCESS CURRENTLY UNDER NEGOTIATION. THERE IS NO GUARANTEE THAT THE ACCESS WILL BE OBTAINED.
15. *IF ACCESS IS OBTAINED TO THE EXISTING CROSS STREET FROM THE SITE ENTRANCE WILL NOT BE NECESSARY. IF NECESSARY, THE ON-LOT ACCESS WILL BE NECESSARY.
16. *ACQUISITION OF 97' SITE ACCESS CURRENTLY UNDER NEGOTIATION. THERE IS NO GUARANTEE THAT AN EASEMENT FOR A RECORDAL POND WILL BE OBTAINED.

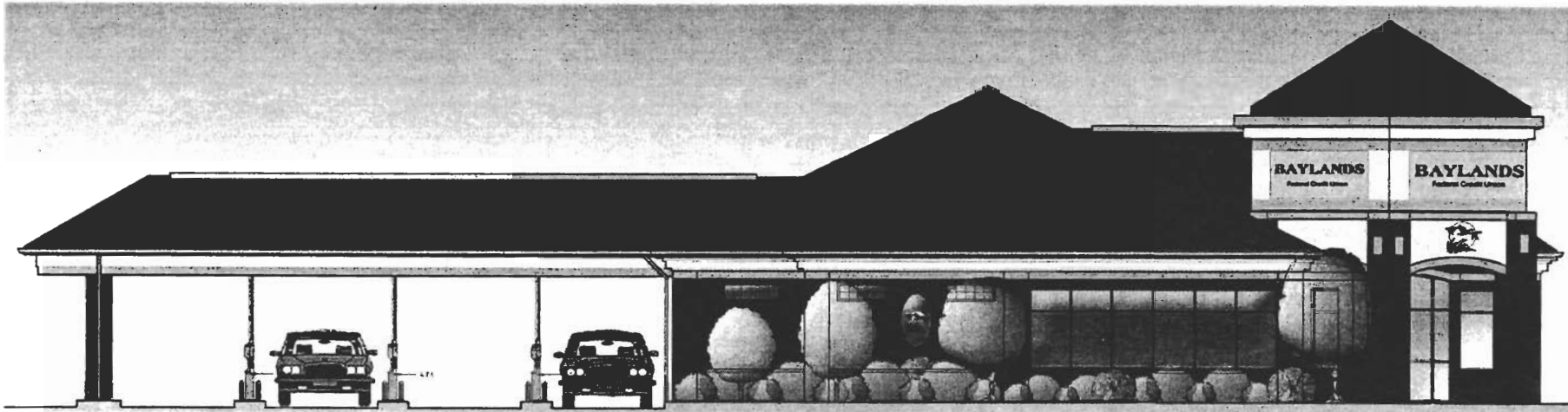
THIS PLAN HAS NOT RECEIVED FINAL APPROVAL AND IS NOT APPROVED FOR CONSTRUCTION.

SPECIAL USE PERMIT PLAN
BAYLANDS FEDERAL CREDIT UNION
 RICHMOND DISTRICT JAMES CITY COUNTY VIRGINIA
 Date: 11/11/01
 Scale: 1" = 40' / 8' 20" ON A
 Drawing No: 2 OF 3

ES CONSULTING ENGINEERS
 WILLIAMSBURG • RICHMOND
 5248 Old Towne Road, Suite 1
 Williamsburg, Virginia 23188
 (757) 253-0040
 Fax (757) 220-8994

NO.	DATE	REVISION / COMMENT / NOTE	DRAWN BY	CHECKED BY

Proposed Elevation



PROPOSED FRONT ELEVATION
1/4" = 1'-0"

65



BAYLANDS
Federal Credit Union
Williamsburg, Va

Proposed New Branch Facility

PWCampbell

PLANNING • DESIGN COORDINATION • CONSTRUCTION MANAGEMENT

109 Zeno Drive
Pittsburgh, Pa 15236
Tel: 800.253.7430
Fax: 800.993.5686
www.pwcampbell.com

RESOLUTION

CASE NO. SUP-25-04. BAY LANDS FEDERAL CREDIT UNION

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, Mr. Tom Derrickson of AES Consulting Engineers has applied on behalf of property owner, Bay Lands Federal Credit Union, for an SUP to allow a bank at 7031 Richmond Road; and

WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as Parcel No. (1-13) on James City County Real Estate Tax Map No. (24-1); and

WHEREAS, the Planning Commission, following its Public Hearing on November 1, 2004, voted 5-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 25-04 as described herein with the following conditions:

1. If construction has not commenced on Phase I of this project (credit union building, associated parking, entrance, and stormwater management facility) within twenty-four months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundation.
2. As determined by the Planning Commission, the plan of development shall be in accordance with the SUP Plan prepared by AES Consulting Engineers and dated October 18, 2004.
3. As determined by the Planning Director, the building architecture for both buildings shall be consistent with each other and consistent with the building elevation for the credit union submitted with this application by PW Campbell, dated October 15, 2004.
4. All exterior lighting on the property shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. Modifications to this requirement may be approved by the Planning Director if it is determined that the modifications do not have any negative impact on the property or surrounding properties.
5. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the fifty-foot Community Character Corridor buffer along Richmond Road (Route 60 West) and in the rear landscaping buffer adjacent to Colonial Heritage. Enhanced landscaping shall be defined so that the required number of plants and trees

equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of fifty percent of the trees within the landscape buffers shall be evergreen.

6. Access to the site is proposed via a direct driveway from Richmond Road to the property as shown on the SUP Plan and all warranted traffic improvements shall be approved by the Planning Director and Virginia Department of Transportation (VDOT) prior to site plan approval. If access to the site is gained from the adjacent property to the north and the existing Econo Lodge entrance as shown on the SUP Plan, the direct driveway entrance from Richmond Road to the property shall be closed and remained closed with enhanced landscaping in accordance with Condition No. 5 of this special use permit replacing the driveway. The alternate entrance and any associated traffic improvements shall be reviewed and approved by the Planning Director and VDOT.
7. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures to promote water conservation and minimize the use of public water resources.
8. Free standing signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a free standing sign with a completely enclosed base not to exceed thirty-two square feet in size and not to exceed eight feet in height from grade.
9. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of December, 2004.

sup-25-04.res

**REZONING -7-03/MASTER PLAN-8-03. Governor's Grove at Five Forks
Staff Report for the December 14, 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 Center

October 4, 2004, 7:00 p.m. (deferred)

November 1, 2004, 7:00 p.m.

Board of Supervisors:

December 14, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Eric Nielsen, National Housing Corporation

Land Owner:

Five Forks Virginia, Inc. and E.H. Saunders, Trustee

Proposal:

Construction of 213 apartment units and 30,000 square feet of office/commercial

Location:

4310 and 4360 John Tyler Highway; 3181 and 3191 Ironbound Road

Tax Map/Parcel Nos.:

(46-2)(1-14), (46-2)(1-37), (47-1)(1-35), (47-1)(1-36)

Parcel Size:

23.26 acres

Proposed Zoning:

MU, Mixed Use, with proffers

Existing Zoning:

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

Comprehensive Plan:

Moderate-Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, the Comprehensive Plan Land Use Map designation, and the Primary Principles for the Five Forks Area of James City County. Staff recommends the Board of Supervisors approve the rezoning and master plan applications and accept the voluntary proffers.

Staff Contact:

Matthew D. Arcieri

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On November 1, 2004, the Planning Commission recommended approval of this case by a vote of 3-2 (with Billups and Wildman absent).

Proposal Changes Made after Planning Commission Consideration

The applicant has added an additional sentence to Proffer 4(d) on page 7 of the attached proffers to provide additional clarification. The intent of the proffer has not been changed.

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

PROJECT DESCRIPTION

National Housing Corporation, has submitted an application to rezone 23.26 acres located on John Tyler Highway from R-8, Rural Residential, and B-1, General Business, to MU, Mixed Use, with proffers. The property is bisected by John Tyler Highway into a northern portion of 14.93 acres and a southern portion of 8.33 acres.

If approved, the developer would construct a new multifamily housing complex on the northern portion. The development, to be known as Governor's Grove, would consist of up to 213, one-, two-, and three-bedroom apartments. It is anticipated that the project would include affordable rental units through the support of the Low-Income Housing Tax Credit Program and financing by the Virginia Housing Development Authority.

On the southern portion, the developer proposes preserving 6.33 acres as permanent open space. The remaining two acres would be reserved for 30,000 square feet of office/commercial with access exclusively from Ironbound Road adjacent to the Zoom's Convenience Store.

PUBLIC IMPACTS

Housing

Housing Proffer: The applicant's intent is to offer a minimum of 50 percent of the total units on the property as affordable housing. While the applicant's intention is to develop the property as an affordable rental property using the Low-Income Housing Tax Credit Program and financing by the Virginia Housing Development Authority, the proffers provide flexibility should the developer wish to develop less than 50 percent of the property as non-affordable. The developer has also retained flexibility in the proffers to offer some units for sale. A minimum of 50 percent of any for-sale units developed must be affordable. Affordable for-sale dwellings will be offered at or below a price of \$120,000.

As noted above, the applicant intends to use the Low-Income Housing Tax Credit Program and financing by the Virginia Housing Development Authority to develop this property. These credits are applied for and awarded twice a year; it is not guaranteed that an applicant will receive the credits. The proffers include a provision that, should the applicant not receive tax credits, the percentage of affordable units shall be reduced to 20 percent of the total units with 20 percent of the rental units and 50 percent of the for-sale units as affordable.

Staff Comments: The James City County Office of Housing and Community Development (OHCD) finds the proposal is consistent with the Comprehensive Plan affordable housing goals. Regarding the displacement of residents of the existing mobile home park on the commercial portion of this property, OHCD had recommended two ways to address this issue: 1) provide a cash proffer for relocation assistance or 2) permit the residents to continue occupancy for an additional time period to allow for relocation. Neither option has been included in the current proffers.

Archaeology

The County archaeological policy is proffered.

Environmental Impacts

Watershed: Powhatan Creek

Environmental Proffers:

- **Conservation Area:** The applicant will preserve 6.33 acres of the property as permanent open space. This constitutes the entire southern frontage of John Tyler Highway. This piece of property will remain undisturbed in a permanent natural state. While normally preservation would be accomplished through a conservation easement dedicated to the County, the applicant has stated, for tax purposes, they do not wish to provide an easement. The open space is protected by the master plan and proffers.
- **Master Stormwater Management Plan:** In order to address the recommendations of the

Powhatan Creek Watershed Management Plan, the applicant has proffered to develop and implement a Master Stormwater Management Plan for the property.

- **Cash Contribution for Stream Restoration:** For each non-affordable unit a cash contribution of \$500 is proffered to be used for off-site stream restoration and stormwater management.

Staff Comments: The Environmental Division finds that the proposal is consistent with and addresses recommendations outlined in the approved Five Forks Area Study (environmental sections) and the Powhatan Creek Watershed Management Plan.

Public Utilities

Primary Service Area (PSA): The site is inside the PSA and served by public water and sewer.

Public Utility Proffers:

- **Cash Contribution:** For each non-affordable unit, a cash contribution of \$630 is proffered.
- **Water Conservation:** Water conservation measures will be developed and submitted to the JCSA for review and approval prior to any site plan approval.

JCSA Comments: The JCSA has reviewed the proposal and concurs with the proffers and master plan as proposed. It should be noted that with other recent residential proposals, a per-unit cash contribution has been proffered to help offset the costs of water supply facilities. However, as with affordable proposals at Michelle Point, Longhill Grove, The Station at Norge, and Pocahontas Square, the applicant has maintained that such a contribution for any affordable units would impair the ability to provide these units at the affordable rents proposed and no cash contribution was offered for the affordable units. Based on other public benefits provided by this proposal, staff concurs with this statement and recommends acceptance of the proffers, as currently proposed.

Fiscal Impact

The applicant has provided a fiscal impact statement which is included as an attachment to this report. In summary, at buildout this project is expected to have an annual negative fiscal impact of \$584,000. Note that this fiscal impact statement is based on the assumption that all units are developed as affordable rentals.

Proffers:

Cash Contribution: For each non-affordable unit a cash contribution of \$1,000 is proffered.

Staff Comments: The Department of Financial and Management Services concludes that the project would be a fiscal negative, require an annual investment of one penny on the real estate tax rate, and increase the need for new schools.

Schools

Per the Adequate Public School Facilities Test policy adopted by the Board of Supervisors, all special use permit or rezoning applications should pass the test for adequate public school facilities. With respect to this test, the following information is offered by the applicant:

<i>School</i>	<i>Design Capacity</i>	<i>Program Capacity</i>	<i>Current Enrollment (9/30/2004)</i>	<i>Projected Students Generated</i>	<i>Enrollment + Projected Students</i>
Clara Byrd Baker Elementary	804	691	773	24	797
James Blair Middle	625	621	583	12	595
Jamestown High	1,250	1,250	1,452	15	1,467

Staff Comments: Although program capacity is exceeded at the elementary school, the adequate public schools facility test is based on design capacity. Therefore, the proposal passes the adequate public school test at both the elementary and middle schools. The applicant has proffered that 20 percent of the units will contain only one bedroom and therefore performed the above calculations based on 170 two- and three-bedroom units.

Although the capacity of Jamestown High School is clearly exceeded, the Adequate Public School Facilities Test states that if physical improvements have been programmed through the County Capital Improvement Program (CIP), then the application will be deemed to have passed the test. On November 2, 2004, voters approved the third high school referendum; therefore staff believes that this proposal passes for the high school.

As with affordable proposals at Michelle Point, Longhill Grove, the Station at Norge, and Pocahontas Square, any capital contribution (i.e., cash proffer) to the school system to mitigate impacts would impair the ability to provide affordable units. Based on other public benefits provided by this proposal, staff recommends acceptance of the proffers, as currently proposed.

Impacts to the John Tyler Highway Community Character Corridor

Overall this project proposes to preserve a significant portion of the Community Character Corridor (CCC) through preservation of the southern portion of the site as permanent open space and through a 150-foot buffer along the northern portion of the site.

Early on in the rezoning, staff identified preservation of the John Tyler Highway tree canopy as a primary concern for any development of this property. Staff has evaluated the impacts of the proposed turn lanes on the tree canopy. The right-turn lane will be constructed on already cleared right-of-way and should not impact the adjacent tree canopy on the north side of John Tyler Highway. The left-turn lane has been designed to impact the tree canopy on the south side of John Tyler in order to avoid exposing the power lines along the north side of John Tyler. Staff believes that the loss of trees along the southern property is acceptable as all of the adjoining site will not be developed and the proposal prevents the visual exposure of the power lines.

Traffic

According to the applicant's traffic study, the residential portion of this property with access onto John Tyler Highway will generate approximately 1,452 trips per day with 110 a.m. peak-hour vehicle trips and approximately 134 p.m. peak-hour vehicle trips. The commercial portion with access onto Ironbound Road will generate approximately 330 trips per day with 47 a.m. peak-hour vehicle trips and approximately 45 p.m. peak-hour vehicle trips.

2003 Traffic Counts: Ironbound Road: 8,336 vehicles per day; John Tyler Highway: 10,821 vehicles per day.

2026 Volume Projected: John Tyler Highway shows 12,000 vehicles per day on a two-lane road and is listed in the "watch" category in the 2003 Comprehensive Plan as the capacity for such roads is 13,000 vehicles. This portion of Ironbound Road is not listed in the 2003 Comprehensive Plan although the portion of north of the intersection with John Tyler Highway is listed on the "watch" category.

Road Improvements: The residential component of the property will require the construction of a 150-foot right-turn lane with a 150-foot right-turn taper and a 200-foot left-turn lane with a 200-foot left-turn taper. No improvements are required for the commercial property's entrance on Ironbound Road.

Traffic Proffers: Private Driveways: Roads internal to the project shall remain as private driveways - not Virginia Department of Transportation (VDOT) streets.

- **Road Improvements:** The proffers provide for the road improvements listed above and for only one entrance on the adjoining roads.

- Cash Contribution to the Five Forks Intersection Improvements: The applicant has proffered his/her pro-rata share of the costs of the intersection improvements (\$36,341) recommended in the Primary Principles for the Five Forks Area adopted by the Board of Supervisors on September 28, 2004.
- Limits on Commercial Development The applicant has proffered that no use will be permitted on the commercial property that exceeds the traffic projected in the traffic study. If a use with higher traffic is proposed, the applicant must provide an updated traffic study for review and approval by the County and VDOT. If the additional traffic exceeds the traffic caps adopted as part of the Primary Principles for Five Forks, the use would not be approved. The applicant has also proffered additional cash to compensate for the additional traffic.

VDOT Comments: VDOT concurs with the recommendations of the applicant's traffic study including recommended entrance improvements to the residential portion of the development. At the time of the writing of this report, VDOT continues to object to the commercial entrance and will limit it to a right-in/right-out only.

COMPREHENSIVE PLAN

The James City County Comprehensive Plan Land Use Map designates this property for Moderate-Density Residential development. Moderate-density areas are residential developments or for land suitable for such developments with a minimum density of four-dwelling units per acre, up to a maximum of twelve-dwelling units per acre, depending on the character and density of surrounding development, physical attributes of the property, buffers, and the degree to which the development is consistent with the Comprehensive Plan. The location criteria for moderate-density residential require that these developments be located within the Primary Service Area (PSA) where utilities are available. Optimum sites are near the intersections of collector streets, have natural characteristics such as terrain and soil suitable for compact residential development, and provide sufficient buffering so that the higher-density development is compatible with nearby development and the natural and wooded character of the County. These moderate-density residential areas may serve as transitional uses, primarily to neighborhood commercial, general commercial, or mixed-use areas. The timing and density of development for a Moderate-Density Residential site may be conditioned on the provision of least cost housing or the provision of open space. Suggested land uses include townhouses, apartments, attached cluster housing, and recreation areas.

Staff Comments: The proposal is consistent with the Land Use policies of the Comprehensive Plan.

PRIMARY PRINCIPLES FOR FIVE FORKS

On September 28, 2004, the Board of Supervisors adopted the Primary Principles for the Five Forks Area of James City County. The Principles set forth specific recommendations for the Five Forks Area. This proposal addresses the following principles as follows:

- Pedestrian Improvements: The proposal provides sidewalk connections on the northern property along John Tyler Highway to existing commercial property and to Ingram Road in conformance with the Five Forks sidewalk inventory. The proposal also proffers a 35-foot easement through the southern property. The Greenway Master Plan calls for the construction of a multiuse trail in this easement eventually connecting Jamestown High School to Five Forks.
- New Trip Thresholds: 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. The introduction of 157 new trips during the AM peak results in the use of approximately 44.9 percent of the new trip threshold without geometric improvements and approximately 31.4 percent with geometric improvements. The introduction of 179 new trips during the PM peak results in the use of approximately 35.8 percent of the new trip threshold without geometric improvements and approximately 27.5 percent with geometric improvements.

Currently, two other proposals have been reviewed or approved in the Five Forks Area (Oaktree Expansion, Ingram Road Office Building). When combined with the Governor's Grove proposal, 42.9 percent of the intersection capacity (without improvements) will have been used.

- **Environmental:** The proposal sets aside 6.33 acres of the southern property as permanent open space. The applicant has proffered a stormwater master plan to implement the recommendations of the Powhatan Creek Watershed Management Plan.
- **Land Use:** The proposal proffers architectural review by the Planning Director in accordance with the architectural guidelines contained in the principles. The project's overall residential density is 10 dwelling units per acres in accordance with the recommended maximum density for areas designated moderate-density residential. Finally, the proposal protects the John Tyler Highway CCC through preservation of the property on the south side and the provision of a 150-foot buffer on the north property.

Staff finds that this proposal is consistent with the Primary Principles for Five Forks.

BUFFER WAIVERS

The applicant has requested modification to perimeter setback requirements for the commercial parcel. Mixed Use districts require a fifty foot perimeter setback from all adjacent properties. Setbacks shall be left in an undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover. It is possible to get a modification granted by the Planning Commission during the rezoning process. The applicant's requests for setback modifications are summarized below:

1. Reduce Ironbound Road Buffer to 25 feet;
2. Reduce the buffer adjacent the Zooms Convenience Store to 15 feet; and
3. Reduce the buffer adjacent Parcel No. (47-1)(1-57) to 25 feet.

The reduced buffers will still substantially preserve existing vegetation on the site. The applicant has proffered enhanced landscaping to address any impacts of the reduced buffers. In addition, the applicant has proffered architectural and landscape review by the Planning Director of any structures built on the site. As part of its review, the Planning Commission approved the buffer reductions as proposed.

CONCLUSIONS & CONDITIONS

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, the Comprehensive Plan Land Use Map designation, and the Primary Principles for Five Forks Area of James City County. Staff also finds that the added benefit of affordable housing will meet an important need in James City County and the proposed open space will provide significant protection to the John Tyler Highway CCC. Staff recommends the Board of Supervisors approve the rezoning and master plan applications and accept the voluntary proffers.

On November 1, 2004, the Planning Commission recommended approval of this case by a vote of 3-2.

Matthew D. Arcieri

CONCUR:

O. Marvin Sowers, Jr.

MDA/gb
z-7-03mp-8-03.wpd

ATTACHMENTS:

1. Planning Commission Minutes
2. Location map
3. Master Plan (under separate cover)
4. Community Impact Statement
5. Proffers
6. Primary Principles for the Five Forks Area of James City County
7. Resolution

APPROVED MINUTES TO THE NOVEMBER 1, 2004 PLANNING COMMISSION MEETING

CASE NO. Z-07-03/MP-08-03 Governor's Grove

Mr. Arcieri presented the staff report. Mr. Eric Nielson has applied on behalf of National Housing Corporation to rezone approximately 23.26 acres from R-8, Rural Residential and B-1, General Business, to MU, Mixed Use, with proffers. The request seeks to develop 216 multi-family units on the 14.93 acres of property north of John Tyler Highway and 30,000 square feet of commercial/office space on the 2 acres of property accessed off of Ironbound Road. Approximately 6.33 acres of property to the south of John Tyler Highway would be preserved as open space. Staff recommended approval.

Mr. Kale asked Mr. Arcieri to explain the ingress/egress statistics connected to the commercial site.

Mr. Arcieri explained that the proposed traffic movements for vehicles entering Ironbound Road could cause safety issues. He noted that VDOT has limited the entrance to a "right-in right-out" only.

Mr. Poole opened the public hearing.

Mr. Geddy, the applicant, presented the history of the application. He explained several of the key elements of the plan. The proffered open space on the south portion of the property constitutes a significant dedication of land for aesthetic and natural purposes. He also spoke to the proffered master plan, a cap of 213 units, and the 15 acres of open space to be preserved on the property.

Mr. Fraley asked Mr. Geddy asked if the cash proffer payments were based on a mix of affordable and non-affordable units.

Mr. Geddy responded that it was impossible to reconcile those two sets of numbers.

Mr. Kale stated that many people believed that affordable housing means "low-cost" housing.

Mr. Geddy responded that, for the "for sale" units, the units were based on a \$120,000 price and that for the affordable units, based on the rental payment for a person with a \$32,000 annual income.

Mr. Kale asked if residents in the affordable rent units paid the same monthly rent as the residents of standard units.

Mr. Geddy responded that rent payments were different for the two groups, and that the difference was made up for the proprietor through federal housing funds.

Mr. Kale stated that the affordable housing, then, does not create a financial shortfall for the developer.

Mr. Geddy stated that it does not.

Mr. Kale asked about the commercial property nearest to the Five Forks intersection.

Mr. Geddy provided some of the background information into the surrounding property.

Mr. Fraley asked if the “for sale” and “for rent” properties would be of the same design.

Mr. Geddy responded that they would.

Ms. Fran Geisler, 120 Jordan’s Journey, spoke to the environmental aspect of the plan with regard to the Powhatan Creek. Ms. Geisler recommended the use of conservation easements to protect the watershed and surrounding wetlands.

Mr. Sasha Digges, of Ironbound Road, commented on the lack of affordable housing in the County and called for a plan to relocate the current residents.

Mr. Gerry Johnson, of the Historic Route Five Association, thanked the applicants for recently meeting with his organization. He questioned the environmental, social, and aesthetic compatibility of the proposed development with the surrounding area. He asked the Planning Commission to defer the case on the grounds that the citizens have not had the opportunity to sufficiently evaluate the plan.

Ms. Kay Thorington, of 3195 Lot 2 Williamsburg, urged the Planning Commissioner to protect the rights of those people who would be displaced by the construction of the complex.

Mr. Ken Spencer, of First Colony, spoke as an adjacent property owner. He referred the Commission to his distributed letter and informed the committee that no agent of the developer had contacted him.

Mr. Fraley asked Mr. Spencer to elaborate on the letter’s second criticism of the proposed development.

Mr. Spencer responded that he was concerned about the children of Governor’s Grove playing on and vandalizing his property.

Mr. Hampton Jesse, of Powhatan Crossing, also recommended a deferral of the case in order to better evaluate the traffic impacts and proffers.

Mr. David Fuss, of 3008 Chelmsford Way, spoke on behalf of the Friends of the Powhatan Creek Watershed related the concerns of citizen members and recommended that the Commission defer the case.

Mr. Fraley asked for the official position of the Friends of the Powhatan Creek on this application.

Ms. Geisler clarified that she spoke as a resident of the County and not as the representative of the Friends of the Powhatan Creek Watershed.

Mr. Geddy addressed the issues of the trailer park and the environmental impacts of the case and stressed the intention of the applicant to work with the County to resolve these issues.

Mr. Eric Nielsen of the National Housing Corporation reviewed the history of the case and stressed their commitment to providing the best possible plan for the parcel.

Mr. Ken Spencer agreed with Mr. Nielsen's commitment to promoting a quality community but re-iterated that he had not been contacted about the development.

Ms. Thorington urged the Commission to protect the trailer park.

Mr. Nielsen stated that he had met with Mr. Spencer's brother last year regarding the project.

Mr. Fraley asked Mr. McCleary to comment on the possible impacts to Route 5.

Mr. McCleary, stressing that he was not an active member of the Historic Route 5 Association, stated the organization would most like to see a plan that preserves the buffer and improves the environmental situation of the area.

Mr. Fraley asked Mr. McCleary to comment on the relation of the project to recently completed Five Forks Area Study.

Mr. McCleary responded that, in his opinion, the application satisfies the Five Forks Primary Principles.

Mr. Fraley asked for more detail into the environmental aspects of the application.

Mr. Arcieri responded that staff brought the adopted Five Forks Primary Principles to the applicant with the main tenets that reinforce the Powhatan Watershed Plan.

Mr. Fraley asked for more detail into the process where the environmental issues had been addressed.

Mr. Sowers stated that some of the recommendations distributed to the Commission were better applied during the development plan stage and that the DRC meeting would be a better forum to discuss those issues. He continued to explain that, in past cases in dealing with affordable housing, that cash proffers had not been required for affordable units.

Mr. Fraley asked about the situation of the trailer park residents who would be displaced by this development. He asked Mr. Sowers if James City County had any position with respect to these residents.

Mr. Sowers responded that the County's Department of Housing and Community Development and Housing was concerned about this problem but limited by funding. Staff explored ways to ease the transition of current residents but did not have the ability to require any action of the developer.

Mr. Fraley stated that it was his understanding that Housing and Community Development had requested several measures to help these residents. He suggested that the County lead an effort to explore the plight of the affected residents.

Mr. Sowers responded that the County had initiated similar discussion and that staff

would be willing to make another effort.

Mr. Fraley suggested that the County should lead an effort to resolve these problems through a collective meeting of residents, the developer, and staff to reach an accommodation.

Mr. Kale urged the Commission to defer the case on the grounds of school overcrowding, the high density of the development, traffic, and the displacement of residents.

Mr. McCleary stated that the developer had significantly amended the rezoning plan to eliminate the development of the south property.

Mr. Fraley questioned the accuracy of the number of schoolchildren projected for the development.

Mr. Arcieri stated that these numbers were generated by the County's Financial and Management Services department.

Mr. Fraley said that he believed that the numbers provided by the County were understated but credited the applicant with using the County numbers.

Mr. Kale asked Mr. Arcieri if the County had considered the presence of college students in the apartment population of James City County.

Mr. Arcieri stated that the County had not projected these numbers.

Mr. Kale spoke to the previously approved developments that add schoolchildren to the system and suggested that the County compound the numbers generated by approved rezonings.

Mr. Fraley asked Mr. Kale if the bond referendum were to pass if it would improve his opinion of the school situation.

Mr. Kale said that he would.

Mr. Poole brought up the issue of displaced residents and expressed his desire that the traffic and displacement issues be resolved. He recommended the Commission explore and resolve these issues.

Mr. Kale asked who was responsible for generating the schoolchildren numbers and recommended a deferral to address these issues.

Mr. McCleary spoke to the need for affordable housing and the fact that this application addresses that need. He also spoke to the traffic study, which was last completed in 2003 and projected to 2008. Mr. McCleary expressed his support for a deferral.

Mr. Nielsen spoke to the necessity of obtaining a result at the November meeting. In order to satisfy the deadline to apply for federal tax credits, Mr. Nielsen spoke to the impossibility of proceeding with this application should it not receive action by the Planning Commission. He outlined his history of working with staff and re-iterated the importance of coming to a decision tonight.

Mr. Fraley asked when the deadline for the tax credit was due.

Mr. Nielsen responded that he needed to have the property under control by January.

Mr. Hunt motioned to approve the application.

McCleary seconded the motion.

Mr. Poole stated that he was not prepared to support the application.

Mr. Fraley stated that he would like to see the application go forward, but that he still had significant reservations about the application.

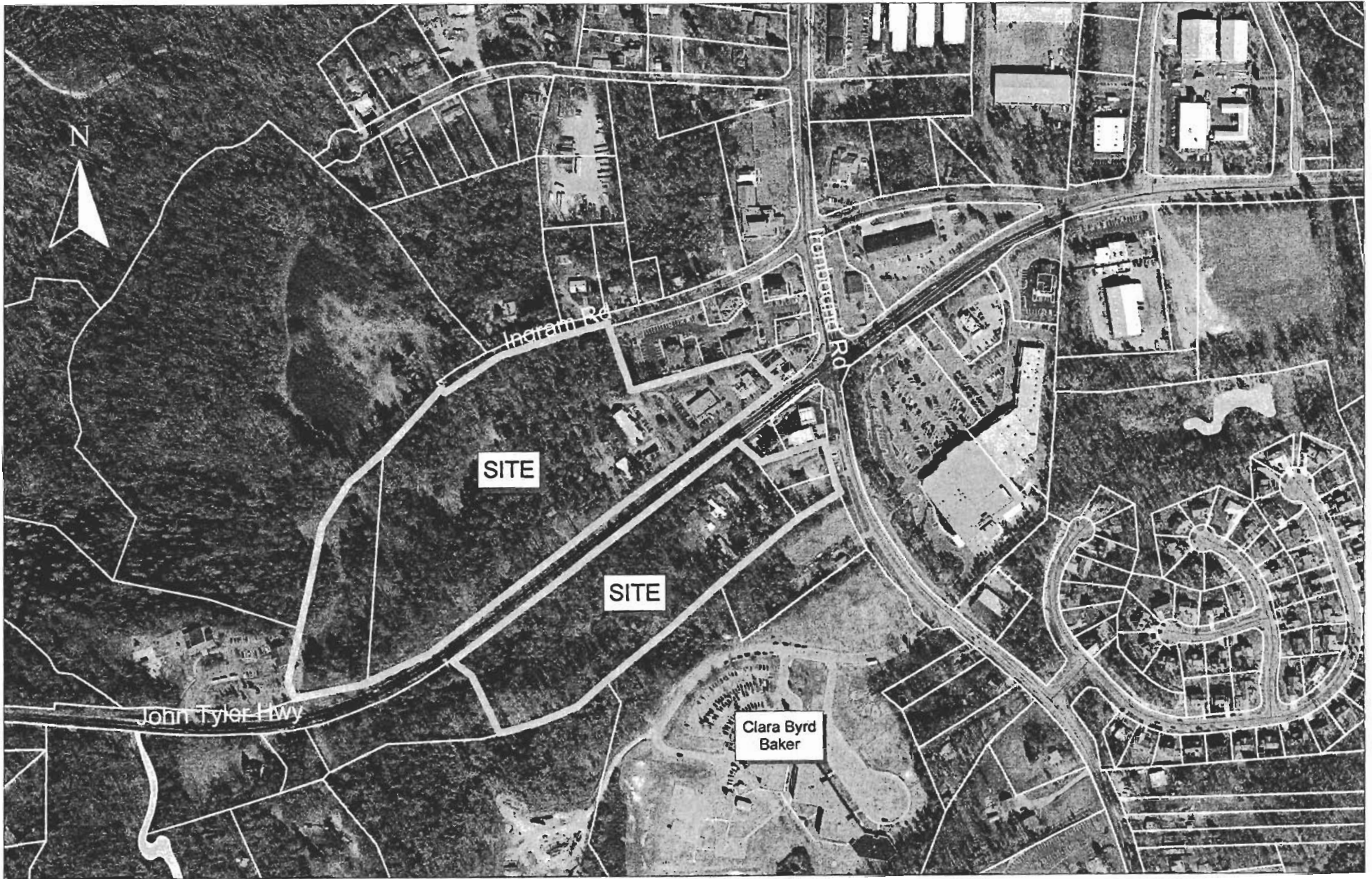
Mr. McCleary stated that, given the willingness of the applicant to work with County, he was prepared to support the application.

Mr. Kale stated that he saw a lot of benefits and spoke to value of the Adequate Public Facilities Test. He stated his opposition to the application.

Mr. Fraley stated that he was prepared to support the application, but that the issues identified by the Commission should be addressed.

The Planning Commission approved the application by a vote of 3-2. AYE: (3) Fraley, Hunt, McCleary. NAY: (2) Poole, Kale. NOT PRESENT: Wildman, Billups.

Z-7-03/MP-8-03 Governor's Grove at Five Forks



Community Impact Study

For the

Master Plan

Prepared For

The Governor's Grove at Five Forks

National Housing Corporation

448 Viking Drive, Suite 245
Virginia Beach, VA 23452

October 22, 2004
AES Project Number 9263

Prepared by:



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I. INTRODUCTION

National Housing Corporation is proposing to rezone approximately 23.26 acres in James City County from R-8 and B-1 zoning to Mixed Use, MU zoning. The property is located on and bisected by John Tyler Highway (Route 5) just west of the Five Forks intersection at Ironbound Road. The property contains approximately 14.93 acres zoned R-8 and B-1 on the north side of Route 5 and approximately 8.33 acres zoned R-8 and B-1 on the south side of Route 5. Approximately 1.60 acres will remain B-1 along with the present commercial uses thereon.

The site currently houses 10 mobile home trailers, 10 sheds, several outbuildings, a motel, a campground office building, and an asphalt road network to serve the present uses. National Housing Corporation is proposing to redevelop and replace this aging facility by building 213 affordable multi-family homes on the northern portion of the property while retaining approximately 5,670 square feet of existing commercial and retail establishments that are currently in place. The southern portion of the property is proposed to be left undeveloped and approximately 2 acres of support commercial office/retail or light industrial.

The purpose of this report is to summarize and organize the planning efforts of the project team into a cohesive package for Staff review, which addresses the pertinent planning issues and the requirements of the Mixed Use zoning district.

National Housing Corporation has a long history of creating attractive affordable housing communities and presently has developed over 6,000 homes throughout the United States with more than 2,500 of those units located in the Commonwealth of Virginia. This new community will provide housing that is affordable to local residents and will be based upon the guidelines and eligibility requirements set forth by the Virginia Housing Development Authority.

National Housing Corporation enjoys a long-standing history of affordable housing construction in The Commonwealth and National Housing communities were some of the first constructed in partnership with the Virginia Housing Development Authority after its inception. Due to their value, sound construction, amenities, and the quality of life provided to its residents,

these communities have typically stood at the forefront of the VHDA partnerships portfolio. Traditionally, National Housing Corporation's communities have become home to a wide range of residents, including young professionals, teachers, policemen, firemen, military personnel, service industry and staff level government employees who might otherwise be precluded by their income levels from residing in market rate equivalent, quality homes. More information about National Housing Corporation and their existing properties is included later within the text of this report.

II. THE PROJECT TEAM

The organizations that participated in the preparation of the information provided in this impact study are as follows:

- Developer - National Housing Corporation
- Civil Engineering - AES Consulting Engineers
- Environmental - ECS Engineering Consulting Services, Ltd
- Traffic - DRW Consultants, Inc.
- Legal - Geddy, Harris, Franck, and Hickman
- Archaeological - ECS Engineering Consulting Services, Ltd.
- Fiscal - The Wessex Group, Ltd.
- Land Planning - AES Consulting Engineers

Key components of this Community Impact Study are:

- Analysis of Impacts to Public Facilities and Services
- Traffic Impact Study
- Fiscal Impact Study
- Archaeology Phase 1-A
- Phase I Environmental Site Assessment with Wetlands section
- Preliminary Subsurface Exploration and Geotechnical Engineering Analysis

III. PROJECT DESCRIPTION

National Housing Corporation is proposing to build 213 affordable multi-family homes on the northern portion of the property and leave the existing commercial and retail establishments in place. The southern portion of the property includes 6.33 acres of open space and approximately 2.0 acres of support commercial.

A site analysis revealed the following results:

Total acreage:	24.86 acres
Area remaining B-1:	1.60 acres
Wetland and stream areas:	0.65 acres
Areas of 25% or greater slope:	0.80 acres
Total area of non-developable acreage:	1.45 acres

The non-developable 1.45 acreage is approximately 6% of the total parcel acreage, well below the 35% threshold allowing for the density to be based on the total acreage per 24-523 of the zoning ordinance. See the Environmental Inventory drawing identifying areas of non-developable and net developable acres.

The proposed development is as follows:

The development of the northern portion of this development:

- 1) The existing commercial use consisting of approximately 5,670 square feet of existing commercial space will remain on approximately 1.60 acres, and this area will remain B-1. Approximately 0.65 acres of B-1 will be rezoned MU and the existing 10,770 square feet of motel/lodging and campground office building will be removed.
- 2) 213 multi-family, affordable units will be built on approximately 14.93 developable acres (Use Designation D).

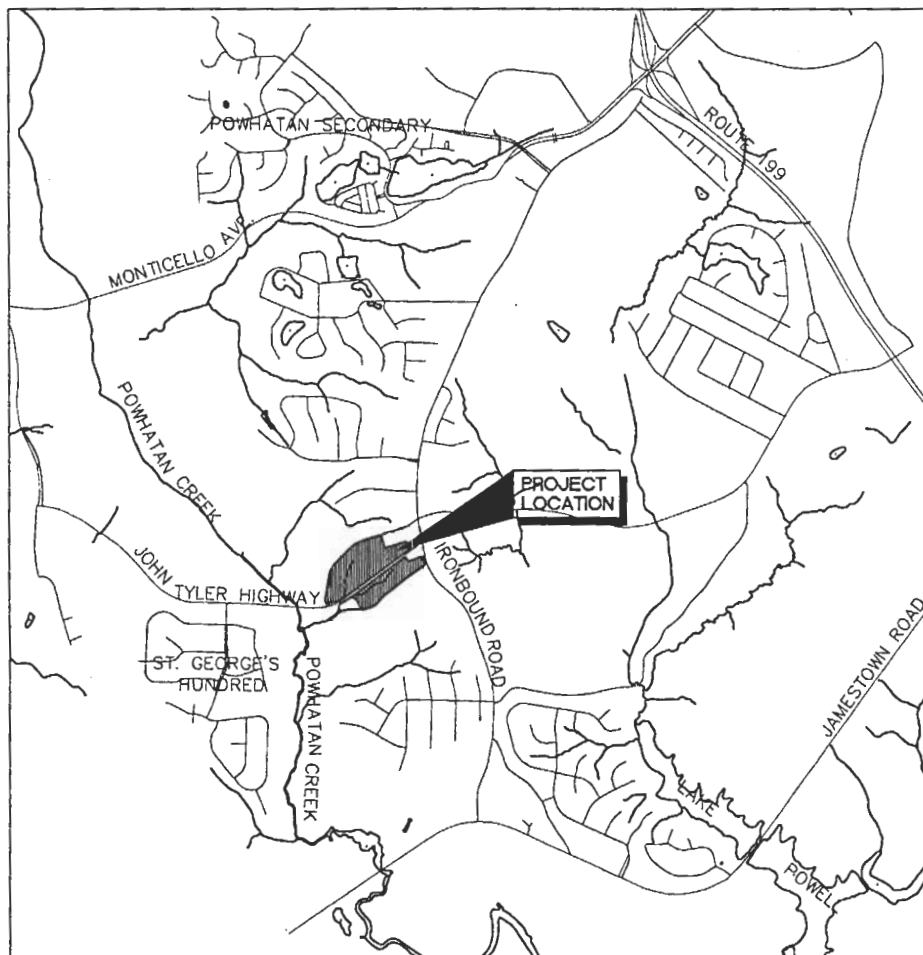
The development of the southern portion of this project:

- 3) Commercial use consisting of approximately 30,000 square feet commercial space (Use Designations E, F or G) on approximately 2 acres, and;

4) 6.33 Acres will remain as open space and a storm water facility (Use Designation J).

The project location is shown on the following exhibit:

Exhibit 1



A. Planning Considerations

A review of the Comprehensive Plan of James City County shows this area designated as “Moderate Density Residential.” Under this classification, a minimum density of four dwelling units per acre up to twelve dwelling units per acre is allowed. The Mixed Use, MU Zoning will achieve the goals of the comprehensive plan which states for the Five Forks area: that limited

commercial developments continue at the intersection with moderate density residential encouraged as a secondary use. The Mixed Use zoning promotes “a multi-use planned community which may include residential, commercial, industrial (with a predominant focus on light industrial,) office and other nonresidential uses. Mixed Use zoning provides flexibility, unity and diversity in land planning and permits densities and intensities of development in excess of those normally permitted in customary residential and commercial zoning districts (Section 24-514 of the James City County Zoning Ordinance). The proposed Master Plan conforms to the current Comprehensive Plan’s recommendation for Medium Density Residential. With this proposal, 213 residential units are planned for 23.26 acres, yielding 9.3 dwelling units per acre. This density also is within the density outlined in the Resolution for the “Primary Principles for Five Forks Area of James City County approved September 28, 2004 by the James City County Board of Supervisors.

An additional planning consideration is conformance to open space and density requirements for the zoning designation. Under Section 24-524 of the Code of James City County, 10% of the net developable area of any Mixed Use Development shall be retained in usable open space. This development will exceed this obligation with a minimum open space area estimated at approximately 15 acres of the 23.26 acres of the parcel, or 60 % of the gross area.

The residential sections will be developed under designation D (Attached structures of three stories or more and containing more than four dwelling units). Per 24-523 of the Code of James City County this designation allows up to 18 dwelling units per acre. The JCC Comprehensive Plan for Moderate Density Residential allows up to 12 units per acre. While the proposed density in section 1 exceeds 12 dwelling units per acre in the multi-family section the overall residential density of the development will not exceed twelve dwelling units per acre. The density of these parcels is based on the net developable area with the provision of 10 % open space. Areas of wetlands and slopes greater than 25% are not counted towards meeting the 10% open space requirement. The 213 single-family attached and multi-family units will yield a gross density of 9.3 dwelling units per total acre. This density is below the thresholds of maximum density outlined in Section 24-523 of the Code of James City County.

IV. ANALYSIS OF IMPACTS TO PUBLIC FACILITIES AND SERVICES

The subject property for rezoning is located within the Primary Service Area of James City County. Parcels and subsequent land development activities within the Primary Service Area are required to connect to public water and sanitary sewer service provided by the James City Service Authority (JCSA).

A. Public Water Facilities

The subject property will be served with public drinking water by the existing JCSA water distribution system in the general area. A 12-inch water main presently exists along John Tyler Highway, (Route 5) and will be the primary potable water source connection for this proposed development. The property will be irrigated but the irrigation system will recycle water from the proposed on-site wet pond with a well as a back-up system. It should be noted that adjacent to the property, and currently under construction is the new Desalination facility that will be online prior to the construction of this residential community.

A preliminary water model will be completed prior to final plans. The model will examine volume and pressures throughout the immediate water system area. The water model will account for all multi-family residential buildings having sprinkler fire suppression system meeting NFP-13R.

B. Public Sewer Facilities

The subject property will be served by extensions to the public sewer system of JCSA. The sanitary sewer extension will be gravity sewer connection to the existing Powhatan Creek Collector that flows into existing Lift Station 1-1. Presently a good portion of the flow to this lift station will be redirected with the alterations to Lift Station 1-2. Lift Station 1-2 currently lifts wastewater to the trunk line that will serve Governor's Grove. The construction drawings for the

renovations of lift station 1-2 have recently been completed. These renovations will allow the lift station to adequately provide sewer service for the entire “sewershed,” by re-directing the sewage flows from the lift station towards a nearly complete Hampton Roads Sanitation District 30-inch force main paralleling John Tyler Highway. This wastewater flow would then no longer go to lift station 1-1 or the existing sanitary trunk line that serves Governor’s Grove.

Table 1

Development	Units	(GPD/Unit)	Flow (GPD)	(hrs)	(GPM)	Peak Flow
RESIDENTIAL						
Multi-family condo	213	250	53,250	24	37.0	92.4
NON-RESIDENTIAL						
Commercial office/retail	30,000 SF	0.2	6,000	12	8	21
Active Recreation	2	300	600	12	0.8	2
subtotal			6,600		9	23
Total GPD			59,850		46	115

Table 1 above shows the proposed flows that will be generated by this new development. The flows from this development will not have an impact on the existing system, as they will come on line after the rerouting of lift station 1-2.

C. Public Schools

Governor’s Grove is located within the Clara Byrd Baker Elementary School, James Blair Middle School, and Jamestown High School districts. Under the proposed Amended Master Plan, a total of 213 multi-family residential uses are proposed with 20% one bedroom and 80% of the units will be two or three bedroom. Approximately 20% or 43 units will be one bedroom and not have school age children. Table 2 below shows the projected students generated from the proposed development. Table 3 shows the current school capacities and enrollments for 2003.

Table 2

student generation	residences	generator	total students
multi/attached housing units	170	0.3	51

Table 3

Existing Public School Facility	Design Capacity	Program Capacity	current 2004 Enrollment	capacity	% of student breakdown	Additional students
Clara Byrd Baker	804	691	773	31	47.00%	24
James Blair Middle School	625	621	583	42	24.00%	12
Jamestown High School	1250	1250	1452	-202	29.00%	15
subtotal	2679	2562	2808	-129	100.00%	51

As the chart in Table 3 shows, there is design capacity for this development at Clara Byrd Baker Elementary School but not for program capacity. Five Temporary trailers have been installed to meet current program capacity. There is design and program capacity at James Blair Middle School. Also the current enrollment projections by Williamsburg-James City County Public Schools shows these two schools with declining student populations through 2008, The residential component of Governor's Grove is scheduled to be completed by 2008.

Table 3 also shows that presently Jamestown High School is currently over design and program capacity. On May 13, 2003 the James City County Board of Supervisors voted to purchase land for a third high school to solve current enrollment capacity issues and prepare for future growth in the county. This new high school site is at the intersection of Centerville Road and Richmond Road. If voting for the school Bond this November passes, the new High School facility is scheduled to open August 2007 and will solve the current overcrowding of Lafayette and Jamestown High Schools.

D. Fire Protection and Emergency Services

As multi-family housing community, demand for fire protection and emergency service to this one location may be higher than normal. There are currently five fire stations providing fire protection and Emergency Medical Services (EMS) services to James City County. The

closest fire station to the subject site is station number 3 located at 5077 John Tyler Avenue, east of this project. From this station, an estimated response time would be less than four minutes.

The next closest fire station to the subject site would be station number 5 at 3201 Monticello Avenue. Although more distant than the John Tyler station, response time to the site is satisfactory if an emergency event occurs requiring additional fire and life safety support. Taken collectively, these two fire stations, and the emergency medical staff available at these stations, will provide more than adequate response in emergencies.

There are fiscal impacts associated with the performance of the additional services needed for this proposed development. Fiscal impact information for fire protection and emergency services can be found in the fiscal impact report prepared by The Wessex Group, Ltd.

E. Solid Waste

The proposed development on the subject property will generate significant quantities of solid wastes that will require collection and disposal to promote a safe and healthy environment. Reputable, private contractors, hired by the community management or homeowners' association, will handle the collection of solid waste. Both household trash and recyclable material will be removed from this site to the nearest solid waste transfer station.

F. Utility Service Providers

Virginia Natural Gas, Dominion Virginia Power, Cox Communications, and Verizon Communications provide, respectively, natural gas, electricity, cable TV service, and telephone service to this area. The current policy of these utility service providers is to extend service to the development at no cost to the developer when positive revenue is identified plus with new land development these utility service providers are required to place all new utility service underground.

V. ANALYSIS OF ENVIRONMENTAL IMPACTS

A. Preliminary Wetland Determination

Investigations were conducted by Engineering Consulting Services, Inc. (ECS) in the summer of 2003 for the entire Governor's Grove property. The technical criteria outlined in the 1987 Corps of Engineers Wetland Delineation Manual were applied in order to map wetland resources that would fall under the jurisdiction of Section 404 of the Clean Water Act. The wetlands have been reviewed and approved by the COE and a Jurisdictional Determination letter dated July 7, 2003 is attached in the appendix. The extent of wetland features is shown on the Environmental Inventory plan for this development.

Based on the investigation by ECS and field surveying by AES approximately 0.65 acres of wetlands are present on the Governor's Grove property, associated with several drainage-ways of Powhatan Creek. USGS mapping does not show the existing swales that are incorporated into these wetlands as either perennial or intermittent.

In the Illustrative Concept Plan for the proposed development, some disturbance of the wetland environment is shown. A small portion of the parking on the northern residential section will impact a very narrow wetland area. In addition there may be some temporary disturbances associated with gravity sewer connections and the grading associated with constructing the stormwater/best management ponds.

The request letter to the U.S. Army Corps of Engineers for Jurisdictional Determination is in the Appendix along with a copy of the Field Approval Jurisdictional Determination.

B. Resource Protection Areas

ECS's analysis of on-site resources included a review of the wetland features and adjacent creek systems to determine the extent of RPA features subject to jurisdiction under the Chesapeake Bay Preservation Act. The USGS mapping does not show the existing drainage swales as either perennial or intermittent, the existing on-site wetlands are not adjacent to the non-tidal mainstem Creek and as such should not be considered RPA features.

C. Powhatan Creek Watershed

In a report prepared for James City County by the Center for Watershed Protection "*Powhatan Creek Watershed Management Plan*", 'Draft' dated November 2001, it was noted that rapid development has occurred within the Powhatan Creek watershed, posing a threat to natural habitats and the water quality benefits of this tributary. In 2001, the Center for Watershed Protection made recommendations for various sub-watersheds of Powhatan Creek to maintain the quality of this stream habitat. The Governor's Grove is located along the upper limit of the Tidal Mainstem of Powhatan Creek. The recommendations for the area of the Governor's Grove are:

Watershed Education

- Fecal coliform problem and source education—septics, pets, natural sources.
- The importance of natural buffers for wetlands and other aquatic resources.

Aquatic Buffers

- Establishment of a program to assist landowners in the creation of buffer zones.
- Preservation in the form of a buffer up to 300 feet on new development to protect important marsh transition zones is important to wildlife and marsh bird species as a refuge during high tide.

- Increased forest buffer on the Paleochannel wetlands on the south side of the Mainland farm.

Better Site Design

- Cluster type development to allow for the preservation of the marsh buffers.

Stormwater Management

- Stormwater management with an added focus on fecal coliform removal.

The development of the Governor's Grove will be supporting the recommendations to maintain the quality of Powhatan Creek through the following:

1. The development will incorporate stormwater management facility(s) / best management practice design(s) to honor James City County's stormwater management goals, maintain high stream quality and address the fecal coliform issue.
2. The development will provide 50', 75' and 150' buffers areas at the perimeter of the development, encompassing existing wetlands and preserving the majority of the wetland areas associated with the Powhatan Creek. The majority of the buffers will be left natural.
3. The development on the south side is to remain undisturbed closest to the limits of the RPA of Powhatan Creek to maintain the quality of the RPA.

To make a quantitative comparison of how the land development by the proposed Master Plan supports the goals of the *Powhatan Creek Watershed Management Plan*, the existing site was reviewed under the guidance of this plan with the following results quantified:

- The site contains very little wetlands. Only 0.65 acres of wetlands were verified by the COE on this site. The proposed disturbance will require an Activity 1, Category 1 permit through the Virginia Department of Environmental Quality. Any wetland

area disturbed will either be mitigated on-site or contribution made to recreate wetlands off-site.

- The development will provide approximately 15 acres of open space (60% of the site) as natural areas (greenbelt buffers, peripheral setbacks and transitional screening, parking islands and other open space). These areas provide added benefit by limiting opportunities for impervious cover on this site and in the tidal mainstem of the Powhatan Creek.

In summary this is not a vacant property but the redevelopment of an aging commercial campground, mobile home park and motel. Rezoning the site to MU and providing additional buffers along the perimeter is an opportunity for improvement over the existing development. The new mixed-use development is similar to cluster development and helps this development meet the overall goals of the Powhatan Creek Watershed Study.

D. Archaeology

In July of 2003, ECS conducted research and a walkover in lieu of a Phase I archaeological survey of the Governor's Grove property along both sides of John Tyler Highway. That walkover and research by ECS found no identifiable archaeological sites or locations. Additionally, a search of the database of the Department of Historic Resources of the Commonwealth of Virginia was performed by ECS. That database and mapping does not show any records of historic sites on the Governor's Grove property. A copy of the correspondence between ECS and the Virginia Department of Historic Resources can be found in Appendix II.

E. Soils and Vegetation

Soils

The *Soil Survey of James City and York Counties and the City of Williamsburg, Virginia* (USDA 1985) maps several soil types within the Governor's Grove property boundary. The Governor's Grove property is predominantly situated on well-drained soils of Emporia, Craven, and Slagle. The hydrologic classifications of these soil types are within group C. The mapping can be seen on the attached Environmental Inventory Drawing. Also the northern portion of the

property has been investigated and a Preliminary Subsurface Exploration and Geotechnical Engineering Analysis by ECS Ltd are included in this booklet.

Vegetation

The site is located in the Coastal Plain Floristic Province as described in *The Natural Geography of Plants* (Gleason and Cronquist 1964). The typical forest of this province contains extensive stands of pines with over two-dozen other hardwood species intermixed. James City County color aerial photography and a site visit determined that the site is 85% forested with mixed hardwoods and evergreen trees.

Vegetation communities on this property may be classified into three general categories as follows: 1) upland hardwoods; 2) secondary growth or scrub/shrub complexes; and 3) wetlands (see wetlands report by ECS Ltd). Of the forested regions on the Site, the predominant community type consists of hardwood stands intermixed with mature Loblolly pines. The forested uplands are situated on nearly level to steep slopes, and are characterized by a well-developed, layered structure, with most canopy specimens ranging from 50-70 feet in height. Typical canopy species include beech (*Fagus grandifolia*), oak (*Quercus* spp.), hickory (*Carya* spp.), tulip tree (*Liriodendron tulipifera*), sweet gum (*Liquidambar styraciflua*), red maple (*Acer rubrum*), and loblolly pine (*Pinus taeda*). Understory species include American holly (*Ilex opaca*), wax myrtle (*myrica*), hardwood saplings, and huckleberry (*Gaylussacia* spp.).

VI. ANALYSIS OF STORMWATER MANAGEMENT/BMP

A brief needs-analysis for stormwater management, meeting the general criteria of the Commonwealth of Virginia and James City County's stormwater requirements, was completed as a component of the planning for the proposed Master Plan Amendment of the subject.

The goal of the stormwater management plan is to adhere to local and state stormwater requirements using Best Management Practices (BMP's) that provide the maximum coverage while minimizing environmental impacts. In evaluating preliminary stormwater management solutions of the proposed development on the subject site, the unique site characteristics are considered. Preliminary site observations and mapping identify unique site characteristics considered in stormwater management planning:

- Small portion of non-tidal wetlands of Powhatan Creek in three existing swales
- Stormwater management for this site seeks to manage the quality and quantity of the stormwater runoff. In James City County, the Environmental division requires a 3-step, 10-point Best Management Practice (BMP) method to demonstrate compliance with the County's Chesapeake Bay Preservation Ordinance (CBPO). The methodology allocates open space credit for land that is not developed and provides credit for all segments of the site that drain and are controlled by an adequately sized structural BMP. BMP credits can also be accumulated for providing stormwater quality improvement for off-site development and parcels within the watershed of the proposed stormwater management / best management practice facility (SWM / BMP). Structural BMP's are assigned from 4 to 10 points depending on particular design and storage volume. Highly efficient wet ponds, infiltration basins, and marsh BMPs receive 9 or 10 points of credit. The total point value for the site is obtained by taking the fraction of the site served by a structural BMP or open space credit and multiplying it by its assigned point value and then summing the values. A total of ten points for the site is necessary to demonstrate satisfactory compliance.

In preliminary analysis of the subject, stormwater management and improvement in stormwater quality may be achieved with the construction of several SWM / BMP facilities

located on adequate acreage and appropriate conditions to handle the watershed. When combined with the quality benefits provided by the naturally occurring non-tidal wetlands on the proposed development of the Governor's Grove under the Amended Master Plan will have minimal impacts to the surrounding environment.

Specifically, two SWM / BMP are envisioned for Governor's Grove. The southern section of Governor's Groves will contain a SWM / BMP facility on the rear of the property away from the environmentally sensitive area along Route 5 as shown on the Illustrative Concept Plan. The northern section will be served by a separate SWM / BMP facility in the location shown on the Illustrative Concept Plan. Both of these facilities will treat not only the impervious area of the site, but also off-site areas that are currently untreated. To address the added focus of fecal coliform removal stressed in the Powhatan Creek Watershed Management Plan, infiltration or bioretention of stormwater runoff is necessary. The SWM / BMP facilities proposed for the Governor's Grove development will incorporate these concepts. To achieve the remaining points required by the Environmental Division, Open Space Conservation Easements will be placed over undeveloped areas of the parcel including those adjacent to Powhatan Creek and the associated Resource Protection Area (RPA) Buffer.

This conceptual solution to stormwater management and water quality minimizes the impacts of the proposed development on the surrounding environment to an acceptable stormwater management and water quality compliance. As a part of this impact study, a preliminary BMP point analysis has been prepared for the Governor's Grove, and is presented in Appendix III.

VII. ANALYSIS OF IMPACTS TO TRAFFIC

A Traffic Study has been prepared by DRW, Inc. A copy of the findings from this traffic study is found in this booklet.

VIII. ANALYSIS OF FISCAL IMPACTS

A Fiscal Impact Study has been prepared by The Wessex Group. A copy of the findings is found in this booklet.

IX. CONCLUSION

In summary, this proposed development is not first-time construction on a vacant property but rather the redevelopment of an aging commercial campground, mobile home park and motel sites that have current, existing debris and environmental concerns. Rezoning and redeveloping the site to MU will lead to a clean-up of existing issues while providing new/additional buffers, green areas and add quality affordable housing to the local inventory. This Community Impact study concludes the following:

- Adequate public facilities (water and sewer, fire), and utility service provider services (gas, electric cable TV, telephone), are available for development.
- A Mixed Use development is proposed with this rezoning, which complements the intended land use designated on the current Comprehensive Plan for this area.
- Stormwater runoff from this site can be controlled and enhanced at acceptable levels.
- A proper balance is achieved with this Rezoning to support the goals of the *Powhatan Creek Watershed Management Plan* and maintain the orderly development and enhancement of the Five Forks area.

The Wessex Group, Ltd.

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Memo

To: National Housing Corporation

From: Stephanie Harper, *The Wessex Group, Ltd.*

Date: July 19, 2004

Subject: Revisions to the Application for *Governor's Grove in Williamsburg: An Affordable Housing Development* submitted in October of 2003

The purpose of this memo is to show the net difference to the county for revisions made to an application that was submitted by National Housing Corporation in October of 2003 to James City County for a development called Governor's Grove in Williamsburg. *The Wessex Group* conducted the original fiscal impact analysis for the development, but the developer has made several changes to the development plan since the study was conducted. Provided below is the original 2003 and current development plan for the Governor's Grove development, and a summary of the changes. No other changes have been assumed.

Development Variables	2003 Plan	2004 Design	Change
MF rental apt. units	216	216	Unchanged
MF rental townhouse units	59	0	Decrease of 59 units
Commercial SF	12,000 SF commercial SF	30,000 SF commercial SF	Increase 18,000 commercial SF

Table 1 below presents the original fiscal impacts to the county for this development as reported in October of 2003. Originally, the net fiscal impact to the county at buildout and beyond was a loss of \$751,000. On the next page, Table 2 illustrates the current fiscal impacts to the county generated by this development after making the changes to the plan as described above. The new development plan will take one less year to complete since the proposed townhouse units are not being constructed (all 59 units were to be built in Year 5), so buildout is Year 5 not Year 6 for the new development plan.

Table 1

Governor's Grove - Net Fiscal Impact Based on Original Development Plan

Cash Inflow and Outflow	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
Total Annual Revenues	\$197,000	\$206,000	\$317,000	\$392,000	\$456,000	\$494,000
Total Annual Expenditures	19,000	543,000	558,000	982,000	989,000	1,245,000
Net Fiscal Impact	\$178,000	(\$337,000)	(\$241,000)	(\$590,000)	(\$533,000)	(\$751,000)

Only changes take place in the revenues, expenditures and fiscal impact in Year 4 and 5 of this development because the townhouse units are not being built in Year 5, and an increase of 18,000 SF of commercial development will take place in Year 4. No changes occurred to the development plan in Years 1 through 3. As shown below, the net fiscal impact to the county for the 2004 development plan for Governor's Grove generates a lower loss of \$584,000 at buildout.

Table 2
Governor's Grove - Net Fiscal Impact Based on Current Figures

Cash Inflow and Outflow	Year 1	Year 2	Year 3	Year 4	Year 5
Total Annual Revenues	\$197,000	\$206,000	\$317,000	\$406,000	\$397,000
Total Annual Expenditures	\$19,000	\$543,000	\$558,000	\$983,000	\$981,000
Net Fiscal Impact	\$178,000	(\$337,000)	(\$241,000)	(\$577,000)	(\$584,000)

Finally, Table 3 shows the net change in the fiscal impacts to the county generated by the described changes to the development plan for Governor's Grove. It is estimated the development will generate a net loss to the county of \$584,000 by buildout which is \$167,000 less than originally estimated at buildout.

Table 3
Governor's Grove - Net Change in Fiscal Impact

Fiscal Impact	Annually at Buildout	
	Original Plan	2004 Design
Governor's Grove in Williamsburg		
Net Fiscal Impact at Buildout	(\$751,000)	(\$584,000)
Net Change at Buildout		(\$167,000)

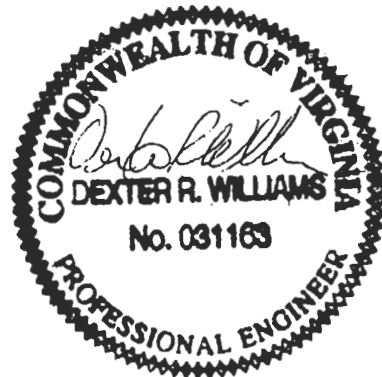
Traffic Analysis For Governor's Grove

JAMES CITY COUNTY, VIRGINIA

For:
National Housing Corporation

By:
DRW Consultants, Inc.
Midlothian, VA

August 29, 2004



INTRODUCTION

National Housing Corporation proposes to develop a residential area and a small commercial property in the Five Forks area of James City County. The name for the overall development is Governor's Grove. The Governor's Grove site location in the Williamsburg region is shown on Exhibit 1.

The locations of the two different areas of Governor's Grove are shown on Exhibit 2. All of the areas are located west of Ironbound Road (Rt. 615). 219 apartments are proposed for the residential area located on the north side of Rt. 5, which will have access to a single driveway on Rt. 5. The residential area is currently occupied by the Five Forks campground and motel. A small commercial parcel with access on Ironbound Road south of Rt. 5 is planned for office use with a single driveway on Ironbound Road.

This traffic study has been prepared to determine the turn lane needs for Governor's Grove access and traffic levels of service. This traffic study is an update of a previous study dated August 14, 2004, which had a different development plan. This traffic study has been updated to address current proposed land uses, VDOT comments in their letter of 09-12-03, and to include traffic level of service (LOS) tables as requested by JCC staff.

EXISTING PEAK HOUR TRAFFIC

For this traffic study, turning movement traffic counts were conducted at the intersection of Rt. 5 and Ironbound Road. The counts were conducted from 7 to 9 AM on Wednesday, July 30, 2003 and from 4 to 6 PM on Tuesday, July 29, 2003. The tabulated count results are shown on Appendix Exhibits A1 and A2. Exhibit 3 shows AM and PM existing peak hour traffic at the intersection with existing approach lane configurations. Exhibit 3 also shows proposed access to the two components of Governor's Grove.

Existing peak hour level of service (LOS) calculations using Highway Capacity Software (HCS) are shown on Appendix Exhibits E1 and E2 for the AM and PM peak hours,

respectively. There is an existing LOS C overall for the signalized intersection of Rt. 5/Ironbound Road in the AM and PM peak hours.

2008 PEAK HOUR BACKGROUND TRAFFIC

Exhibit 4 shows daily traffic counts on Rt. 5 published by James City County and the resulting trend forecast to 2008 using linear regression analysis. Governor's Grove is anticipated to be built out within 5 years.

Stations 41 and 42 on Rt. 5 as shown on Exhibit 4 have differing results: Station 41 shows a continuous declining trend since 1999, whereas Station 42 shows a slight rate of decline. For purposes of this traffic study, a 1.10 growth factor is used, which reflects a 2% per year growth rate.

Exhibit 5 shows 2008 peak hour background traffic with a 1.10 growth factor. 2008 background traffic peak hour LOS calculations with the existing lane configuration are shown on Appendix Exhibits F3 and F4 for the AM and PM peak hours, respectively. There is LOS C overall for the intersection for 2008 AM and PM peak hour background traffic.

GOVERNOR'S GROVE TRIP GENERATION, DISTRIBUTION AND ASSIGNMENT

Exhibit 6 shows trip generation values for the two components of the Governor's Grove using Trip Generation, 7th Edition (TG7). For trip distribution of residential uses, a 35% west/65% east trip distribution is used. The 65% east distribution is split based on the percentage of turning movements at the Rt. 5/Ironbound Road intersection (see Appendix Exhibit B for the percentage calculations). For commercial office use, the proportional flow of all traffic entering and exiting the Rt. 5/Ironbound Road intersection is used to calculate trip distribution percentages.

Table 1 on Exhibit 6 shows trip generation and distribution for the residential area, and trip assignments are shown on Appendix Exhibit C1. For the office use, trip generation and

distribution is shown in Table 2 on Exhibit 6, and trip assignments are shown on Appendix Exhibit C2. Exhibit 7 shows AM and PM peak hour site trip assignment for all of Governor's Grove.

TOTAL 2008 PEAK HOUR TRAFFIC

Exhibit 8 shows total 2008 AM and PM peak hour traffic (sum of Exhibit 5 background traffic and Exhibit 7 site traffic).

2008 total traffic peak hour LOS calculations with the existing lane configuration are shown on Appendix Exhibits E5 and E6 for the AM and PM peak hours, respectively, for the Rt. 5/Ironbound Road intersection. There is LOS C overall for the intersection for 2008 AM and PM peak hour total traffic.

At the Governor's Grove access on Rt. 5, LOS calculations are shown on Appendix Exhibits F1 and F2. There is LOS C for the southbound approach in the AM peak hour and PM peak hours for this unsignalized intersection. There is LOS A for eastbound left turns on Rt. 5 during both the AM and PM peak hours.

At the Governor's Grove residential driveway on Rt. 5, a left turn lane is warranted in the eastbound direction (see Appendix Exhibits G1 for left turn lane warrant graph). A right turn lane is warranted on westbound Rt. 5 (see Appendix Exhibit G2 for right turn lane warrant graph).

At the Governor's Grove access on Ironbound Road, LOS calculations are shown on Appendix Exhibits F3 and F4. The eastbound approach has LOS B in the AM peak hour and LOS C in the PM peak hour. There is LOS A for the northbound left turn on Ironbound Road during the AM and PM peak hours.

At the Governor's Grove office driveway on Ironbound Road, the left turn lane warrant is met in the PM peak hour although there are only two vehicles per hour making the left turn. The northern end of the commercial property is within the existing northbound left turn lane

on the Ironbound Road approach to Rt. 5 and should be adequate. No right turn lane or taper is warranted. See Appendix Exhibits G3 and G4 for turn lane warrant graphs.

SUMMARY AND CONCLUSIONS

The following table compares the overall LOS at the Rt. 5/Ironbound Road intersection for the different conditions presented in this study:

TABLE ONE
SIGNALIZED INTERSECTION LOS AT
RT. 5/IRONBOUND ROAD

CONDITION	AM PEAK HOUR LOS									
	Overall	EB Left	EB T/R	WB Left	WB Thru	WB Right	NB Left	NB T/R	SB Left	SB T/R
2003 Existing (w/o Site)	C- 25.1	C- 31.4	C- 23.2	C- 28.7	B- 18.8	B- 17.7	C- 32.4	C- 29.0	C- 33.4	C- 25.7
2008 Background (w/o Site)	C- 26.6	C- 31.8	C- 25.3	C- 28.7	B- 19.1	B- 17.9	C- 32.8	C- 31.7	C- 34.2	C- 27.0
Total 2008 (with Site)	C- 28.4	C- 33.3	C- 30.8	C- 29.0	B- 19.3	B- 17.9	C- 33.0	C- 32.3	C- 34.2	C- 27.7
CONDITION	PM PEAK HOUR LOS									
	Overall	EB Left	EB T/R	WB Left	WB Thru	WB Right	NB Left	NB T/R	SB Left	SB T/R
2003 Existing (w/o Site)	C- 28.5	D- 42.0	C- 29.8	C- 32.8	C- 26.5	C- 22.8	C- 32.7	C- 24.1	C- 36.5	C- 26.6
2008 Background (w/o Site)	C- 31.6	D- 47.5	C- 33.9	D- 35.2	C- 28.4	C- 23.2	C- 34.0	C- 26.9	D- 39.8	C- 31.0
Total 2008- Lead/Lag (with Site)	C- 34.2	D- 52.4	D- 38.5	D- 35.6	C- 31.4	C- 23.2	D- 38.2	C- 28.6	D- 39.8	C- 33.8

Notes: Numeric values in seconds delay, with increasing value for decreasing LOS.

There is overall LOS C at the Rt. 5/Ironbound Road intersection for all conditions presented in this report.

The residential access on Rt. 5 will require an eastbound left turn lane and a westbound right turn lane. The commercial access on Ironbound Road will not require any additional turn lane improvements.

The following tables present LOS results for the two Governor's Grove accesses:

TABLE TWO
 UNSIGNALIZED INTERSECTION LOS AT
 RT. 5/GOVERNOR'S GROVE RESIDENTIAL ACCESS

CONDITION	AM PEAK HOUR LOS		PM PEAK HOUR LOS	
	Eastbound Left	Southbound Left/Right	Eastbound Left	Southbound Left/Right
Total 2008 (with Site)	A - 8.3	C - 20.9	A - 9.0	C - 22.1

Notes: Numeric values in seconds delay, with increasing value for decreasing LOS.

TABLE THREE
 UNSIGNALIZED INTERSECTION LOS AT
 IRONBOUND ROAD/GOVERNOR'S GROVE COMMERCIAL ACCESS

CONDITION	AM PEAK HOUR LOS		PM PEAK HOUR LOS	
	Eastbound Left/Right	Northbound Left	Eastbound Left/Right	Northbound Left
Total 2008 (with Site)	B - 13.8	A - 7.9	C - 22.5	A - 8.6

Notes: Numeric values in seconds delay, with increasing value for decreasing LOS.

All movements at the Governor's Grove accesses have LOS C or better.

PROFFERS

THESE PROFFERS are made this 22nd day of October, 2004 by FIVE FORKS, VIRGINIA, INC., a Virginia corporation, and KATHRYN S. DALY, Successor Trustee to E. H. Saunders under the E. H. Saunders Revocable Trust dated July 29, 1997 (together with their successors and assigns, the "Owner") and NATIONAL HOUSING, LLC, a Virginia limited liability company ("Buyer").

RECITALS

A. Owner is the owner of four contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 4360 John Tyler Highway, Williamsburg, Virginia and being Tax Parcel 4620100014, the second with an address of 4310 John Tyler Highway, Williamsburg, Virginia and being Tax Parcel 4620100037, the third with an address of 3191 Ironbound Road, Williamsburg, Virginia and being Tax Parcel 4710100035, and the fourth with an address of 3181 Ironbound Road, Williamsburg, Virginia and being Tax Parcel 4710100036, being more particularly described on Exhibit A attached hereto (together, the "Property"). A portion of the Property is now zoned B-1 and a portion is now zoned R-8. The Property is designated Moderate Density Residential on the County's Comprehensive Plan Land Use Map.

B. Buyer has contracted to purchase the Property conditioned upon the rezoning of the Property.

C. Owner and Buyer have applied to rezone the Property from B-1 and R-8 to MU, Mixed Use District, with proffers.

D. Buyer has submitted to the County a master plan entitled "Master Plan for Rezoning of Governor's Grove for National Housing Corporation" prepared by AES Consulting Engineers dated 8/27/2004 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner has submitted to the County a traffic impact analysis entitled "Traffic Analysis for Governor's Grove" prepared by DRW Consultants, Inc. dated August 29, 2004 (the "Traffic Study") for the Property.

F. On September 28, 2004, the Board of Supervisors of James City County adopted Primary Principals for the Five Forks Area of James City County (the "Primary Principals")

G. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU.

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

of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITION

1. **Master Plan.** The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 213 residential dwelling units on the Property.

2. **Owners Association.** If units are to be offered for sale on the Property there shall be organized an owner's association or associations (the "Association") in accordance with Virginia law in which all unit owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, and shall require that the

association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. If units are to be offered for sale on the Property, Owner shall deposit into the maintenance reserve fund maintained by the Association the amount of \$1,000 and shall provide evidence of such deposit to the Director of Planning at the time of final site plan or subdivision approval. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

3. Water Conservation. (a) Water conservation standards shall be submitted to the James City Service Authority as a part of the site plan or subdivision submittal for development on the Property and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

(b) If the Owner desires to have outdoor watering it shall provide water for irrigation utilizing surface water collection from the surface water pond that are shown on the Master Plan and shall not use James City Service Authority ("JCSA") water for irrigation purposes.

4. Affordable Housing. (a) Except as provided in paragraph (d) below, at least 50% of the total dwelling units on the Property shall be "Affordable" as defined in this Section. At least 50% of any rental units on the Property shall be Affordable and at least 50% of any for sale units on the Property shall be Affordable. Affordable Units shall be designated as such on site plans and/or subdivision plats prior to the County being obligated to grant final approval thereof.

(b) An Affordable rental unit shall mean a rental unit occupied by individuals or families whose incomes (individually or jointly) do not exceed the applicable percentage of the area median gross income as determined in accordance with the guidelines of the Virginia Housing Development Authority under the Federal Low Income Tax Credit program governed by Section 42 of the Internal Revenue Code. If the income of an occupant(s) of a rental unit on the Property does not exceed the applicable income limit under this Section upon commencement of the occupancy of the unit, the requirements of this Section shall be

deemed satisfied for the duration of occupancy of a unit by such occupant(s) regardless of a subsequent change in income. At least 20% of the rental units on the Property shall contain no more than one bedroom.

(c) An Affordable for sale dwelling unit shall mean any units on the Property reserved and offered for sale by the developer thereof at a price at or below \$120,000.00 subject to adjustment as set forth herein. The maximum price set forth herein shall be adjusted annually as of January 1 of each year by increasing such prices by the cumulative rate of inflation as measured by the Consumer Price Index - Urban, U.S. City Average annual average change for the period from January 1, 2004 until January 1 of the year in question. The annual increase shall not exceed five percent (5%). The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices set forth above. Owner shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County Office of Housing and Community Development on a non-commission basis.

(d) Owner shall apply for and diligently pursue an allocation of tax credits from the Virginia Housing Development Authority under the Federal Low Income Tax Credit program. If Owner is not awarded an allocation of tax credits for the

Property, the requirements set forth in paragraph (a) above that 50% of the total units and 50% of rental units be Affordable shall be reduced to require that 20% of the total units and 20% of the rental units be Affordable and the requirement that 50% of the for sale units be affordable shall remain in effect.

5. **Cash Contributions for Community Impacts.** For each dwelling unit on the Property that is not designated as an "Affordable" unit pursuant to Proffer 4 above (a "Non-Affordable Unit"), the one time cash contributions set forth in this Section.5 shall be made.

(a) A contribution of \$630.00 for each Non-Affordable Unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated by the physical development and operation of the Property.

(b) A contribution of \$1,000.00 for each Non-Affordable Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation

of the Property, including, without limitation, for emergency services equipment replacement and supply, school uses, off-site road improvements, library uses, transitional housing and public use sites.

(c) A contribution of \$500.00 for each Non-Affordable Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the Property, including, without limitation, stream stabilization or other stormwater management projects in the Powhatan Creek watershed.

(d) The contributions described above, unless otherwise specified, shall be payable for each Non-Affordable Unit on the Property at or prior to the final approval of the site plan or subdivision plat for such unit.

(e) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor

Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) and (b) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

(f) A single lump sum contribution of \$36,341.00 shall be made to the County prior to the County being obligated to grant final development plan approval for any development on the Property in order to mitigate impacts on the County from the

physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the Property, including, without limitation, intersection improvements at the Route 5/Ironbound Road intersection.

6. **Route 5 Buffer.** There shall be a 150 foot buffer along the Route 5 frontage of the Property north of Route 5 generally as shown on the Master Plan. The buffer shall be exclusive of any lots or units and shall be undisturbed, except for the entrance, right turn lane and stormwater management facilities as shown generally on the Master Plan, the trails, sidewalks and bike lanes as shown generally on the Master Plan, and with the approval of the Development Review Committee, for utilities, lighting, entrance features and signs. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants, windfalls and deadfalls may be removed from the buffer area. Supplemental landscaping generally as shown on the Master Plan shall be provided in the buffer area adjacent to the stormwater management BMP pond shown on the Master Plan at the time of construction of the pond.

7. **Entrances/Turn Lanes.** There shall be one entrance into Section 1 of the Property to and from Route 5 and one entrance

into Section 3 of the Property to and from Ironbound Road, all as generally shown on the Master Plan. An eastbound left turn lane and a westbound right turn lane on Route 5 shall be constructed at the entrance to the Property from Route 5. The turn lanes proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall be completed prior to the issuance of the first certificate of occupancy. At the time of construction of the turn lanes proffered above, Owner shall install, to the extent not already existing, a three foot paved shoulder on the north side of Route 5. Owner shall reserve sufficient area for a future vehicular connection from Section 3 of the Property to the adjacent property to the north (Tax Parcel 4710100024).

8. Sidewalk Connections. There shall be pedestrian walkway connections from the internal sidewalks in Section 1 to the pedestrian walkway adjacent to Route 5 generally as shown on the Master Plan. There shall be internal sidewalks installed generally in the locations shown on the Master Plan, which may be installed in phases as residential units are constructed. Sidewalks shall be installed concurrently with the construction of adjoining units.

9. Recreation. Owner shall provide the recreational facilities shown on the Master Plan before the County is

obligated to grant certificates of occupancy for more than 60 dwelling units on the Property.

10. Pedestrian Trail/Easement. (a) There shall be a paved pedestrian trail at least five feet in width installed on Section 1 of the Property generally as shown on the Master Plan. The trail shall be located to avoid mature or specimen trees where reasonably feasible and the exact location of the trail shall be approved by the Director of Planning. The trail shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy.

(b) At or prior to the County being obligated to approve site plans or subdivision plats for more than 60 residential dwelling units on the Property, Owner shall grant to the County free of charge an easement 35 feet in width over the area of Section 2 of the Property immediately adjacent to Route 5 permitting the County to construct and maintain a trail in the easement area.

11. Private Drives. All entrance roads, interior roads, driveways, lanes or drive aisles connecting the parking areas on the Property to Route 5 or Ironbound Road shall be private.

12. Environmental Protections. (a) The Owner shall maintain and preserve as open space with terms consistent with

these Proffers the area designated on the Master Plan as Open Space generally in the locations shown on the Master Plan. The exact boundaries of the Open Space shall be shown on subdivision plats and/or site plans of the Property. The Open Space shall remain undisturbed by Owner and in its natural state, except as set forth below. Dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from the Open Space. With the prior approval of the Environmental Division utilities may intrude into or cross the Open Space and clearing and construction activities necessary therefor may take place in the Open Space. Pedestrian paths, trails and bridges generally as shown on the Master Plan may intrude into or cross the Open Space and clearing and construction activities necessary therefor may take place in the Open Space. Stormwater BMPs may be located in the Open Space but shall not be located in nor impact the channel flow of perennial streams unless specifically approved by the Environmental Division. To the extent reasonably feasible, utility crossings shall be generally perpendicular through the Open Space and Owner shall endeavor to design utility systems that do not intrude into the Open Space. The Open Space shall be exclusive of lots or dwelling units.

(b) Owner shall submit to the County a master stormwater management plan as a part of the site plan submittal for the

Property, including the stormwater management facility generally as shown on the Master Plan, dry swales and/or improved groundwater infiltration methods and measures to reduce fecal bacteria, such as aeration and maintenance of appropriate water levels in the stormwater management pond, for review and approval by the Environmental Division. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior approval of the Environmental Division. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

(c) There shall be a 10 foot construction setback adjacent to the Open Space on the Property. No building shall be permitted in this setback area. This setback shall be shown on all development plans for those areas of the Property.

13. Archaeology. A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a

Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of

development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

14. Architectural Review. Prior to the County being obligated to grant final development plan approval for any of the buildings shown on any development plan for any portion of the Property, there shall be prepared and submitted to the Director of Planning for approval architectural and landscaping plans, including architectural elevations, for the Director of Planning to review and approve for general consistency with the guidelines from Article III, Section 5 of the Primary Principals. The Director of Planning shall review and either approve or provide written comments settings forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. Final plans and completed buildings shall be consistent with the approved conceptual plans.

14. Updated Traffic Study. If any use is proposed on Section 3 of the Property with a materially, as determined by the Director of Planning, higher trip generation based on ITE trip generation figures than the use used in the Traffic Study which results in an overall materially, as determined by the Director of Planning, higher trip generation from Section 3 of the Property, then Owner shall submit with the proposed site plan for the new

use an updated traffic impact study to the Director of Planning and VDOT based on the new proposed use for their review and approval to confirm that the new A.M. and P.M. peak hour new trips from the different use fall within the trip generation thresholds set forth in Article I, Section 5 of the Primary Principals. If the update to the Traffic Study indicates trip generation from the different use exceeds the trip generation thresholds set forth in Article I, Section 5 of the Primary Principals, the County shall not be obligated to approve development plans for such use. If the County does approve development plans for such a use, at the time of final plan approval Owner shall make an additional one time cash contribution to the County calculated pursuant to the formula set forth on Exhibit B attached hereto for the incremental trip generation from the new use over and above the trip generation from Section 3 assumed in the Traffic Study in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the Property, including, without limitation, intersection improvements at the Route 5/Ironbound Road intersection.

15. Commercial Setback. There shall be supplemental landscaping approved by the Director of Planning installed in the 25 foot setback between Section 3 of the Property and the adjacent R-8 property to the south (Tax Parcel 4710100057).

WITNESS the following signature.

Five Forks, Virginia, Inc.

By: Five Forks Virginia, Inc.
Title: Kathryn S. Daly

Kathryn S. Daly
Kathryn S. Daly, Successor
Trustee

National Housing, LLC

By: _____
Title: _____

STATE OF VIRGINIA AT LARGE
~~CITY/COUNTY OF~~ JAMES CITY, to-wit:

The foregoing instrument was acknowledged this 2nd
day of October, 2004, by Kathryn Daly, as
of Five Forks, Virginia, Inc. on behalf of the corporation.

Vern M Sedberry III
NOTARY PUBLIC

My commission expires: 12/31/04.

STATE OF VIRGINIA AT LARGE
~~CITY/COUNTY OF~~ JAMES CITY, to-wit:

The foregoing instrument was acknowledged this 22nd
day of October, 2004, by Kathryn S. Daly, Successor
Trustee to E. H. Saunders under the E. H. Saunders Revocable
Trust dated July 29, 1997.

Vern M Sedberry III

NOTARY PUBLIC

My commission expires: 12/31/04.

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged this _____
day of _____, 2004, by _____, as
of National Housing, LLC on behalf of the company.

NOTARY PUBLIC

My commission expires: _____.

WITNESS the following signature.

Five Forks, Virginia, Inc.

By: _____
Title: _____

Kathryn S. Daly, Successor
Trustee

National Housing, LLC
By: *[Signature]*
Title: *Manager*

7

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged this _____
day of _____, 2004, by _____, as
of Five Forks, Virginia, Inc. on behalf of the corporation.

NOTARY PUBLIC

My commission expires: _____.

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged this _____
day of _____, 2004, by Kathryn S. Daly, Successor
Trustee to E. H. Saunders under the E. H. Saunders Revocable
Trust dated July 29, 1997.

NOTARY PUBLIC

My commission expires: 9/30/2006.

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF Virginia Beach, to-wit:

The foregoing instrument was acknowledged this 29th
day of OCTOBER, 2004, by ROBERT H. Josephberg, as Manager
of National Housing, LLC on behalf of the company.

J. C. Boswell
NOTARY PUBLIC **J. C. Boswell**

My commission expires: 9/30/2006.

7

Exhibit A
Property Description

Parcel I

All that certain tract, piece or parcel of land, with any and all the buildings and improvements thereon, situate, lying and being in Berkeley District, James City County, Virginia, formerly situated in Jamestown District, James City County, Virginia, lying just west of the "Five Forks" intersection on both sides of State Route 5, said parcel of land containing 27.38 acres, more or less, but hereby conveyed in gross and not by the acre, said property known as "Goat Hill", and being shown upon that certain blue print plat thereof entitled, "COMPILED PLAT SHOWING THE EMILY M. HALL PROPERTY, SITUATED IN JAMESTOWN DISTRICT, JAMES CITY COUNTY, VIRGINIA," made by Vincent D. McManus, C. L. S., and dated November, 1945, a blue print copy of which plat is recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and James City County in Plat Book 23, page 4, to which said plat reference is hereby made for a more particular description of the property conveyed herein.

LESS AND EXCEPT that certain lot of land, containing 1.70 acres, more or less, conveyed by Emily M. Hall, unmarried, to Albert M. Baker and Frances M. Baker, husband and wife, by deed dated December 18, 1951, and recorded December 19, 1951 in James City County Deed Book No. 46, page 210, said conveyance is more fully shown and described on that certain plat entitled, "Plat Showing Lot Surveyed For Emily M. Hall, Located Near Five Forks, James City County, Virginia", surveyed December, 1951, and made by W. D. Thomas, Surveyor, and duly recorded in James City County Plat Book No. 13, page 1, to which said plat reference is hereby made for a more particular description of the property excepted from the hereinabove referred to plat recorded in the aforesaid Clerk's Office in Plat Book 23, page 4.

AND FURTHER LESS AND EXCEPT all that certain piece or parcel of land, lying, situate and being in Berkeley District, James City County, Virginia, containing 0.485 acres, more or less, and shown and designated as PARCEL "A", on that certain blueprint plat entitled, "PLAT OF PART OF GOAT HILL, PROPERTY OF EDMUND H. SAUNDERS", dated February, 1968, and made by Stephen Stephens, C. L. S., a copy of which said blueprint plat is attached to a deed from the party of the first part to Heffner Oils, Incorporated, a Virginia corporation, dated April 30, 1968, and recorded in the aforesaid Clerk's Office on May 17, 1968 in Deed Book 116, page 290 and incorporated therein by reference, to which deed and plat reference is made for a more particular description of the property therein conveyed.

Parcel I being a portion of the property conveyed to the party of the first part by Deed dated September 30, 1965, from Emily M. Hall, unmarried, and recorded in the aforesaid Clerk's Office in Deed Book 103, page 52.

Parcel II

All that certain piece, parcel or lot of land, together with any improvements thereon, lying and being in Jamestown Magisterial District, James City County, Virginia, as shown and¹³³ designated on a certain

blueprint plat entitled, "Plat Showing Portion of Land Belonging to A. M. Baker, Located Near Five Forks, James City County, Virginia", made by W. D. Thomas, C.S., November, 1952, a copy of which plat is duly of record at Plat Book 13, page 26, in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City, Williamsburg, Virginia. Said property is bounded and described as follows on said plat: Commencing at a point in the center of the road which leads from Powell's Pond to Five Forks; thence, S 76 20' W a distance of 212.3 feet along the line of the property thereby conveyed and the land formerly belonging to A. M. Baker; thence, N 30 00' W a distance of 100 feet along the line of the property thereby conveyed and the land formerly of Emily Hall; thence, N 76 02' E a distance of 263.4 feet along the line of the property thereby conveyed and the land formerly of A. M. Baker to a point in the center of the aforesaid road; thence up said road S 0 23' E a distance of 100 feet to the point of departure in the center of said road.

Being the same property as that conveyed to the party of the first part herein by deed dated June 7, 1968, from Lois S. Nixon and Lawrence N. Nixon, her husband, and Mary C. Taylor and Donald R. Taylor, her husband, which said deed is duly of record in the aforesaid Clark's Office in Deed Book 117 at page 60

Parcel III

All that certain lot, piece or parcel of land together with the buildings and improvements thereon and the appurtenances thereunto belonging or in anywise appertaining, lying, being and situate in Berkeley District, James City County, Virginia, being described as follows: Commencing at a point in the center of the county road leading from Five Forks to Virginia State Route #615, said point being 276.13 feet southwest of the concrete marker set by the Highway Department to designate the southwest limit of the right of way for Virginia State Highway Route #5, at the intersection between the said Route #5 and the road leading from Five Forks to Route #615; thence, South 62 15' West a distance of 15 feet to an iron pipe, said iron pipe being the point where the said road and the property therein conveyed converge; thence continuing South 62 15' W. a distance of 159.19 feet, more or less, to an iron pipe, said pipe being the southwest boundary of the property thereby conveyed; thence North 30 00' West a distance of 105 feet, more or less, to a point, said point being the northwest corner of the property thereby conveyed; thence North 76 20' East a distance of 227.3 feet, more or less, to a point, said point being in the center of the road leading from Five Forks to Virginia State Route #615 and being the Northeast corner of the property thereby conveyed; thence South 0 23' East a distance of 65 feet, more or less, to the point of beginning.

Being the same property as that conveyed to the party of the first part from ¹³⁴alter H. Boswell and Louise C.

Boswell, husband and wife, by deed dated September 28, 1970 and recorded in the aforesaid Clerk's Office at Deed Book 128, page 268.

Parcel IV

All that certain lot, piece or parcel of land, containing a total of 2.77 acres+/- lying, being situate in Berkeley Magisterial District, James City County, Virginia, as shown, set forth and designated as 2.00 AC. and 0.77 AC. on that certain plat entitled, "PLAT SHOWING BOUNDARY LINE ADJUSTMENT AND PROPERTY LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY : THE PATRICK COMPANIES, INC. AND FIVE FORKS, VIRGINIA, INCORPORATED"), DATED April 21, 1998 and prepared by AES, Consulting Engineers, which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, in Plat Book 69, at page 56

TOGETHER with all singular the rights, privileges, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining

The foregoing conveyance is made subject to all easements, conditions or restrictions of record or apparent on the ground insofar as they may lawfully affect the property conveyed hereby.

Exhibit B
Formula for Contributions to Intersection Improvements

Any increase in trip generation will increase the contribution according to the following formula:

1. $[(AM * X) + (PM * Y)] / (AM + PM) = \text{Weighted Percent of New Trips}$
2. $\text{Weighted Percent of New Trips} * \$123,850 = \text{Cash Contribution}$

Where AM=additional AM peak trips, PM=additional PM peak trips, $X=AM/500$, and $Y=PM/650$.

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.

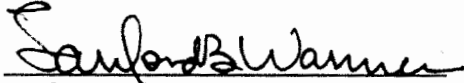
IV. Economic Development Principle

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

SUPERVISOR	VOTE
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

RESOLUTION

CASE NO. Z-7-03/MP-8-03. GOVERNOR'S GROVES AT FIVE FORKS

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 were owners notified, and a hearing was scheduled on Zoning Case No. Z-7-03/MP-8-03, with Master Plan, for rezoning 23.26 acres from R-8, Rural Residential, and B-1, General Business, to MU, Mixed Use, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on November 1, 2004, recommended approval of Case No. Z-7-03/MP-8-03, by a vote of 3 to 2; and

WHEREAS, the properties are located at 4310 and 4360 John Tyler Highway, and 3181 and 3191 Ironbound Road and further identified as Parcel Nos. (1-14) and (1-37) on James City County Real Estate Tax Map No. (46-2) and Parcel Nos. (1-35) and (1-36) 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 No. Z-7-03/MP-8-03 and accept 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 14th day of December, 2004.

z-7-03mp-8-03.res

APPROVED MINUTES TO THE NOVEMBER 1, 2004 PLANNING COMMISSION MEETING

CASE No. Z-03-04, Z-04-02, MP-01-02, SUP-21-04 Colonial Virginia Council, Boy Scouts of America Proffer Amendment and Master Plan Amendment

Mr. Chris Johnson presented the staff report. The applications had been deferred by the Planning Commission at its October meeting. Staff recommended approval of the applications.

Mr. McCleary asked if the reduction in acreage for the Colonial Heritage Development was attributable to the development that has been approved since this project was approved by the Board of Supervisors in 2001.

Mr. Johnson outlined the history of the development and stated that all lots that have been platted were not included in determining the total acreage for the master plan amendment.

Mr. McCleary asked if the development would be gated.

Mr. Johnson stated that the development could not be gated.

Mr. McCleary asked if the 50-lot rural cluster development would be age-restricted.

Mr. Johnson stated that the rural cluster would not be age-restricted.

Mr. McCleary asked which of the alternative development plans was currently favored by staff.

Mr. Johnson stated that the disposition of Public Use Site B would dictate which alternative would be followed.

Mr. Poole opened the public hearing.

Mr. Greg Davis of Kaufman and Canoles, the applicant, presented a report highlighting the key elements of the application. He highlighted the conservation easement, buffers, master stormwater management plan, and the limit of total residential units to 2000. He also noted that the proffers had been amended to add cash proffers for intersection improvement costs and tree preservation.

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

Mr. McCleary noted that this application would be the first rural cluster in James City County. He expressed his support for the application.

Mr. Poole stated that the conservation area was a significant component and stated his support for the application.

Mr. Kale stated that he supported the application and that he appreciated the application's intent but that he could not support the application because it potentially adds schoolchildren to the school system. He made it clear that, if a funding mechanism were in place for the next high

school, that he would support the application.

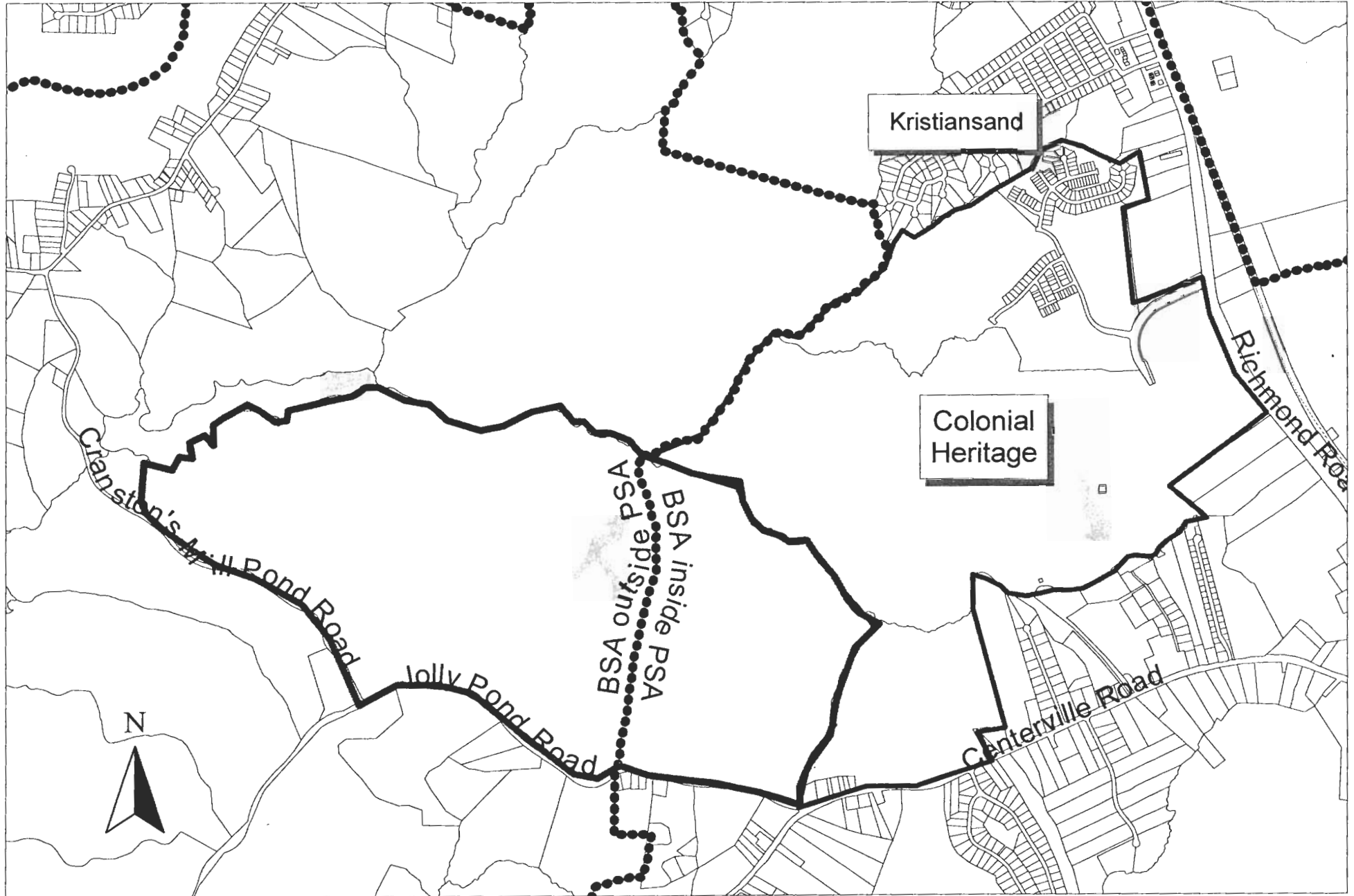
Mr. Poole qualified his support for the application and stated that the addition of schoolchildren to the system did not outweigh the benefits in his mind.

Mr. McCleary moved for approval.

Mr. Hunt seconded the motion.

The Planning Commission approved the application by a vote of 4-1. AYE: (4) Poole, Fraley, Hunt, McCleary. NAY: (1) Kale. NOT PRESENT: Wildman, Billups.

Case Nos. Z-3-02, Z-4-02, MP-1-02, SUP-21-04. U.S. Home - Colonial Heritage Proffer Amendment, Master Plan Amendment, Boy Scout Property Rezoning, and Rural Cluster Special Use Permit



**AMENDED AND RESTATED
PROFFERS
COLONIAL HERITAGE AT WILLIAMSBURG**

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**AMENDED AND RESTATED
PROFFERS
COLONIAL HERITAGE AT WILLIAMSBURG**

THESE AMENDED AND RESTATED PROFFERS are made this ____ day of _____, 2004, by and among:

COLONIAL HERITAGE LLC, a Virginia limited liability company ("Colonial Heritage") (to be indexed as grantor) and

THE COUNTY OF JAMES CITY, VIRGINIA ("County") (to be indexed as grantee), provides as follows:

RECITALS:

R-1. Colonial Heritage is a wholly-owned subsidiary of and is managed by U.S. Home Corporation, a Delaware corporation ("U.S. Home").

R-2. Colonial Heritage is the owner of certain real property located in the County of James City, Virginia, more particularly described on **Exhibit A** attached hereto and made a part hereof. The property described on Exhibit A is referred to herein as the "Colonial Heritage Property."

R-3 Colonial Heritage is likewise the owner of certain real property located in the County of James City, Virginia containing 740.2 ± acres, formerly owned by the Colonial

Prepared by: Kaufman & Canoles, P.C.
P.O. Box 6000
Williamsburg, VA 23188

Virginia Council of Boy Scouts of America, Inc., more particularly described on **Exhibit B**, attached hereto and made a part hereof (the "Boy Scout Property").

R-4. Colonial Heritage is the developer of an age-restricted active adult community known as Colonial Heritage, located on the Colonial Heritage Property, pursuant to certain Proffers dated November 7, 2001 which are recorded in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 010022082 (the "Proffers"), and a master plan of development which is incorporated by reference and made a part of the Proffers.

R-5. A portion of the Boy Scout Property described on **Exhibit C** is located outside the Primary Service Area defined on the James City County Comprehensive Plan and Zoning Map as in effect on the date hereof ("PSA") (the "Non-PSA Boy Scout Property").

R-6. All real property which is described on Exhibits A and B inclusive and which is located inside the PSA shall be referred to collectively herein as the "Property".

R-7. Colonial Heritage, its successors and assigns who own record title to the Property and subsequent purchasers of Residential Units (as hereinafter defined) and non-residential areas are referred to collectively herein as the "Owners". The term "Residential Unit(s)" as used herein shall be defined as any residential dwelling, house, condominium or other unit.

R-8. The Owners and/or their predecessors in title have filed applications under County file numbers Z-3-02/Z-4-02/MP-1-02 (the "Applications for Amendment") to (i) rezone the Boy Scout Property, and (ii) to amend the previously approved master plan and the Proffers

in connection with incorporating portions of the Boy Scout Property into Colonial Heritage but without any increase whatsoever in the number of permitted Residential Units, and (iii) to rezone the Non-PSA Boy Scout Property from A-1 to A-1 with a special use permit (referenced in R-10 below) allowing a residential cluster development.

R-9. Colonial Heritage has filed an application for a special use permit ("SUP") under County file number SUP-21-04 to establish not more than fifty (50) residential lots on the Non-PSA Boy Scout Property, which application and SUP will impose certain conditions upon the Non-PSA Boy Scout Property.

R-10. The provisions of the Zoning Ordinance, Section 24-1, *et seq.* possibly may be deemed inadequate for protecting and enhancing orderly development of the Property in accordance with the County Comprehensive Plan. The Owners, in furtherance of the Application, desire to proffer certain conditions which, among other things, provide for some of the types of benefits specified in the low density residential provisions of the comprehensive plan and in the Cluster Development Standards and density bonus provisions of the Zoning Ordinance applicable to R-1, R-2 and R-5 districts that should be provided for densities greater than one dwelling unit per acre. These conditions are specifically limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296 *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code"), and Section 24-16 of the Zoning Ordinance.

R-11. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

R-12. Phase I, II and III Archaeological Studies have been performed on the Colonial Heritage Property as described in that document entitled: An Archeological Assessment of the Massie and Ware Tracts, James City County, Virginia dated October, 2000 prepared by Cultural Resources, Inc. The referenced studies with treatment plans required pursuant to paragraph 2 below have been approved by the County Director of Planning.

R-13. Copies of each of the studies referenced in Recital paragraph R-13 and paragraph 2 below are on file in the office of the County Director of Planning.

R-14. A Community Impact Statement made by AES Consulting Engineers, with update dated June 24, 2002 has been submitted to the County Director of Planning for review and approval by the County in connection with both the Application and the Applications for Amendment, and those statements are on file in the office of the County Director of Planning.

NOW, THEREFORE, for and in consideration of the approval by the County of the rezoning of the Property, and pursuant to Section 15.2-2296 of the Virginia Code and Section 24-16 of the Zoning Ordinance, Colonial Heritage agrees that the Owners shall meet and comply with the following conditions and proffers as indicated in developing the Property.

PROFFERS:

SECTION I. Proffers Applicable to All Property.

1. Binding Master Plan. The Property shall be developed generally in accordance with an Amended Master Plan of Development pursuant to Section 24-515(b) of the Zoning Ordinance entitled "Amended Master Development Plan of Colonial Heritage at Williamsburg" made by AES Consulting Engineers and Land Design, Inc. and Williamsburg Environmental Group, Inc., dated June 21, 2002, and revised July 2, 2004, which is incorporated by reference (the "Master Plan"). The Master Plan provides only for the general location of proposed streets, the general location of proposed areas of open space, buffer areas, recreation facilities, densities, and types of land use, and the general location of proposed areas for golf fairways, greens, drainage facilities, pedestrian connectivity, greenways and other amenities. Development plans may deviate from the Master Plan if the Planning Commission concludes after reviewing written comments from the Planning Director that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of the rezoning. The County hereby acknowledges that the Master Plan described above has been submitted to and is on file in the office of the County Director of Planning. Prior to or concurrent with submission of development plans for each land bay shown on the Master Plan within the Property ("Land Bays"), the Owners shall receive approval from the County's Director of Planning of more detailed master plan(s) for each Land Bay which more detailed master plans shall describe the dwelling unit and commercial land use types and layout for each Land Bay.

2. Archaeological Study. If not previously submitted and approved, a Phase I Archaeological Study for each Land Bay shall be submitted to the Director of Planning for his review and approval prior to issuance of a land disturbing permit for any soil disturbing activity in such Land Bay. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for each Land Bay and shall be adhered to during the clearing, grading and construction activities thereon.

3. Traffic.

A. U.S. Home has submitted to the Office of the County Director of Planning and the Virginia Department of Transportation ("VDOT") a traffic analysis dated October 23, 2000 entitled: "Traffic Analysis for U.S. Homes Site on Richmond Road" prepared by DRW Consultants, Inc. as updated by supplements dated June 18, 2002 and July 28, 2004 (the "Traffic Study"). The Traffic Study is on file with the County Department of Planning.

B. The following entrance and road improvements ("West Crossover Improvements") shall be installed to VDOT standards and specifications:

(1) A traffic signal at the west crossover as shown and defined in the Traffic Study (hereinafter "West Crossover").

(2) Modification on and/or improvement of the single left turn lane on westbound Richmond Road at the West Crossover, if, as and when required by VDOT.

(3) Construction of a right-turn lane on eastbound Richmond Road at the West Crossover.

(4) Construction of two (2) exit lanes and two (2) entrance lanes at the site entrance at the West Crossover.

(5) Construction of a left-turn lane on eastbound Richmond Road at the West Crossover as necessary to accommodate the traffic signal described above.

(6) Modifications to crossover pavement to accommodate improvements listed herein.

C. In addition, the following entrance and road improvements ("East Crossover Improvements") shall be installed to VDOT standards and specifications:

(1) A traffic signal at the east crossover as shown on the Traffic Study (hereinafter "East Crossover").

(2) Construction of double left turn lanes on westbound Richmond Road at the East Crossover.

(3) Construction of a right turn lane on eastbound Richmond Road at the East Crossover.

(4) Construction of three (3) exit lanes and two (2) entrance lanes at the site entrance at the East Crossover.

(5) Construction of an eastbound left turn lane at the East Crossover as necessary to accommodate a traffic signal.

(6) Construction of East Crossover pavement to accommodate improvements listed herein.

(7) If commercial component or Nonresidential Use (as defined below) development precedes residential development and commercial component or Nonresidential access to the West Crossover is requested, then the West Crossover

improvements cited above shall be required as a condition of the Nonresidential development approval upon determination of necessity by the County Director of Planning and approval by VDOT.

D. (1) The East Crossover and West Crossover Improvements cited above may be phased in accordance with a commercial phasing plan. Any phasing of East Crossover and West Crossover Improvements must be approved by VDOT and the County Director of Planning as a condition of the site plan approval for the commercial phase.

(2) After approval of the first phase of road improvements identified above and within 30 days of a request from VDOT, the Owners shall pay to VDOT a pro rata share (pro rata share based on the number of signals provided by the Owner divided by the total number of signals included) of any VDOT U.S. Route 60 (Richmond Road) signal coordination project that includes either or both of the East and West Crossovers committed for construction by the earlier of December 31, 2020 or the date of completion of development of the Property (defined below).

(3) For purposes of this paragraph, the date of completion of development of the Property shall be defined as the later of such date on which preliminary site plan or preliminary subdivision plan approval has been granted by the County for all portions of the Property devoted to both residential and commercial use.

(4) The cost for a signal coordination project may include traffic signal equipment at intersections on Richmond Road and may include any necessary utility relocation

within available right of way and easements to accommodate traffic signal equipment, but will not include any right of way acquisition expense(s) or road construction changes.

E. For any right turn in/right turn out driveway on eastbound Richmond Road to provide access to the Nonresidential areas of the Property, a right turn lane on eastbound Richmond Road shall be installed to VDOT standards and specifications prior to the issuance of any temporary or permanent Certificate of Occupancy for buildings shown on the associated site plan.

F. In addition, the following entrance and road improvements shall be installed to VDOT standards and specifications:

- (1) Construction of a left turn lane on northbound Centerville Road at the point of access.
- (2) Construction of a right turn lane on southbound Centerville Road at the point of access.
- (3) Construction of two (2) exit lanes and one (1) entrance lane at the point of access.
- (4) A traffic signal shall be installed on Centerville Road at the point of access.

G. Plantings approved in advance by the County Director of Planning and VDOT, if necessary, shall be placed in the median of Richmond Road along those portions of Richmond Road which abut the Property.

H. Except as otherwise provided herein, the entrance and road improvements described in subparagraphs B and C above shall be completed prior to approval of any final subdivision plat or final site plan for any lot, section or phase housing a Residential Unit within the Property. Construction of the clubhouse, golf course or other neighborhood recreation facilities, roads and amenities within Colonial Heritage may begin and may be completed prior to completion of such road improvements.

I. The road improvements to Centerville Road described in subparagraph F above shall be completed or bonded prior to approval of any subdivision plat or final site plan for any lot, section or phase containing Residential Units within Land Bay V, VII or VIII as shown on the Master Plan. The entrance and road improvements for Centerville Road described in subparagraph F above and the connection of the main road shown on the Master Plan connecting State Route 614 (Centerville Road) to U.S. Route 60 (Richmond Road) shall be completed or bonded prior to approval of any final subdivision plat or site plan for any lot, section or phase creating a cumulative total of 1,200 Residential Units within the Property. No Residential Units beyond 1200 shall be approved by the County until said improvements and connection have been completed or bonded. If said improvements and connection to Centerville Road have not then been completed, then the Owner shall provide an additional traffic impact analysis (reviewed and approved by the County Director of Planning and VDOT) to include:

(1) A count of actual traffic using the U.S. Route 60 (Richmond Road) access during the AM and PM peak hours.

(2) A determination of the actual trip generation rates of the existing Residential Units during the AM and PM peak hours.

(3) A forecast for the then remaining Residential Units on the Property to be built to determine if the sum of the traffic from said remaining Residential Units at actual trip generation rates without the State Route 614 (Centerville Road) connection added to the actual trips exiting and entering the Property at U.S. Route 60 (Richmond Road) is less than or greater than the Residential Unit traffic assigned to U.S. Route 60 (Richmond Road) in the Traffic Study.

(4) If it is determined that the sum of said remaining Residential Unit traffic at actual trip generation rates without the State Route 614 (Centerville Road) connection added to the actual trips exiting and entering the Property at U.S. Route 60 (Richmond Road) is greater than the Residential Unit traffic assigned to U.S. Route 60 (Richmond Road) in the Traffic Study, then the additional traffic impact analysis will determine either:

(a.) That the traffic from said remaining Residential Units based on actual trip generation rates will not change the levels of service (letter grade) presented in the Traffic Study in which event subdivision and/or final site plan approval may proceed beyond the 1,200 units described above, or

(b.) Additional road improvements identified by the Traffic Study and needed on U.S. Route 60 (Richmond Road) to provide the levels of service (letter grade) presented in the Traffic Study for the remaining Residential Units at actual trip generation rates will be provided by the Owner.

(5) The improvements identified in 3(I)(4)(b) above, if any, shall be installed or bonded as described below prior to final site plan or subdivision approval for any Residential Units beyond 1200. Except as provided to the contrary above, the Owner may obtain final plat or site plan approval by bonding the completion of the required improvements.

J. Furthermore, the following additional measures shall be undertaken:

(1) Prior to issuance of a building permit for the 600th Residential Unit on the Property, a trip generation study of the residential development of the Property shall be conducted and submitted to the County Director of Planning and VDOT for review and approval. The trip generation study shall conduct counts (7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.) and document actual two-way A.M. and P.M. peak hour trip generation for Residential Units for which a certificate of occupancy has been issued by the County as of the date of the study, but such counts shall be limited to entering and exiting counts at all residential points of access to the Property.

(a.) In the event that such actual two-way A.M. and/or P.M. peak hour trip generation for Residential Units for which a certificate of occupancy has been issued is greater than the residential trip generation rates projected in the Traffic Study,

additional steps shall be taken as described in subparagraph 4 below to mitigate traffic impacts upon Richmond Road and/or Centerville Road.

(b.) In the event that actual trip generation rates are equal to or less than those projected in the Traffic Study, development of Residential Units may proceed pending additional traffic studies as described below.

(c.) The trip generation study shall also include an assessment of the need for the second left turn lane westbound on Route 60 at the west crossover and the second left turn lane northbound on Centerville Road, Route 614 at the west crossover for construction of 600 to 1200 residential units. If needed, either or both turn lanes shall be constructed or bonded prior to approval of the number of units determined in the study to require either or both turn lanes.

(2) Prior to issuance of a building permit for the 1,200th Residential Unit on the Property, a trip generation study of the residential development of the Property shall be conducted and submitted to the County Director of Planning and VDOT for review and approval. The trip generation study shall conduct counts (7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.) and document actual two-way A.M. and P.M. peak hour trip generation for Residential Units for which a certificate of occupancy has been issued by the County as of the date of the study, but such counts shall be limited to entering and exiting counts at all residential points of access to the Property.

(a.) In the event that the actual two-way A.M. and/or P.M. peak hour trip generation for Residential Units for which a certificate of occupancy has been issued is

greater than the residential trip generation rates projected in the Traffic Study, additional steps shall be taken as described in subparagraph 4 below to mitigate traffic impacts upon Richmond Road and/or Centerville Road.

(b.) In the event that actual trip generation rates are equal to or less than those projected in the Traffic Study, development of Residential Units may proceed pending additional traffic studies as described below.

(c.) The trip generation study shall also include an assessment of the need for the second left turn lane westbound on Route 60 at the west crossover and the second left turn lane northbound on Centerville Road, Route 614 at the west crossover for construction of 1200 to 1600 residential units. If needed, either or both turn lanes shall be constructed or bonded prior to approval of the number of units determined in the study to require either or both turn lanes.

(3) Prior to issuance of a building permit for the 1,600th Residential Unit on the Property, a trip generation study of the residential development of the Property shall be conducted and submitted to the County Director of Planning and VDOT for review and approval. The trip generation study shall conduct counts (7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.) and document actual two-way A.M. and P.M. peak hour trip generation for Residential Units for which a certificate of occupancy has been issued by the County as of the date of the study, but such counts shall be limited to entering and exiting counts at all residential points of access to the Property.

(a.) In the event that the actual two-way A.M. and/or P.M. peak hour trip generation for Residential Units for which a certificate of occupancy has been issued is greater than the residential trip generation rates projected in the Traffic Study, additional steps shall be taken as described in subparagraph 4 below to mitigate traffic impacts upon Richmond Road and/or Centerville Road.

(b.) In the event that actual trip generation rates are equal to or less than those projected in the Traffic Study, development of Residential Units may proceed.

(c.) The trip generation study shall also include an assessment of the need for the second left turn lane westbound on Route 60 at the west crossover and the second left turn lane northbound on Centerville Road, Route 614 at the west crossover for construction of 1600 to 2000 residential units. If needed, either or both turn lanes shall be constructed or bonded prior to approval of the number of units determined in the study to require either or both turn lanes.

(4) In the event that such actual trip generation rates as determined above produced by Residential Units on the Property exceed those projected by the Traffic Study, additional roadway improvements shall be made after each trip generation study or, at the option of the County, cash payment(s) may be made to the County after each trip generation study in order to fund road improvements, additional signal coordination, capacity improvements on Richmond Road or Centerville Road, or other capacity needs generated by development of the Property as may be determined appropriate and approved in advance by the County Director of Planning; provided, however, that the aggregate cost of improvements and/or cash payment(s)

described herein during the entire development of the Property shall not exceed a total of Five Hundred Thousand and No/100 Dollars (\$500,000.00).

K. The Owners shall make a contribution to the County in the amount of \$40,250.00 for a portion of the costs of intersection improvements at the Centerville/Jolly Pond intersection as described by the Traffic Study. This payment shall be made on or before January 1, 2006.

L. Traffic signals described in and required by this paragraph 3 shall be constructed at such time as warrants, need or traffic thresholds established by VDOT are met (referred to herein as "warranted"). Prior to the issuance of final site plan or subdivision plat approval for the 1500th Residential Unit on the Property, any traffic signal required by this paragraph which has not been warranted shall be guaranteed in accordance with the following procedure:

(1) A cash deposit in the amount of ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$150,000.00) per traffic signal shall be made with the County.

(2) The deposit(s) referenced above shall be held for a period of five (5) years (the "Deposit Term") from the date on which said deposits are made.

(a.) Should any traffic signal(s) not be warranted during the Deposit Term, the deposit for each of such lights shall be returned to the depositor or its assigns.

(b.) In the case of traffic signal(s) which are warranted during the Deposit Term, the deposit for such signal(s) shall be retained by the County in full satisfaction of the obligations created by these proffers to provide the subject signal(s).

4. Underground Utilities. All existing and new utilities, including electrical and telephone wires, conduits and all sewer and water pipes within the Property (but outside of the easements currently held by, or area currently dedicated to transmission lines for Dominion Virginia Electric & Power, Dominion Virginia Natural Gas and the City of Newport News) shall be underground, except as approved by the County Director of Planning.

5. Bus/Transit Facilities. A bus pull-off area and bus stop shelter shall be constructed on both Richmond Road and Centerville Road adjacent to the Property prior to issuance of a Certificate of Occupancy for any permanent building in Land Bay I. Design and location of the pull-off and shelter shall be approved in advance by the County Transit Administrator. The timing of completion of construction of the facilities required by this subparagraph may be deferred by approval of the County Transit Administrator.

6. Natural Resources

A. The Owners shall commission a natural resource inventory of each of the portions of the Colonial Heritage Property to be disturbed, before each such portion is disturbed, which will map and describe unique and sensitive habitats for known threatened and/or endangered species, as well as rare species of concern ("Natural Heritage Resources") which are now listed by the Virginia Department of Conservation and Recreation's Division of Natural Heritage ("DCR/DNH"). These investigations will be conducted by personnel who are qualified

to conduct such studies and be submitted to and approved by the County Director of Planning prior to issuance of a preliminary site plan or subdivision plan approval for any portion of the development of the Property occupied by a Natural Heritage Resource. If the natural resource inventory confirms that a Natural Heritage Resource exists on a particular portion of the Property to be disturbed, a conservation management plan will be prepared, submitted, and approved by the County Director of Planning, as well as other agencies responsible for the protection/conservation of the specific species inventoried, prior to issuance of any land disturbance permit for the affected portion of the Property. All inventories and conservation management plans shall meet or exceed DCR/DNH standards. All approved conservation management plans shall be incorporated into the development plan of the portion of the Property affected and if unavoidable impacts will occur as a result of clearing, grading or construction, an appropriate mitigation plan will be developed by the Owners and approved by the County Director of Planning and the appropriate regulatory agency prior to issuance of a land disturbance permit for the portion of the development of the Property occupied by any Natural Heritage Resource. Such an inventory shall be completed and the terms above met for any portion of the property which is the subject of a land disturbance permit application before issuance of that permit. The provisions of this paragraph shall be in addition to and not in lieu of any environmental inventory otherwise required by the County Code.

B. The Owners shall commission a natural resource inventory for all of the Boy Scout Property within the PSA prior to County approval of any final site plan or subdivision plat for development on said property. Such inventory will map and describe unique and sensitive habitats for any known threatened and/or endangered species, as well as any rare

species of concern (“Natural Heritage Resources”) which are listed by the Virginia Department of Conservation and Recreation’s Division of Natural Heritage (“DCR/DNH”). These investigations will be conducted by personnel who are qualified to conduct such studies and be submitted to and approved by the County Director of Planning prior to preliminary site plan or subdivision plan approval for any portion of the development of the Property occupied by any Natural Heritage Resource. If the natural resource inventory confirms that a Natural Heritage Resource exists on a particular portion of the Property to be disturbed, a conservation management plan will be prepared, submitted, and approved by the County Director of Planning, as well as any other agency responsible for the protection/conservation of the specific species inventoried, prior to issuance of any land disturbance permit for the affected portion of the Property. All inventories and conservation management plans shall meet or exceed DCR/DNH standards. All approved conservation management plans shall be incorporated into the development plan of the portion of the Property affected and if unavoidable impacts will occur as a result of clearing, grading or construction, an appropriate mitigation plan will be developed by the Owners and approved by the County Director of Planning and the appropriate regulatory agency prior to issuance of a land disturbance permit for the portion of the development of the Property occupied by any Natural Heritage Resource.

7. Sidewalks. Sidewalks shall be constructed on one side of the road along those portions of Richmond Road and Centerville Road which abut the Property. These sidewalks shall be constructed prior to issuance of a building permit by the County for the 250th Residential Unit within the Property. Should VDOT or other permitting issues delay completion of the

sidewalks described in this paragraph, the Owners may be issued building permits beyond 250 Residential Units after bonding compliance with this paragraph.

8. Cash Proffer in Lieu of Public Use Site.

A. In order to mitigate impacts upon the County of development of the Property and its use as described herein, a contribution shall be made to the County in the amount of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00). The County may make these monies available for any project in the County's capital improvement plan, the need for which is generated by the physical development and/or physical operation of the Property.

B. The cash contribution described in this paragraph shall be paid to the County on or before such date as is sixty (60) days after the date of final approval of both the Applications for Amendment and the SUP described above. For purposes of these proffers, final approval shall be defined as such date which is sixty (60) days after action of the Board of Supervisors approving the Applications for Amendment, no appeal or challenge to such action having been noted or filed by any person or party, or, in the event of such appeal or challenge, the date on which a final non-appealable order has been entered resolving any such appeal or challenge.

C. The cash proffer described in this paragraph shall be in lieu of and shall supersede any obligation described in the Proffers to convey or dedicate land for a public use site, including without limitation, Public Use Site A or Public Use Site B as described in the Proffers.

SECTION II. Proffers Applicable to Residential Property

1. Age Restriction. Occupancy of Residential Units developed upon the Property shall be age restricted to persons fifty-five (55) years of age or older in accordance with the following parameters:

A. It is the intent of the parties that Residential Units shall be occupied by persons fifty-five (55) years of age or older and that no Residential Unit shall be occupied by a person under the age of eighteen (18). In some instances, persons under the age of fifty-five (55) but over the age of eighteen (18) shall be entitled to occupy Residential Units, subject, at all times, to the laws and regulations governing age fifty-five (55) and over restricted housing as more particularly set forth and described in subparagraph B below.

B. Each Residential Unit within the Property shall have a master bedroom and bath on the main floor of such unit and shall be developed and operated in compliance with applicable federal and state laws and regulations regarding housing intended for occupancy by persons fifty five (55) years of age or older, including but not limited to: the Fair Housing Act, 42 U.S.C. §3601 *et seq.* and the exemption therefrom provided by 42 U.S.C. §3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. §3601 *et seq.*; the Virginia Fair Housing Law Va. Code §36-96.1 *et seq.*; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement

of same shall be set forth in a declaration of restrictive covenants and property owners' association documents described in Section II, paragraph 8 below.

2. Density.

A. No more than two thousand (2,000) Residential Units shall be developed upon the Property. Any Residential Units developed on the Non-PSA Boy Scout Property shall be subject to this limitation on total Residential Units.

B. The maximum number of Residential Units for which building permits may be issued both on the Property and the Non-PSA Boy Scout Property shall not exceed a total of two thousand (2,000). Any development of Residential Units on the Non-PSA Boy Scout Property shall otherwise comply with all applicable provisions of the Zoning Ordinance in effect from time to time.

3. Water Source: Cash Contribution. A contribution shall be made to the County in the amount of Seven Hundred Fifty and No/100 Dollars (\$750.00) for each Residential Unit developed on the Property (the "Per Unit Contribution"). The County shall make these monies available for development of water supply alternatives. Such contributions shall be payable for each of the Residential Units developed within the Property upon the earlier of the time of final subdivision plat or final site plan approval by the County for the particular Residential Unit or grouping, phase or section of Residential Units.

4. Neighborhood Recreation Facilities. The following recreation facilities shall be provided, open to all residents of the Property, maintained and regulated by the Association (defined below):

A. Park land which meets or exceeds the Guidelines (defined below) shall be established by Colonial Heritage. Included shall be an eighteen (18) hole golf course, an approximately 10 acre clubhouse site with a clubhouse facility of at least 15,000 square feet and related amenities. Clubhouse amenities shall include a room for library use which shall accommodate a cooperative program between the Williamsburg Regional Library (or successor public library) and the Association (defined in Section II, paragraph 8 below). Clubhouse amenities shall also include an aerobic exercise room and locker rooms.

B. Tennis courts numbering not fewer than three (3).

C. An indoor and an outdoor swimming pool with an aggregate area of all pools (whether one or more, indoor, outdoor or both) not less than twenty-five (25) meters by twenty-five (25) meters.

D. The clubhouse, swimming pool(s) and tennis courts shall be completed before issuance of the Certificate of Occupancy for the 450th Residential Unit within the Property.

E. (1) The Owners shall construct and convey to the County public greenways generally as shown on the Master Plan. Such greenways shall be in the location(s) as generally shown on the Master Plan and shall not exceed 30 feet in width.

(2) The greenways described herein shall be (a) conveyed subject to restrictive covenants prohibiting all motorized vehicles from operating thereon, and further prohibiting all buildings or structures thereon, (b) constructed with soft, pervious surfaces in accordance with the County Greenway Master Plan approved June 25, 2002, and (c) constructed not less than eight (8) feet in width unless a lesser width is approved by the County Director of Planning.

(3) The general location of greenways within the Property shall be described in advertising, promotional and disclosure materials published by the Owners.

(4) Greenways located inside the PSA shall be constructed and conveyed in segments, with each section or segment constructed and conveyed prior to issuance by the County of a building permit for any structure in any section or tract adjacent to a particular segment of greenway.

(5) Greenways located outside the PSA shall be dedicated as shown on the Master Plan prior to final approval of any subdivision plat establishing lots on the Boy Scout Property outside the PSA. The Owners shall not be required to clear or construct those greenways which are located outside the PSA.

5. Transitional Screening.

A. A landscape area shall be established between all commercial and residential use areas within the Property. Such landscape area shall be thirty-five (35) feet in width, and shall contain plantings which meet or exceed the landscape area standards of

Section 24-94 of the Zoning Ordinance. This landscape area may be located on areas within the Property which are designated for commercial or residential uses, or partly on both, but no portion of said landscape area shall be part of any individual lot designated for a Residential Unit. Landscape areas compliant with this subparagraph shall be established and planted adjacent to areas of Nonresidential Use (defined below) prior to issuance of a Certificate of Occupancy by the County for such Nonresidential Use.

B. A buffer of one hundred fifty (150) feet shall be maintained between any lot and the Centerville Road right-of-way as it exists on the date hereof. In areas of this buffer which are not presently wooded, a minimum of three (3) trees per four hundred (400) square feet of buffer area shall be planted; not less than fifty percent (50%) of such trees shall be evergreen species.

(1) The buffer described in this subparagraph may, with the approval of the Planning Director, include entrance/exit roads, directional signage, underground utilities, underground and above ground drainage facilities, bus stops, curbs, gutters, sidewalks, fences and signs.

(2) The buffer described in this subparagraph shall be planted, or the planting of such buffer shall be bonded, prior to final approval of any subdivision plat for any Residential Unit(s) in the Land Bay(s) adjacent to said buffer.

C. A buffer of one hundred fifty (150) feet shall be maintained between any residential lot (exclusive of any well lot) and the Jolly Pond Road right-of-way as it exists on the date hereof. In the event that clearing is undertaken to provide sight lines for any entrance or

driveway providing access to Jolly Pond Road, the buffer described here shall be maintained from the limits of such clearing to any adjacent lot. The buffer described in this subparagraph may, with the approval of the Planning Director, include entrance/exit roads, directional signage, underground utilities, underground and above ground drainage facilities, bus stops, curbs, gutters, sidewalks, fences and signs.

6. Golf Course Water Usage. Unless otherwise specifically approved by the Board of Directors of the James City Service Authority, no groundwater or water supplied by a public water system as defined in the Zoning Ordinance shall be used for irrigation purposes upon the golf course developed upon the Property. The term "groundwater" as used in this paragraph shall not include surface water, surface water runoff, stormwater, water from stormwater management facilities (including those facilities commonly known as or defined by the County Code, Virginia Code or applicable regulations, best management practices or BMPs), water from ponds, lakes or other impoundments not supplied by wells. Water from Deer Lake and other lakes, ponds or impoundments on the Property or the Non-PSA Boy Scout Property shall constitute surface water, and irrigation with such water shall not be prohibited by this proffer. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to reduce the total irrigated area of the golf course in order to accomplish the limitation on use of public water and groundwater contained within this paragraph.

7. Additional Water Conservation.

A. The Owners and the Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority.

The Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems, 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 the first subdivision plat approval for a Residential Unit within the Property.

B. No irrigation well(s) shall be established or utilized for any Residential Unit within the Property.

C. Existing wells located on the Property shall be capped/abandoned in accordance with applicable Commonwealth of Virginia and/or County regulations and ordinances, if, as and when the Owners determine in their discretion that such wells are not necessary or to be utilized in the future.

8. Property Owners Association. A residential property owners' association ("Association") shall be established in accordance with the Virginia Property Owners' Association Act, §55-508 *et seq.* of the Virginia Code, in which all owners of Residential Units within the portions of the Property currently lying inside the PSA shall be members by virtue of their property ownership. The articles of incorporation or organization and bylaws of the Association and declaration of restrictive covenants enforceable by the Association shall be submitted to and reviewed by the County Attorney for consistency with this proffer. Such governing documents shall require or provide for, *inter alia* the following:

A. The Association shall adopt an annual maintenance budget and assess all members for the maintenance of all properties owned and/or maintained by the Association, including private roads.

B. The Association shall be granted the right to adopt and enforce rules and regulations with respect to the use of common areas and with respect to other areas of responsibility of the Association.

C. The Association shall have the power to assess its members in order to provide for the budget described above, and shall further have the power to levy special assessments, and to have a lien upon property owned by its members for collection and enforcement of such assessments, and for the cost of remedying violations of the rules and regulations established by the Association. Separate owners' associations may be established for individual sections within the Property, and impose supplemental restrictive covenants on individual sections or areas of the Property.

D. The Association shall have the power and shall enforce the age restrictions described above, including without limitation the application of such restrictions upon sale and/or resale of any Residential Unit.

E. The Association shall administer the Automatic External Defibrillator program described in Section II, paragraph 14 below.

F. The Association shall be charged with the obligation to provide for not less than one (1) uniformed security guard to be continuously stationed at the main entrance to

the Property from Richmond Road. Such security guard need not be, but may be at the discretion of the Association (subject to appointment procedures established by law), (i) a special police officer(s) and/or conservator(s) of the peace, and/or (ii) armed.

G. The Association shall conduct or facilitate a golf instructional program for children of low income families residing in the County, so as to expose children to the game of golf. Such instructional program shall be conducted no less frequently than two (2) times per calendar year.

H. The Association shall enforce the water conservation standards described in paragraph 7 above.

I. The Association shall enforce restrictions designed to preserve natural open space adjacent to Residential Units or residential lots subdivided within those portion of the Property currently within the PSA.

J. The Association shall maintain the median plantings described in Section I paragraph 3(G) above, by replacing dead or diseased plantings.

9. Private Streets. All streets (as defined by the County Code) within the residential portions of the Property shall be private and shall conform to VDOT construction standards. All private streets shall be certified to the satisfaction of the County engineer as required by Section 19-49 of the County Code. Curb and gutter shall be constructed on any streets on which a Residential Unit fronts.

10. Deed Provisions. Every deed by which any lot or parcel created for a Residential Unit is first conveyed to any owner by the Owners shall contain reference to the age restriction provisions of Section II, paragraph 1 above.

11. Streetscapes. Any and all residential development within the Property shall be in conformity with the County Streetscape Guidelines Policy as in effect on the date hereof. No Residential Unit(s) shall front on any portion of Colonial Heritage Boulevard shown on the Master Plan running from U.S. Route 60 (Richmond Road) to State Route 614 (Centerville Road).

12. Sidewalks/Pedestrian and Bicycle Trails.

A. (1) Sidewalks shall be constructed on at least one (1) side of every internal street or road constructed within the Property, and sidewalk construction shall be completed or bonded not later than the date on which construction of the adjacent road is completed (including final asphalt topcoating).

(2) Sidewalks (or a combination of sidewalks and the pedestrian trails described in subparagraph B below) shall be constructed on both sides of any internal street on which multiple family or two-family (as defined in the County Code) Residential Units front. Such sidewalks and/or trails shall be completed or bonded not later than the date on which construction of the adjacent road is completed (including final asphalt topcoating).

(3) At any point where sidewalks or pedestrian trails described herein cross and connect to another sidewalk or trail across the main arterial street shown on the Master

Plan connecting U.S. Route 60 (Richmond Road) with State Route 614 (Centerville Road), striping, signage, and pavement texturing shall be designed and implemented to assure the visibility of such crossing. All such measures shall be subject to the approval of the County Director of Planning.

B. A system of pedestrian and bicycle trails shall be constructed or bonded in connection with and simultaneously with development of each phase, section or Land Bay shown on the Master Plan (which trail system shall include the sidewalks described above) conforming to the following design guidelines:

(1) All pedestrian trails shall be not less than four (4) feet in width and all bicycle trails shall be not less than eight (8) feet in width.

(2) Access to abutting Land Bays shown on the Master Plan and connection of cul-de-sacs shall be established where practical as determined by Colonial Heritage and approved by the County Planning Director.

(3) Interconnectivity for pedestrian traffic between the commercial or Non-Residential Use (defined below) areas of the Property shall be established as a part of pedestrian trail and/or sidewalk systems created pursuant to this paragraph.

(4) Trails shall avoid lands with greater than twenty-five percent (25%) slopes, environmentally sensitive areas and areas designated as resource protection areas where practical as determined by the County Chesapeake Bay Administrator.

(5) Paved surfaces shall be provided, except as limited by environmentally sensitive areas, wherein pervious, soft surfaces underlaid with filter cloth shall be employed, as determined by the County Director of Planning.

(6) One and one-half (1.5) miles of trail shall be provided for each 590 Residential Units constructed within the Property and all construction of such trails shall be assured by agreement with the County and by furnishing to the County a certified check, bond with surety or letter of credit satisfactory to the County as set forth in Section 19-72 of the County Code.

(7) Except as provided or contradicted above, the trails shall be designed to meet or exceed the standards of the County Comprehensive Parks and Recreation Plan proffer guidelines, as in effect on the date hereof (“Guidelines”).

(8) Pedestrian and bicycle trails may, but shall not be required to be located within the buffers established pursuant to Section II, paragraphs 5(A), (B) and (C).

C. All sidewalks constructed within the Property shall meet or exceed the standards of Section 24-35 of the County Code.

13. EMS Equipment/Signalization: Cash Contribution.

A. A contribution shall be made to the County in the amount of Seventy Thousand and No/100 Dollars (\$70,000.00) for fire and rescue equipment replacement and supply and traffic signal preemption equipment. This payment shall be made at the rate of Seventy and No/100 Dollars (\$70.00) per Residential Unit (the “Per Unit Contribution”) for the

first one thousand (1,000) Residential Units within the Property, and shall be payable upon the earlier of the time of final subdivision plat or final site plan approval by the County of each said Residential Unit or grouping, phase or section of Residential Units or, in the case of signal preemption equipment, when said equipment is installed.

B. A contribution shall be made to the County in the amount of Fifty Thousand and No/100 Dollars (\$50,000.00) for application to the purchase of a new paramedic/first aid vehicle or unit. These funds may be, at the discretion of the Board of Supervisors of the County, applied to other capital needs of the County Emergency Medical Services deemed by the County to be generated by development of the Property. This payment shall be made prior to final site plan or subdivision plat approval for any Residential Units beyond 400 within the Property.

14. Automatic External Defibrillator ("AED") Program. An AED program shall be established for administration by the Association within the Property which shall comply with Section 32.1-111.14:1 *et seq.* of the Code of Virginia, as written on the date hereof, and Virginia State Board of Health regulations promulgated pursuant thereto. Not less than one defibrillator per building to be used as a part of the AED program shall be supplied by the Owner for use in this AED program for every building constructed for public occupancy on the Property of the Association (exclusive of golf course maintenance buildings, equipment sheds, pump houses, storage buildings, Residential Units and other outbuildings of less than 2,000 square feet. The existence of such AED program and an implementation schedule shall be confirmed by the County Fire Chief prior to any final site plan or subdivision plat approval.

15. INTENTIONALLY OMITTED.

16. Cash Contributions For Additional Community Impacts.

A. An additional contribution shall be made to the County in the amount of Four Hundred Thirty-Eight and No/100 Dollars (\$438.00) for each of the first one thousand (1,000) Residential Units developed on the Property (the "Per Unit Contribution"), in order to mitigate additional impacts on the County arising from the physical development and/or physical operation of the Property. The County may make these monies available for any project in the County's capital improvement plan, the need for which is generated by the physical development and/or physical operation of the Property.

B. The contributions described above, unless otherwise specified, shall be payable for each of the Residential Units developed within the Property at the time of final subdivision plat or final site plan approval by the County for the particular Residential Unit or grouping, phase or section of Residential Units.

17. Slope Protection. For lots subdivided or developed on large, contiguous areas of steep slopes (steep being defined as slopes of twenty-five percent (25%) or greater grade) ("Steep Slope(s)") the following separation or setbacks shall be maintained:

A. Fifteen (15) feet between the top of any Steep Slope and any structure

B. Ten (10) feet between the top of any Steep Slope and the limits of lot or other clearing.

The separation or setback described in this paragraph may be reduced upon approval of the County Environmental Director in order to provide flexibility in the application of this provision, and so as to assure that this provision does not unreasonably restrict the developable acreage within the Property.

18. Open Space/Conservation Area. An open space and conservation area consisting of not less than 282± acres shall be established by easement conveyed to the County encumbering land shown on the Master Plan as “Area Not Subject of Master Plan” and more particularly described on that plan entitled “SPECIAL USE PERMIT PLAN – ALTERNATE 1, COLONIAL HERITAGE BSA PROPERTY” dated 7/9/04, revised 7/29/04, made by AES, Consulting Engineers, submitted with the SUP application SUP-21-04 referenced above, which plan is incorporated by reference. The open space and conservation area easement shall prohibit construction of any Residential Unit or other building, provide for protection of open space, wetlands, trees and tree canopy. The open space and conservation area shall be available, and the Owners shall retain the right to utilize the open space and conservation area for stormwater management structures and facilities, required open space, required impervious/pervious cover percentages, watershed protection measures and other uses benefiting or facilitating development of the Property and/or the Non-PSA Boy Scout Property.

SECTION III. Proffers Applicable to Commercial Property

1. Area of Nonresidential Uses. A portion of the Property as shown on the Master Plan shall be developed for Nonresidential Uses defined in Section 24-521 and/or Section 24-522 of the Zoning Ordinance as written on the date hereof ("Nonresidential Use").

2. Development Plans. Design review standards for Nonresidential Use development shall be established by Colonial Heritage or successor owner(s) of Nonresidential Use areas of the Property, and provided to the County Director of Planning for approval. Thereafter, conceptual plans and conceptual elevations for development shall be approved prior to site plan approval for any Nonresidential building by the County Development Review Committee of the Planning Commission with a procedure generally as provided by Section 24-142 *et seq.* of the Zoning Ordinance so as to assure conformity with such design review standards, including but not limited to the following:

- (a) location and uses of buildings,
- (b) building orientation,
- (c) landscaping, open space and buffers,
- (d) location and number of entrances,
- (e) pedestrian and vehicular connections,
- (f) building height, and size of any single building
- (g) architectural design,
- (h) setbacks from adjacent properties or roadways,

- (i) signs.

Such approval shall be designed to address the uniformity, appearance and quality of Nonresidential Use of the Property, and shall not be unreasonably withheld.

3. Homeowners' Association Not to Control Commercial Property. The Association shall not control any of the Property developed for Nonresidential Uses. This provision shall not be read to preclude establishment of a separate association created in connection with development of areas of Nonresidential Use within the Property.

4. Strip Shopping Center(s) Prohibited. No retail construction/development or nonresidential use shall be undertaken in Land Bay VI that consists of a row or line of building fronts or separately occupied businesses which are one (1) unit deep, parallel or principally oriented to Richmond Road. A majority of the parking spaces provided shall not be located between the buildings and Richmond Road but shall instead be located beside and/or behind the buildings. Street frontage along Richmond Road shall primarily consist of buildings and open space. At least two pedestrian connections shall be provided from U.S. Route 60 (Richmond Road), one shall be provided from the main spine road, and one from Land Bay I. All pedestrian connections shall be paved and be at least four feet wide. All commercial uses within Land Bay VI shall be interconnected for both pedestrian and motor vehicular access. It is the intent of this proffer to prohibit development commonly known as "strip commercial development." Development plans for Land Bay VI shall be approved by the Planning Director as to their compliance with these proffers.

5. Richmond Road Buffer. A buffer of fifty (50) feet shall be maintained between any parcel, lot or property line within the Property and the Richmond Road right-of-way as it exists on the date hereof. The buffer proffered in this Section III, paragraph 5 may, with the approval of the Planning Director, include entrance/exit roads, directional signage, underground utilities, underground and above ground drainage facilities, bus stops, curbs, gutters, sidewalks, fences and signs.

6. Preservation of Magnolia Trees. The trees comprising a double row of mature Magnolia trees existing within Land Bay VI as of the date hereof shall not be completely destroyed to create a building site, parking area or other improvements. Destruction or elimination of some trees shall be permitted to allow for streets, roads and vehicular or pedestrian connections perpendicular to such rows of Magnolia trees, the placement of utilities, or other purposes approved by the County Planning Director. This proffer is not to be read to require reimbursement of existing trees which are destroyed by natural causes.

IV. Miscellaneous Provisions

1. Headings. All section and subheadings of these Proffers are for convenience only and shall not be read as a part of these Amended and Restated Proffers or utilized in interpretation thereof.

2. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

3. Conflicts. In the event that there is any conflict between these Amended and Restated Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Supervisors and the Courts as otherwise provided by law.

4. Successors and Assigns. This Amended and Restated Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

5. Amended and Restated Proffers Void if Rezoning not Approved. In the event that the requested rezoning of the Boy Scout Property and the Proffer amendments and Master Plan amendments sought by the Applications for Amendment are not approved by the County, these Amended and Restated Proffers shall be null and void, but the Proffers, the master plan and the rezoning approval by the County in Case No. Z-4-00/MP-01-01 shall remain in full force and effect, unaffected hereby.

6. Effect of Accepted Amended and Restated Proffers. If these Amended and Restated Proffers are accepted by the County and the Applications for Amendment are simultaneously approved by the County, upon the expiration of thirty (30) days from said acceptance and approval with no appeal being duly noted, these Amended and Restated Proffers, and the Master Plan and associated documents filed with the Applications for Amendment shall amend, supersede and restate in their entirety the Proffers and all the associated documents, effective upon the date of such acceptance and approval.

7. INTENTIONALLY OMITTED.

8. Cash Proffer Disposition. In the event that any cash payment(s) or real property conveyed as required under the terms of these Amended and Restated Proffers are not used by the County for the purpose(s) designated within twenty (20) years from the date of receipt by the County, the amounts or Property not used shall be used at the discretion of the Board of Supervisors of the County for any other project in the County's capital improvement plan, the need for which is generated by the development of the Property.

9. Inflation Adjustment of Cash Proffered. Beginning as of January 1, 2003, the payments and/or Per Unit Contribution described in Section I paragraphs 3(J)(4), 3(K) and 3(L), and Section II, paragraph 3, paragraphs 13(A) and (B) and paragraph 16 above shall be inflation adjusted to reflect changes in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84=100) (the "CPI") prepared and reported by the U.S. Bureau of Labor Statistics of the United States Department of Labor.

A. The adjustment shall be made by increasing or decreasing the payment (or any portion thereof) due by the percentage change in CPI from (i.) January 1, 2003 through (ii) the last day of the month most recently preceding the date on which the cash payment is due, payable or paid (or the most recent date on which CPI is available).

B. In no event shall the unadjusted proffered cash payment(s) or Per Unit Contribution(s) be adjusted to a sum less than the amount specified in the particular paragraphs described herein.

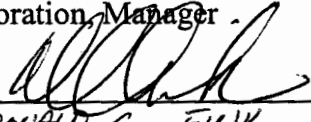
C. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of adjusting proffered cash payments to approximate the rate of inflation in the County after January 1, 2003. In the event that substantial change is made in the method of establishing the CPI, then the adjustment(s) described in this paragraph shall be based upon the figure that would have resulted had no change occurred in the manner of computing CPI.

10. Signature by County. The County's Director of Planning has executed these Amended and Restated Proffers solely for purposes of confirming the filings and submissions described in the Recitals section above, and confirming approval by the County Board of Supervisors of the rezoning of the Property with these Amended and Restated Proffers and the Applications for Amendment by a resolution dated _____, 200__.

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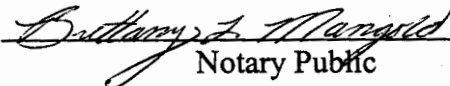
COLONIAL HERITAGE LLC, a Virginia
limited liability company

By: U.S. Home Corporation, a Delaware
corporation, Manager

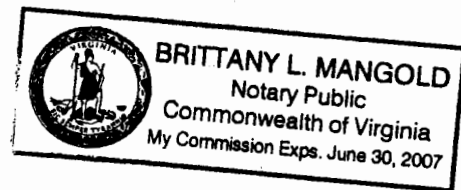
By: 
Name: DONALD C. FINK
Title: EXECUTIVE VP

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 2 day of December,
2004, by Donald C. Fink, EXECUTIVE VP, of U.S. Home Corporation, Manager
of COLONIAL HERITAGE LLC, a Virginia limited liability company, on its behalf.


Notary Public

My commission expires: June 30 2007



THE COUNTY OF JAMES CITY,
VIRGINIA

By: _____
Name: O. Marvin Sowers
Title: Director of Planning

APPROVED AS TO FORM:

County Attorney

EXHIBIT A

(Colonial Heritage Property)

All those certain lots, pieces or parcels of land, together with buildings and improvements thereon, and appurtenances thereunto belonging, located in James City County, Virginia, being known and designated as "PARCEL 'A' (INCLUDES CEMETERY PARCEL)", "PARCEL 'B' and "PARCEL 'C'" as shown on that subdivision plat entitled "PLAT OF SUBDIVISION AND BOUNDARY LINE ADJUSTMENT BETWEEN THE PROPERTIES OWNED BY THE MASSIE CORPORATION, VAJACK, L.L.C., AND DAVID W. WARE MARITAL TRUST STONEHOUSE DISTRICT JAMES CITY COUNTY VIRGINIA," dated 10/24/02, and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City, Virginia in Plat Book 89, at pages 10-12; together with all rights whatsoever, including riparian, oil, gas and mineral rights, privileges, easements, interests and appurtenances, thereto or thereto belonging.

All that certain lot, piece or parcel of land situate in Powhatan District, James City County, Virginia containing 181.547 acres \pm (but sold in gross and not by the acre) shown and designated as "PARCEL E" on Sheets 2 and 3 of a plat (the 'Plat') entitled "PLAT OF SUBDIVISION AND BOUNDARY LIEN ADJUSTMENT BETWEEN THE PROPERTIES OWNED BY THE MASSIE CORPORATION, VAJACK, L.L.C., AND DAVID W. WARE MARITAL TRUST, STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA," dated 10/24/02, revised 12/12/02 and made by AES Consulting Engineers, a copy of which is recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City, Virginia in Plat Book 89, pages 10-12 to which Plat reference is hereby made; together with all rights whatsoever, including riparian, oil, gas and mineral right, privileges, easements, interests and appurtenances thereto.

EXHIBIT B

(Boy Scout Property)

Parcel I

All of that certain tract of land in James City County, State of Virginia, formerly located in Jamestown Magisterial District, containing 617.2 acres, more or less, as shown by Plat of Survey dated May 10, 1938, made by G. L. Evans, Certified Surveyor, and of record in the Clerk's Office of the Circuit Court of James City County, Virginia, in Plat Book 7, Page 43, together with all improvements thereon, rights, privileges and appurtenances thereunto belonging, described as follows, to-wit:

Beginning at a Cedar Stob being the intersection of the Southeast corner of Piggott's Estate and the Southwest corner of R. L. Henley's Estate, thence North 80 degrees 10' W. 200 feet to a point in the center line of the county road; thence with the center line of said road North 61 degrees 10' W. 534 feet; thence North 75 degrees 00' W. 800 feet; thence North 71 degrees 00' W. 922 feet to a point; thence leaving said road South 67 degrees 20' W. 500 feet to a point; thence North 66 degrees 30' W. 130 feet to a point in the center of said county road; thence continuing with the center line of said road North 46 degrees 00' W. 1100 feet; thence North 33 degrees 20' W. 700 feet; thence North 59 degrees 30' W. 551 feet; thence North 77 degrees 00' W. 600 feet; thence South 75 degrees 20' W. 533 feet; thence North 58 degrees 40' W. 200 feet; thence North 16 degrees 30' W. 410 feet; thence North 35 degrees 30' W. 282 feet to a point; thence leaving said county road; thence North 86 degrees 00' E. 562 feet to an iron axle; thence North 4 degrees 10' E. 100 feet; thence North 0' 30' W. 140 feet; thence North 36 degrees 50' E. 100 feet; thence North 13 degrees 30' E. 100 feet; thence North 0 degrees 30' E. 184 feet; thence North 30 degrees 00' E. 100 feet; thence North 22 degrees 20' E. 123 feet; thence North 4 degrees 50' E. 255 feet; thence North 69 degrees 10' W. 100 feet; thence North 22 degrees 45' W. 300 feet; thence North 43 degrees 15' W. 100 feet; thence North 27 degrees 45' W. 300 feet; thence North 74 degrees 30' W. 100 feet; thence North 49 degrees 00' W. 158 feet; thence North 43 degrees 30' W. 400 feet; thence North 9 degrees 00' W. 254 feet; thence North 37 degrees 45' W. 200 feet; thence North 19 degrees 10' E. 300 feet; thence North 21 degrees 30' W. 359 feet to the South shore of Cranston's Mill Pond; thence continuing across said pond; North 33 degrees 00' E. 530 feet to the North shore of said mill pond; thence re-crossing said mill pond South 57 degrees 45' E. 666 feet; thence South 41 degrees 20' E. 85 feet; thence South 67 degrees 45' E. 200 feet; thence South 83 degrees 30' E. 400 feet; thence South 81 degrees 30' E. 100 feet; thence South 43 degrees 30' E. 200 feet; thence South 54 degrees 45' E. 200 feet; thence North 62 degrees 10' E. 131 feet; thence South 82 degrees 30' E. 100 feet; thence South 56 degrees 15' E. 200 feet; thence South 66 degrees 10' E. 94 feet; thence South 76 degrees 15' E. 600 feet; thence North 62 degrees 40' E. 555 feet; thence South 50 degrees 10' E. 200 feet; thence South 48 degrees 10' E. 500 feet; thence South 55 degrees 00' E. 409 feet; thence South 78 degrees 15' E. 400 feet; thence South 24 degrees 40' E. 300 feet; thence South 39 degrees 00' E. 200 feet; thence South 79 degrees 40' E. 300 feet; thence South 81 degrees 15' E. 393 feet; thence South 29 degrees 50' E. 200 feet; thence South 18 degrees 45' E. 139 feet; thence South 27 degrees 30'

E. 400 feet; thence South 47 degrees 20' E. 300 feet; thence South 84 degrees 45' E. 400 feet; thence South 39 degrees 00' E. 200 feet; thence South 81 degrees 00' E. 107 feet; thence South 18 degrees 30' E. 300 feet; thence South 16 degrees 40' E. 400 feet; thence South 49 degrees 30' E. 500 feet; thence South 24 degrees 10' W. 275 feet; thence South 68 degrees 45' W. 200 feet thence South 29 degrees 20' W. 505 feet; thence South 22 degrees 30' W. 500 feet; thence South 12 degrees 30' E. 200 feet to Cedar Stob; thence South 37 degrees 50' W. 584 feet to a White Oak Stump; thence South 33 degrees 20' W. 260 feet to a White Oak Stump; thence South 12 degrees 00' W. 347 to the point of beginning.

Parcel II

All of that certain tract of land in James City County, State of Virginia, formerly in Jamestown Magisterial District, containing 117.8 acres, more or less, as shown by Plat of Survey dated May 10, 1938, made by G. L. Evans, Certified Surveyor, and of record in the Clerk's Office of the Circuit Court of James City County, Virginia, in Plat Book 7, Page 43, together with all improvements thereon, rights, privileges and appurtenances thereunto belonging, described as follows: to-wit:

Beginning at an iron pipe in a Pine stump located at the intersection of County Roads Nos. 626 and 603; thence North 8 degrees 20' E. 49 feet; thence North 7 degrees 40' W. 323 feet; thence North 21 degrees 40' W. 100 feet; thence North 53 degrees 00' W. 393 feet; thence North 47 degrees 30' W. 765 feet; thence North 77 degrees 10' W. 400 feet; thence North 64 degrees 00' W. 275 feet; thence North 48 degrees 10' W. 235 feet; thence North 26 degrees 40' W. 312 feet; thence North 30 degrees 45' W. 141 feet; thence North 50 degrees 10' W. 245 feet; thence up the center line of an old road North 41 degrees 50' W. 132 feet; thence North 20 degrees 10' W. 100 feet; thence North 4 degrees 50' W. 200 feet; thence North 13 degrees 00' W. 180 feet; thence North 32 degrees 50' E. 104 feet; thence leaving old road South 17 degrees 15' E. 158 feet; thence South 62 degrees 20' E. 104 feet to a Beech; thence North 10 degrees 45' E. 253 feet to a Cedar; thence North 36 degrees 00' E. 75 feet to a Beech; thence South 55 degrees 10' E. 76 feet to a point on the Southwest shore of Cranston's Mill Pond; thence North 71 degrees 50' E. 714 feet; thence North 71 degrees 30' E. 238 feet to a point on the Southern shore of said mill pond; thence crossing said mill pond North 26 degrees 45' E. 640 feet to a point on the northern shore of said mill pond; thence re-crossing said mill pond South 58 degrees 45' E. 870 feet to a point on the Southern shore of said mill pond; thence South 21 degrees 30' E. 359 feet; thence South 19 degrees 10' W. 300 feet; thence South 37 degrees 45' E. 200 feet; thence South 9 degrees 00' E. 254 feet; thence South 43 degrees 30' E. 400 feet; thence South 49 degrees 00' E. 158 feet; thence South 74 degrees 30' E. 100 feet; thence South 27 degrees 45' W. 300 feet (shown on Plat as South 27 degrees 45' E.); thence South 43 degrees 15' E. 100 feet; thence South 22 degrees 45' E. 300 feet; thence South 69 degrees 10' E. 100 feet; thence South 4 degrees 50' W. 255 feet; thence South 22 degrees 20' W. 123 feet; thence South 30 degrees 00' W. 100 feet; thence South 0 degrees 30' W. 184 feet; thence South 13 degrees 30' W. 100 feet; thence South 36 degrees 50' W. 100 feet; thence South 0 degrees 30' E. 140 feet; thence South 4 degrees 10' W. 100 feet to an iron axle, thence South 86 degrees 00' W. 562 feet to the point of beginning.

LESS AND EXCEPT all that certain portion of property lying north of the water's edge on the southern side of Bush's Mill or Cranston's Mill Pond as conveyed by Peninsula Council, Boy Scouts of America, a Virginia corporation, by Quitclaim Deed to Toano Fishing and Hunting Club, Incorporated, dated September 10, 1969, recorded September 25, 1969 in the aforesaid Clerk's Office in Deed Book 123, Page 392.

LESS AND EXCEPT all that certain tract, piece or parcel of land as granted to the Commonwealth Transportation Commissioner of Virginia, by Certificate of Take dated January 29, 1990, recorded in the aforesaid Clerk's Office in Deed Book 465, Page 109.

BEING the same property conveyed to Colonial Heritage LLC, A Virginia corporation, by Deed from Colonial Virginia Council of Boy Scouts of America, Inc., a Virginia corporation, dated September 29, 2004, recorded September 30, 2004, in the Clerk's Office of the Circuit Court, James City County, Virginia, as Instrument No. 040024552.

EXHIBIT C

(Non-PSA Boy Scout Property)

All that certain piece or parcel of land situated in James City County, Virginia, containing 506 acres ±, shown and described as "AREA NOT SUBJECT OF MASTER PLAN SEE ACCOMPANYING SUP APPLICATION" on that certain Master Plan entitled: "COLONIAL HERITAGE, WILLIAMSBURG, VIRGINIA, AMENDED MASTER DEVELOPMENT PLAN" dated July 1, 2004, made by Land Design, and by AES Consulting Engineers, which said plat is incorporated herein by reference for a more particular description of the subject property.

#6010116 v41



U. S. Home - Colonial Heritage at Williamsburg

**2004 Rezoning Application
BSA Tract**

**FISCAL IMPACT ANALYSIS
March 2004**

Revised July 23, 2004

Prepared for:

U. S. Home Corporation

Prepared by:

The Wessex Group, Ltd.
479 McLaws Circle, Suite 1
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**U. S. Home – Colonial Heritage at Williamsburg
2004 Rezoning Application – BSA Tract
FISCAL IMPACT ANALYSIS**

U. S. Home, the developer of Colonial Heritage at Williamsburg, an active adult community, is seeking rezoning for a 660 acre tract of land adjacent to the approved site for Colonial Heritage, of which 400 acres will be set aside for conservation and 260 slated for development. This report describes the fiscal impact that James City County, Virginia can expect under the new development plan. All dollar figures shown in this report are in 2004 dollars *and have been updated from fiscal impact estimates provided in previous reports prepared by The Wessex Group, Ltd. (TWG) from April 2001 and June 2002.* No attempt has been made to estimate economic inflation. For consistency, all fiscal impact estimates in this report (whether net new estimates or examples from previous studies) are based on James City County's FY 2005 Proposed Budget. It should be noted a real estate property tax rate of \$0.85 (as stated in the FY 2005 Adopted Budget) has been used throughout this analysis.

The site already approved for the development of Colonial Heritage is referred to in this report as the "Massie and Ware tracts." The adjacent site that is being presented for rezoning was purchased from the Peninsula Council of the Boy Scouts of America and is referred to as the "BSA tract." *The Wessex Group* submitted a comprehensive fiscal impact report to James City County for the Massie and Ware tracts rezoning request in 2001. The reader should refer to that report for details on methodology and assumptions. The 2001 report describes the fiscal impact of developing 2,000 homes in Colonial Heritage. Since U.S. Home has been approved to build a total of 2,000 homes for its development, the additional 55 homes to be built on the BSA tract will be removed from within Colonial Heritage if the rezoning is approved by the county. The change in fiscal impact to the county from subtracting 55 homes from the active adult community development is presented below in Table 1.

**Table 1
Summary of Change in Net Fiscal Impact of Constructing 1,945 vs. 2,000 Homes
Massie & Ware Tracts**

	Assumption of Annual Real Appreciation in Real Estate Property Value		
	5%	3%	1.5%
Massie & Ware Tracts – As Approved w/ 2,000 homes (\$000's) adjusted using FY 2005 JCC Budget figures	\$15,504	\$10,419	\$7,613
Massie & Ware Tracts – 1,945 homes assuming the rezoning request is approved for the BSA Tract using FY 2005 JCC Budget figures	\$15,140	\$10,174	\$7,436
Massie & Ware Tracts –Decrease in Net Fiscal Impact (\$000's)	\$364	\$245	\$177

The primary focus of this report is to present the **incremental** impact of rezoning the additional acres in the BSA tract. The addition of the BSA tract to the Colonial Heritage tracts is referred to as the 2004 Plan. Two scenarios are presented: (1) estimates based on the rezoning request including 55 single family homes outside of the Colonial Heritage gates and (2) by-right development of 150 single family housing units on three-acre lots.

In summary and under the assumption of approval of the rezoning request, the combined net fiscal impacts after buildout are as follows in Table 2. As previously indicated, all figures presented in this report reflect 2004 dollars.

Table 2
Summary- Incremental Fiscal Impact – 2004 Plan

	Assumption of Annual Real Appreciation in Real Estate Property Value		
	5%	3%	1.5%
Massie & Ware Tracts – 1,945 units (\$000's)	\$15,140	\$10,174	\$7,436
BSA Tract – 55 homes Requested Rezoning (\$000's)	\$2,626	\$1,742	\$1,255
Fiscal Impact – Colonial Heritage and BSA Tract (\$000's)	\$17,766	11,916	8,691

Table 3 following summarizes the net fiscal impact of the BSA tract if developed by-right. Assumptions and estimates underlying the figures in Tables 1 and 2 are presented subsequently in this report, as are more detailed tables.

Table 3
By-Right Development – BSA Tract - Net Fiscal Impact

	Assumption of Annual Real Appreciation in Real Estate Property Value		
	5%	3%	1.5%
Incremental Revenues (\$000's)	\$777	\$613	\$523
Incremental Expenditures (\$000's)	\$870	\$870	\$870
Net Fiscal Impact (\$000's)	(\$93)	(\$257)	(\$347)

Following are more detailed explanations of estimates pertaining to real property values, population and public education costs for dwelling units located outside of the age-restricted community, and increased public safety costs resulting from the additional acreage in the BSA tract.

Real Property Value Estimates

As of February 2004, U. S. Home had 33 contracts for homes in Colonial Heritage and had closed on two homes. Table 4 lists the average actual selling prices for the homes with contracts, including lot, by product type. Based on the approved master plan and the selling prices shown in the table, the 1,378 detached homes planned for Colonial Heritage will sell for an average of \$385,400 (versus the \$300,000 first estimated in 2001).

Table 4
Colonial Heritage Products

Home Design	Dwelling Type	Average Square Feet	Average Selling Price
Executive Series	Detached	2,500	\$396,300
Garden Series	Detached	2,000	\$363,700
Villa Series	Attached	1,800	\$290,500
Carriage Series	Attached	1,500	\$257,800

In the fiscal impact estimates that follow, the average selling prices listed above are used as the initial basis of real estate values in Colonial Heritage. If the developer's rezoning request is approved, lot sizes of detached home products can be increased and additional product lines can be introduced. The

developer anticipates that the average selling price of a detached home and lot in the development will increase more than 12% to \$440,500.

The developer does not propose to expand the total number of dwelling units to be offered in Colonial Heritage above the approved number of 2,000. If the rezoning request is approved, the developer proposes to remove 55 homes from the active adult community and build 55 dwelling units on the BSA tract that will be located outside of the Colonial Heritage gates. The later are not subject to the resident age stipulations of an active adult community. For this analysis, the developer has estimated the homes outside of the gate (if the rezoning is approved) will average \$630,000 each which will include one to three-acre lots per home site. The developer estimates the average size of these custom built homes will be 4,000 square feet. Because these homes would be located next to Colonial Heritage, property appreciation rates are assumed to match those estimated for Colonial Heritage. The developer anticipates that the average selling price of a detached home and lot on the BSA tract will be \$850,000.

If the rezoning request is not approved, the developer expects to develop the BSA tract by-right, which would result in 150 single family homes (as compared to the proposed 55 housing units) that will not be located within the gates of Colonial Heritage and, therefore, not subject to the age restrictions of an active adult community. The higher density and consequently smaller lot sizes will reduce both the size and value of the homes constructed under this scenario. A market value of \$158,100 is assumed, based on an estimate of \$150,000 for the dwelling unit and lot plus \$8,100 for the additional acreage per unit. Because these single family units would be located next to Colonial Heritage, property appreciation rates are assumed to match those estimated for Colonial Heritage.

Population BSA Tract

The development of the BSA tract under both the requested rezoning scenario and the by-right development scenario is assumed to be single family units outside of the age-restricted, gated community of Colonial Heritage. The population of these households is based on the county average of 2.5 persons per household. For the 55 homes under the rezoned scenario, the estimated addition to the county's population is 136 persons. For 150 homes under the by-right development scenario, the incremental population would reach an average of 375 persons. As described in the 2001 fiscal impact report for Colonial Heritage at Williamsburg (TWG), several types of county revenues and expenditures are attributed to this new development on a per capita basis.

Public Education Costs

Based on information provided by James City County, it is assumed that each single family home located outside of the age-restricted community produces 0.5 public school children. Therefore, for the 50 proposed homes under the rezoned scenario, the incremental public school population would be 25 students. Under the by-right development scenario, the incremental public school population would be 75 students.

The Proposed Budget for FY 2005 shows that per student cost to the county is \$5,384 annually plus \$1,113 per student in debt service related to public schools. These costs have been attributed to the estimated school population of the portion of the BSA tract located outside of the age-restricted community. The per student cost cited above does not include the expenditure of funds allocated to the county under the 1 cent sales tax dedicated to public education costs in the Commonwealth. The analysis

also does not include the revenues allocated in James City County under the state formula. It is assumed that these funds off-set each other. Further, the purpose of the analysis is to estimate the impact on James City County from decisions under the control of the County.

Public Safety Costs

In response to a previous fiscal impact submission for Colonial Heritage prepared by *The Wessex Group*, county staff members indicated that a significant increase in the acreage of a residential development is likely to incur additional public costs, especially public safety costs, even if the number of households does not change. To respond to this concern, TWG staff contacted the James City County Police Department and Fire Department to discuss the financial impact of the additional acreage in the BSA tract.

In addition to the per capita cost of police protection, the Police Department recommends that the fiscal impact analysis include the cost of hiring and equipping one additional officer. The most recent figures indicate that the first year's cost is approximately \$75,000, which includes a police car and equipment. Subsequent years' costs are approximately \$40,000. To account for capitalization and future replacement of the equipment, public safety costs have been increased by \$47,500 per year. The per capita cost is \$84.54 (\$4,790,251 divided by the county's population of 56,662 persons = \$84.54).

To account for the cost of servicing the additional road miles in the BSA tract, the Fire Department recommends increasing the per capita cost of fire protection by 5%. The current per capita cost as indicated the FY 2005 Proposed Budget is \$97.28 (\$5,511,949 divided by the county's population of 56,662 persons = \$97.28). Increasing the per capita cost by 5% yields a figure of \$102.14.

Detailed Tables – Incremental Fiscal Revenues, Expenditures and Net Impact

Tables 5, 6 and 7 following provide more detailed estimates of the fiscal impact of rezoning the BSA tract or developing it by-right. It should be noted that any developer proffers currently in effect or suggested as part of the rezoning package are not incorporated in this analysis. These include the following three issues: (1) Public Use Site or Cash Contribution - \$750,000, (2) EMS Equipment/Signalization: Cash Contribution - \$120,000, and (3) Cash Contributions for Additional Community Impacts - \$438,000. These three proffers total more than \$1.3 million in cash and/or land for James City County and, in general, are payable over time as subdivision plats or final site plans are approved. In addition, a proffer of \$750 per dwelling unit has been offered to the James City Service Authority to help offset the various costs associated with providing water to new county residents in the future. The Service Authority will be paid \$1.5 million under the conditions of this proffer.

Table 5
Massie & Ware Tracts Consisting of 1,945 Units – 20 Year Buildout
Incremental Government Revenues, Expenditures and Net Fiscal Impact (2004 Dollars)

	Assumption of Annual Real Appreciation in Real Estate Property Value		
	5%	3%	1.5%
Dwelling Units & Population			
Residential Units – Colonial Heritage	1,945	1,945	1,945
Residential Units Outside of Gate	0	0	0
Incremental Population – Colonial Heritage (average of 1.73 persons/active adult household)	3,365	3,365	3,365
Incremental Population Outside of Gate	0	0	0
Incremental Public School Students	0	0	0
Incremental Government Revenues (\$000s)			
Real Property Taxes	\$15,396	\$10,671	\$8,064
Personal Property Taxes	1,163	1,163	1,163
Meals Tax	79	79	79
Retail Sales Tax	213	213	213
Business License Tax	43	43	43
Recording Taxes	782	543	411
Miscellaneous Taxes & Revenues	679	679	679
Total Incremental Government Revenues (\$000s)	\$18,356	\$13,390	\$10,652
Incremental Government Expenditures (\$000s)			
General Government & Administration	\$434	\$434	\$434
Health & Welfare	222	222	222
Statutory, Unclassified	264	264	264
Community Services/Contributions	511	511	511
Public Safety	1,014	1,014	1,014
Public Works	579	579	579
Capital Improvements	192	192	192
Public Education (Operating Costs)	0	0	0
Total Incremental Government Expenditures (\$000s)	\$3,216	\$3,216	\$3,216
Net Fiscal Impact (Revenues less Expenditures - \$000s)	\$15,140	\$10,174	\$7,436

Table 6
Colonial Heritage with 1,945 SF Homes & BSA Tract with 55 SF Homes Outside Gate
Incremental Government Revenues, Expenditures and Net Fiscal Impact (2004 Dollars)

	Assumption of Annual Real Appreciation in Real Estate Property Value		
	5%	3%	1.5%
Dwelling Units & Population			
Residential Units – Colonial Heritage	1,945	1,945	1,945
Residential Units Outside of Gate	55	55	55
Incremental Population – Colonial Heritage	3,365	3,365	3,365
Incremental Population Outside of Gate	136	136	136
Incremental Public School Students	27	27	27
Incremental Government Revenues (\$000s)			
Real Property Taxes	\$ 18,143	\$ 12,576	\$ 9,507
Personal Property Taxes	1,210	1,210	1,210
Meals Tax	82	82	82
Retail Sales Tax	218	218	218
Business License Tax	44	44	44
Recording Taxes	926	642	486
Miscellaneous Taxes & Revenues	707	707	707
Total Incremental Government Revenues (\$000s)	\$21,329	\$15,479	\$12,253
Incremental Government Expenditures (\$000s)			
General Government & Administration	\$ 451	\$ 451	\$ 451
Health & Welfare	231	231	231
Statutory, Unclassified	274	274	274
Community Services/Contributions	532	532	532
Public Safety	1,102	1,102	1,102
Public Works	602	602	602
Capital Improvements	222	222	222
Public Education (Operating Costs)	147	147	147
Total Incremental Government Expenditures (\$000s)	\$ 3,562	\$ 3,562	\$ 3,562
Net Fiscal Impact (Revenues less Expenditures - \$000s)	\$17,766	\$11,916	\$ 8,691
Incremental Net Fiscal Impact – Effects of Rezoning (\$000's)			
	\$2,626	\$1,742	\$1,255

Table 7
By-Right Development: BSA Tract with 150 SF Homes
Incremental Government Revenues, Expenditures and Net Fiscal Impact (2004 Dollars)

	Assumption of Annual Real Appreciation in Real Estate Property Value		
	5%	3%	1.5%
Dwelling Units & Population			
Residential Units Outside of Gate	150	150	150
Incremental Population Outside of Gate	375	375	375
Incremental Public School Students	75	75	75
Incremental Government Revenues (\$000s)			
Real Property Taxes	\$509	\$353	\$267
Personal Property Taxes	142	142	142
Meals Tax	9	9	9
Retail Sales Tax	14	14	14
Business License Tax	3	3	3
Recording Taxes	25	17	13
Miscellaneous Taxes & Revenues	76	76	76
Total Incremental Government Revenues (\$000s)	\$777	\$613	\$523
Incremental Government Expenditures (\$000s)			
General Government & Administration	\$48	\$48	\$48
Health & Welfare	25	25	25
Statutory, Unclassified	29	29	29
Community Services/Contributions	56	56	56
Public Safety	160	160	160
Public Works	64	64	64
Capital Improvements	83	83	83
Public Education (Operating Costs)	404	404	404
Total Incremental Government Expenditures (\$000s)	\$870	\$870	\$870
Net Fiscal Impact (Revenues less Expenditures - \$000s)	(\$93)	(\$257)	(\$347)

RESOLUTION

CASE NOS. Z-3-02, Z-4-02, and MP-1-02. U.S. HOME - COLONIAL HERITAGE PROFFER

AND MASTER PLAN AMENDMENTS AND BOY SCOUT PROPERTY REZONING

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 and Master Plan Case Nos. Z-3-02 and MP-1-02 for rezoning approximately 722 acres from MU, Mixed Use, with proffers, to MU, Mixed Use, with amended and restated proffers; and

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 No. Z-4-02 for rezoning approximately 229 acres from A-1, General Agricultural, to MU, Mixed Use, with proffers; and rezoning approximately 503 acres from A-1, General Agricultural, to A-1, General Agricultural, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on November 1, 2004, recommended approval of Case Nos. Z-3-02, Z-4-02, and MP-1-02, by a vote of 4 to 1; and

WHEREAS, the properties are identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (23-4); Parcel No. (1-32) on Tax Map No. (24-3); Parcel No. (1-11) on Tax Map No. (31-1); and Parcel No. (1-7) on Tax Map No. (22-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-3-02, Z-4-02, and MP-1-02 and accepts the voluntary 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 14th day of December, 2004.

RESOLUTION

CASE NO. SUP-21-04. U.S. HOME - COLONIAL HERITAGE.

BOY SCOUT PROPERTY RURAL CLUSTER

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

WHEREAS, Mr. Alvin Anderson and Mr. Gregory Davis of Kaufman & Canoles have applied on behalf of Colonial Heritage, LLC, for a special use permit to allow a 50-lot rural cluster development in accordance with the provisions of Section 24-214(c) of the Zoning Ordinance on the portion of the Boy Scout Property located outside the Primary Service Area (PSA); and

WHEREAS, the properties are located at 6175 Richmond Road, zoned MU, Mixed-Use, with proffers, and further identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (23-4); 6799 Richmond Road, zoned MU, Mixed-Use, with proffers, and further identified as Parcel No. (1-32) on James City County Real Estate Tax Map No. (24-3); 6993 Richmond Road, zoned MU, Mixed- Use, with proffers, and further identified as Parcel No. (1-11) on James City County Real Estate Tax Map No. (31-1); and 499 Jolly Pond Road, zoned A-1, General Agricultural, and further identified as Parcel No. (1-7) on James City County Real Estate Tax Map No. (22-4); and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on November 1, 2004, recommended approval of this application by a vote of 4 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-21-04 as described herein with the following conditions:

1. Development Limitation. No more than fifty residential lots shall be platted on the portion of the Boy Scout of America (BSA) property located outside the PSA. Any residential lots developed on the BSA property located outside the PSA shall be subject to the 2,000-residential-unit density cap.
2. Conservation Easement. A conservation easement shall be submitted for review and approved by the County Engineer prior to issuance of a land-disturbing permit for any related plan of development of the portion of the BSA property located outside the PSA. The conservation easement shall be dedicated to James City County or an agency acceptable to the County prior to final site plan or subdivision approval for any plan of development or subdivision of lots for the ±282 acres shown on the plan "Special Use Permit Plan on a Portion of Colonial Virginia Council, Boy Scouts of America, a Virginia Corporation" prepared by AES Consulting Engineers, September 24, 2004. The area within the conservation easement shall be available and the Owners shall retain the right to utilize the open space and conservation area for stormwater management structures and facilities, required open space, required impervious/pervious cover calculations, and watershed protection measures for the Colonial Heritage development and the 50-lot rural cluster. The conservation

easement shall clearly state that no clearing, land disturbing, or development shall occur on the ±282 acres unless otherwise approved by the Planning Director.

3. Buffers. A minimum 150-foot buffer shall be maintained along Jolly Pond Road and Cranston's Mill Pond Road. That buffer shall remain undisturbed with the exception of breaks for any entrance road, pedestrian connections, utilities, walking, hiking, and biking trails, any required clearing necessary to create adequate sight distance, and other uses specifically approved by the Planning Director. The Planning Director shall approve the design of such features located within the required buffer.
4. Vehicular Access. Access to the 50-lot cluster development shall be from a single entrance road onto Jolly Pond Road unless a second entrance road is approved by the Planning Commission following the review of the Development Review Committee.
5. Central Well. An independent central well shall be required for the proposed cluster development. Connection into existing JCSA facilities shall not be permitted from outside the PSA. The independent well shall be designed to provide the necessary fire flow, peak water demands, and irrigation requirements for the development. A hydraulic analysis shall be submitted in accordance with JCSA standards for review and approval prior to final approval being granted for any plan of development or subdivision of lots of the property located outside the PSA.
6. Water Conservation. The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the JCSA. The applicant shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of water resources. The JCSA shall approve the standards prior to final approval for any plan of development on the portion of the BSA property located outside the PSA.
7. Archaeology. Prior to issuance of a land-disturbing permit for any portion of the BSA property located outside the PSA, the applicant shall provide written evidence to the Planning Director which demonstrates that the recommendations of a professional archaeologist have been implemented in a manner consistent with the preservation objectives of the Board of Supervisors Archaeological Policy, as determined by the Planning Director or his designee.
8. Master Stormwater Plan. A Master Stormwater Plan shall be submitted with the development plan for the alternative which is submitted for review and approval by the Environmental Director. The Master Stormwater Plan should specifically address how Deer Lake will be utilized as a primary Best Management Practices (BMP) (by use of drawings/narratives), whether additional onsite structural or non-structural practices are necessary and whether there is a better site design/low- impact development component proposed for stormwater compliance.

9. Steep Slopes. Any plan of development for the portion of the BSA property located outside the PSA shall maintain a separation of at least 35 feet between the top of 25 percent and steeper slopes and any structure and a 20-foot separation from the limits of grading to the top of 25 percent and steeper slopes. This is intended to apply to the larger, contiguous areas of steep slopes, not isolated areas, as determined by the Environmental Director. The Environmental Director shall have the ability to grant variances from this criteria to provide flexibility in application of this condition.
10. RPA/Perennial Stream. The applicant shall conduct a perennial stream evaluation which shall receive approval from the Environmental Director prior to preliminary approval being granted for any plan of development of the portion of the BSA property located outside the PSA. If perennial streams are present on the site, a 100-foot buffer shall be required around them and any wetlands contiguous to and connected by surface flow to the stream. Any plan of development for the portion of the BSA property located outside the PSA shall also maintain a structural separation of 35 feet from any Resource Protection Area (RPA) on the property.
11. Severability. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of December, 2004.

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ZONING CASE NOS. Z-3-02 & Z-4-02. MASTER PLAN CASE NO. MP-1-02. SPECIAL USE PERMIT CASE NO. SUP-21-04. U.S. Home - Colonial Heritage Proffer Amendment, Master Plan Amendment, Boy Scout Property Rezoning, and Rural Cluster Special Use Permit Staff Report for the December 14, 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 these applications. It may be useful to members of the general public interested in these applications.

PUBLIC HEARINGS

Planning Commission: Building F Board Room; County Government Center
November 4, 2002, 7:00 p.m. (Deferred)
December 2, 2002, 7:00 p.m. (Indefinitely Deferred)
October 4, 2004, 7:00 p.m. (Deferred)
November 1, 2004, 7:00 p.m.
Board of Supervisors: December 14, 2004, 7:00 p.m.

SUMMARY FACTS

Applicants: Mr. Alvin Anderson and Mr. Gregory Davis of Kaufman & Canoles
Land Owner: Colonial Heritage, LLC
Proposal: Amend the existing Colonial Heritage Master Plan and Proffers; incorporate the PSA portion of the Boy Scout property into the previously approved Colonial Heritage development; allow a 50-lot rural cluster development on a portion of the Boy Scout property located outside the PSA.
Location: 6175, 6799, and 6993 Richmond Road; 499 Jolly Pond Road
Tax Map/Parcel Nos.: (23-4)(1-21);(24-3)(1-32); (31-1)(1-11); (22-4)(1-7)
Primary Service Area: Colonial Heritage, Inside; BSA, ± 229 acres Inside; ± 503 acres Outside
Parcel Size: Colonial Heritage ± 722 acres; Boy Scout property ± 732 acres
Existing Zoning: Colonial Heritage is zoned MU, Mixed Use, with Proffers
BSA property is zoned A-1, General Agricultural
Proposed Zoning: Colonial Heritage - MU, Mixed Use with Amended Proffers
BSA property inside the PSA - MU, Mixed Use with Proffers
BSA property outside the PSA - A-1, General Agricultural with Proffers
Comprehensive Plan: Low-Density & Moderate-Density Residential, Mixed Use and Rural Lands

STAFF RECOMMENDATION:

Staff recommends the Board of Supervisors approve the proposed Colonial Heritage proffer and master plan amendments, Boy Scout property rezoning, and accept the voluntary amended and restated proffers. Staff also recommends that the Board of Supervisors approve the special use permit application for the proposed 50-lot rural cluster development with the conditions contained in the attached resolution which staff believes sufficiently mitigate the impacts created by the development.

Staff Contact: Christopher Johnson, Senior Planner Phone: 253-6685

Proposal Changes Made after Planning Commission Consideration:

The applicants submitted revised proffers on December 2, 2004, which contain one significant change to previous versions of the proffers that were submitted with this proposal. Section I (8) has been added which proffers a cash contribution to the County in the amount of \$1,500,000 in lieu of any obligation in the adopted proffers to convey or dedicate land for a public-use site. The cash contribution would be payable to the County on or before sixty days after the date of final approval by the Board of Supervisors of both the rezoning applications, the master plan amendment, and the rural cluster special use permit. The monies would be available for any project in the County's Capital Improvement Plan.

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

PROJECT HISTORY

On November 27, 2001, the Board of Supervisors approved rezoning and master plan applications (Case Nos. Z-4-00 and MP-1-01) for a 2,000-unit, gated and age-restricted community known as Colonial Heritage at Williamsburg. The applications rezoned approximately 777 acres from A-1, General Agricultural, and M-1, Limited Business/Industrial, to MU, Mixed Use, with proffers. The master plan for the development included 425,000 square feet of commercial development fronting on Richmond Road. The owner, U.S. Home Corporation, has marketed the community to retirees and those approaching retirement, and restricts the age of residents to 55 and above through proffers and covenants. The community will focus on an 18-hole golf course with associated amenities and will provide several residential products, including single-family, townhomes, and multifamily condominiums.

A provision of the proffers accepted by the Board in November 2001 dealt with the possible conveyance of one of two public-use sites shown on the approved Master Plan by U.S. Home for certain public uses needed to offset the public costs associated with the U. S. Home project. As an alternative to the donation of a public-use site, the proffers allowed the Board the option to elect to receive a \$750,000 cash contribution for use toward the acquisition of a public-use site or other capital projects, the need for which being generated by the Colonial Heritage at Williamsburg project. The proffers required the Board to make an election to receive the real property or the cash contribution within thirty calendar days of the receipt of a draft groundwater withdrawal permit from the Department of Environmental Quality. A draft groundwater withdrawal permit was issued to the James City Service Authority on October 30, 2002. On November 26, 2002, the Board adopted a resolution selecting a public-use site over the cash contribution. The proffers grant U.S. Home the option of selecting which of the two possible public-use sites they wish to convey to the County within three years of the date of approval of the rezoning.

In 2002, the applicant filed a rezoning application to incorporate the ± 732-acre Boy Scout property into the existing Colonial Heritage at Williamsburg development. This rezoning application, along with associated proffer and master plan amendment applications, was indefinitely deferred at the request of the applicant at the December 2, 2002, Planning Commission meeting. Earlier this year, the applicant submitted an amended rezoning application for the Boy Scout property along with a special use permit application for a 50-lot rural cluster development on a portion of the Boy Scout property located outside the Primary Service Area (PSA).

Since the Board approved the Colonial Heritage at Williamsburg proposal in 2001, staff has reviewed and approved more than thirty development plans for a variety of uses including the 40,000-square-foot Colonial Heritage Clubhouse and Aquatic Center, the temporary sales office, model court, and infrastructure improvements. Subdivision plats have also been reviewed and approved for 193 lots within the development. Development plans for an additional 322 lots as well as the 18-hole golf course are currently under review.

PROJECT DESCRIPTION

Mr. Alvin Anderson and Mr. Gregory Davis of Kaufman & Canoles, on behalf of Colonial Heritage, LLC, have applied for a master plan amendment and rezoning of approximately 229 acres from A-1, General Agricultural, to MU, Mixed Use, with proffers to incorporate the PSA portion of the Boy Scout property into the previously approved Colonial Heritage development with no increase to the approved 2,000 residential dwelling units. The applicants have also applied to rezone approximately 503 acres from A-1, General Agricultural, to A-1, General Agricultural, with proffers. The 503-acre portion of the Boy Scout property located outside the PSA would be subject to the amended and restated proffers but would not be subject to the amended master plan. The 229 acre portion of the Boy Scout property located within the PSA is designated Low-Density Residential on the Comprehensive Plan Land Use Map. The 503-acre portion of the Boy Scout property located outside the PSA is designated Rural Lands on the Comprehensive Plan Land Use Map. The Boy Scout property is located at 499 Jolly Pond Road and can be further identified as Parcel No. (1-7) on James City County Real Estate Tax Map No. (22-4).

The applicants have also applied on behalf of Colonial Heritage, LLC, to rezone approximately 722 acres from MU, Mixed Use, with proffers, to MU, Mixed Use, with amended proffers. The purpose of the rezoning is to amend and restate the proffers affecting the existing Colonial Heritage at Williamsburg development. The Colonial Heritage at Williamsburg development consists of three parcels that are designated Low-Density Residential, Moderate-Density Residential, and Mixed Use on the Comprehensive Plan Land Use Map. The properties are located at 6175, 6799, and 6993 Richmond Road and can be further identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (23-4), Parcel No. (1-32), on James City County Real Estate Tax Map No. (24-3), Parcel No. (1-11), on James City County Real Estate Tax Map No. (31-1).

In addition, the applicants have applied on behalf of Colonial Heritage, LLC, for a special use permit to allow a 50-lot rural cluster development in accordance with the provisions of Section 24-214(c) of the Zoning Ordinance. The proposed rural cluster would be located on the portion of the Boy Scout Property located outside the PSA.

The amended Colonial Heritage at Williamsburg master plan proposes up to 1,400 single-family residential lots, 800 townhomes, 240 condominiums (subject to the proffered 2,000-unit cap), and 425,000 square feet of commercial, retail, and office space, 18 holes of golf course, amenities, and open space. If approved by the Board of Supervisors, the proposed master plan amendment and rezoning applications would effectively decrease the overall density of the Colonial Heritage development by spreading the project over an additional 229 acres. The proposed overall density under this proposal would be reduced from 2.6 dwelling units per acre to 2.0 dwelling units per acre.

PUBLIC IMPACTS

Archaeology

— **Proffers:**

The County Archaeological Policy has been proffered by the applicant.

— **Staff Comments:**

The applicant has performed a Phase 1-A archaeological assessment of the 229-acre portion of the Boy Scout property located inside the PSA. The assessment recommends that additional study be performed within the areas of the property that offer moderate potential (approx. 33 acres) and high potential (approx. 113 acres) for archaeological sites. Phase II and Phase III surveys will be performed as required by the Virginia Department of Historic Resources. The proffer is in compliance with the 1997 County Archaeological Policy. Staff has included an SUP condition that will require the applicant to perform an

archaeological assessment on the portion of the Boy Scout property located outside the PSA proposed for the rural cluster development.

Environmental Considerations

— **Watershed:**

Yarmouth Creek

— **Proffers:**

The applicant has proffered to commission a natural resource inventory for the portion of the Boy Scout property located inside the PSA. These investigations will be conducted by personnel qualified to conduct such studies and be submitted to and approved by the Planning Director prior to preliminary site plan or subdivision plan approval for any portion of the development occupied by any Natural Heritage Resource. The applicant has also proffered steep slope protections for lots subdivided or developed on large, contiguous areas of steep slopes and proffered to convey a conservation area of not less than 282 acres to the County on the portion of the Boy Scout property located outside the PSA.

— **Environmental Comments:**

The Boy Scout property located inside the PSA contains approximately 229 acres and includes the land south of Yarmouth Creek and generally north of Jolly Pond Road. Surface water features on the Boy Scout property are located within Yarmouth Creek and its associated tributaries. Wetlands are present in the drainage network that generally bisects the site from north to south perpendicular to Yarmouth Creek. Resource Protection Areas (RPA), a component of the Chesapeake Bay Preservation Ordinance within James City County, have been mapped within Yarmouth Creek and are shown on the amended master plan.

Yarmouth Creek contains over 1,500 acres of wetlands which provide habitat for a diversity of fish, waterfowl, and wildlife, which collectively contribute to the area's exceptional potential for fishing, bird watching, and nature enjoyment. These wetlands are also home to at least one blue heron rookery, multiple bald eagle nesting sites, and several globally rare or State rare plant species. Development at the headwaters of the watershed necessitates the immediate need for effective conservation planning to protect this environmental resource for the future.

The Deer Lake Natural Area is centered on a small ravine that feeds Deer Lake on the Boy Scout property located outside the PSA. The ravine is covered by relatively young forest. The forests surrounding the natural area are young, and have been subjected to substantial clear-cutting in recent years.

The Yarmouth Creek Watershed Management Plan adopted by the Board of Supervisors states that the best way to mitigate environmental impacts created by development within the watershed is through the provision of significant portions of contiguous forests and open space. The 282-acre conservation easement proffered by the applicant adjacent to Yarmouth Creek will provide a substantial benefit to County efforts to protect biodiversity, habitat, and water quality within the watershed.

Staff has included conditions for the rural cluster SUP that require the submittal of a master stormwater plan for the development of lots adjacent to Deer Lake, protection of steep slopes, and the submittal of a perennial stream evaluation to coincide with the submission of any plan of development for the rural cluster.

Fiscal Impacts

— Proffers:

The applicant has not amended the previously proffered cash contributions to the County that were accepted with the approval of the original rezoning application for Colonial Heritage in November 2001.

— Staff Comments:

The James City County Financial and Management Services has reviewed the Revised Fiscal Impact Statement submitted with these applications and agrees with the conclusion that the proposal produces a positive fiscal impact. Since U.S. Home has been approved to build a total of 2,000 homes, the 50 homes to be built on the Boy Scout property outside the PSA will be removed from the Colonial Heritage unit count. The revised fiscal impact analysis assumes that the addition of 229 acres into the Colonial Heritage at Williamsburg development will allow the developer to introduce additional home designs that utilize the larger lot sizes that would be possible within the expanded community. Larger lot sizes and larger homes are anticipated to increase the sales price for homes within the community by 12 percent to \$440,500. The developer anticipates that the average selling price for detached homes and lots outside the PSA would be \$850,000. While the proposed 50-lot rural cluster located outside the PSA would not be subject to the age restrictions of the Colonial Heritage community and is likely to produce impacts such as public education costs, the report anticipates that the fiscal impact to the County would continue to be positive.

Public Utilities

— Proffers:

Water conservation standards will be developed by the owner and approved by the James City Service Authority (JCSA) similar to those which have been developed for the existing Colonial Heritage development. The standards will address such water conservation measures as limitations on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of water resources. The JCSA shall approve the standards prior to final approval for any plan of development on the BSA property. A financial contribution of \$750 for each of the 2,000 residential lots within the development is proffered to the

JCSA to offset the costs of developing water supply alternatives in the County.

— **JCSA Comments:**

An independent central well and storage facility will be required for the proposed rural cluster development since it would be located outside the County's PSA. Connection into existing JCSA facilities will not be permitted from lots located outside the PSA. The independent well shall be designed to provide the necessary fire flow, peak water demands, and irrigation requirements for the development. A hydraulic analysis shall be submitted in accordance with JCSA standards for review and approval.

Schools

— **Staff Comments:**

The proposed rural cluster development on the Boy Scout property located outside the PSA would not be subject to the age restrictions of the Colonial Heritage development. The fiscal impact analysis provided by the applicant estimates that the 50 lots would produce approximately 25 school-age children. The report does not distribute the children by age among the schools which serve this area. While the additional educational costs attributable to the 50-lot cluster development may result in the proposal failing the adequate public facilities schools test, the number of school children that would be generated by a by-right development of the site would be triple the number that would result from the proposed cluster development.

Traffic Impacts

— **2003 Traffic Counts:**

9,279 vehicle trips per day on Centerville Road from Route 60 to Route 678 (Ruth Lane); 8,281 vehicle trips per day on Centerville Road from Jolly Pond Road to Route 1507 (Forest Glen subdivision).

— **2026 Volume Projections:**

Centerville Road, from Longhill Road to Route. 60, 15,000 - "Watch".

— **Road Capacity:**

A two-lane collector road with turn lanes has a capacity of 14,000 vehicle trips per day.

— **Proffers:**

The applicant has proffered a cash contribution to the County of \$40,250 for a pro-rata share of the costs for intersection improvements at the Centerville Road/Jolly Pond Road intersection. The applicant has also proffered to install all required traffic signals when warranted by the Virginia Department of Transportation (VDOT). The applicant has added an additional guarantee to install all traffic signals by proffering a cash deposit of \$150,000 per traffic signal once the 1,500th residential unit has been approved even if warrants established by VDOT have not yet been met. The cash deposit would be held for a period of five years by the County.

VDOT Comments:

VDOT concurs with the traffic engineer's conclusions as presented in the revised traffic impact analysis. VDOT recommends that a northbound left-turn lane on Centerville Road at Jolly Pond Road be constructed with this development.

Staff Comments:

The residential portion of the existing Colonial Heritage development contains two main access points: an entrance/exit off Richmond Road and an entrance/exit on the southern boundary on

Centerville Road. A separate access point will be constructed for the commercial/retail/office area along Richmond Road. Given that the current applications do not propose to increase the total number of residential dwelling units in the development above the 2,000 which are currently approved, the proposed expansion onto the Boy Scout property has relatively few additional traffic-related impacts/effects. A revised traffic study prepared by DRW Consultants, Inc., concludes that there will be no effect on general trip distribution for residential development within Colonial Heritage. The primary change which would result from an expansion onto the Boy Scout property is a shift in the split of residential traffic to the east and north via Richmond Road versus Centerville Road. In other words, the midpoint on the main collector road for equal travel time via Richmond Road versus Centerville Road will shift to the west as more traffic would exit onto Centerville Road than was originally suggested in previous traffic models. Staff continues to believe that the proffered road improvements will result in Richmond Road and Centerville Road maintaining a projected Level of Service of “C” or better for all lanes at buildout.

Parks & Recreation

— Proffers:

The applicant has proffered to construct and convey to the County a public greenway along Jolly Pond Road for the frontage located inside the PSA. A greenway will also be dedicated, but not constructed, along the frontage outside the PSA along Jolly Pond Road and Cranston’s Mill Pond Road. All greenways that were previously proffered within the Colonial Heritage development remain unchanged in the amended and restated proffers.

— Staff Comments:

When the original Colonial Heritage rezoning and master plan applications were approved, the Board of Supervisors had not yet adopted the Greenway Master Plan. The Board adopted the Greenway Master Plan on June 25, 2002. The amended Colonial Heritage master plan application is in general compliance with the recommendations of the adopted Greenway Master Plan with respect to the provision of trails or multiuse paths along all property boundaries. In addition, there are numerous opportunities for interconnections between required trails and paths to existing or planned facilities on adjacent properties.

RURAL CLUSTER SPECIAL USE PERMIT

Section 24-214(c) of the Zoning Ordinance states that a subdivision may be approved with a minimum lot size of less than three acres in the A-1, General Agricultural, zoning district when all of the following conditions are met:

1. The overall gross density of the subdivision shall not exceed one dwelling unit per two acres.
2. There shall be at least three residential lots in the subdivision.
3. No lot shall be less than one acre in size.
4. The subdivision shall only be for single-family detached dwellings.

5. All lots shall front on an approved public street created by the subdivision and no lot shall have direct access to a street not a part of the subdivision.
6. Provisions shall be made in subdivision plats and lot conveyances to ensure that lot purchasers have adequate notice regarding limitations on resubdivision of parcels and no resubdivision or sale by any means shall be permitted which would in any way create a violation with this chapter.
7. The general design standards of this section shall be complied with.
8. The subdivision design shall provide good building sites and at the same time make best use of topography and minimize grading and destruction of natural vegetation.
9. The subdivision design shall provide for protection of conservation areas as specified in the Comprehensive Plan or other sections of this chapter.
10. No more than 30 percent of any lot shall be located in a floodplain area as defined by this chapter; provided, however, that up to 50 percent of the area of any lot may be covered by the waters of the lake, pond, or canal planned or approved as a part of and wholly within the subdivision.
11. Maintenance of any common open space shall be assigned to a homeowners association or other approved entity.
12. Lots shall be arranged and building sites shall be designed so as to promote a harmonious relationship with the built environment and the existing public streets and roads; and to this end, the design shall employ such techniques as may be appropriate to a particular case, including location of lots of various sizes, location of building sites with respect to project boundary lines, location of open space and buffer areas, and maintenance of vegetation.
13. All structures shall be located a minimum of 150 feet from all roads existing prior to the platting of the subdivision.

— **Staff Comments:** The proposed 50-lot rural cluster, with the recommended conditions, is in compliance with the A-1, General Agricultural, zoning ordinance conditions as well as the Rural Land Use Standards of the Comprehensive Plan.

COMPREHENSIVE PLAN

The Colonial Heritage at Williamsburg development is located west of Richmond Road and north of Centerville Road. The Boy Scout property is located east of Cranston’s Mill Pond Road and north of Jolly Pond Road. Centerville Road and Richmond Road are listed as Community Character Corridors (CCC) in the Comprehensive Plan.

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

The 229-acre portion of the Boy Scout property located inside the PSA is designated Low-Density Residential on the Comprehensive Plan Land Use Map.

2. Low-density areas are residential developments on land suitable for such developments with overall densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher-quality design, a residential development with greater density than one unit per acre is not recommended unless it offers particular benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open-space development design. Such design may include maintaining open fields, retaining natural vegetative buffers around water bodies or wetlands, preserving historic sites, creating adequate recreational areas, designing effective pedestrian circulation to include trail systems, and ensuring that the common land adjoins open space on

adjacent parcels.

Low-Density Residential areas are located inside the PSA and where natural characteristics such as terrain and soils are suitable for residential development. Low-density areas are located where public services and utilities exist or are expected to be expanded to serve the site over the next 20 years. Timing and density of the development of particular sites within low-density areas will depend on an acceptable level of service of roads and other public services. The timing and density of development for a Low-Density Residential site may also be conditioned upon the provision of least cost housing or the provision of open space.

The 503 acre portion of the Boy Scout property located outside the PSA is designated Rural Lands on the Comprehensive Plan Land Use Map.

3. Rural Lands are areas containing farms, forests, and scattered houses, exclusively outside the PSA, where a lower level of public service delivery exists or where utilities and urban services do not exist or are not planned for the future. Rural residential uses associated with limited agricultural and forestal activities are appropriate when overall density is no more than one unit per three acres and soils are suitable for individual waste disposal systems. Residential development is only appropriate when it meets the Rural Lands Development Standards of the Comprehensive Plan and minimize adverse impacts on rural lands. Concentrations of residential development such as large scale subdivisions will interrupt rural qualities sought to be preserved.

Rural Land Use Standards

4. Development Standards are intended to provide a basic framework for evaluating rezoning and special use permit proposals and to provide a guide for accommodating land uses in a manner harmonious with the natural and built environment. Rural Land Use Standards are meant to further provide a means to preserve the natural, wooded, and rural character of the County. The proposed rural cluster will specifically locate residential lots outside of sensitive areas and utilize the existing topography and natural terrain, vegetation, trees, and tree lines to the maximum extent possible. The development will be well screened from public right-of-way to minimize the visual presence of the development and preserve the rural character of the surrounding area. The Rural Standards seek to discourage conventional large-lot residential subdivisions in the rural areas through a preferred pattern of guidelines which include minimizing the impact of residential development by preserving a substantial amount of the development in an undivided block of land for permanent open space. Any open space provided to meet these standards should be placed in a conservation easement to ensure that the land would remain undeveloped. The proposed cluster will dedicate a 282-acre conservation easement to the County to address this guideline. In addition to the conservation easement, a large portion of the remaining acreage within the cluster development will remain as open space which results in the preservation of over two-thirds of the site as permanent open space. The goals of preserving open space are intended to preserve wetlands, steep slopes, stream corridors, wildlife habitats, and environmentally sensitive lands. The layout of the cluster development will preserve environmentally sensitive areas that contain rare and threatened species and steep slopes will be further protected by the recommended SUP conditions.

- **Staff Comments:** The proposed rural cluster development limits the number of lots to 50, which is less than a third of the number of residential lots which could be developed by-right under the current A-1 zoning of the property. Development of the property under a by-right scenario would be unlikely to see the preservation of such a significant portion of the property in meaningful, permanent open space. Due to these factors, the proposed design of the subdivision, and the recommended conditions, staff finds that the proposed rural cluster development is consistent with the rural lands designation and the Rural Land Use Standards in the Comprehensive Plan.

RECOMMENDATION:

Staff finds that the proposed Colonial Heritage proffer and master plan amendments and Boy Scout property rezoning are consistent with surrounding zoning and development, and consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve the Colonial Heritage proffer and master plan amendments, Boy Scout property rezoning, and accept the voluntary amended and restated proffers.

Staff believes that the proposed rural cluster is substantially different than a by-right residential development, and therefore meets the Rural Land Use Standards in the 2003 Comprehensive Plan. The dedication of a 282-acre conservation easement to the County will protect and preserve a significant portion of contiguous forest and environmentally sensitive lands within the non-PSA portion of the Boy Scout property which is consistent with the primary objective of the Yarmouth Creek Watershed Management Plan. The development limitation of 50 lots within the proposed rural cluster development substantially addresses the goals and intent of the Rural Land Use Standards in the Comprehensive Plan which discourages conventional large-lot residential development. By-right residential development of the non-PSA portion of the Boy Scout property could yield upwards of 150 lots, which would not be subject to the proffered 2,000-residential-unit density cap. Staff recommends that the Board of Supervisors approve the proposed 50-lot rural cluster development on the non-PSA portion of the Boy Scout property with the following conditions which staff believes will sufficiently mitigate the impacts created by the development.

1. **Development Limitation.** No more than fifty residential lots shall be platted on the portion of the Boy Scout of America (BSA) property located outside the PSA. Any residential lots developed on the BSA property located outside the PSA shall be subject to the 2,000-residential-unit density cap.
2. **Conservation Easement.** A conservation easement shall be submitted for review and approved by the County Engineer prior to issuance of a land-disturbing permit for any related plan of development of the portion of the BSA property located outside the PSA. The conservation easement shall be dedicated to James City County or an agency acceptable to the County prior to final site plan or subdivision approval for any plan of development or subdivision of lots for the ± 282 acres shown on the plan “Special Use Permit Plan on a Portion of Colonial Virginia Council, Boy Scouts of America, a Virginia Corporation” prepared by AES Consulting Engineers, September 24, 2004. The area within the conservation easement shall be available and the owners shall retain the right to utilize the open space and conservation area for stormwater management structures and facilities, required open space, required impervious/pervious cover calculations, and watershed protection measures for the Colonial Heritage development and the 50-lot rural cluster. The conservation easement shall clearly state that no clearing, land disturbing, or development shall occur on the ± 282 acres unless otherwise approved by the Planning Director.
3. **Buffers.** A minimum 150-foot buffer shall be maintained along Jolly Pond Road and Cranston’s Mill Pond Road. That buffer shall remain undisturbed with the exception of breaks for any entrance road, pedestrian connections, utilities, walking, hiking and biking trails, any required clearing necessary

to create adequate sight distance, and other uses specifically approved by the Planning Director. The Planning Director shall approve the design of such features located within the required buffer.

4. Vehicular Access. Access to the 50-lot cluster development shall be from a single-entrance road onto Jolly Pond Road unless a second-entrance road is approved by the Planning Commission following the review of the Development Review Committee.
5. Central Well. An independent central well shall be required for the proposed cluster development. Connection into existing JCSA facilities shall not be permitted from outside the PSA. The independent well shall be designed to provide the necessary fire flow, peak water demands, and irrigation requirements for the development. A hydraulic analysis shall be submitted in accordance with JCSA standards for review and approval prior to final approval being granted for any plan of development or subdivision of lots of the property located outside the PSA.
6. Water Conservation. The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the JCSA. The applicant shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of water resources. The JCSA shall approve the standards prior to final approval for any plan of development on the portion of the BSA property located outside the PSA.
7. Archaeology. Prior to issuance of a land-disturbing permit for any portion of the BSA property located outside the PSA, the applicant shall provide written evidence to the Planning Director which demonstrates that the recommendations of a professional archaeologist have been implemented in a manner consistent with the preservation objectives of the Board of Supervisors Archaeological Policy, as determined by the Planning Director or his designee.
8. Master Stormwater Plan. A Master Stormwater Plan shall be submitted with the development plan for the alternative which is submitted for review and approval by the Environmental Director. The Master Stormwater Plan should specifically address how Deer Lake will be utilized as a primary BMP (by use of drawings/narratives), whether additional onsite structural or non-structural practices are necessary, and whether there is a better site design/low-impact development component proposed for stormwater compliance.
9. Steep Slopes. Any plan of development for the portion of the BSA property located outside the PSA shall maintain a separation of at least 35 feet between the top of 25 percent and steeper slopes and any structure and a 20-foot separation from the limits of grading to the top of 25 percent and steeper slopes. This is intended to apply to the larger, contiguous areas of steep slopes, not isolated areas, as determined by the Environmental Director. The Environmental Director shall have the ability to grant variances from these criteria to provide flexibility in application of this condition.
10. RPA/Perennial Stream. The applicant shall conduct a perennial stream evaluation which shall receive approval from the Environmental Director prior to preliminary approval being granted for any plan of development of the portion of the BSA property located outside the PSA. If perennial streams are present on the site, a 100-foot buffer shall be required around them and any wetlands contiguous to and connected by surface flow to the stream. Any plan of development for the portion of the BSA property located outside the PSA shall also maintain a structural separation of 35 feet from any RPA on the property.

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

Christopher Johnson

CONCUR:

O. Marvin Sowers, Jr.

CJ/gs
z302_Z402_MP102_SUP2104.(121404).wpd

ATTACHMENTS:

1. Unapproved Planning Commission Minutes from November 1, 2004
2. Location Map
3. Amended and Restated Proffers, dated December 2, 2004
4. Revised Fiscal Impact Statement, dated July 23, 2004
5. Special Use Permit Plan, dated December 3, 2004 (Separate Attachment)
6. Master Plan Amendment, dated December 3, 2004 (Separate Attachment)
7. Rezoning and Master Plan Resolution
8. Special Use Permit Resolution

MEMORANDUM

DATE: December 14, 2004
TO: The Board of Supervisors
FROM: Scott J. Thomas, Senior Engineer
SUBJECT: Stormwater Task Group Special Stormwater Criteria and Offsite Open Space Program

During the Board Work Session on November 23, 2004, the Stormwater Task Group (STG) outlined its recommendations to implement *Special Stormwater Criteria (SSC)*, an *Offsite Open Space Program* and general revisions to the County Best Management Practice (BMP) Manual. As a result of questions and comments by the Board, the STG coordinated and revised SSC to address Board concerns. Also, the Board decided that the recommendations should be subject to the public hearing process before action was taken on the recommendations.

There were two questions the Board wanted resolved as it pertained to SSC. The first question was whether SSC would apply to single-family lots under the building permit process and the second question was whether the SSC procedure should be based on site, project, or disturbed area. Following the Work Session, the STG reached consensus and the final draft of the SSC paper was revised to reflect that SSC is not intended to apply to single-family lots under the building permit process and that the Special Stormwater Application Matrix (Table SSC-1) will be based on "disturbed area." Revisions to the SSC paper for both these items can be found on Pages 8 and 5 of the SSC paper, respectively.

It should be noted that SSC will not apply to single-family lots under the normal plan of development building process. However, should an exception or variance be necessary to County ordinances, such as allowing for single-family impacts to Resource Protection Area (RPA), SSC could be applied to that application as part of a condition for approval.

The final draft of the SSC paper (dated December 14, 2004) is attached along with the stand-alone copy of the *Offsite Open Space* program.

Staff recommends adoption of the resolution in accordance with the proposed implementation schedule.

Scott J. Thomas

CONCUR:

Darryl E. Cook

SJT/gb
stormwtrtask2.mem

Attachments

RESOLUTION

STORMWATER TASK GROUP -

SPECIAL STORMWATER CRITERIA AND OFFSITE OPEN SPACE PROGRAM

WHEREAS, the Board of Supervisors, on February 26, 2002, adopted eight goals and 21 of 24 priorities associated with the Powhatan Creek Watershed Management Plan (Priority Nos. 3, 4, and 11 were not adopted); and

WHEREAS, the Board of Supervisors, on October 14, 2003, adopted the Yarmouth Creek Watershed Management Plan dated July 14, 2003, with the exception of Priority No. 3, Special Stormwater Criteria; and

WHEREAS, Priority No. 7 of the Powhatan Creek Watershed Management Plan refers to “Special Stormwater Criteria in sensitive stream areas and conservation areas”; and Priority No. 3 of the Yarmouth Creek Watershed Management Plan refers to “adopt Special Stormwater Criteria (SSC) in the watershed to increase groundwater recharge in the development process”; and

WHEREAS, the Board of Supervisors authorized the formulation of a Stormwater Task Group (STG) to develop *Special Stormwater Criteria (SSC)*, an *Offsite Open Space Program* and perform general revisions to the County Best Management Practice (BMP) Manual; and

WHEREAS, the 2003-2004 STG conducted a series of fourteen monthly meetings between June 20, 2003, and October 15, 2004, to accomplish their objectives; and

WHEREAS, the STG presented recommendations to the Board of Supervisors at a Work Session on November 23, 2004.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the *Special Stormwater Criteria (SSC)*, the *Offsite Open Space Program*, and associated revisions to the County BMP Manual as developed by the 2003-2004 STG and authorizes proceeding with its implementation recommendations as follows:

1. Incorporate *Special Stormwater Criteria (SSC)* and the *Offsite Open Space Program* into the revised County BMP Manual.
2. Submit the revised County BMP Manual to appropriate State regulatory agencies for review and comment.
3. Use the revised County BMP Manual effective January 1, 2005, or later pending review by appropriate State agencies and following appropriate notification to all known manual users.

4. Incorporate language for use of *Special Stormwater Criteria (SSC)* into an appropriate section of the County's Chesapeake Bay Preservation Ordinance at an appropriate future time.
5. Conduct follow-up implementation meetings with the STG and report to the Board as necessary or as directed.

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 14th day of December, 2004.

stormwtrtask2.res

SPECIAL STORMWATER CRITERIA TASK GROUP

***Special Stormwater Criteria (SSC)
in James City County, Virginia***

DRAFT

**Final Draft
December 14, 2004**

Special Stormwater Criteria (SSC) in James City County, Virginia

Introduction:

Special Stormwater Criteria (SSC) was developed as a result of goals and priorities as established by approved watershed management plans in James City County and following a year long process involving a multi-disciplined stormwater task group. Objectives of *Special Stormwater Criteria (SSC)* include:

- Protection of specific stream reaches from accelerated **channel erosion**;
- Protection of conservation areas from the impacts of **stormwater runoff**;
- Protection of high quality wetlands from the effects of **altered water level fluctuation**;
- Developing more effective criteria and locations for **stormwater practices** in watersheds for new development;
- Retrofitting of existing facilities and **uncontrolled areas** of the watershed to **improve** water quality;

Special Stormwater Criteria (SSC) were developed to achieve two primary goals. The first is to preserve pre-development hydrology to reduce impacts to **high quality streams**. The volume of recharge that occurs on a site depends on **slope, soil type, vegetative cover**, precipitation and evapo-transpiration. Sites with natural ground cover, such as **forests and meadows**, have higher recharge rates, less runoff and greater **transpiration losses** under most conditions. This helps to preserve existing water table elevations thereby **maintaining the hydrology** of streams and wetlands during dry weather. Because development **reduces natural cover** and increases impervious surfaces, a **net decrease in recharge rates** is inevitable.

The second primary goal of *Special Stormwater Criteria (SSC)* is to provide enhanced water quality **treatment of stormwater runoff**. **Current (traditional)** stormwater management for water quality in watersheds is characterized by the use of a single structural BMP practice, namely a wet or dry pond, to manage stormwater from a contributing drainage area. However, many of these practices have not been properly maintained, reducing their pollutant removal capability. In addition, although the County's codes and ordinances allow for reduced impervious cover and open space **preservation in site design**, it does not appear that developers consistently exercise those options. **More sensitive site design** can play a significant role in reducing water quality and hydrologic impacts resulting from development.

In general, *Special Stormwater Criteria (SSC)* are considered to be one step above and beyond traditional County stormwater management criteria, focusing more on the aspects of site design and source control - as opposed to traditional stormwater treatment at the end of stormwater drainage collection and conveyance systems. Use of *Special Stormwater Criteria (SSC)* on a proposed development site does not remove the need to provide traditional stormwater quality treatment and quality control in accordance with current County Chesapeake Bay Preservation and Erosion and Sediment Control ordinances, the County BMP manual, and the Virginia Erosion and Sediment Control and Stormwater Management Handbooks. The use of additional measures in the drainage basin beyond traditional methods may, however, subsequently affect post-development site hydrology and reduce the peak rate and volume of runoff, thereby perhaps reducing the size or storage volume requirements of traditional end-of-pipe detention or retention facilities.

When is Special Stormwater Criteria (SSC) Applied?

Special Stormwater Criteria (SSC) are applied to plans of development under the following two (2) situations.

SSC Type 1 Watershed Management Plans. Special Stormwater Criteria designation is placed on a development project, in whole or part, due to the site being situated in a defined *Special Stormwater Criteria (SSC)* area consistent with an approved watershed management plan in James City County. Approved watershed management plan means the plan has been approved by the Board of Supervisors. Examples include the Powhatan Creek and Yarmouth Creek watershed management plans. The term watershed management plans also includes any associated subwatershed or catchment maps and/or specific subwatershed or catchment strategies in narrative portions of the plan or special studies.

SSC Type 2 Variance Process. Special stormwater criteria designation is placed on a development project, in whole or part, as part of a mitigation or compensatory condition placed on the project as a result of the granting of a waiver or exception to the County's Chesapeake Bay Preservation or Erosion and Sediment Control ordinances. For example, Special Stormwater Criteria (SSC) designation may be applied to a development site, in whole or part, as a result of an administrative or Chesapeake Bay Board approval to impact Resource Protection Area (RPA) or as a result of administrative approval to impact steep slopes or to vary from established minimum standards & specifications as outlined in the County BMP manual, the Virginia Erosion and Sediment Control Handbook and/or the Virginia Stormwater Management Handbook.

Special Stormwater Criteria (SSC) may apply to the site, in whole or part, depending on the location of the site under the Type 1 criteria or as identified by the plan-approving authority under Type 2 criteria. Specific design and construction plan information and details for *Special Stormwater Criteria (SSC)* must be presented for review during submission of the plan of development for the project. For rezoning, special use permit and concept or master plan purposes, detailed design is not necessary. For these instances, the applicant needs only to identify if it is believed that *Special Stormwater Criteria (SSC)* will apply to the site in whole or part.

How is Special Stormwater Criteria (SSC) Applied?

Step 1 – Watershed Management Plan (Type 1) Determination:

Utilize developed project site mapping in conjunction with available County mapping to identify if the proposed development site is situated in whole or part in a defined *Special Stormwater Criteria (SSC)* area in accordance with any County approved watershed management plans. If no, proceed to Step 2. If yes, proceed to Step 3.

Step 2 - Variance (Type 2) Determination:

Determine if a waiver or exception is required to the County's Chesapeake Bay Preservation or Erosion and Sediment Control ordinances or if a variance is required to the County BMP manual, VESCH or VSMH for the project and if the possibility exists for *Special Stormwater Criteria (SSC)* to be applied to the site, in whole or part, by the plan-approving authority as a condition, mitigation or compensation measure for those requests. If yes, proceed to Step 3. If no, *Special Stormwater Criteria (SSC)* does not apply to the proposed development site.

Step 3 - Soils Inventory:

At this point, the user has the option to proceed directly to Step 6, if desired. However, as one of the primary goals of *Special Stormwater Criteria (SSC)* is to save existing Hydrologic Soil Group A & B soils on the site to the greatest extent possible and as all plan of development projects require an environmental inventory and soils map to meet Chesapeake Bay Preservation and erosion and sediment control plan requirements, it is encouraged that this step not be bypassed but included in the *Special Stormwater Criteria (SSC)* process.

Using the Environmental Inventory and soils map as compiled for the project, identify Hydrologic Soil Group (HSG) soil mapping units contained within **the anticipated** limits of work for the project. The limits of work is defined as the ultimate limit of **impact** for the project due to clearing, land-disturbing and site development activities including **offsite utility** connections and installation of temporary erosion and sediment control measures. Hydrologic soil mapping units shall be based on the latest edition of the *Soil Survey of James City and York Counties and the City of Williamsburg* as published by the United States Department of Agriculture, Soil Conservation Service. Hydrologic soil group A and B soils are defined as soils having high infiltration rates even when thoroughly wetted (low runoff potential) and soils having moderate infiltration rates when thoroughly wetted, respectively. After the Hydrologic Soil Group inventory is completed, proceed to Step 4.

Step 4 - HSG A&B Soil Group Determination:

If there is a substantial amount of defined Hydrologic Soil Group (HSG) A & B soil mapping units within (inclusive to) the defined limits of work for the project, proceed to Step 5. A substantial amount is regarded as at least 10,000 square feet or more or greater than about 2 percent of the total site area, **whichever is greater**. If there are no Hydrologic Soil Group (HSG) A & B soils, or minor amounts or isolated pockets of HSG A& B soils (generally less than about 5,000 square feet) within the defined limits of work for the project, proceed to Step 6.

Step 5 - Saving HSG A&B Soils:

If all defined Hydrologic Soil Group (HSG) A & B soils as identified in Steps 3 and 4 and within the defined limits of work are saved, then *Special Stormwater Criteria (SSC)* has been satisfied. The intent to preserve predevelopment infiltration and recharge characteristics of the site is maintained. Do not proceed any further. Saved is defined as sufficiently maintaining the natural recharge capabilities of the soil compared to predevelopment conditions and there are no direct impacts to HSG A&B soil mapping units due to clearing, land-disturbing or site development activities. If any Hydrologic Soil Group A & B mapping units are directly impacted in any manner whatsoever due to clearing, land-disturbing or site development activities, then proceed to Step 6.

Step 6 – Apply Special Stormwater Criteria (SSC) Measures

Apply *Special Stormwater Criteria (SSC)* measures to the project site in accordance with the matrix shown in Table SSC-1 and the Menu of Practices shown in Table SSC-2. Measures must be fully applied to the site development project or as part of the stormwater management plan for the site in accordance with the references indicated or in accordance with other accepted principles and practices. If the references are not utilized, documented evidence of other established planning, design and construction principles and practices may be required.

No more than two (2) of the same SSCP measures can be selected to meet SSC criteria. SSC credit cannot be taken for those measures being performed to meet traditional (ie. 10 point system) stormwater management criteria.

Table SSC-1: Special Stormwater Criteria Application Matrix

<i>Designation</i>	<i>Disturbed Area</i>	<i>Measures</i>
Redevelopment	Any Size	1 unit measure from the SSCP Menu
New Development Projects		
SSC Class 1	2,500 square feet to 10,000 square feet	1 unit measure from the SSCP Menu
SSC Class 2	10,000 square feet to 1 acre	2 unit measures from the SSCP Menu
SSC Class 3	1 to 10 acres	3 unit measures from the SSCP Menu
SSC Class 4	10 to 50 acres	5 unit measures from the SSCP Menu
SSC Class 5	50 to 200 acres	7 unit measures from the SSCP Menu
SSC Class 6	200 acres or more	Contact Plan-Approving Authority for Pre-Application Meeting and determination.

Disturbed Area is defined as the total area of the land-disturbing activity for the project, consistent with definitions as outlined in the County's Erosion and Sediment Control ordinance and clearing plan requirements of the County's Chesapeake Bay Preservation ordinance. Disturbed area is normally the area to be cleared and graded inclusive within the defined limits of work for the project and as easily identified in the site tabulation and land-disturbing permit application for the project.

SSCP means Special Stormwater Criteria (SSC) Practice.

Table SSC-2: Menu of Special Stormwater Criteria Practices (SSCP's)

<i>Type</i>	<i>Unit</i>	<i>Description</i>	<i>Restrictions/Limitations</i>	<i>Reference Standards</i>
Saving HSG A&B Soils				
SSCP # 1	1/2 unit	Save HSG A&B Soils to the Greatest Extent Possible	1/2 unit for each 25% of HSG A&B soils from Steps 3 and 4 saved.	None
Limit Impervious Cover				
SSCP # 2	1 unit	Use of pervious pavers	1,000 sf minimum size, must infiltrate runoff,	7
SSCP # 3	1 unit	Shared parking	Legal shared parking agreement in place; meets Planning requirements	9
On-Site Design Principles				
SSCP # 4	1 unit	Disconnection of impervious areas	Applied site-wide, all downspout locations	1, 5, 6
SSCP # 5	1 unit	Increasing time of concentration flow paths	Applied site-wide	5

SSCP # 6	1 unit	Increase surface roughness "n"	Applied site-wide	5
SSCP # 7	1 unit	Maintain sheet flows	Applied site-wide	5
SSCP # 8	1 unit	Limit use of underground storm drain piping	Applied site-wide	2, 5
Offsite Design Practices				
SSCP # 9	2 units	Retrofit a ranked priority offsite BMP	Per approved watershed management plans	1, 2, 3, 11
SSCP # 10	3 units	Construct offsite BMP in a previously "Uncontrolled Area"	easements	1, 2, 3
SSCP # 11	T.B.N.	Improve an offsite BMP	Not per an approved WMP; not part of a traditional SWM plan; permission required; BMP size must be considered in assigning unit value.	1, 2, 3
Structural Practices				
SSCP # 12	1 unit	Bioretention basin	650 square ft. minimum size	1, 3, 4, 5, 6
SSCP # 13	1 unit	Dry swales	250 l.f. minimum	1, 3
SSCP # 14	½ unit	Sumped or bottomless inlets	Applied at structures near to BMPs	13
SSCP # 15	1 unit	Manufactured BMP systems	Ultra-urban areas, water quality, manufacturers specs., preapproval	3, 7
SSCP # 16	1 unit	Infiltration trenches/pits	Minimum Size 100 sf, minimum drainage area ¼ acre	1, 3
SSCP # 17	1 unit	Dry wells	Applied site-wide, all major downspouts	1, 3, 5
SSCP # 18	1 unit	Permanent check dams in swales (wet swales)	Applied site-wide, durable materials	1, 5
SSCP # 19	1 unit	Level spreaders	Applied site-wide, incidental outfalls	2, 5
SSCP # 20	1 unit	Enhanced outlet protection measures at pipe & channel outfalls	Applied site-wide, all major storm pipe outfalls, 12" diameter or greater	2
SSCP # 21	1 unit	Flat, large bottom width swales	Applied site-wide, applies to VESCH 3.17 stormwater conveyance channels	1, 2, 3, 5
SSCP # 22	1 unit	Alternative measures – emerging technology	Preliminary Approval Required by the Plan-Approving Authority	7

Non-Structural Practices				
SSCP # 23	1 unit	Filter/buffer strips	Applied site-wide	5
SSCP # 24	1 unit	Get an Inspection/ Maintenance Agreement for a BMP which does not have one.	Responsible parties; recorded per County process requirements	12
Slope / Grading Practices				
SSCP # 25	1 unit	Enhanced slope stabilization practices on all graded cut-fill slopes	Applied site-wide, over 6 ft. height; 1,000 s.f. minimum; non-degradable	2, 7
SSCP # 26	1 unit	Use of flatter site grades	Applied site-wide, not into steep slope or RPA buffer	5
SSCP # 27	1 unit	Reduced fill slope heights	Applied site-wide	5
SSCP # 28	1 unit	Enhanced channel stabilization practices within stormwater conveyance channels	Applied site-wide, all major conveyance channels; non- degradable	2, 7
On-Lot Stormwater Management Practices				
SSCP # 29	1 unit	Rain barrels/cisterns	Applied site-wide, covenants	5, 7
SSCP # 30	1 unit	On-lot rain gardens	Applied site-wide, covenants	5
SSCP # 31	2 units	Green roofs	Per Building Codes	5, 10
Enhancement of Traditional Onsite BMPs				
SSCP # 32	½ unit per BMP	Increased pond buffer	15 feet minimum expansion width	1, 3, 8
SSCP # 33	½ unit	Enhanced shoreline erosion control, landscaping and stabilization	Full shoreline perimeter	1, 3
Stream Restoration				
SSCP # 34	T.B.N	Bioengineering stream bank stabilization	T.B.N	2
SSCP # 35	T.B.N.	Structural stream bank stabilization	T.B.N.	2
SSCP # 36	T.B.N.	Stream bank stabilization of ranked priority stream	T.B.N.	2, 11

Other				
SSCP # 37	T.B.N.	All recommended WMP subwatershed or catchment strategies are applied to the site	Per approved watershed management plans. If no strategies, no unit credit can be taken.	All
SSCP # 38	½ unit	“Weighted Points over 10” for traditional SWM, 10 point system	½ unit per every 1 point over 10 (ie. 10-point system)	1
SSCP # 39	½ unit	Provide asbuilt drawings for entire storm drainage system	All culverts, storm drainage pipes and stormwater conveyance channels	14

Table Notes:

- SSC is **not** intended to be applied to single-family lots under the building permit process.
- SSC means Special Stormwater Criteria.
- SSCP means Special Stormwater Criteria (SSC) Practice.
- WMP means watershed management plan.
- No more than two (2) of the same SSCP measures can be selected to meet SSC criteria.
- SSC credit cannot be taken for those measures being performed to meet traditional (ie. 10 point system) stormwater management criteria.
- Applied site-wide means to apply across the site to the greatest extent possible.
- T.B.N. means to-be-negotiated on a case-by-case basis with the plan-approving authority.
- Number of Measures required from the Table SSC-1 application matrix and units, restrictions/limitations and reference standards from Table SSC-2 menu may be adjusted by plan-approving authority on a case-by-case basis.

Reference Standards:

1. County BMP Manual
2. Virginia Erosion & Sediment Control Handbook
3. Virginia Stormwater Management Handbook
4. Prince George’s County Maryland, Bioretention Design Manual
5. Low Impact Development Design Strategies, An Integrated Design Approach
6. Low Impact Development Hydrologic Analyses
7. Manufacturer’s Recommendations
8. County Stormwater Management Program
9. Zoning ordinance
10. Applicable building codes
11. Approved County watershed management plans
12. County Land Disturbing permit application procedures
13. City of Virginia Beach or other appropriate sump inlet standards
14. James City County Environmental Division, Stormwater Management/BMP Facilities, Record Drawing and Construction Certification, Standard Forms & Instructions

Future Considerations

During the course of the proceedings for the Special Stormwater Criteria Task Group, many good ideas were identified for incorporation into *Special Stormwater Criteria (SSC)*; however, some were considered to be outside the stormwater management program area. Although not directly applied in the subsequent *Special Stormwater Criteria (SSC)* procedure, they were considered to be important principles to consider and apply but were generally beyond the ability for the task group to change. Many of the issues discussed were closely related to the Builders-for-the-Bay, Better Site Design Roundtable which was being held concurrently with the Special Stormwater Criteria Task Group or were regulated by other County ordinances and processes. The guiding principles, as offered below, were established by the Special Stormwater Task Group. These principles should be considered by decision makers and plan-approving authorities when reviewing changes to current policies and procedures and for the development community to consider when developing a site.

- Support of the consensus agreement to be prepared by the Builders-for-the-Bay in the Better Site Design Roundtable for James City County.
- Sustainability of original designs – ensuring proper maintenance is performed for all stormwater management facilities.
- Support of the preparation of **illicit discharge ordinance and the use of stormwater pollution prevention control plans to control and reduce the risk of spills from areas which store materials that may be harmful to surface and groundwater sources.**
- Consideration for establishment of a program to buy or sell stormwater credits under the traditional or *Special Stormwater Criteria (SSC)* program areas and to allow credit for stream restoration projects.
- **Evaluation of the traditional County 10-point BMP system including consideration for giving extra credit for BMP enhancements above minimum standards, establishing a procedure for allowing BMPs in series; and assigning greater point values for infiltration/recharge and biofilter type BMPs.**
- **Develop watershed basin and sub-basin models to determine nutrient export and recharge targets.**

G4. Offsite Open Space

Normally, 10 BMP points are achieved by the use of structural BMPs and open space preservation on a project site. However, the County also allows the purchase and dedication of offsite open space areas to be credited towards compliance with the 10-point BMP evaluation system. The purpose of this is to allow more flexibility in the administration of the Chesapeake Bay Ordinance water quality compliance criteria, to better protect the health of watersheds by preserving higher quality and more important conservation areas, to assist in the County's open space planning efforts, and to protect valuable habitat for wildlife in the County.

This open space credit is limited to one point or 10% of the total points required for compliance for a specific project unless the open space area to be dedicated is determined by the Environmental Director to have special environmental significance. The credit is intended for use on sites where the developed areas are treated with water quality and stream channel protection BMP facilities but the site is still not able to achieve the required number of points. If local water quality is a concern such as is the case when the project is located in a watershed with an established Total Maximum Daily Load (TMDL), it needs to be demonstrated that onsite BMPs satisfy the requirements of the TMDL.

Eligible Sites

Open space areas that are eligible for offsite credit will be identified by the County based on information from an approved watershed management plan, such as the Powhatan and Yarmouth Creek plans, or in an open space master plan such as environmental greenways in the Greenspace/Greenway Master Plan. However, open space areas that are important for protection of water quality and environmental health can be eligible for dedication if determined to be acceptable by the Environmental Director. The County will establish a priority list of open space areas.

Open space areas will generally possess the three trophic layers of trees, shrubs, and ground cover but non-forested area can be acceptable if they are reforested with seedlings. Eligible areas must be developable land and not include areas already protected by other regulations or programs such as:

- Resource Protection Areas and associated Buffers
- Jurisdictional Wetlands
- Steep Slopes unless placed in a conservation easement
- Scenic Easements, Community Character Corridors unless placed in a conservation easement, and other Landscape Buffers
- Areas included in a PDR or AFD unless placed in a conservation easement
- Floodplains
- Reclaimed Areas such as closed landfills where it is not possible to reestablish all three trophic layers of vegetation.

Amount of Open Space Required

The following Offsite Open Space Matrix presents the area requirements for open space preservation based on the location of the open space area relative to the project site.

OFFSITE OPEN SPACE MATRIX

Location	Non-SSC to SSC	Non-SSC to Non-SSC	SSC to SSC
Offsite in Same Subwatershed	1:1	1:1	1:1
Offsite in Same Watershed	1:1	2:1	2:1
Offsite in Same Major Watershed	2:1	3:1	3:1

Note: *Subwatershed* as delineated in a James City County adopted watershed study
Watershed such as Powhatan Creek, Yarmouth Creek, Mill Creek
Major Watershed - James or York River watershed in James City County
SSC - Special Stormwater Criteria Watershed as identified in an adopted watershed study

- Ratios may be adjusted by Environmental Director if property achieves multiple goals or is on priority conservation area list

Management

The offsite open space area must be located within an acceptable conservation easement or other enforceable legal instrument that ensures perpetual protection of the area, and the easement document must clearly specify how the natural area vegetation will be managed and how boundaries will be marked. (Note: Managed turf is not an acceptable form of vegetation management.) The property can be in either public or private ownership but there must always be an enforceable County conservation easement in place.

Acquisition Options

The open space property can be purchased through a third party arrangement without involvement by the County other than the acceptance and recordation of the appropriate legal document guaranteeing its protection prior to final approval of the plan. If there is an established open space bank in the County in the appropriate major watershed, documentation can be submitted to demonstrate that the required open space has been purchased. If the County has set aside an area of County-owned open space in a conservation easement essentially creating an open space bank, fees can be paid directly to the County for purchasing “credits” towards compliance.