

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

April 12, 2005

7:00 P.M.

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H. PUBLIC COMMENT

I. REPORTS OF THE COUNTY ADMINISTRATOR

J. BOARD REQUESTS AND DIRECTIVES

K. ADJOURNMENT

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF MARCH 2005, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

B. BOARD DISCUSSION

1. Long-Range Capital Planning

Mr. John E. McDonald, Manager of Financial and Management Services, introduced David Rose and Kyle Laux from Davenport & Company LLC.

Mr. Rose and Mr. Laux provided an overview of the Capital Improvement Program Funding including the existing and proposed new Debt Services.

Mr. Bradshaw inquired what interest rate was assumed for the existing and proposed new Debt Service Fund through 2031.

Mr. Rose stated that the assumed interest rate is on the high side for the final maturity of blended rates at approximately 5.75 percent.

Mr. Bradshaw inquired if refinancing of current debt has been considered.

Mr. Rose stated that Davenport & Company LLC monitors the rates and possible refinancing on a regular basis and if an opportunity arises for a refinancing opportunity, the Board will be notified promptly.

Mr. Rose stated that no additional tax rate increase is needed to fund the current Capital Improvements Program as the result of staff's foresight to grow revenues as the County's development continues and the strategic use of \$2.5 million of Debt Service Funds; and with the presumption of a six percent interest rate.

Mr. Rose stated with the doubling of debt outstanding by the end of 2010, the impact to the tax rate because of staff's foresight would only be 2-cents additional to be dedicated for construction of Capital Projects from 2008 to 2012 and another 1-cent in 2013, although this does not include the additional costs for annual operations.

The Board and Mr. Rose discussed the additional \$60 million Capital Improvements Projects that are coming forward and the possibilities of alternatives to locking into a 20-25 year interest rate, and what if one penny of the tax rate was dedicated to the greenspace funds.

The Board and Mr. Rose discussed the AAA rating and the population factors in the determination of the rating; other localities with AAA ratings and their population numbers; the County's debt to income ratio level and keeping it at the current ratio; and the debt per capita ratio policy and the usefulness of this policy.

Discussion was held on greenspace funding options and allocation of one or two cents to the Debt Service Fund in anticipation of expenditures; and the bond referendum question for voters in November.

Mr. McGlennon recommended beginning the additional two-cent allocation to Debt Service Fund by 2008 and suggested beginning it in 2006.

Mr. Rose suggested that if the County begins additional allocation in 2006 rather than 2008, the impact would be that those couple of pennies would be about \$3 million that could shave off the debt service and then the County would be able to tell citizens in the bond referendum of the addition of approximately \$15 million for greenspace.

Mr. Rose presented a financing schedule and recommended the Economic Development Authority meet to approve a documents and parameters resolution for Lease Revenue Bonds, which would result in an anticipated closing and investment of funds by the beginning of June.

Mr. Brown thanked Mr. McDonald, Mr. Rose, and Mr. Laux for the presentation.

At 5:19 p.m., Mr. Brown recessed the Board for a brief break.

At 5:25 p.m., Mr. Brown reconvened the Board.

2. Policy for Wetland, Conservation Easement and RPA Separation Areas

Mr. Darryl Cook, Environmental Director, presented a revised policy for wetlands, conservation easements, and Resource Protection Areas (RPAs) separation areas to protect environmentally sensitive areas from construction work and to permit a buildable area in the backyards for homeowners.

The Board and staff discussed notification to builders and homeowners on the plat that indicates the conservation easement area or the RPA line and the definition and penalties of the easement and RPA; deeds that note restrictions for conservation easements, and the definition of the Chesapeake Bay Resource Protection Area; the education of the general public of the purpose of the easement and RPA; and implications impacting these areas.

The Board directed staff to clarify and specify the definition on what conservation easements the policy will apply to and what type of structures the policy will apply to.

Mr. Rogers stated that builders, through actions of clearing 25-foot space behind the structures, are stating that customers want cleaned up backyards and not to have trees and natural areas right up on the back of the house.

The Board and staff discussed the rationale for a 25-foot setback from RPAs and Conservation easements, the perception that government is trying, through this policy, to make a decision on what type of backyard homes will have for future homeowners, and the expectation of homeowners not to have trees hanging over the home and not have conservation and RPA lines right up on the back of the house

Discussion was held on identifying two separate problems: 1) protection of RPAs, natural open space easements and wetlands; and 2) homeowner expectations of a backyard; the homeowner expectations should be addressed through the Zoning Ordinance, the protection of the RPAs, open space easements, and wetlands should be protected through a policy for an easement; and enforcement of current laws in place to protect the sensitive areas.

Discussion was held on deferring action on the proposed policy, guidance to staff to develop a policy.

Mr. Wanner recommended that the Board defer action on the policy to permit staff the opportunity to look at the pros and cons of various policy implications raised by the Board and permit Mr. Rogers to look at the pros and cons of putting the restraints in an ordinance or policy.

Mr. Brown requested staff come back with a resolution to implement a policy with an associated full detailed policy manual.

C. BREAK

At 6:18 p.m., the Board took a dinner break until 7 p.m.

Sanford B. Wanner
Secretary to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF MARCH 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Grant Dallman, a third-grade student at D. J. Montague Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. David Steele, Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), stated that a study is being coordinated for a pedestrian crosswalk at the intersection of Route 5 and Kingsway and the proposal meets some of the ADA requirements because of the pedestrians using the existing sidewalks. One concern is the number of pedestrians using the sidewalks and requested a recommendation from Mr. McGlennon on when the peak pedestrian traffic occurs.

Mr. McGlennon stated he would speak with the pedestrians and find out.

Mr. Steele stated that Hickory Sign Post Road (Route 629) is currently posted at 35 mph and the road is being studied by the traffic engineering section to reduce the speed to 25 mph. Signs have been replaced, straightened, and cleared; and stated that other than improvement to the bridge and road not much more can be done.

Mr. Steele stated that Monument Drive (Route 644) has been posted as 25 mph.

Mr. Steele stated that traffic engineering and Anheuser-Busch staff have met to address traffic concerns along Route 60 East near the brewery, a resolution has been suggested, and next month a decision should be made on traffic sign postings.

Mr. Steele stated that trimming along Church Lane (Route 1001) will be completed within the next few weeks. The traffic engineering staff and environmental staff are looking into permits to address the erosion problem along Richmond Road near Anderson's Corner; it should be addressed in the next few weeks.

Mr. Steele stated that the specific location along the south embankment at News Road (Route 613) near Old News Road (Route 742) has been identified and will be investigated for ways to correct and prevent erosion problems.

Mr. Brown requested an update on the installation of the traffic light at the intersection of Williamsburg West and Longhill Road.

Mr. Steele stated that the foundation is being designed, the wires for the signal are being put in place, and it is hoped the signal will be in place within the next few months depending upon the availability of steel and resources available by the contractor to complete the work.

Mr. Steele stated that the Public Meeting for the Route 5 Barrett's Ferry Bridge project meeting is scheduled for April 28 at 7 p.m. in the Board Room of Building F at the Government Center at 101 Mounts Bay Road.

Mr. Harrison inquired why the meeting is not being held at Jamestown High School which is closer to the project.

Mr. Wanner and Mr. Steele stated that they would check into the availability of the site for the meeting.

Mr. Steele provided an overview of the drainage watch list and stated that as staff becomes more familiar with the software and the old data is incorporated into the database, the watch list will be more comprehensive and accurate.

The Board and Mr. Steele discussed the information within the list and the missing items.

Mr. Steele stated that next month the database will be updated and the Board will be presented with a cover sheet with a breakdown of the data in the Districts.

Mr. McGlennon requested the speed limit along Lake Powell Road between the airport and Rolling Woods be reduced.

Mr. Harrison requested the condition of Frond Lane, The Meadows subdivision (Route 1467), be addressed.

Mr. Bradshaw thanked Mr. Steele and VDOT in the participation in the "Way Finding" signs in preparation for 2007.

Mr. McGlennon stated that the right-turn lanes on Route 199 East and West at the intersection of Jamestown Road (Route 31) have been opened.

Mr. Steele stated that the sound walls along Route 199 have been completed, grading work up to the new bridge on Route 199 will begin by the end of April, and the intersection work along Route 199 at the intersection of Jamestown Road is almost completed.

E. PRESENTATIONS

1. Mike Maddocks, Williamsburg Area Destination Marketing Committee/Marketing Resource Task Force - GoWilliamsburg Ad Campaign

Mike Maddocks of the Williamsburg Area Destination Marketing Committee (WADMC)/Marketing Resource Task Force (MRTF) provided an overview of the Committee and Task Force and the development of a marketing plan to attract visitors to the region.

Cathy Waltrip, WADMC/MRTF, provided an overview of the collaborative results of the efforts of regional marketing committees, provided an overview of the gowilliamsburg.com web site and its features, and presented the GoWilliamsburg television advertisement.

Mr. Maddocks provided an overview of the media plan for 2005 and thanked the Board for the County's support of this initiative.

Mr. Brown thanked Mr. Maddocks and Ms. Waltrip for the presentation.

2. Volunteer Recognition - Ann Yankovich - Third Quarter, FY 05

Mr. Brown, Judith Knudson, Executive Director of the Williamsburg Area Medical Assistance Corporation (WAMAC), and Carol Schenk, Human Resource Specialist, recognized Ann Yankovich as the volunteer of the third quarter for her assistance and service to the Olde Towne Medical Center and her training and inspiration for new volunteers at the clinic.

F. PUBLIC COMMENTS

Mr. Brown stated that the Board has decided to defer action on the Policy for Wetland, Conservation Easement, and RPA Separation Areas; however, public comment is still invited on the proposal.

1. Mr. Timothy O. Trant, II, Kaufman & Canoles, stated that he, Greg Davis, and Alvin Anderson, represent a number of landowners in the County that will be impacted by the proposed Policy for Wetland, Conservation Easement, and RPA Separation Areas and have been requested by those citizens to evaluate the impact of the proposed policy on them from a legal standpoint, stated that policies are applied by the Board uniformly on each case before the Board and not on a case-by-case basis as suggested in the proposed policy, stated that the proposed policy does not indicate a measurable benefit to the water quality, however, it will have significant economic impact and loss for landowners, stated that the enabling legislation, the Chesapeake Bay Preservation Act requires that action of localities comply with criteria adopted by the Chesapeake Bay Local Assistance Board, which does not embrace the 25-foot setback policy that is proposed by the Board of Supervisors; and stated that policy is overbroad in its endeavor to protect, that conservation easement areas are included in setbacks and should not be given the same consideration as a Resource Protection Area water quality setback.

2. Mr. John Hall, 117 Olde Jamestown Court, distributed to the Board three letters from the office of Congresswoman Jo Ann Davis, House of Representatives, and read the letters that responded to his dissatisfaction with a recent fare increase imposed by the Williamsburg Area Transport Company (WAT) that

indicated that grant funds are available to offset the operating expenses for WAT, and the third letter responded to his request for grant funding for an architect study for an arts center in James City County.

3. Mr. Robert Duckett, Peninsula Housing and Home Builders Association, stated that the proposed policy to add a 25-foot buffer onto an existing buffer is unwarranted; commented on the Chesapeake Bay Act and State's Riparian Buffer Guidance Manual regarding protection of water quality and adequate buffer requirements, which do not support the County's proposal that an additional 25-foot buffer is needed; stated that it is not the County's responsibility to ensure backyard sizes, that sound water conservation practices encourage smaller backyard sizes; and requested members in the audience opposed to the proposed policy raise their hand and be recognized.

4. Mr. Jim Cleary, General Manager of Charles Ross Builder, Inc., 3206 Ironbound Road, stated that he supports the 10-foot scenic buffers, but does not support the proposed policy for an additional buffer-on-buffer as a way to filter sediment entering into the waterways, that already large buffers limit lots ability to be built and the additional buffer would compound the problem, and requested the County look to other ways to mitigate impacts including higher civil penalties for violations and more educational efforts on conservation.

5. Mr. Ed Oyer, 139 Indian Circle, encouraged the Board and citizens to visit the new exhibit at Arlington National Cemetery; stated concern that the County did not participate in the National Engineers Week; and commented on a recent newspaper article regarding school sizes and teachers.

6. Mr. Anthony Conyers, Jr., Manager of Community Services, stated that he has accomplished much over the 28 years in the County with guidance, support, and leadership from the Board; stated that his commission as Commissioner of Virginia Department of Social Services begins Monday, March 28, and thanked the Board and citizens for being able to serve the County.

Mr. Brown stated that Mr. Conyers has been selected by Governor Warner as the new Commissioner of Virginia Department of Social Services and that the County will miss his service.

7. Mr. Mark Rinaldi, 10022 Sycamore Landing Road, congratulated Mr. Conyers; stated that a committee was appointed by the Board about a year-and-a-half ago to review the Chesapeake Bay Ordinance and policy issues concluding that it would not move forward; and recommended the Board reinstate that committee to review the proposed policy developed by the staff that might result in a broader consensus that is acceptable to all.

8. Ms. Shereen Hughes, 103 Holly Road, stated that she has served as an environmental consultant for over 17 years; stated that she has become interested in the development and impacts of future developments to environmentally sensitive areas which are being developed, and the continued buffer encroachments, stated that additional buffers would be wise to protect environmentally sensitive sites, stated that a balanced approach to development be considered, such as reducing setbacks to permit larger backyards with smaller front yards and still protect the land.

G. CONSENT CALENDAR

Mr. Harrison made a motion to adopt the items on the Consent Calendar, including the amended minutes of March 8 and the amended resolution for the Ironbound Elderly Housing Project - Community Development Block Grant Application.

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

1. Minutes
 - a. February 9, 2005, Joint Retreat with the School Board and City Council
 - b. February 22, 2005, Work Session
 - c. March 8, 2005, Regular Meeting
2. Appropriation of Grant Funds - VDEM National Terrorism Preparedness Exercise - \$942

RESOLUTION

APPROPRIATION OF GRANT FUNDS -

VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT (VDEM)

NATIONAL TERRORISM PREPAREDNESS EXERCISE

WHEREAS, in July 2004, James City County applied for and received a Federal grant in the amount of \$9,000 for the purpose of reimbursing expenses related to County government participation in a National Terrorism Preparedness Exercise during the summer of 2004; and

WHEREAS, on February 25, 2005, the Virginia Department of Emergency Management (VDEM) increased that award to \$9,942 as reimbursement for actual funds spent; and

WHEREAS, the grant requires no local matching funds.

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

Revenue:

VDEM-DP Exercise	<u>\$942</u>
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Expenditure:

VDEM-DP Exercise	<u>\$942</u>
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3. Grant Appropriation - Department of Criminal Justice Services - Triad Crime Prevention Program - \$6,485

RESOLUTION

GRANT APPROPRIATION – DEPARTMENT OF CRIMINAL JUSTICE SERVICES -

TRIAD CRIME PREVENTION PROGRAM - \$6,485

WHEREAS, the Department of Criminal Justice Services (DCJS) has awarded James City County a grant in the amount of \$6,485 to implement the Triad Crime Prevention Program.

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:

Revenues:

DCJS Triad Crime Prevention Program - Federal	\$4,866
<u>Local Match</u>	<u>1,619</u>
	<u>\$6,485</u>

Expenditure:

DCJS Triad Crime Prevention Program	<u>\$6,485</u>
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- 4. Ironbound Elderly Housing Project - Community Development Block Grant Application

RESOLUTION

IRONBOUND ELDERLY HOUSING PROJECT -

COMMUNITY DEVELOPMENT BLOCK GRANT

WHEREAS, financial assistance is available to units of local government through the Commonwealth of Virginia Community Development Block Grant Program (VCDBG); and

WHEREAS, two Public Hearings have been held regarding this application, in compliance with VCDBG citizen participation requirements; and

WHEREAS, James City County wishes to apply for \$578,000 in VCDBG funds to be used in undertaking a Housing Production Project within a designated six-acre area within the Ironbound Square neighborhood; and

WHEREAS, \$224,000 in local funds are allocated to the project and \$5,249,600 in State and Federal funds will be expended on this project; and

WHEREAS, the project is anticipated to benefit 70 low- and moderate- income households by providing 67 affordable housing units for rent and three affordable housing units for sale.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to file an application, including all understandings and assurances contained therein, with the Virginia Department of Housing and Community Development, and to provide such additional information as may be required by the Department.

H. PUBLIC HEARINGS

1. Ordinance Amendment Chapter 11, Health and Sanitation - By Amending Section 11-53, Conditions for the Declaration of Potential Shortage of Water

Mr. Larry Foster, General Manager of the James City Service Authority, introduced Mr. Matthew Strickler and Ms. Megan-Brady Viccellio, William and Mary law students, conducting a legal project for a Local Land Use class.

Mr. Strickler presented a proposed amendment to the Drought Management Ordinance to allow the County to regulate the use of private wells under certain emergency drought conditions. The regulation would apply to all residents of the County who use groundwater. The proposed amendment is in compliance with the Virginia Code Section 15.2-923, Local Water Saving Ordinance.

Mr. Goodson inquired if the amendment would apply to County residents who are customers of Newport News Waterworks.

Mr. Foster stated that it would apply to all County residents who use groundwater through a private well.

Mr. Brown opened the Public Hearing.

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

Mr. Bradshaw made a motion to adopt the Ordinance.

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

2. Temporary Classroom Trailers -

- a. SUP-8-05. Lafayette High School
- b. SUP-9-05. Jamestown High School
- c. SUP-10-05. Toano Middle School
- d. SUP-11-05. Clara Byrd Baker Elementary School
- e. SUP-12-05. D. J. Montague Elementary School
- f. SUP-13-05. Stonehouse Elementary School
- g. SUP-14-05. Norge Elementary School
- h. SUP-15-05. Rawls Byrd Elementary School

Mr. Christopher Johnson, Senior Planner, stated that Mr. Michael Thornton, on behalf of the Williamsburg-James City County Public Schools (Schools) has applied for special use permits (SUP) to allow the placement of one new classroom trailer at Lafayette High School, 4460 Longhill Road; one new classroom trailer at Jamestown High School, 3751 John Tyler Highway; one new classroom trailer at Toano Middle School, 7817 Richmond Road; five new classroom trailers at Clara Byrd Baker Elementary School, 3131 Ironbound Road; one new classroom trailer at D. J. Montague Elementary School, 5380 Centerville Road; two new classroom trailers at Stonehouse Elementary School, 3651 Rochambeau Drive; and two new classroom trailers at Norge Elementary School, 7311 Richmond Road; and all further identified as Parcel Nos. (1-1), (1-2D), (1-51), (1-58), (1-49), (1-20), and (1-35) on James City County Real Estate Tax Map Nos. (32-3), (46-1), (12-4), (47-1), (31-1), (13-1) and (23-2), respectively.

Mr. Johnson stated that the applicant has withdrawn the SUP application for the Rawls Byrd Elementary School (SUP-15-05).

Mr. Brown opened the Public Hearing.

1. Mr. Michael Thornton, applicant representing the Williamsburg-James City County Public Schools, stated that the applications will result in 22 classroom spaces being added.

Mr. McGlennon inquired why the application for Rawls Byrd Elementary School is being withdrawn when that site will have additional students as a result of the redistricting.

Mr. Thornton stated that the additional students will not result in the need for additional teachers or additional classroom space, therefore, the application has been withdrawn.

Mr. Bradshaw inquired about the benefits of the multi-classroom trailer.

Mr. Thornton stated that there has been positive feedback on the multi-classroom trailers, that they do not take up as much space on the school sites and are deemed the most appropriate use of the sites.

Mr. McGlennon inquired about the placement of two new temporary classroom trailers at the Stonehouse Elementary School and the impact of the trailers on the smaller play fields.

Mr. Thornton stated that the Physical Education teachers will be able to work around the temporary trailers.

Mr. Goodson inquired about the trailers at Toano Middle School.

Mr. Thornton stated that the three existing temporary classroom trailers are old and need to be replaced, and the placement of the eight-classroom temporary trailer will provide the maximum utilization at the present time.

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

Mr. Harrison made a motion to adopt the amended resolution.

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

RESOLUTION

CASE NO. SUP-8-05. LAFAYETTE HIGH SCHOOL

CASE NO. SUP-9-05. JAMESTOWN HIGH SCHOOL

CASE NO. SUP-10-05. TOANO MIDDLE SCHOOL

CASE NO. SUP-11-05. CLARA BYRD BAKER ELEMENTARY SCHOOL

CASE NO. SUP-12-05. D. J. MONTAGUE ELEMENTARY SCHOOL

CASE NO. SUP-13-05. STONEHOUSE ELEMENTARY SCHOOL

CASE NO. SUP-14-05. NORGE ELEMENTARY SCHOOL

TEMPORARY CLASSROOM TRAILERS

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

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

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

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

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

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

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

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

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow two new temporary classroom trailers at Norge Elementary School on property owned and developed by the applicant located at 7311 Richmond Road and further identified as Parcel No. (1-35) on James City County Real Estate Tax Map No. (23-2).

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

1. These permits shall be valid until July 1, 2008.

3. JCSA Elevated Public Water Storage Facility

Mr. Rogers introduced Ms. Erin McCool and Mr. Curtis Carll, William and Mary law students, conducting a legal project for a Local Land Use class.

Ms. McCool and Mr. Carll provided an overview of the SUP and associated height waiver applications for the construction of two elevated public water tanks and associate water mains on two acres within a 38-acre site zoned PUD-C, Planned Unit Development Commercial, at 9186 Six Mount Zion Road and further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (6-4); and two acres within approximately 514 acres zoned R-8, rural Residential, and further identified as Parcel No. (1-12) on James City County Real Estate Tax Map No. (32-1).

The two proposed elevated water storage tanks and associated water mains to be located at Stonehouse Commerce Park and Warhill Sports Complex will enhance the entire James City Service Authority (JCSA) public water system and three existing tanks will be dismantled.

At its meeting on March 7, 2005, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the two resolutions.

Mr. Harrison inquired if the County would be able to place a welcome to James City County or County logo sign on the tanks.

Karen Drake, Senior Planner, stated that the current Zoning Ordinance prohibits such signs and due to the impact on the Community Character Corridor it is prohibited.

Mr. Brown opened the Public Hearing.

1. Mr. Larry Foster, General Manager of the JCSA and applicant, provided an overview of the proposal and requested approval of the applications.

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

Mr. Goodson made a motion to adopt the resolutions.

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

RESOLUTION

CASE NO. SUP-03-05/HW-02-05. JAMES CITY SERVICE AUTHORITY

ELEVATED WATER STORAGE FACILITY, WARHILL SPORTS COMPLEX

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 height limit restrictions; and

WHEREAS, Mr. Michael Vergakis of the James City Service Authority has applied for a special use permit and height limitation waiver to construct and operate a 165-foot public water storage tank and associated water transmission mains located at 5700 Warhill Trail; and

WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (32-1) on James City County Real Estate Tax Map No. (1-12); and

WHEREAS, the Planning Commission, following its Public Hearing on March 7, 2005, voted 7-0 to recommend approval of Case No. SUP-03-05; and

WHEREAS, a Public Hearing was advertised, adjoining property owners were notified, and a Board of Supervisors hearing was scheduled on Case No. HW-02-05; and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-354 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of a public water storage facility in excess of 60 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-02-05.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 03-05 as described herein with the following conditions:

1. The proposed water storage facility and associated water mains shall be constructed in general accordance to the location map attached to this staff report.
2. Prior to final site plan approval, the Planning Director shall review and approve the color and style of the water storage facility. The color shall be a neutral white or sky blue shade, with no signage permitted on the tank. The tank style shall be spherical or composite as illustrated in Attachment Nos. 2b and 3b of the corresponding staff report.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines. Up-lighting of the water tank for aesthetic purposes only is prohibited. Any up-lighting of the water tank for security purposes only shall be approved by the Planning Director.

4. The owner 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 and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
6. Hours of construction shall be Monday - Saturday from 7 a.m. to 7 p.m. for the new water storage facilities.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

RESOLUTION

CASE NO. SUP-02-05/HW-01-05. JAMES CITY SERVICE AUTHORITY

ELEVATED WATER STORAGE FACILITY, STONEHOUSE COMMERCE PARK

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 height limit restrictions; and

WHEREAS, Mr. Michael Vergakis of the James City Service Authority has applied for a special use permit and height limitation waiver to construct and operate a 165-foot public water storage tank and associated water transmission mains located at 9186 Six Mount Zion Road in the Stonehouse Commerce Park; and

WHEREAS, the property is located on land zoned PUD-C, Planned Unit Development Commercial, and can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (6-4); and

WHEREAS, the Planning Commission, following its public hearing on March 7, 2005, voted 7-0 to recommend approval of Case No. SUP-02-05; and

WHEREAS, a Public Hearing was advertised, adjoining property owners were notified and a Board of Supervisors hearing was scheduled on Case No. HW-01-05; and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-496 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of a public water storage facility in excess of 60 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-01-05.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 02-05 as described herein with the following conditions:

1. The proposed water storage facility and associated water mains shall be constructed in general accordance to the location map attached to this staff report.
2. Prior to final site plan approval, the Planning Director shall review and approve the color and style of the water storage facility. The color shall be a neutral white or sky blue shade, with no signage permitted on the tank. The tank style shall be spherical or composite as illustrated in Attachment Nos. 2b and 3b of the corresponding staff report.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines. Up-lighting of the water tank for aesthetic purposes only is prohibited. Any up-lighting of the water tank for security purposes only shall be approved by the Planning Director.
4. The owner 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 and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
6. Hours of construction shall be Monday - Saturday from 7 a.m. to 7 p.m. for the new water storage facilities.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

I. BOARD CONSIDERATIONS

1. Ordinance to Declare the Following Blight Property to be a Nuisance - 8516 Pocahontas Trail (Deferred from January 25, 2005)

Mr. Rogers stated that since January, the severely damaged and uninhabitable home located at 8516 Pocahontas Trail has been demolished and cleared from the property, although final grading and site stabilization with seed and straw mulch are still necessary.

Staff recommended the Board take no action on the Nuisance and Blight Abatement Ordinance for the subject property.

Mr. Goodson requested the record reflect that he is very gratified that staff worked with the property owner to get that situation taken care of.

Mr. Rogers stated that it was the Housing and Community Development staff that worked the most with the property owner.

2. Policy for Wetland, Conservation Easement, and RPA Separation Areas

Mr. Brown stated that during the Board's Work Session today, the Board decided to defer this item for further consideration.

Mr. William C. Porter, Jr., Assistant County Administrator, stated that in November 2004 the Peninsula Home Builders Association sent a letter to the County opposing staff recommendations on recent rezoning and special use permits dealing with the protection of Resource Protection Areas (RPAs), conservation easements, and wetlands; and stated that staff has developed a recommended policy for Wetlands, Conservation Easement, and RPA Separation Areas to protect sensitive areas.

Mr. Porter stated that the Board indicated its interest to defer action on this item to permit staff time to address issues raised during the Work Session and develop a detailed policy manual.

Mr. Porter stated that no deferral date has been recommended at this time.

The Board reached a consensus to defer action on this item until staff has reviewed the issues raised and developed a detailed policy manual.

J. PUBLIC COMMENT - None

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner requested citizens complete the School Census forms and return them, and stated that additional State funding for schools is based upon the results of the School Census.

Mr. Wanner congratulated Mr. Conyers on his appointment as the new Commissioner of the Virginia Department of Social Services, stated that Doug Powell will be the Acting Community Services Manager and Barbara Watson will be the Acting Assistant Community Services Manager; and commented on the benefits of the Succession Management Program in the County.

Mr. Wanner recommended the Board recess briefly for a JCSA Board of Directors meeting, then reconvene to finish its business at the conclusion of the Board's meeting. The Board adjourn to 7 p.m. on April 12.

L. BOARD REQUESTS AND DIRECTIVES

Mr. Brown thanked Ms. Suzanne R. Mellen for her service to the Board, staff, and citizens during her participation in the Succession Management Program.

Ms. Mellen thanked the Board, Mr. Wanner, and John E. McDonald for the opportunity to participate in the Program, stated that she has learned a lot through this positive experience, and that the Program is a great opportunity to learn.

Mr. Harrison made a motion to recess briefly while the JCSA Board of Directors holds its meeting.

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

At 8:56 p.m., Mr. Brown recessed the Board.

At 8:59 p.m., Mr. Brown reconvened the Board.

M. CLOSED SESSION

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

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

Mr. Brown adjourned the Board into Closed Session at 9:00 p.m.

Mr. Brown reconvened the Board into Open Session at 9:24 p.m.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business

matters were heard, discussed, or considered by the Board as was identified in the motion, Section 2.2-3711(A)(1) to consider personal matters, the appointment of individuals to County boards and/or commissions.

Mr. McGlennon made a motion to recommend to the Clerk of the Circuit Court the reappointment of Mr. Jack L. Fraley, Jr., to the Board of Zoning Appeals for a five-year term; to appoint Mr. John Hughes to a five-year term on the Wetlands Board with a concurrent term on the Chesapeake Bay Board, terms to expire on March 31, 2010; to appoint Ms. Carol Ann Ellett to a three-year term on the Clean County Commission, term to expire on March 31, 2008; and to appoint Ms. Ruth Larson and Mr. Robert Duckett to the Cash Proffers Steering Committee.

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

N. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

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

At 9:24 p.m., Mr. Brown adjourned the Board until 7 p.m. on April 12, 2005.

Sanford B. Wanner
Secretary to the Board

MEMORANDUM

DATE: April 12, 2005
TO: The Board of Supervisors
FROM: Carol A. Schenk, Human Resource Specialist I
SUBJECT: National Volunteer Recognition Week - April 17-23, 2005

April 17-23, 2005, has been designed as National Volunteer Appreciation Week. Staff requests the Board of Supervisors declare the same week as Volunteer Appreciation Week in James City County.

National Volunteer Week "honors and recognizes individuals who have made a difference in our communities and alerts others to the need for more voluntary community service to help solve our nation's serious social problems."

In 2004, volunteers contributed more than 70,391 hours of service to the County, which represents an added value of \$1,203,783.

Staff recommends adoption of the attached resolution designating April 17-23, 2005, as Volunteer Appreciation Week.

Carol A. Schenk

CONCUR:

Carol M. Luckam

CAS/gs
Volrecweek05.mem

Attachment

RESOLUTION

NATIONAL VOLUNTEER RECOGNITION WEEK APRIL 17-23, 2005

WHEREAS, James City County was founded upon the spirit of voluntary action and civic duty and throughout history, citizens have volunteered their time, talent, and energies to make their communities better; and

WHEREAS, volunteerism offers opportunities to every citizen to participate in his or her government in order to meet community needs; and

WHEREAS, volunteers enhance our quality of life, promote community involvement, generate civic pride, and restore our neighborhoods and families; and

WHEREAS, the citizens of James City County are deserving of recognition for their commitment and hard work to make a real difference in the lives of their fellow citizens; and

WHEREAS, volunteers are a valuable resource to James City County departments and in 2005 contributed 70,391 hours valued at \$1,203,783.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby designates the week of April 17- 23, 2005, as Volunteer Appreciation Week and calls its significance to all of our citizens.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

volrecweek.res

MEMORANDUM

DATE: April 12, 2005
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Budget Amendment – Satellite Services’ DMV Select Office - \$4,400

Satellite Services in Toano applied for and has been designated by the Division of Motor Vehicles (DMV) as a “DMV Select Office.” This will permit Satellite Services to handle vehicle registrations, license plates, and titles. Becoming a DMV Select Office requires an initial outlay for specific equipment from DMV in the amount of \$4,400. Satellite Services has made the necessary changes to the office to house the DMV equipment and the equipment has been installed. The \$4,400 will be recouped through revenue generated by the DMV Select Office, which the DMV estimates to be approximately \$2,000 to \$2,200 per month. James City County will earn 3.5 percent of all revenue collected by the Toano DMV Select Office.

Staff recommends approval of the attached resolution.

William C. Porter, Jr.

WCP/gb
Bdgtamend2.mem

Attachment

RESOLUTION

BUDGET AMENDMENT – SATELLITE SERVICES’ DMV SELECT OFFICE - \$4,400

WHEREAS, Satellite Service Office in Toano applied for and has been designated by the Virginia Department of Motor Vehicles (DMV) as a “DMV Select Office”; and

WHEREAS, the set up of the DMV Select Office required the purchase of two printers and one credit card processor in the amount of \$4,400; and

WHEREAS, James City County will earn 3.5 percent on all transactions made by the office; and

WHEREAS, reimbursement of said funds will be made through the revenue generated by the DMV Select Office.

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

Revenue:

Virginia Department of Motor Vehicles Select Office	<u>\$4,400</u>
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Expenditure:

Satellite Services	<u>\$4,400</u>
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Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

Bdgtamend2.res

MEMORANDUM

DATE: April 12, 2005
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Deputy Chief of Police
SUBJECT: Appropriation of Funds - Police Department - DMV Mini-Grants - \$3,000

The Virginia Department of Motor Vehicles has awarded the James City County Police Department two mini-grants in the amount of \$1,500 each. The grants require no matching funds. The grants are in support of materials and equipment for the Bicycle Safety Program and Checkpoint Strikeforce initiative to enforce Driving Under the Influence laws.

Staff recommends adoption of the attached resolution to appropriate funds.

Emmett H. Harmon

CONCUR:


David A. Daigneault

EHH/gs
DMVgrants.mem

Attachment

RESOLUTION

APPROPRIATION OF FUNDS - POLICE DEPARTMENT - DMV MINI-GRANTS - \$3,000

WHEREAS, the Virginia Department of Motor Vehicles (DMV) has approved two mini-grants in the amount of \$1,500 each to the James City Police Department for the Bicycle Safety Program and Checkpoint Strikeforce initiative to enforce Driving Under the Influence laws; and

WHEREAS, the grants only require a in-kind local match, thus eliminating any additional spending by the Department, excluding court overtime and equipment maintenance; and

WHEREAS, the grants are administered by the DMV according to the Federal Government fiscal year, which runs from October 1 through September 30.

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

Revenues:

DMV - Checkpoint Strikeforce	\$1,500
DMV - Bicycle Safety Program	<u>1,500</u>
	<u>\$3,000</u>

Expenditures:

DMV - Checkpoint Strikeforce	\$1,500
DMV - Bicycle Safety Program	<u>1,500</u>
	<u>\$3,000</u>

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

DMVgrants.res

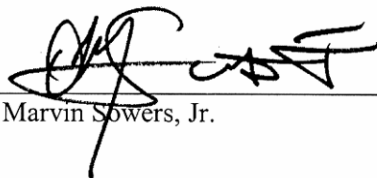
MEMORANDUM

DATE: April 12, 2005
TO: The Board of Supervisors
FROM: O. Marvin Sowers, Jr., Planning Director
John T. P. Horne, Development Manager
SUBJECT: Green Spring Trail Project Funding Obligation

On March 23, 2004, the Board of Supervisors agreed to commit up to \$450,000 to fund the possible deficit of the Green Spring Trail Project should the actual cost of construction exceed available State and Federal funds. The Board agreed to fund this deficit by using a combination of funds from the County's future Six-Year Secondary System Construction Program (\$350,000) and Revenue Sharing Funds (\$100,000), and the County Administrator was authorized to write a letter to the Virginia Department of Transportation (VDOT) committing to this funding obligation. This letter was sent to VDOT on March 24, 2004. VDOT has determined that it requires a Board resolution formally authorizing this action before the Project can be advertised for bid. The attached resolution will complete this action. The resolution also reiterates the Board's previous intention to only use County funds if necessary once all non-County funds have been applied to the project.

The funding obligation would use Revenue Sharing Funds from FY 2005-2006 and FY 2006-2007. Because these funds have not yet been allocated to the County, VDOT has also requested that the County authorize the use of additional Secondary System Construction Program funds should Revenue Sharing funding not be available. County staff is confident that Revenue Sharing Funds will be allocated to the County in these future fiscal years and is, therefore, comfortable recommending this commitment to the Board. Please note that the Secondary System funds would be included in the FY 2006-2007 Construction Program which the Board will be asked to approve in the future. In addition, one half of the Revenue Sharing Funds are in a future obligation which will require Board approval.

Staff recommends that the Board of Supervisors approve the attached resolution agreeing to use Secondary System Construction Program and Revenue Sharing Funds for the Green Spring Trail Project if actual construction costs exceed funds available to the project from other sources.



O. Marvin Sowers, Jr.

John T.P. Horne

OMS/JTPH/gs
grnspgstrail.mem

Attachment

RESOLUTION

GREEN SPRING TRAIL PROJECT FUNDING OBLIGATION

WHEREAS, the Board of Supervisors of James City County, Virginia, identified the Green Spring Trail Project as one of its priority transportation projects on September 14, 2004; and

WHEREAS, the Virginia Department of Transportation (VDOT) has projected that available State and Federal funds may leave a deficit in construction funding for the Project; and

WHEREAS, on March 23, 2004, the Board of Supervisors agreed to commit up to \$450,000 to fund the possible deficit by use of a combination of funds from the County's future Six-Year Secondary System Construction Program allocation and Revenue Sharing Funds should the actual cost of construction exceed available State and Federal funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby agrees that if actual construction costs for the Green Spring Trail Project exceed funds available to the Project from other sources, after all such non-County funds have been applied to the project, up to \$450,000 for actual construction costs will be provided as follows:

- \$350,000 from the Six-Year Secondary System Construction Program in FY 2006-2007 using funds transferred from Project No. 0615-047-169, PE, C501, Ironbound Road Widening; and
- \$25,000 in local Revenue Sharing match funds and \$25,000 in State Revenue Sharing match funds in FY 2005-2006 and FY 2006-2007 for a total of \$100,000.

BE IT FURTHER RESOLVED that if State Revenue Sharing Funds are not approved for either FY 2005-2006 or FY 2006-2007, the Board of Supervisors agrees to fund that portion of the Project cost by transferring the additional funds from Project No. 0615-047-169, PE, C501, Ironbound Road Widening in the Six-Year Secondary System Construction Program.

BE IT FURTHER RESOLVED that VDOT is hereby requested to provide a full accounting to the County of all funds spent in the project, including a timeline of the expenditures.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

MEMORANDUM

DATE: April 12, 2005
TO: The Board of Supervisors
FROM: Stephanie Ahrendt, Acting Director of Budget and Accounting
SUBJECT: FY 2006 County Budget Public Hearing

The purpose of the public hearing is to invite public comment on any aspect of the proposed FY 2006 Budget, with the expectation that the public comments will become part of the agenda for the upcoming budget work sessions.

No action is expected of the Board at this meeting, but any questions would be helpful as we prepare for the budget work sessions. The work sessions are scheduled for Thursday, April 14; Monday, April 18; and Wednesday, April 20. Staff expects to ask the Board to adopt the budget, as amended, during the budget work sessions at its meeting on April 26, 2005.

Stephanie Ahrendt

SA/gs
fy06pubhear.mem

MEMORANDUM

DATE: April 12, 2005
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Ordinance Amendment - Chapter 8, Erosion and Sediment Control, Section 8-5, Permits, Fees, Bonding, etc., to Increase Fees

Section 8-5. Permits, fees, bonding, etc., of the James City County Erosion and Sediment Control Ordinance is proposed to be amended. The amendment proposes increasing the fee schedule for residential subdivision projects from \$50 per lot to \$60 per lot. Fees for other land-disturbing activities including site plans would increase from the current level of \$600 per acre for the first 15 acres, plus \$400 per acre for each additional acre over 15, to \$720 per acre for the first 15 acres, and \$480 per acre for each additional acre over 15.

The increase in fees will make the County more consistent with other jurisdictions and also more fully recover administrative costs associated with the program. The revenue will also fund additional staff costs.

Staff recommends adoption of the attached ordinance.

Darryl E. Cook

CONCUR:

John T. P. Horne

DEC/gs
8_8-5ordamend.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, EROSION AND SEDIMENT CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 8-5, PERMITS, FEES, BONDING, ETC.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Erosion and Sediment Control, is hereby amended and reordained by amending Section 8-5, Permits, fees, bonding, etc.

Chapter 8. Erosion and Sediment Control

Sec. 8-5. Permits, fees, bonding, etc.

(a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this chapter, and has paid the fees and posted the required bond.

(c) Fees. The following administrative fee shall be paid to the county:

- (1) Residential subdivisions shall pay ~~\$50.00~~\$60.00 per lot at the time of submission of the erosion and sediment control plan;
- (2) Site plans and other land-disturbing activities shall pay ~~\$600.00~~\$720.00 per acre of disturbance for the first 15 acres plus ~~\$400.00~~\$480.00 per acre for each additional acre over 15 at the time of submission of the erosion and sediment control plan;
- (3) A \$75.00 fee shall be required for each single-family residential structure at the time of submission of the building permit application.

This ordinance shall become effective July 1, 2005.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

sec8-5permitfee05.ord

MEMORANDUM

DATE: April 12, 2005
TO: The Board of Supervisors
FROM: William T. Luton, Deputy Fire Chief
SUBJECT: Ordinance Amendment – Chapter 9, Fire Protection, Article IV. Ambulance Transport Fees, Section 9.15. Imposition of Fees

Attached is a proposed ordinance for the imposition of ambulance transport fees.

The proposed ordinance establishes three transport fee levels that are based on the level of care given to the patient and a mileage fee for ground transport of patients. The three patient treatment levels are Basic Life Support (BLS), Advanced Life Support 1 (ALS1), and Advanced Life Support 2 (ALS2). Ground transport mileage shall be assessed in statute miles from the location of the incident to a hospital or other facility where a patient is transported.

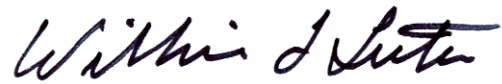
The proposed ordinance authorizes the County Administrator to establish rules and regulations for administration and collection of the fees, and also to establish payment standards for persons who demonstrate economic hardship.

The proposed ordinance authorizes the County Administrator to establish rates for mileage and each of the three transport fee levels to be submitted to the Board of Supervisors for its approval with the County budget.

The proposed ordinance creates six exemptions to the fees.

1. Persons determined to be medically indigent.
2. Persons in custody of the Williamsburg/James City County Sheriff.
3. Persons in custody of the County Police Department.
4. Persons in custody of the Virginia Peninsula Regional Jail.
5. The County Administrator may suspend EMS fees during the time of a declared local emergency for up to 14 days or until the next regularly scheduled or special meeting of the Board of Supervisors, whichever is less. The Board of Supervisors may extend the suspension period longer for such period of time it deems necessary and appropriate.
6. County employees and volunteers transported for any work-related injury or illness.

Staff recommends approval of the proposed ordinance change.



William T. Luton

Imposefees.mem
WTL/gb

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING ARTICLE IV, AMBULANCE TRANSPORT FEES, SECTION 9-15, IMPOSITION OF FEES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and reordained by adding Article IV, Ambulance Transport Fees, Section 9-15, Imposition of fees.

Chapter 9. Fire Protection

Article IV. Ambulance Transport Fees

Sec. 9-15. Imposition of fees.

(a) *Except as otherwise provided by subsection (d), a service charge for Basic Life Support transport (BLS), for Advanced Life Support, level 1 transport (ALS1), for Advanced Life Support, level 2 transport (ALS2), and for ground transport mileage is imposed on each person being transported by any emergency medical services vehicle that is operated or maintained by the county or for which a permit has been issued to the county by the Virginia Office of Emergency Medical Services. The funds received from the payment of this fee shall be paid into the general fund of the county to aid in defraying the cost of providing such service.*

(b) *Definitions. The following definitions shall apply to this article:*

Basic Life Support (BLS): Services shall be medical treatment or procedures to a patient as defined by the National Emergency Medicine Services (EMS) Education and Practice Blueprint for the Emergency Medical Technician (EMT) - Basic.

Advanced Life Support, level 1 (ALS1): Services shall be medical treatment or procedures provided to a patient beyond the scope of an EMT-Basic as defined by the National EMS Education and Practice Blueprint.

Advanced Life Support, level 2 (ALS2): Services shall be defined as advanced life support (ALS) services provided to a patient including one or more of the following medical procedures: (i) defibrillation/cardioversion, (ii) endotracheal intubation, (iii) cardiac pacing, (iv) chest decompression, (v) surgical airway, (vi) intraosseous line, and/or, (vii) the administration of three or more medications.

Emergency medical services vehicle shall be defined as specified in Va. Code §32.1-111.1, as amended.

Ground Transport Mileage (GTM): Mileage shall be assessed in statute miles from the location of the incident to a hospital or other facility where a patient is transported.

(c) The county administrator is hereby authorized and directed to establish uniform rules and regulations for the administration and collection of the charges imposed by this section, including, but not limited to, payment standards for those persons who demonstrate economic hardship and residents of another locality with whom the county has an EMS mutual aid agreement and such locality exempts county residents from all or a portion of such fees to the same extent as its own residents.

(d) The county administrator is hereby authorized and directed to establish rates for mileage and for BLS, ALS1 and ALS2 fees to be submitted to the board of supervisors for its approval with the county budget.

(e) *No charge shall be imposed on persons in the following instances:*

(1) *Persons determined to be medically indigent by the county in accordance with administrative policies established by the county administrator;*

(2) *Persons in the custody of the Williamsburg/James City County Sheriff;*

(3) *Persons in the custody of the county police department;*

(4) *Persons in the custody of the Virginia Peninsula Regional Jail, which the county is a participating member;*

(5) *During the time of a declared local emergency, the county administrator may suspend the collection of fees under this article for a period of time up to fourteen days or until the next regularly scheduled or special meeting of the board of supervisors, whichever is less. The board of supervisors may extend the suspension of the collection of fees under this article for such period of time it deems necessary and appropriate; and.*

(6) *County employees and volunteers transported for any work related injury or illness.*

State law reference - Powers of governing bodies of counties, cities and towns, Code of Virginia § 32.1-111.14.

This ordinance shall become effective July 1, 2005.

Michael J. Brown, Chairman
Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 12th day of April,
2005.

ambulancefee.ord

MEMORANDUM

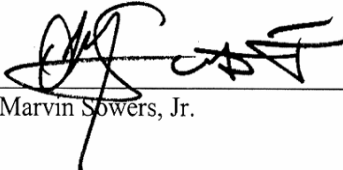
DATE: April 12, 2005
TO: The Board of Supervisors
FROM: Matthew D. Arcieri, Senior Planner
SUBJECT: Ordinance Amendment - Chapter 24, Zoning, Section 24-7, Administrative Fees; to Increase Fees

Attached is a proposed ordinance to increase the site plan fee from \$0.024 per square foot to \$0.05 per square foot. The proposed fee increase is intended to cover the cost of a half-time position working directly for the Development Manager focusing on high-priority programs and special projects, some of which have progressed more slowly due to the demands of development plan review.

Staff recommends approval of the proposed fee change. On April 4, 2005, the Planning Commission recommended denial by a vote of 6-0.

Matthew D. Arcieri

CONCUR:



O. Marvin Sowers, Jr.

MDA/gb
fechange.mem

Attachment:

Revised Ordinance

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-7, ADMINISTRATIVE FEES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-7, Administrative fees.

Chapter 24. Zoning

Article I. In General

Sec. 24-7. Administrative fees.

Fees shall be charged at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. The following fees shall be charged and collected at the time of application:

<u>Procedure</u>	<u>Fee</u>
(1) Rezoningings	\$1,200.00 plus \$50.00 per acre, not to exceed \$15,000.00
(2) Applications for special use permits:	
a. Generally (General special use permits processed with a rezoning shall pay a rezoning fee only)	\$1,000.00 plus \$30.00 per acre, not to exceed \$5,000.00
b. Manufactured home on an individual lot.	100.00
c. Family subdivision under section 24-214.	100.00
d. Amendment to a special use permit	400.00
e. Wireless communications facilities under division 6	1,500.00

(3) Master plan review:

- a. Initial review of any Residential Cluster, Mixed Use or a PUD with less than 400 acres (PUD's with 400 acres or more shall pay a rezoning fee only) 200.00
- b. Revision of approved plan:
 - 1. Residential Cluster 75.00
 - 2. R-4, PUD, Mixed Use 150.00

(4) Site Plan Review:

a. Administrative review:

- 1. Residential structures or improvements, \$600.00, plus \$60.00 per residential unit.
- 2. Nonresidential structures or improvements, \$600.00, plus ~~\$0.024~~ **\$0.05** per sq. ft. of building area.
- 3. Mixed Use structures or improvements, \$600.00, plus \$60.00 per residential unit plus ~~\$0.024~~ **\$0.05** per sq. ft. of nonresidential building area.

b. Planning commission review:

- 1. Residential structures or improvements, \$1,800.00, plus \$60.00 per residential unit.
- 2. Nonresidential structures or improvements, \$1,800.00, plus ~~\$0.024~~ **\$0.05** per sq. ft. of building area.
- 3. Mixed Use structures or improvements, \$1,800.00, plus \$60.00 per residential unit plus ~~\$0.024~~ **\$0.05** per sq. ft. of nonresidential building area.

c. Amendment to an approved plan:

- 1. Residential structures or improvements, \$100.00, plus \$10.00 per residential unit.
- 2. Nonresidential structures or improvements, \$100.00, plus \$0.004 per sq. ft. of building area.
- 3. Mixed Use structures or improvements, \$100.00, plus \$10.00 per residential unit plus \$0.004 per sq. ft. of nonresidential building area.
- 4. Residential or nonresidential structures or improvements where the number of dwelling units or area of building area, pavement, or open space is not changed more than 15 percent, \$100.00.

d. Zoning administrator and fire department review only, \$20.00.

(5) Sign permits, \$5.00 per square foot of gross sign area.

(6) Appeals to the board of zoning appeals, \$250.00

- (7) Application for a height limitation waiver to the board of supervisors, \$200.00
- (8) Application for administrative variance, \$100.00

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

adminfees.ord.doc2

**SPECIAL USE PERMIT 01-05. Alice's Wonderland Playhouse
Staff Report for the April 12, 2005, 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

March 7, 2005, 7:00 p.m.
April 12, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant: Ms. Alice Wilson, Program Administrator
Alice's Wonderland Playhouse

Land Owner: George W. White

Proposed Use: Child day care center for 40 children with operating hours from 6 a.m. to
7 p.m., Monday through Friday, and from 7 a.m. to 5 p.m. on
Saturdays

Location: 2942 Chickahominy Road; Stonehouse District

Tax Map/Parcel No.: (22-3)(2-2)

Parcel Size: 0.783 acres

Zoning: R-8, Rural Residential

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

STAFF RECOMMENDATION

Staff finds the proposed child day care facility acceptable given its minimal impacts and consistency with the surrounding uses and zoning. Staff recommends the Board of Supervisors approve the special use permit application with the conditions listed in the staff report.

Staff Contact: Tamara A. M. Rosario, Senior Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On March 7, 2005, the Planning Commission voted 7 to 0 to recommend approval of the application.

PROJECT DESCRIPTION AND PROPOSED OPERATION

Ms. Alice Wilson has applied for a special use permit to operate a child day care center in the former White's Grocery Store at 2942 Chickahominy Road. Ms. Wilson proposes to serve 40 children, ranging in age from infants to children 12 years of age. Care options would include drop-in service, part-time care, full-time care, and before- and after-school care. Hours of operation would be 6 a.m. to 7 p.m., Monday through Friday, and 7 a.m. to 5 p.m. on Saturdays. The property is zoned R-8, Rural Residential, which requires a special use permit for a child day care center.

The site currently contains a vacant building, approximately 4,000 square feet in size. As the attached building floor plan shows, Ms. Wilson plans to renovate the building to include three classroom areas, two bathrooms, a kitchen, and an office. Two drives provide access to the site, one of which is a shared drive with the rear neighbors and one of which leads to a small gravel parking area in front of the building. Grassy areas surround the remainder of the building, and a shaded area in the rear is designated for a future playground. Additional improvements such as lighting, landscaping, parking, utility improvements, and stormwater management will be required during the site plan stage.

Ms. Wilson is in the early stages of her business development and has made initial contacts with the Virginia Department of Social Services regarding her license, the James City County Code Compliance Division regarding the required building renovations and certificate of occupancy, and the Virginia Department of Health regarding the on-site septic system. Preliminary information from these offices indicates that the existing building, once renovated and upgraded, may support up to 40 children, depending on the exact ages of the children and the final building configuration. In addition, the building's anticipated use group will limit the building to no more than five children under the age of 30 months and a maximum occupant load of 49 persons. In order to support a day care center of this size, the existing drain field will need to be expanded or replaced. Although the center will provide meals and snacks for the children, Ms. Wilson plans to use only disposable items and have no laundry capabilities.

Adjacent neighbors support Ms. Wilson's application as documented in the attached letter of support. Staff proposes conditions which mitigate potential impacts to the neighbors.

PUBLIC IMPACTS

Environmental Impacts

- ◆ **Environmental Division Comments:** A stormwater management facility or the use of low-impact development techniques will be required should the proposed improvements result in the increase of impervious area on the site.
- ◆ **Staff Comments:** Parking and other requirements will increase the amount of impervious area on the site. This issue will be addressed at the site plan stage.

Public Utilities

- ◆ **Utilities:** The site is served by a well, although public water is available. Sewage is handled through an on-site septic system.
- ◆ **James City Service Authority Comments:** The applicant may remain on well water if the well meets current Health Department standards and is properly maintained; otherwise, the applicant will be required to connect to the public water system and backflow prevention will need to be incorporated into the development plans. In either case, the applicant will be responsible for properly abandoning any existing unused wells, confirming adequate fire flow, and developing water conservation standards.

- ◆ **Health Department Comments:** An initial assessment of the proposed use indicates that the existing drain field is inadequate for the proposed use. The applicant will need to provide additional information to assess the existing drain field capabilities and to determine the proper size of the drain field actually needed.
- ◆ **Staff Comments:** Staff has included a condition which requires the development of water conservation standards. All other issues will be addressed at the site plan stage.

Traffic

- ◆ **Traffic:** Staff waived the traffic impact study requirement for this application given the low amount of traffic generation expected for this use and the favorable traffic conditions on Chickahominy Road.
- ◆ **Virginia Department of Transportation (VDOT) Comments:** The proposed use will not warrant any turn lane or turn lane treatments. Due to safety considerations, it is preliminarily recommended that the main access point be the existing shared entrance located on the east side of the property and that the entrance and parking area be paved. Additional information will be required at the site plan stage to finalize these recommendations.
- ◆ **Staff Comments:** Staff concurs with VDOT and notes that these issues can be addressed at the site plan stage.

COMPREHENSIVE PLAN

- ◆ **Land Use Map Designation:** Rural Lands
Rural Lands are areas containing farms, forests and scattered houses, exclusively outside of the Primary Service Area (PSA), where a lower level of public service delivery exists or where utilities and urban services are not planned for the future. Appropriate primary uses include agricultural and forestal activities, together with certain recreational, public or semi-public, and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. Retail and other commercial uses serving Rural Lands are encouraged to be located at planned commercial locations on major thoroughfares inside the PSA. However, a few of the smaller direct agricultural- or forestal-support uses, home-based occupations, and certain uses which require very low-intensity settings relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area, in accordance with the Development Standards of the Comprehensive Plan. These uses should be located in a manner that minimizes effects on agricultural and forestal activities, and located where public services and facilities, especially roads, can adequately accommodate them. Rural Land use Development Standards speak to siting non-agricultural, non-forestal uses in areas where they minimize impacts or do not disturb agricultural/forestal uses or open fields.
- ◆ **Staff Comments:** Staff believes the proposed use, with conditions, will improve the existing condition of the site and not be a detriment to surrounding uses. The day care facility is a very limited commercial operation which will rehabilitate a vacant commercial building. The site is not suitable for agricultural or forestal use, and is largely surrounded by single-family detached homes on similarly zoned, non-agricultural land. Furthermore, VDOT indicates that Chickahominy Road has adequate capacity to handle the use without improvements. While non-agricultural or non-forestal uses are not encouraged in Rural Lands, staff finds the proposed use acceptable given the site's unique characteristics and the use's minimal impact to the surrounding area.

CONCLUSIONS & CONDITIONS

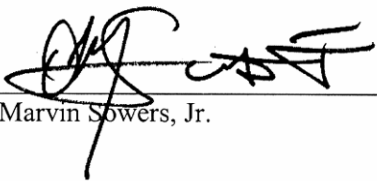
In June 2001, the Planning Commission recommended a policy on child day care centers within neighborhoods. Although it is attached for your reference, staff does not believe it is applicable to this property for the following reasons: 1) the property is not interior to a subdivision; 2) it is located along an arterial road; and 3) the use will be located in an existing commercial structure rather than a residence.

Therefore, conditions listed below do not strictly abide by the policy.

Staff finds the proposed child day care facility acceptable given its minimal impacts and consistency with the surrounding uses and zoning. Staff recommends the Board of Supervisors approve the special use permit with the conditions listed in the attached resolution. Staff believes the conditions sufficiently address impacts to the site; other needed improvements can and will be addressed at the site plan stage when more detailed analysis can be applied. On March 7, 2005, the Planning Commission voted 7 to 0 to recommend approval of this case.

Tamara A. M. Rosario

CONCUR:



O. Marvin Sowers, Jr.

TAR/gb
Sup-01-05

ATTACHMENTS:

1. Planning Commission Minutes
2. Location Map
3. Building Floor Plan
4. Letter of support from neighbors
5. Child Day Care Center Policy
6. Resolution

**APPROVED MINUTES OF THE MARCH 7TH MEETING OF THE
PLANNING COMMISSION**

SUP-01-05 Alice's Wonderland Playhouse

Ms. Rosario presented the staff report. Ms. Alice Wilson has applied for a special use permit to operate a child daycare center at 2942 Chickahominy Road. The parcel is further identified as parcel (2-2) on JCC Tax Map (22-2). The property is zoned R-8, Rural Residential and is designated as Rural Lands on the 2003 Comprehensive Plan Land Use Map. Recommended uses on properties designated Rural Lands include agricultural and forestal activities together with certain recreational public or semi-public and institutional uses. Rural residential uses are appropriate at a density of no more than one unit per three acres. Smaller direct agricultural or forestal support uses, home-based occupations, and certain uses which require very low intensity settings relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area.

Staff recommended the Planning Commission approve the application with the conditions listed in the staff report.

Ms. Blanton asked if the proposed drainfield enlargement would help the applicant move the operation away from sensitive areas on the site and away from using disposable items.

Ms. Rosario responded that, to accommodate the food preparation and laundering requirements of the use, the drainfield would be modified and could potentially keep the applicant from relying on disposable items.

Mr. Billups asked what effect water conservation measures would have on the well system.

Ms. Rosario responded that drought tolerant landscaping and water conserving fixtures would reduce the impact on the groundwater supply in the area.

Mr. Billups asked what the maximum number of anticipated children would be.

Ms. Rosario responded that the maximum occupancy would be forty-nine persons, including children and staff. The most children that could be served, given a set ratio between staff and children, would be forty children.

Mr. Billups affirmed that the building and site would have to go through renovation and site design before the use could be initiated.

Ms. Rosario responded that the applicant must go through the site plan review process, where issues connected to landscaping, stormwater management, and parking

would be resolved. The applicant would also need approval from the Health Department and the Virginia Department of Social Services prior to obtaining a license.

Mr. Fraley asked about the traffic requirements for the site.

Ms. Rosario responded that VDOT had recommended the existing access points be reduced to one at the east end of the property. This recommendation would be considered during the site plan stage.

Mr. Hunt opened the public hearing.

Ms. Alice Wilson stated her support for this process and her willingness to work with the County to provide a needed service to the Toano area.

Mr. Kale asked Ms. Wilson if she had any issues with the conditions recommended by staff.

Ms. Wilson responded that she had none.

Mr. Alonzo Sackrin spoke in support of the application, citing the advantages of the proposed use.

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

Mr. Kennedy spoke to the revitalization of the structure and stated his support of the application. He motioned approval.

Mr. Kale stated his support for the application and added that child care businesses are closely regulated by the Commonwealth of Virginia. Mr. Kale seconded the motion.

Ms. Blanton commended the applicant for her work and stated her support.

The Planning Commission voted 7-0 to support the application: YES: (7) Hunt, Jones, Fraley, Blanton, Kennedy, Kale, Billups. NO: (0)

Case No. SUP-01-05. Alice's Wonderland Playhouse

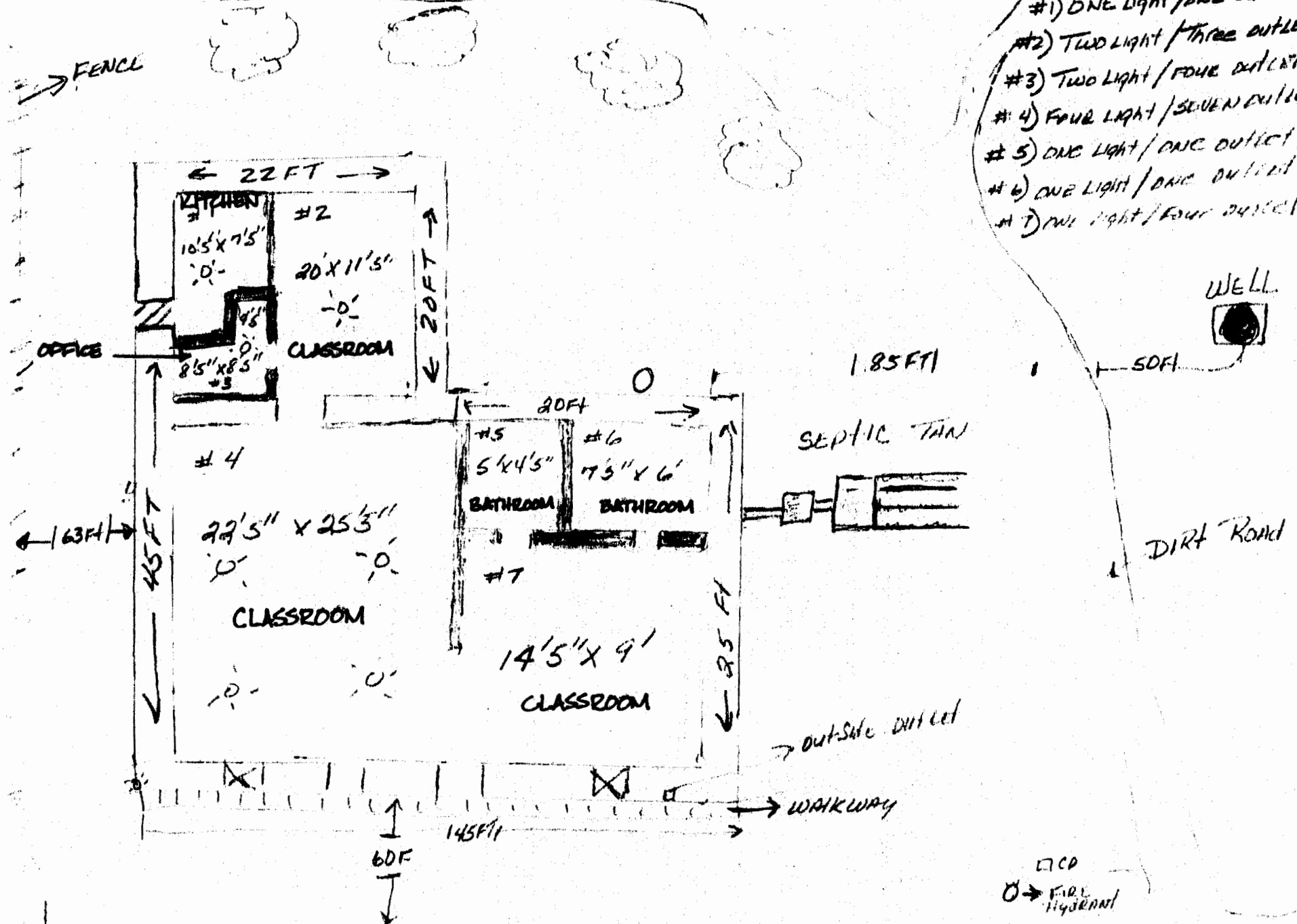


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2942 CHICKAHOMINY ROAD

- #1) ONE LIGHT / ONE OUTLET
- #2) TWO LIGHT / THREE OUTLET
- #3) TWO LIGHT / FOUR OUTLET
- #4) FOUR LIGHT / SEVEN OUTLET
- #5) ONE LIGHT / ONE OUTLET
- #6) ONE LIGHT / ONE OUTLET
- #7) ONE LIGHT / FOUR OUTLET



CHICKAHOMINY ROAD

November 23, 2004

Alice's Wonderland Playhouse
C-107-04



A Letter of Support

Subject: Opening Alice's Wonderland Family Child Care.

Dear Neighbor(s):

I would like to request your signature of support to open a Family Child Care Center at 2942 Chickahominy Road. (at the old White Grocery Store).

It is my desire to provide a family centered and supportive child care services to larger families and local community service agencies.

Alice's Wonderland Playhouse is designed to promote self-initiated learning and social skill building for toddlers in a safe and nurturing environment. My mission is to create a safe and inviting home away from home environment where children will learn and grow in many aspects of there development.

The family child care will provide an enriched experienced environment for children ages 2 to 5 years of age.

The hours of operation will be from Monday – Friday 7:00am to 7:00pm and Saturday 7:00am to 5:00pm.

The family child care should not have a significant impact on the traffic in our community. Most of the traffic in your area would be parents dropping off and picking up children during these hours of operation.

Please show your support of our mission by signing your name below. This letter will then be submitted to the James City County Planning Division for further approval by the James City County Board of Supervisors and Zoning Office.

Thanks again for your support.

A handwritten signature in cursive script, appearing to read "Alice R. Wilson".

Alice R. Wilson

Child Care Center/Administrator

Name Address Phone #

Charles & Lyle 2008 Chickadee Ln 757-566-7100

Loris Taylor 2934 Chickadee Rd Tiana 23168

Robert C Taylor " " " 757-566-8142

James City County Planning Commission's Policy Committee
Child Day Care Centers Located in the Interior of Residential Neighborhoods
June 22, 2001

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

1. If planning staff determines there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center located on a residential lot in the interior of a subdivision.
2. The Policy Committee recommends that the current threshold for requiring a special use permit for a child day care center shall remain as is (more than 5 children requires a special use permit), and each application will continue to be reviewed on a case by case basis. This threshold is based upon state licensing requirements, building permit requirements, land use impacts and home occupations limitations, and the Policy Committee finds that this threshold is appropriate for Commission and Board review.
3. ~~Should the Planning Commission and Board of Supervisors choose to recommend~~ approval of a special use permit application for a child day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:
 - there shall be a three-year time limit in order to monitor the impacts of the day care center;
 - no signage shall be permitted on the property;
 - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

RESOLUTION

CASE NO. SUP-1-05. ALICE'S WONDERLAND PLAYHOUSE

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, Ms. Alice Wilson has applied for a special use permit to allow a child day care center at 2942 Chickahominy Road; and

WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (2-2) on James City County Real Estate Tax Map No. (22-3); and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on March 7, 2005 recommended approval of this application by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 1-05 as described herein with the following conditions:

1. The total number of occupants, including but not limited to staff and children, shall not exceed 49.
2. Hours of operation shall be limited from 6 a.m. to 7 p.m., Monday through Friday, and 7 a.m. to 5 p.m. on Saturdays.
3. The owner shall submit a site plan and receive final site plan approval from the James City County Planning Division within thirty-six months of the date of approval of this special use permit, or the permit shall become void.
4. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (JCSA). The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and to minimize the use of public water resources. The water conservation standards shall be approved by the JCSA prior to final site plan approval.
5. Any playground equipment and associated fencing shall be landscaped so as to screen the playground equipment and fencing from adjacent property owners. The landscaping plan and fencing material shall be reviewed and approved by the Planning Director prior to final site plan approval.
6. Any new exterior lighting fixtures, including building lighting, shall have recessed fixtures with no lens, bulb, or globe extending below the casing. No glare shall extend outside the property lines. No light pole shall exceed 15 feet in height unless

otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the adjoining residential properties.

7. The owner shall obtain a final Certificate of Occupancy from the James City County Code Compliance Division within thirty-six months of the date of approval of this special use permit, or this permit shall become void.
8. This special permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

Sup-01-05.res

AGENDA ITEM NO. F-3

**SPECIAL USE PERMIT 5-05. 8503 Hicks Island Family Subdivision
Staff Report for the April 12, 2005, 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:

April 12, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant:

David Bradley

Land Owner:

David and Linda Bradley

Proposed Use:

Family Subdivision

Location:

8503 Hicks Island Road, Stonehouse District

Tax Map and Parcel No.:

(9-1)(1-23)

Primary Service Area:

Outside

Parcel Size:

Proposed Lot 2:

Approx. 1.9 acres

Remaining Parent Lot 1:

Approx. 1.1 acres

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: Ellen Cook

Phone: 253-6685

PROJECT DESCRIPTION

Mr. David Bradley has requested that the Board approve a family subdivision on land zoned A-1, General Agricultural. The new lot would be conveyed by the applicant to his son, Matthew A. Bradley. The existing parcel is located on Hicks Island Road. It totals three acres and approval of the proposed family subdivision would create one new lot. The new Lot 2 would total approximately 1.9 acres. The remaining Lot 1 would total approximately 1.1 acres. Both lots would take access off of Hicks Island Road.

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 Hicks Island Road. The lot to be created (Lot 2), as well as the parent lot (Lot 1), will have access onto Hicks Island Road.

Comprehensive Plan

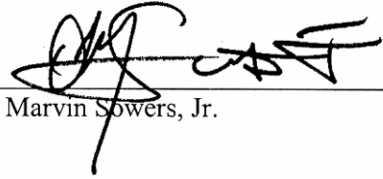
The site is located outside the Primary Service Area (PSA) and the Land Use Map designates the property as Rural Lands. According to the Comprehensive Plan, rural lands contain farms, forests and scattered houses. In accordance with the rural land use standards listed in the Plan, conventional large 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.

CONCLUSIONS & CONDITIONS

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.

Ellen Cook

CONCUR:

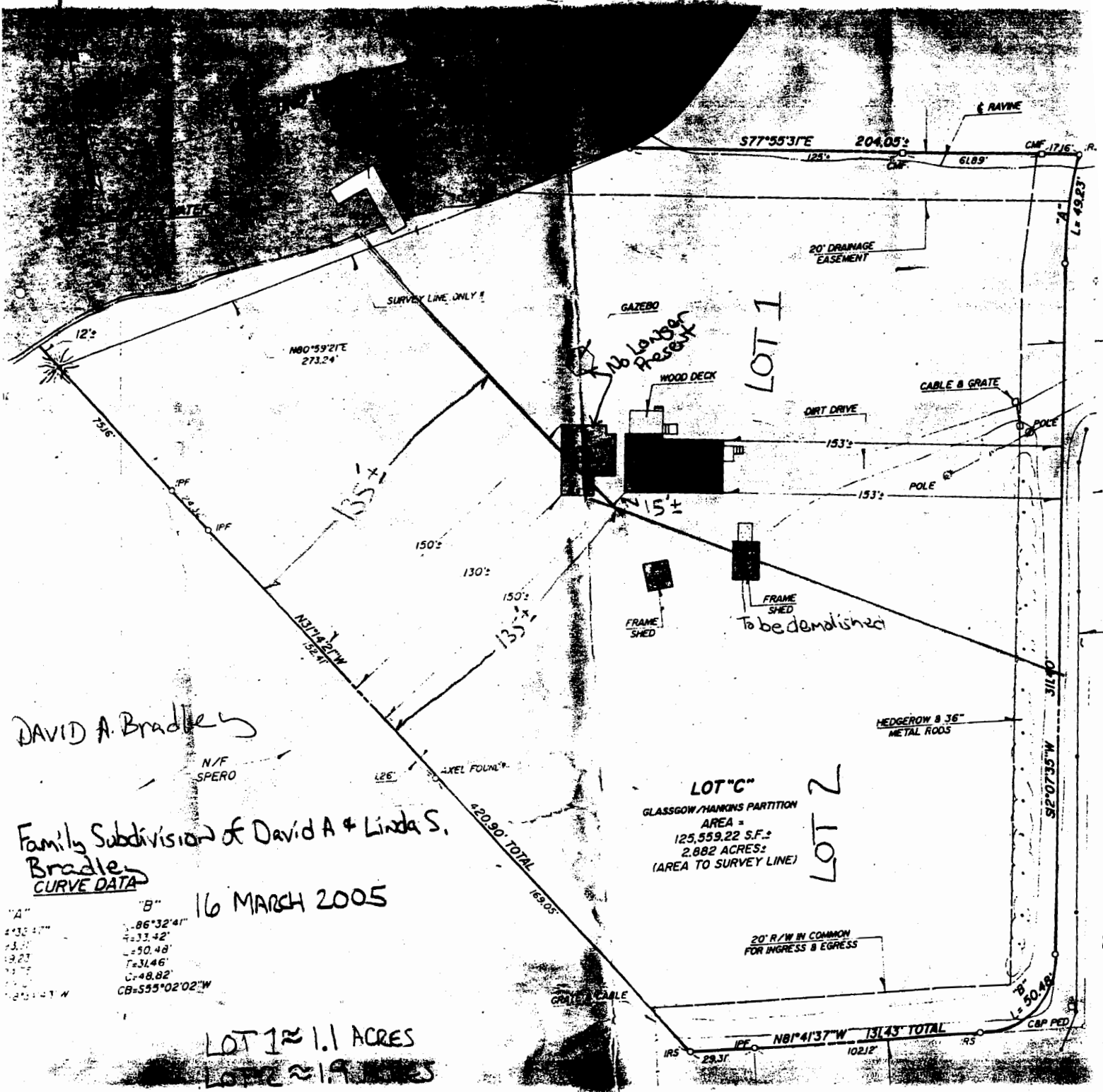


O. Marvin Sowers, Jr.

EC/nb
Sup-05-05.8503

ATTACHMENTS:

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



DAVID A. Bradley

Family Subdivision of David A & Linda S. Bradley
 CURVE DATA

16 MARCH 2005

"A"	"B"
4°32'47"	1°06'32'41"
73.1'	±33.42'
13.23'	±50.48'
11.75'	±31.46'
11.2'	±48.82'
120.141' W	CB=555°02'02" W

LOT 1 ≈ 1.1 ACRES
 LOT 2 ≈ 1.9 ACRES

LOT "C"
 GLASSGOW/HANKINS PARTITION
 AREA = 125,559.22 S.F.
 2.882 ACRES
 (AREA TO SURVEY LINE)

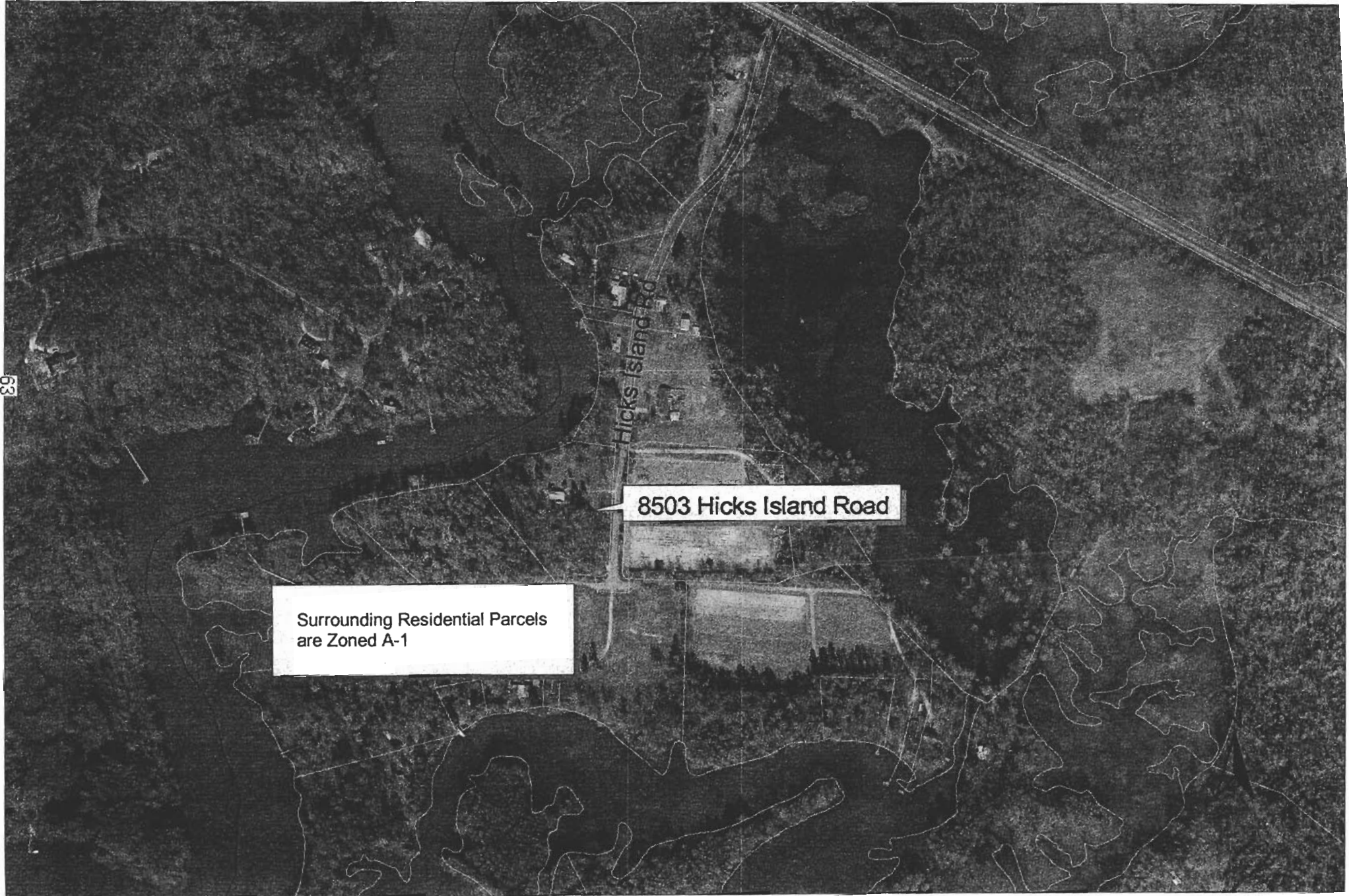
LOT 2

ROUTE 860

SUP-05-05 8503 Hicks Island Family Subdivision



Photo Copyright 2002 State of Virginia



8503 Hicks Island Road

Surrounding Residential Parcels
are Zoned A-1

63

16 MARCH 2005
(Date)

State of Virginia

County of James City

I, DAVID A. BRADLEY, am requesting James City County, Virginia, to approve a family subdivision of 1 parcel(s), consisting of 3 acres as set forth and designated on a plat entitled "Family Subdivision of David A & Linda S. Bradley", made by David A. Bradley, dated 3-16-05.

This subdivision is being made for the purpose of transferring a lot by sale or gift to:

Matthew A. Bradley, (an) immediate family member(s), and specifically my SON, 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 16 day of MARCH 2005.

Marci R. Clodfelter
Notary Public

David Bradley
Linda Bradley
Owner

My commission Expires 4-30-2007.

approval.frm

RESOLUTION

CASE NO. SUP-5-05. 8503 HICKS ISLAND 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 applicants have requested a SUP to allow for a family subdivision in an A-1, General Agricultural District, located at 8503 Hicks Island Road, further identified as Parcel No. (9-1) on James City County Real Estate Tax Map No. (1-23).

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. 5-05 as described herein with the following conditions:

1. This special use permit is valid for a family subdivision for the creation of one new lot of approximately 1.9 acres with one parent lot of approximately 1.1 acres remaining generally as shown on the conceptual subdivision plat submitted with this application.
2. Final subdivision approval must be received from the County within twelve months from the issuance of this special use permit or the permit shall become void.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

hicksislndsubdiv.res

**REZONING 14-04/MASTER PLAN 1-05. POCAHONTAS SQUARE PROFFER AMENDMENT
Staff Report for the April 12, 2005, 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

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

Planning Commission: February 7, 2005 (deferred)
March 7, 2005
Board of Supervisors: April 12, 2005

SUMMARY FACTS

Applicant: Jay Epstein of Health-E-Community Enterprises
Land Owner: RML III Corporation
Proposal: To amend the Master Plan by changing proposed unit sizes, and to amend five proffers, restate eight original proffers, and add one new proffer.
Location: 8814, 8838, and 8844 Pocahontas Trail
Tax Map/Parcel Nos.: (59-2)(1-4); (59-2)(1-5A); (59-2)(1-5)
Parcel Size: 13.43 acres
Proposed Zoning: R-5, Multifamily Residential, with amended proffers
Existing Zoning: R-5, Multifamily Residential, with proffers
Comprehensive Plan: Low Density Residential
Primary Service Area: Inside

STAFF RECOMMENDATION

As in 2003, staff feels that the Pocahontas Square development is consistent with surrounding development and that with restated proffers remaining in place, it will not negatively impact surrounding property. Furthermore, while the proposed proffer amendment would result in fewer affordable units than the original proposal, the applicant would continue to offer almost two thirds of the development with price restrictions, would now contribute to longer term affordability with a second deed held by the County for twenty-five percent of the units, and has proffered cash contributions for seventy-five percent of the units. The proposal would continue to meet many of the goals in the Housing section of the Comprehensive Plan. Staff recommends approval of the proffer and master plan amendment with the attached proffers.

Staff Contact: Ellen Cook Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended approval by a vote of 7-0.

Proposed Changes Made After Planning Commission Consideration

The Master Plan has been updated to more closely reflect the appearance of the approved development plan. The affordable housing proffer has been revised to include greater detail regarding the second deed of trust.

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

PROJECT DESCRIPTION

The Pocahontas Square development consists of three contiguous parcels located on Pocahontas Trail. Surrounding development includes Brookside Haven (85 townhomes at a density of 8.2 units per acre), Heritage Mobile Home Village (60 mobile homes at a density of 5.6 units per acre), the Carter's Grove Agricultural and Forestal District (across Pocahontas Trail), and the Poplar Hall Plantation subdivision. The original Pocahontas Square rezoning from LB/R-8 to R-5, with proffers was approved by the Board of Supervisors in August 2003 and included 96 townhouse units (6.9 units per acre). The original proposal was for a development in which all units would be price restricted and provide affordable housing. The applicant also provided a range of other proffers specifying, among other things, recreational amenities, buffers, and road improvements. Since 2003, the development plan for Pocahontas Square has been reviewed and approved by the County, but the units have not been built. The reason cited by the current applicant is that the existing proffered price restrictions (which apply to 100 percent of the units) are not financially feasible due to building material shortages and prices increases, International Building Code changes, and sharp increases in labor prices.

The proffer amendment proposes to change the concept of the Pocahontas Square development from one hundred percent affordable to a mixed-cost development. Two major elements of the original proposal that would change in accordance with the mixed-cost concept are the unit sizes (see Master Plan Amendment information below), which would expand the range of different size units available; and the price restriction amounts and percentages (see Proffer Amendment information below). The expansion in size range is intended to support the proposed mixed cost concept, where smaller units would likely continue to sell at lower, more affordable, prices in the future and the other units would vary in sales price. The price restricted units are expected to continue to primarily serve residents falling into the 60 percent and 80 percent of median income categories. In addition, the current applicant proposes the following:

- ◆ Cash proffers for all units above the \$110,000 price level.
- ◆ A fifteen-year second deed of trust held by the County for the \$110,000 units which will help ensure that these units remain in the ownership of residents qualifying for affordable housing.
- ◆ A cash contribution to the Pocahontas Square Homeowners Association reserve fund.

The applicant has also added a note to the Master Plan specifying that the units will be built by Health-E-Community Enterprises, whose building concept stresses sustainable building practices with better energy efficiency and indoor air quality than the average housing stock. Specific information about the master plan and proffer changes is summarized below.

The amended master plan proposes the following:

- ◆ The unit size range would expand to include units sized at 1,200, 1,384, 1,450, 1,550, and 1,650 square feet rather than having only two unit sizes (1,470 and 1,570), as originally shown.

To accompany this proposed master plan amendment, the following proffers are proposed to be amended:

- ◆ Owners Association. The applicant proposes to provide a single lump sum of \$12,960 to the Homeowners Association reserve fund which was not originally proffered.
- ◆ Master Plan. The proffer is amended to reference the preparation date of the amended Master Plan.
- ◆ Affordable Housing. The applicant proposes to change the number of affordable and price restricted units, and to change the sales prices of these units from the original affordable housing proffer. The original affordable housing proffer stated that 75 percent of the lots would be offered for sale at a price below \$100,000, and 25 percent of the lots would be offered at or below \$110,000. The applicant is now proposing to offer 25 percent of the units at a net sales price of \$110,000, 40 percent of the units at \$155,000 or below; and the remaining 35 percent at market

rate. The proffer also contains the provision that a second deed would be held by the County for the affordable units in an amount equal to the difference between the appraised value of the unit and the net sales price of \$110,000. The result is an incentive for the original buyer to retain the home rather than sell immediately to make a profit.

- ◆ Sidewalk Connections. The applicant has proposed a different trigger for sidewalk installation than the original proffer which will allow for installation of the sidewalks in phases.
- ◆ Architectural Elevations. The proffer is amended to reference the preparation date of updated architectural elevations which change some of the specific elements, but not the general character of the original proffered elevations.

In addition, the following new proffer is proposed to be added:

- ◆ Cash Contributions for Community Impacts

Cash Proffer Summary	
Use	Amount
Water & Sewer	JCSA did not suggest a contribution as the development is served by Newport News Waterworks.
Community Impacts	\$1,000 per lot (for 72 of the 96 lots)
Community Impacts: Schools	\$700 per lot (for 72 of the 96 lots)
Homeowners Reserve Fund (From the Owners Association Proffer)	\$12,960
Total Amount (2005 dollars)	\$135,360
Total Per Lot	\$1,410 per lot (For all 96 proposed lots)

All other original Pocahontas Square proffers have been restated. These include:

- ◆ Water Conservation Standards
- ◆ Entrance/Turn Lanes
- ◆ Archaeology
- ◆ Sidewalk Design
- ◆ Route 60 Landscape Buffer
- ◆ Pedestrian Trail
- ◆ Underground Storage Tank Removal
- ◆ Private Streets

PUBLIC IMPACTS

Environmental Impacts

- ◆ **Watershed:** Skiffe's Creek
- ◆ **Staff Comment:** The Environmental Division has reviewed and approved the Pocahontas Square development plan (SP-140-03), the proposed Master Plan and Proffer amendment would not affect the approved development plan.

Public Impacts

- ◆ **Utilities:** The site is served by public water and sewer.
- ◆ **Staff Comments:** The JCSA has reviewed and approved the Pocahontas Square development plan (SP-140-03), the proposed Master Plan and Proffer amendment would not affect the approved development plan.

Public Facilities

- ◆ Per the “Adequate Public School Facilities Test” policy adopted by the Board of Supervisors, all special use permits or rezoning applications should pass the test for adequate public school facilities, which means having adequate design capacity for the proposed new school children, or that the school’s student population will be brought under design capacity within three years of the time of the application’s review through either physical improvements programmed in the Capital Improvements Plan (CIP) and/or through a redistricting plan approved by the School Board. As in 2003, both James River and Elementary and James Blair Middle School have design capacity in excess of the expected number of additional students, but the high school’s capacity is exceeded. However, since 2003 James City County residents approved a bond referendum for a third high school which will likely affect the student population at Jamestown High School within the next three years.

Schools	2004-2005 Enrollment	With Pocahontas Square Students (projected numbers)	Design Capacity	At or Below Design Capacity
James River Elementary	434	(+69)=503	588	Yes
James Blair Middle School	583	(+38)=621	625	Yes
Jamestown High School	1,451	(+50)=1,501	1,250	No, but the Third High School bond referendum was approved.

- ◆ **Staff Comment:** The applicant has proposed a proffer amendment that would change unit prices from the original proposal. Financial and Management Services staff have found in the past that higher priced attached units generally generate fewer school children than lower priced units, but that other factors, such as turn-over rates and location, seem to be important factors as well.
- ◆ **Proffer:** \$700 per unit (for 72 of the 96 units) for school use.

Traffic

- ◆ At the time of the original rezoning, the Virginia Department of Transportation (VDOT) reviewed the traffic impact study for this project and recommended the development provide both right- and left-turn lanes. The applicant proffered these turn lanes.
- ◆ **Staff Comment:** VDOT has reviewed and approved the Pocahontas Square development plan (SP-140-03), which includes the right- and left-turn lanes: the proposed Master Plan and Proffer amendment would not affect the approved development plan.

COMPREHENSIVE PLAN

The Comprehensive Plan Land Use Map designated this property as Low Density Residential. Low Density areas are suitable for developments with overall densities of one dwelling unit per acre. In order to encourage high quality design, development with density up to four units per acre is recommended if the development offers benefits such as, mixed-cost housing, affordable housing, protection of wildlife habitats, adequate recreational areas, and effective pedestrian trail systems. Pocahontas Trail is designated as a Community Character Corridor.

◆ **Staff Comments:** At a density of 6.9 dwelling units per acre, this proposal, while consistent with surrounding zoning and development, is above the recommended Comprehensive Plan density. However, the proposal meets a number of other Comprehensive Plan goals, strategies and actions including:

- Increases the availability of affordable housing.
- Achieves high quality in design and construction.
- Infill development that minimizes site development costs and unnecessary sprawl, and maximizes the development potential of land convenient to public facilities and services.

The current proposal continues to meet these and other goals of the Housing section of the Comprehensive Plan, although in terms of the percentage of affordable housing provided, it meets them to a lesser extent than the original proposal.

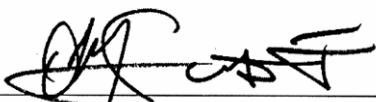
In terms of the Community Character Corridor, the 50-foot-wide landscape buffer along the front of the property continues to be proffered and shown on the Master Plan. Since 2003, specimen tree preservation specifications and a landscape plan for the buffer have been reviewed and approved and are shown on the development plan.

CONCLUSIONS AND CONDITIONS

As in 2003, staff continues to feel that the Pocahontas Square development is consistent with surrounding development and that with restated proffers remaining in place, it will not negatively impact surrounding property. Furthermore, while the proposed proffer amendment would result in fewer affordable units than the original proposal, the applicant would continue to offer almost two thirds of the development with price restrictions, would now contribute to longer term affordability with a second deed held by the County for twenty-five percent of the units, and has proffered cash contributions for seventy-five percent of the units. The proposal would continue to meet many of the goals in the Housing section of the Comprehensive Plan. Staff recommends approval of the proffer and master plan amendment with the attached proffers.

Ellen Cook

CONCUR:



O. Marvin Sowers, Jr.

EC/nb
Z-14-04.mem

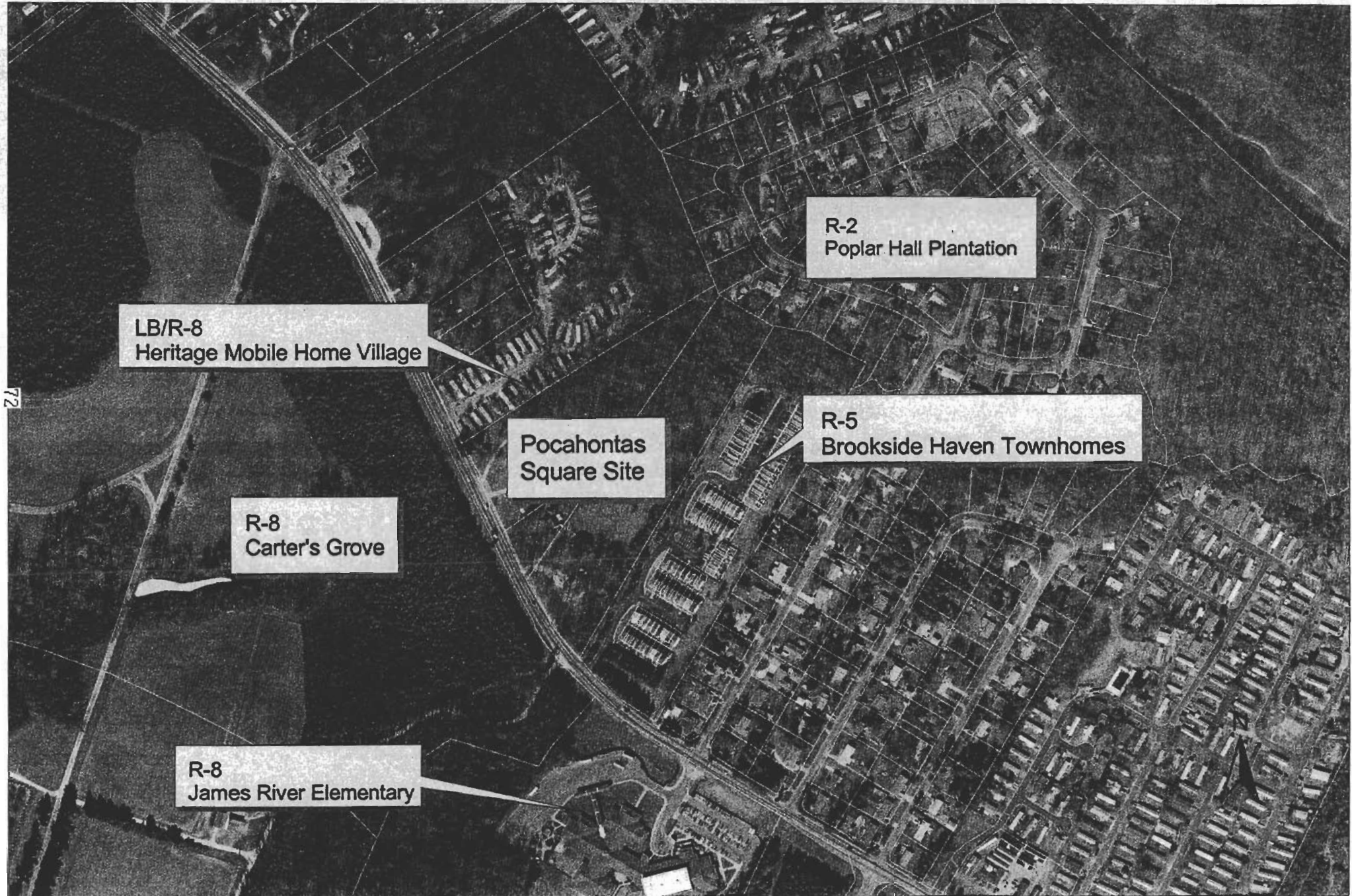
Attachments:

1. Location map
2. Planning Commission Minutes from 3/7/2005
3. Proffers
4. Architectural Elevation Sheet
5. Letter to the Planning Division from the applicant
6. Rezoning Resolution
7. Master Plan (separate cover)

Z-14-04/MP-01-05 Pocahontas Square Proffer Amendment



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LB/R-8
Heritage Mobile Home Village

R-2
Poplar Hall Plantation

R-5
Brookside Haven Townhomes

Pocahontas
Square Site

R-8
Carter's Grove

R-8
James River Elementary

72

**APPROVED MINUTES OF THE MARCH 7TH MEETING OF THE
PLANNING COMMISSION**

Z-14-04 Pocahontas Square Proffer Amendment

Ms. Cook presented the staff report. Mr. Jay Epstein has applied to amend the proffers for approximately 14 acres at 8814, 8838, and 8844 Pocahontas Trail currently zoned R-5, Multi-family Residential, with proffers. The applicant has proposed to amend proffers related to the percentage of affordable dwelling units, the owners association, sidewalks, and cash contributions for community impacts. Ninety-six affordable townhouse units at a density of approximately 6.9 dwelling units per acre were approved for this site in 2003. The property is also known as parcels (1-4), (1-5A) and (1-5) on the James City County Real Estate Tax Map (59-2). The site is designated for Low Density Residential development on the James City County Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential include very limited commercial establishments, single family homes, duplexes, and cluster housing with a gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. Staff recommends approval of the application.

Mr. Kennedy asked if redistricting had been accounted for in the school numbers presented in the staff report.

Ms. Cook responded that the 2005 enrollment numbers were used to determine school projections.

Mr. Kennedy asked if any other affordable housing projects were expected to be resubmitted or revised.

Ms. Cook responded that Pocahontas Square was the only affordable housing project resubmitted for a proffer amendment at this time.

Mr. Kennedy spoke to the need addressed by this affordable housing project but expressed concern that the number of affordable units in this application had been reduced from the previous application. He stated that he was in favor of the deed restrictions placed on units to keep them in the affordable range.

Mr. Sowers stated that the deed restriction placed on units to keep the units affordable was one of the primary factors that caused staff to recommend approval.

Ms. Blanton expressed her reservations at the revisions presented in this application, where the number of affordable units was decreased substantially. She asked what the basis was for the cash proffers presented in the application.

Ms. Cook responded that the cash contributions proffered by the applicant were consistent with recent cash proffers for schools and community impacts. Another typical

cash proffer, for JCSA, was not suggested since the site is served by Newport News Waterworks.

Mr. Kennedy asked about the discrepancy between the cash proffers presented in this application and the projected school proffer figures being considered for incorporation into a formal Board School Proffer policy.

Mr. Sowers responded that, in absence of a board policy addressing cash proffers, that the proffers were based on typical recent cash proffers.

Mr. Fraley asked what factors dictated the calculation of cash contributions proffered per lot.

Mr. Sowers responded that, in absence of a Board policy, no differentiation was figured into the suggested per-lot proffer amounts.

Mr. Rogers addressed the cash proffer policy issue. He stated that the Board will be evaluating the overall impact created by each residential development and differentiating them by the types of units proposed.

Mr. Fraley asked if cash proffers had been included for the original project.

Ms. Cook responded that no cash proffers had been included.

Mr. Kale asked Ms. Cook to state the difference in the density figures presented in the application and the density recommended in the Comprehensive Plan.

Ms. Cook outlined the two sets of figures.

Mr. Kale asked why the higher density in the application had received a favorable recommendation originally.

Ms. Cook responded that the higher density of surrounding development had been taken into account, as had the expressed need for affordable housing.

Mr. Sowers added that the density would still be lower than the adjacent development of Brookside Haven.

Mr. Billups asked if the Office of Housing and Community Development had been consulted about the current application.

Mr. Rick Hanson, of the Office of Housing and Community Development, stated that he had worked directly with Planning in reviewing this project and that the application offered some significant advantages.

Mr. Kennedy asked if the people on the affordable housing waiting lists lived in James City County.

Mr. Hanson responded that most of the people on waiting lists in his office either lived or worked in James City County.

Mr. Billups asked Mr. Hanson if he had negotiated any agreements to secure affordable housing units in this or any other recent development.

Mr. Hanson responded that his office had worked with a number of developers who have participated in the County's affordable housing programs.

Mr. Sowers added that the proposed proffers contained provisions requiring coordination between the applicant and the Office of Housing and Community Development.

Mr. Fraley asked Mr. Hanson how many names are on the waiting list for affordable housing and how long the average wait is.

Mr. Hanson responded that his list has about one hundred qualified buyers and that the average waiting time varies with the type of housing desired by the buyer.

Mr. Fraley asked Mr. Hanson if this proposal would significantly help the aims of his Office.

Mr. Hanson responded that this project would help his Office.

Ms. Blanton asked Mr. Hanson how this application compared to the previous project.

Mr. Hanson responded that this proposal offered new benefits, such as deed restrictions and a range of pricing points.

Ms. Blanton asked how Mr. Hanson felt about the Health-E Community concept.

Mr. Hanson responded that he supported many of the features offered by Health-E-Communities.

Ms. Jones asked Ms. Cook if units priced under \$110,000 would all be the smaller 1,200 square foot units.

Ms. Cook responded that the units priced under \$110,000 would be the smaller units shown on the Master Plan.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy, representing the applicant, gave a short presentation outlining the application. He detailed the actions of the previous developer, RML Corporation, and Mr. Epstein's plans to develop the site using the Health-E Community model.

Mr. Kennedy complemented Mr. Epstein on his past work. Mr. Kennedy asked what probability there was that the developer might need further revision of the proffers.

Mr. Epstein referred to his previous work with Michelle Point, which has not to this date required any proffer amendments.

Mr. Kale asked if Mr. Epstein had reduced any affordable housing units in Ironbound Village.

Mr. Epstein responded that, while he did not act as the original developer in Ironbound Village, he had built every proposed affordable unit proffered by the rezoning.

Mr. Hanson concurred with Mr. Epstein.

Ms. Blanton asked if Mr. Epstein had any concerns about the demand for the higher priced townhomes.

Mr. Epstein responded that he felt very comfortable with the demand for the townhomes.

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

Mr. Fraley commented that he liked the project for the area and that he enthusiastically supported the project.

Ms. Jones stated that she liked the application and was prepared to support it.

Ms. Blanton stated her enthusiastic support of the project.

Mr. Kennedy commented that, with regards to land use, the project fits the area. Though he cited changes in the application along with the anticipated impact to the schools as reservations, he added his support to the application.

Mr. Billups stated that the County still faced serious challenges in regard to affordable housing. He stated his support.

Mr. Kennedy motioned approval.

Mr. Billups seconded the motion.

The Planning Commission voted 7-0 to support the application: YES: (7) Hunt, Jones, Fraley, Blanton, Kennedy, Kale, Billups. NO: (0)

PROFFER AMENDMENT

THIS PROFFER AMENDMENT is made this 24th day of February, 2005, by RML III Corporation (together with its successors and assigns, the "Owner") and Jay Epstein (Developer), and PROFFERS dated July 31, 2003, which were accepted and approved as Agenda Item No. H-3 Rezoning Z-3-03 Pocahontas Square, by James City County Board of Supervisors on August 12, 2003, and ADDENDUM TO PROFFERS dated February 2, 2005. The existing proffers recorded in the James City County Clerk's office on August 21, 2003, as instrument #030024660 (Attached as Exhibit "A") remain in effect, except as amended by the following:

RECITALS

WHEREAS, Owner is the record title owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 8814 Pocahontas Trail, Williamsburg, Virginia, and being Tax Parcel 5920100004, the second with an address of 8838 Pocahontas Trail, Williamsburg, Virginia, and being Tax Parcel 5920100005A, and the third with an address of 8844 Pocahontas Trail, Williamsburg, Virginia, and being Tax Parcel 5920100005 (together, the "Property").

WHEREAS, Jay Epstein, and/or assigns (Developer), has contracted to purchase the property conditioned upon rezoning and Proffer Amendment.

WHEREAS, the property is currently subject to Proffers made the 31st day of July, 2003, by Rose Marie Hall and RML III Corporation (See Exhibit "A" attached).

WHEREAS, the Owner and Developer desire to offer to the County certain amended conditions on the development of the property, not generally under current zoning.

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.

AMENDED CONDITIONS

1. Master Plan. The Property shall be subdivided and developed generally as shown on the revised Master Plan dated January 30, 2005, with only minor changes thereto that the Development Review Committee determines, which do not change the basic concept or character of the development.

2. Owners Association. There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all property owners in the development, 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 road and parking areas ("Reserve"), 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. 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.

Owner shall maintain all common areas on the Property until 90% of the lots/units on the Property have been sold to minimize Association dues during that period so as to not adversely affect purchaser's ability to qualify for a home mortgage. At the time Owner's maintenance obligation under this Section ends, there shall be at least \$12,960.00 in the Reserve and Owner shall supply evidence of the same to the Planning Director prior to final subdivision approval.

3. Water Conservation. See Exhibit "A" attached.

4. Affordable Housing. A minimum of 24 of the lots with townhouse dwelling units shall be reserved and offered for sale at a net sales price to buyer at or below \$110,000.00 subject to adjustment as set forth herein. If required by James City County Housing, a second deed of trust shall be assigned unto James City County Housing for the difference of the appraised value of the townhouse and the net sales price paid by the purchaser of the townhouse, which shall be reflected on a settlement statement for review prior to closing. This deed of trust shall, subject to the request of James City County Housing, be assigned at the time of closing, utilizing appropriate approved procedures and identifying the net sales price paid by the purchaser of the townhouse for the 24 townhouses sold through James City County for \$110,000 or less. The second deed of trust will be prepared by the Owner as a 15 year forgivable loan in a form approved by Housing and Community Development, the County Attorney, and Virginia Housing Development Authority. A minimum of 38 of the lots with townhouse dwelling units shall be reserved and offered for sale at a price at or below \$155,000.00 subject to adjustment as set forth herein. The maximum prices set forth herein shall be adjusted annually, or January 1st 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, 2005 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.

5. Archaeology. See Exhibit "A" attached.
6. Route 60 Landscape Buffer. See Exhibit "A" attached.
7. Entrance/Turn Lanes. See Exhibit "A" attached.
8. Underground Storage Tanks. See Exhibit "A" attached.
9. Sidewalk Connections. There shall be two sidewalk connections from the internal sidewalks in the development to the sidewalk adjacent to Route 60 generally as shown on the Master Plan. Sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of certificates of occupancy for adjacent dwelling units.
10. Sidewalk Design. See Exhibit "A" attached.
11. Pedestrian Trail. See Exhibit "A" attached.
12. Private Streets. See Exhibit "A" attached.
13. Architectural Elevations. The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the revised Proposed Typical Elevations for Pocahontas Square dated February 24, 2005, as determined by the Director of Planning.
14. Cash Contributions for Community Impacts.

(a) A contribution of \$700.00 for each dwelling unit on the Property other than the 24 units whose prices are restricted pursuant to Proffer 1 above 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 in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(b) A contribution of \$1,000.00 for each dwelling unit on the Property other than the 24 units whose prices are restricted pursuant to Proffer 1 above 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 in whole or in part by the physical development and operation of the Property, including without limitation, for emergency services, school uses, off-site road improvements, library uses, and public use sites.

(c) The contributions described above, unless otherwise specified, shall be payable prior to final approval of the site plan or subdivision plat for such unit.

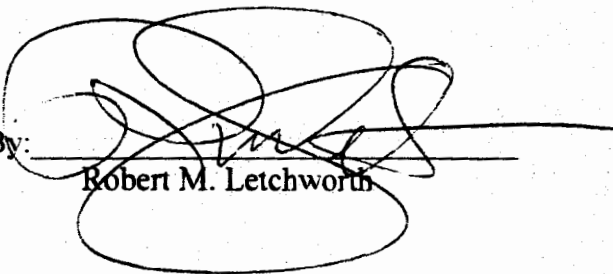
(d) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average. All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI")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

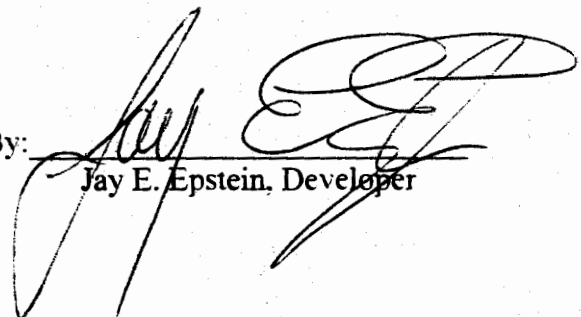
ALL OTHER PROFFERS, RECITALS AND CONDITIONS SHALL REMAIN THE SAME.

WITNESS the following signatures:

RML III, CORPORATION

By: 
Robert M. Letchworth

RML III, CORPORATION

By: 
Jay E. Epstein, Developer

Commonwealth of Virginia . . .
CITY/COUNTY OF Virginia Beach . to wit:

The foregoing instrument was acknowledged this 29th day of
March . 2005. by Robert M. Letchworth.

Susan C. Ashburn
NOTARY PUBLIC

My commission expires: Jan. 31, 2007

Commonwealth of Virginia
CITY/COUNTY OF Hampton News . to wit:

The foregoing instrument was acknowledged this 25 day of
March . 2005. by Jay E. Epstein.

Jay E. Epstein
NOTARY PUBLIC

My commission expires: Nov. 30, 2005

(342796)

PROFFERS

THESE PROFFERS are made this 31st day of July, 2003 by ROSE MARIE HALL (together with her successors and assigns, the "Owner") and RML III CORPORATION.

RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 8814 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100004, the second with an address of 8838 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100005A, and the third with an address of 8844 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100005 (together, the "Property"). A portion of the Property is now zoned LB and a portion is now zoned R-8.

B. RML III Corporation and/or assigns ("Buyer") has contracted to purchase the Property conditioned upon the rezoning of the Property.

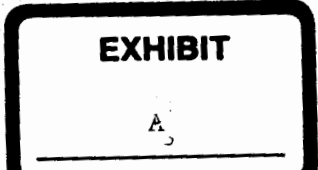
C. Owner and Buyer have applied to rezone the Property from LB and R-8 to R-5, Multifamily Residential District, with proffers.

D. Buyer has submitted to the County a master plan entitled "Master Plan of Pocahontas Square" prepared by MSA, P.C. dated 05/13/2003 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

Instrument # 030024660

Recorded on Aug. 21, 2003

1



E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-5.

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.

CONDITIONS

1. Master Plan. The Property shall be subdivided and 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.

2. Owners Association. There shall be organized an owner's association or associations (the "Association") in accordance with Virginia law in which all property owners in the development, 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. 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.** Water conservation standards shall be submitted to and approved by the James City Service Authority and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation 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. The standards shall be approved by the James City Service Authority prior to final site plan or subdivision approval.

4. **Affordable Housing.** A minimum of 75 percent of the lots with dwelling units shall be reserved and offered for sale at a price at or below \$100,000.00 subject to adjustment as set forth herein. The balance of the lots with dwelling units shall be

reserved and offered for sale at a price at or below \$110,000.00 subject to adjustment as set forth herein. The maximum prices 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.

5. **Archaeology.** A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted 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 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 III 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 areas. 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 *Standards 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 Property and the clearing, grading or construction activities thereon.

6. **Route 60 Landscape Buffer**. There shall be a 50 foot landscape buffer along the Route 60 frontage of the Property measured from the edge of right-of-way after the installation of the proffered turn lanes generally as shown on the Master Plan.

Prior to the County being obligated to grant final development plan approval for the Property, a landscaping plan for the 50 foot landscape buffer along the Route 60 frontage of the Property consistent with this Condition shall be prepared and submitted for review and approval of the Director of Planning. The landscaping plan shall include additional shrubs to supplement the trees in the buffer and to buffer the adjacent parking areas generally as shown on the Master Plan and, where possible shall require that existing mature/specimen trees and groups of trees be protected and preserved to promote a sense of maturity to the landscape. In addition, the landscape plan for the entire project where possible shall require that existing mature/specimen trees and groups of trees located in setback or other open space areas be protected and preserved to promote a sense of maturity to the landscape. Mature/specimen trees to be preserved shall be identified on the site plan for the development. The approved landscaping plan shall be either (i) implemented in the development of the Property or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy. The buffer shall be exclusive of any lots or units and shall be undisturbed, except for the landscaping proffered herein and, with the approval of the Development Review Committee, utilities, the entrance as shown

generally on the Master Plan, the pedestrian trail proffered hereby, lighting, entrance features and signs.

7. **Entrance/Turn Lanes.** There shall be one entrance into the Property from Pocohantas Trail. The entrance shall have two exiting lanes and one entering lane. Right and left turn lanes and tapers shall be constructed at the entrance to the Property from Route 60. The right turn lane shall have 150 feet of storage and a 150 foot taper and the left turn lane shall have 200 feet of storage and a 200 foot taper. The turn lanes and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation standards and shall be completed prior to the issuance of the first certificate of occupancy.

8. **Underground Storage Tanks.** The existing underground storage tanks on the Property (which were taken out of service in June 1986) shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.

9. **Sidewalk Connections.** There shall be two sidewalk connections from the internal sidewalks in the development to the sidewalk adjacent to Route 60 generally as shown on the Master Plan. These connections shall be installed prior to the issuance of the first certificate of occupancy.

Z-03-03

PR-082

Pocahontas Square

10. **Sidewalk Design.** The design of the sidewalks adjacent to parking areas shall be subject to the approval of the Director of Planning to ensure adequate sidewalk width to provide for pedestrian circulation.

11. **Pedestrian Trail.** There shall be a paved walking trail at least four feet in width installed on 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.

12. **Private Streets.** The private streets in the development shall be constructed in accordance with applicable County standards for private streets.

13. **Architectural Elevations.** The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the Proposed Typical Elevations for Pocahontas Square dated 5/13/03 submitted as a part of the Community Impact Statement as determined by the Director of Planning.

Z-03-03
Pocahontas Square

PR-082

WITNESS the following signature.)

Rose Marie Hall
Rose Marie Hall

RML III Corporation

By: J. O. Meyers, Jr.
Title: DIRECTOR

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

The foregoing instrument was acknowledged this 1st
day of August, 2003, by Rose Marie Hall.

Barbara J. Claus
NOTARY PUBLIC

My commission expires: 1/31/07.

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

The foregoing instrument was acknowledged this 1st
day of August, 2003, by James O. Meyers, Jr., as
Director of RML III Corporation on behalf of the corporation.

Barbara J. Claus
NOTARY PUBLIC

My commission expires: 1/31/07.

Prepared by:
Vernon M. Geddy, III, Esquire
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, VA 23185
(757) 220-6500

Z-03-03
Pocahontas Square

PR-082

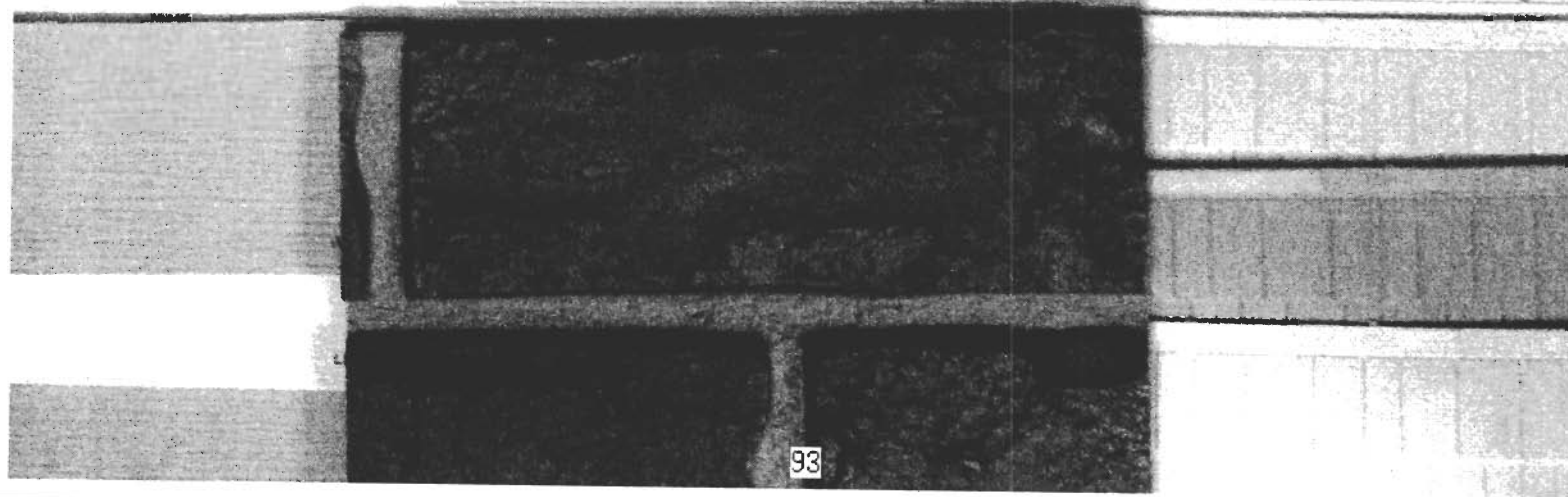
January 24th 2005



Vinyl Dutch Lap Siding

Nailite Hand-Laid Brick Siding

Vinyl Cedarway Shake Siding



Jay Epstein
President
Health-E-Community Enterprises of Virginia Inc.
3606 Acorn Avenue
Newport News Virginia 23607

February 14, 2005

Ellen Cook
Planner
James City County Planning Department

Ms. Ellen Cook:

Re: Pocahontas Square Proposal for Proffer Amendment

The aforementioned property is currently under contract from the original developer, who is disposing of the property due to the spiraling cost of development and building, which has made it impossible for him to meet his proffers of building all homes in the community at \$110,000 or less. After receiving full engineering approval, it became evident that the project would never be built. After reviewing the proffers and staff report, I contracted to purchase the property, because I feel that Pocahontas Square represents a true opportunity to bring mixed cost housing to the Grove Community that will enhance property values in the community. Pocahontas Square will provide an opportunity for housing for factory workers, firefighters, police officers, school teachers and county employees. These individuals prepared the backbone of the community and encompass a section of that population that otherwise would not be able to afford to live in James City County. In a mixed cost community of town homes priced from \$110,000 to \$170,000, the firefighter at the station down the street could afford to buy a home, as well as the work force at the industrial park which is in close proximity to the location.

- Our housing at Ironbound Village exemplifies the mixed cost housing concept, as well as Michelle Point that was approved by James City last year. By building a townhouse community with townhouses sized from 1200 square feet to 1650 square feet, we will be able to mix the income base of the purchaser yet keep all the homes affordable compared to the average cost of a home in James City which is now approaching \$300,000. This concept will insure that property values increase in the surrounding Grove area and not be price pointed at \$110,000 or less. "That would bring property values down in the Grove Community while a mixed cost townhouse community would give Grove a Chance to see appreciating home values while stabilizing the community."
- A new concept involving the recognition of the equity at closing for the homes purchased through James City Housing will be utilized at Pocahontas Square. We have noticed through the sales at Ironbound Village, Strawberry Plains, and the recent appraisals for Michelle Point that there is a great deal of equity in the

homes sold under proffered affordable housing prices. We expect to sell the homes at the net sales price of \$110,000, but the actual sales price will be the appraised value of \$143,000. James City County housing will hold a non-recourse second deed of trust for 15 years in the form of a zero interest forgivable loan. Beginning one year after closing, based on the amount owed, one fifteenth (or \$2,333.33 per the example) of the loan will be forgiven annually. If the sale of the townhouse is purchased by an eligible person approved by James City, based on income and credit worthiness, then the soft second is assumable; otherwise, the soft second is payable upon sale of home (See Attachment).

- The Federal Government has targeted the Grove area where Pocahontas Square is to be built as an Area of Chronic Economic Stress (See Attachment). The Grove area of James City has experienced limited growth in single-family homes and town homes for sale as compared to the rest of James City.
- A review of the surrounding area of this infill site shows a stagnant market price for townhouses for sale at Brookside Haven. The average town home at Brookside Haven originally sold in the upper fifty thousand dollar range in 1986. Today the townhouse sales price varies from fifty six thousand dollars to the low sixty thousand dollar range. (I have researched the tax assessors history of sales at 2, 4, 6 Sidewinder and 1857 Ferrell at Brookside Haven.) To remain with the current proffers would only support the stagnant market where the mixed approach would bring property values up in the surrounding infill site area. I feel it is important to build a mix cost housing community that will enhance adjoining property values.
- Skiffe's Creek Terrace just south of the site sold in 1987 in the high sixty thousand dollar price range and now resale in the low one hundred thousand dollar price range for 1200 square feet. The town homes at Carter's Village sold originally in the mid to upper ninety thousand-dollar price range. Today that same home has sold in the mid one hundred and ten thousand-dollar price range for 1300 square feet. We are seeing positive price increases to the one hundred and fifteen thousand dollar range at Carters Village for a 1300 square foot town home. The price structure at Pocahontas Square should start at a net cost of \$110,000 for the buyer. The sales price will be \$143,000 based on the appraised value with the county utilizing the soft second in the amount of \$33,000 to realize the net sales price of \$110,000 after the non-recourse soft second.
- Housing cost has escalated due to many different factors since the original approval of Pocahontas Square Townhouses in the fall of 2003. The economy has experienced many shortages of materials with spiraling costs due to closing of manufacturing plants for plywood and sheetrock, the shortage of cement due to the demands from China, and the natural disasters due to hurricanes that have depleted inventory of goods. The rapid increase of oil prices has also affected the cost of all petroleum base materials used in the building of homes and has added a burden to delivery costs.

- In the same regard, the new International Building Code that went into effect last year has added additional costs to the construction of the homes due to the new requirements that have affected all trade costs from framing, mechanical, electrical, and plumbing.
- We must also talk about the demand for housing that has created a shortage of the available work force for housing. As an affordable housing builder, we cannot offer the best pay. What we can offer is a clean work place that has an efficient schedule that allows our subcontractors to be more productive. However, we have not been able to overcome labor cost increases because of the great demand. We have seen our cost increase in labor for installation of framing, cement, block, roofing, siding, cabinets, trim and painting. I have included a cost comparison of actual homes built by Health-E-Community over the last year and a half (See Attachment). What you will notice is a 27% increase in labor and goods to build the identical home from June of 2003 through December of 2004. I have also included estimated costs based on my actual cost on the seven town homes I am building at Ironbound Village. Review of the costs will show there is no profit in building town homes at \$110,000 based on the cost increases as noted.
- The demand for site work for the infrastructure has also caused the development costs to increase. The site work involves the following: Ductile Iron pipe has doubled in price from \$8.00 dollars a foot to \$14.50 a foot for slip joint and \$19.00 a foot for mechanical iron pipe. Asphalt has had a 20% to 25% increase from \$32 to \$38.00 to \$45.00, depending on the size of the stone. Diesel fuel has increased over 40% and has affected the cost of operation of equipment, as well as the transportation cost for delivery of materials. Stone prices have increased by 10% to 15% for the base used under the roadway and parking pads. Concrete for the precast structures, curb, gutter, and sidewalks have increased 25% to 30%. All of these factors have caused the initially proposed proffers to be unattainable in the preset market place. Couple that with the increased benefit that is available by use of the mixed cost community provides strong motivation to amend the proffers to enhance the Grove area.

If you have further questions, please call me at 592-4855.

Sincerely,

Jay Epstein



Adjustments For Selected Building Costs From 07/30/03 to 12/10/04

Average Price Increase of \$21,798 or an increase of 26.5% in construction cost

Closing Date of Home 12/10/2004 7/30/2003

Model Comparison Lot Number	Davis	Davis	Difference of Cost	Percentage Change	Comments
Selected Items					
Building Permits	\$ 6,804.20	\$ 6,456.61	\$ 147.59	2.23%	County fee increase
Dump Fees/Hauling	\$ 540.66	\$ 346.67	\$ 193.99	35.88%	Dump fee and labor cost increase
Sub. Survey Work	\$ 600.00	\$ 450.00	\$ 150.00	25.00%	Labor Price Increases
Mat. Footings	\$ 1,775.28	\$ 1,285.16	\$ 490.12	27.61%	Concrete and steel price increase
Sub. Footings	\$ 1,200.00	\$ 960.00	\$ 240.00	20.00%	Labor Price Increases
Mat. Block	\$ 2,064.65	\$ 1,536.81	\$ 527.84	25.57%	Block cost increase in material
Sub. Block	\$ 2,804.00	\$ 1,644.00	\$ 1,160.00	41.37%	Material Cost increases
Sub. Backfill	\$ 825.00	\$ 550.00	\$ 275.00	33.33%	Labor Price Increases
Mat. Framing	\$ 11,495.76	\$ 5,195.63	\$ 6,300.13	54.80%	IBC code change and wood increases
Sub. Framing	\$ 6,255.00	\$ 4,446.00	\$ 1,809.00	28.92%	Labor Price Increases
Mat. Trusses and Joist	\$ 4,022.63	\$ 3,006.47	\$ 1,016.16	25.26%	IBC code change and wood increases
Mat. Windows & Ext. Doors	\$ 2,750.59	\$ 1,863.62	\$ 886.97	32.25%	IBC code change and material cost
Sub. Roofing	\$ 2,070.00	\$ 1,668.69	\$ 401.31	19.39%	IBC code change and shingle increases
Sub. Siding	\$ 5,152.00	\$ 4,693.00	\$ 459.00	8.91%	Vinyl price increase
Sub. Wall Insulation	\$ 2,735.00	\$ 1,985.00	\$ 750.00	27.42%	Labor and material increases
Sub. Drywall	\$ 4,818.00	\$ 4,066.81	\$ 751.19	15.59%	Drywall price increase
Sub. Cabinets	\$ 4,535.00	\$ 3,654.00	\$ 881.00	19.43%	Cabinet supplier increases
Mat. Interior Trim	\$ 2,186.01	\$ 1,789.97	\$ 396.04	18.12%	Trim price increases
Sub. Interior Trim	\$ 2,394.80	\$ 1,469.30	\$ 925.50	38.65%	Labor Price Increases
Sub. Plumbing	\$ 6,576.65	\$ 4,687.00	\$ 1,889.65	28.73%	IBC code changes and pipe increases
Sub. HVAC	\$ 3,960.00	\$ 3,460.00	\$ 500.00	12.63%	Material Cost increases
Sub. Electrical	\$ 3,334.15	\$ 2,514.85	\$ 819.30	24.57%	IBC code changes and wiring increases
Sub. Paint	\$ 2,089.60	\$ 1,558.00	\$ 531.60	25.44%	Labor and material increases
Mat. Driveway	\$ 648.00	\$ 480.91	\$ 167.09	25.79%	Cement price increases
Sub. Driveway	\$ 550.00	\$ 420.00	\$ 130.00	23.64%	Labor Price Increases
Total	\$ 81,986.98	\$60,188.50	\$21,798.48		

**Ironbound Village Townhouses(Price adjusted for Sq. Ft. reduction to 1200 Sq.Ft,
Lot Cost Increase To \$30,000 and all units have 1 and a Half bathrooms)**

	Jordan	Jacob	Jacob	Jordan
	Building # 1			
Architect fee	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
Loan Interest 143-0200	\$ 1,815.00	\$ 1,815.00	\$ 1,815.00	\$ 1,815.00
Building Permits	\$ 4,524.00	\$ 4,524.00	\$ 4,524.00	\$ 4,524.00
Temporary Utilities	\$ 145.20	\$ 145.20	\$ 145.20	\$ 145.20
Dump Fees/Hauling	\$ 726.00	\$ 726.00	\$ 726.00	\$ 726.00
Temporary Toilet	\$ 17.23	\$ 17.23	\$ 17.23	\$ 17.23
Sub. Survey Work	\$ 1,089.00	\$ 1,089.00	\$ 1,089.00	\$ 1,089.00
Mat. Clearing	\$ 23.14	\$ 23.12	\$ 23.12	\$ 23.12
Sub. Clearing	\$ -	\$ -	\$ -	\$ -
Mat. Footings	\$ 1,012.87	\$ 1,012.85	\$ 1,012.85	\$ 1,012.87
Sub. Footings	\$ 511.23	\$ 511.23	\$ 511.23	\$ 511.23
Mat. Foundation (block)	\$ 1,979.50	\$ 1,979.50	\$ 1,979.50	\$ 1,979.50
Sub. Foundation (block)	\$ 2,622.68	\$ 2,622.68	\$ 2,622.68	\$ 2,622.68
Mat. Backfill	\$ 381.67	\$ 381.67	\$ 381.67	\$ 381.67
Sub. Backfill	\$ 484.00	\$ 484.00	\$ 484.00	\$ 484.00
Mat-concrete slab	\$ 1,489.50	\$ 1,489.50	\$ 1,489.50	\$ 1,489.50
Sub-concrete slab	\$ 1,089.00	\$ 1,089.00	\$ 1,016.40	\$ 1,016.40
Sub. Termite Protection	\$ 242.00	\$ 242.00	\$ 242.00	\$ 242.00
Mat. Framing	\$ 7,184.50	\$ 7,481.16	\$ 7,086.57	\$ 7,086.00
Sub. Framing	\$ 4,397.44	\$ 4,087.68	\$ 4,087.68	\$ 4,397.44
Mat. Trusses and Joist	\$ 3,093.15	\$ 3,093.15	\$ 3,093.15	\$ 3,093.15
Mat. Windows & Ext. Doors	\$ 2,683.40	\$ 2,683.39	\$ 2,683.40	\$ 2,683.40
Sub. Roofing	\$ 1,420.24	\$ 1,420.24	\$ 1,420.24	\$ 1,420.24
Sub. Siding	\$ 3,751.00	\$ 3,751.00	\$ 3,751.00	\$ 3,751.00
Sub. Wall Insulation	\$ 1,383.03	\$ 1,383.03	\$ 1,383.03	\$ 1,383.03
Sub. Drywall	\$ 5,270.76	\$ 5,270.76	\$ 5,270.76	\$ 5,270.76
Sub. Cabinets	\$ 3,872.00	\$ 3,872.00	\$ 3,872.00	\$ 3,872.00
Mat. Interior Trim	\$ 2,716.45	\$ 2,716.45	\$ 2,716.45	\$ 2,716.45
Sub. Interior Trim	\$ 1,833.50	\$ 1,833.50	\$ 1,833.50	\$ 1,833.50
Sub. Plumbing	\$ 5,556.26	\$ 5,556.26	\$ 5,556.26	\$ 5,556.26
Sub. HVAC	\$ 4,222.90	\$ 4,182.40	\$ 4,182.40	\$ 4,222.90
Sub. Electrical	\$ 1,890.13	\$ 1,890.13	\$ 1,890.13	\$ 1,890.13
Mat. Elec. Fixtures	\$ 326.70	\$ 326.70	\$ 326.70	\$ 326.70
Sub. Paint	\$ 1,894.00	\$ 1,894.00	\$ 1,894.00	\$ 1,894.00
Sub. Carpet	\$ 1,557.27	\$ 1,557.27	\$ 1,557.27	\$ 1,556.08
Sub. Vinyl Flooring	\$ 511.83	\$ 511.83	\$ 511.83	\$ 511.83
Mat. Appliances	\$ 907.50	\$ 907.50	\$ 907.50	\$ 907.50
Misc. Expense	\$ 605.00	\$ 605.00	\$ 605.00	\$ 605.00
Hardware & Locks	\$ 231.11	\$ 231.11	\$ 231.11	\$ 231.11
Mat. Mirrors & Tub	\$ 462.22	\$ 462.22	\$ 462.22	\$ 462.22
Sub. Decks, Ext. Porch	\$ 847.00	\$ 847.00	\$ 847.00	\$ 847.00
Sub. Gutters & Downspouts	\$ 380.58	\$ 380.58	\$ 380.58	\$ 380.58
Mat. Landscaping/sidewalks	\$ 907.50	\$ 907.50	\$ 907.50	\$ 907.50
Sub. Landscaping/sidewalks	\$ 1,815.00	\$ 1,815.00	\$ 1,815.00	\$ 1,815.00
Sub. Interior Clean-up	\$ 266.20	\$ 266.20	\$ 266.20	\$ 266.20
PUNCH LIST	\$ 968.00	\$ 968.00	\$ 968.00	\$ 968.00
Property Insurance	\$ 145.20	\$ 145.20	\$ 145.20	\$ 145.20
Property Tax	\$ -	\$ -	\$ -	\$ -
Maintenance Expense, Rental	\$ 21.59	\$ 21.59	\$ 21.59	\$ 21.59
Warranty Work	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00
Total Cost of Construction	\$ 80,433.45	\$ 80,339.82	\$ 79,892.64	\$ 80,261.14
Total Contract Price	\$ 110,000.00	\$ 110,000.00	\$ 110,000.00	\$ 110,000.00
Total Cash Options	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00
Profit	\$ (433.45)	\$ (339.82)	\$ 107.36	\$ (261.14)

Forgivable Second Deed of Trust

Model 1200 @ Pocahontas Square

Appraisal

\$ 143,000.00

First Closing same day

Sold to nonprofit(501)(3)C based on appraised value	\$ 143,000.00
Builder Receives note in the amount of	\$ 108,000.00
Builder gives a donation to the nonprofit with appraiser, builder and nonprofit signing off on IRS form 8283	\$ 35,000.00

Second Closing same day

Sale to homeowner by non profit	\$ 143,000.00
James city receives a second deed of trust at time of sale from homeowner and non profit	\$ 33,000.00
Fee paid to nonprofit from closing proceeds	\$ 2,000.00
Payoff to builder from closing proceeds to payoff note	\$ 108,000.00

Time Line

September 29th 2005

Presale of home to buyer through James City Housing	
Contract for sale signed by seller(non-profit)and purchaser and builder(Health-E-Community)	\$ 143,000.00
Contingent upon the following	
Health-E-Community contracts to sale town home to nonprofit for	\$ 143,000.00
Health-E-Community gifting nonprofit based on appraised value	\$ 35,000.00
Health-E-Community receives a note payable from non profit in the amount of the difference	\$ 108,000.00
Soft Second forgivable over 15 years held by James City	\$ 33,000.00
First deed of Trust secured by Purchaser	\$ 110,000.00
Nonprofit has kick out clause from contract if it does not close on property from Health-E-Community	

October thru December 28th 2005

Health-E-Community building home and receives c/o for closing

December 29th 2005

Closing date for homebuyer

Property with improvements is transferred to nonprofit	\$ 143,000.00
Donation is signed off by nonprofit under IRS form 8283 along with appraiser	\$ 35,000.00
Nonprofit sales home to homebuyer in the amount of	\$ 143,000.00
Soft Second forgivable over 15 years held by James City	\$ 33,000.00
First Deed of Trust secured by Purchaser	\$ 110,000.00
Balance of proceeds distributed as follows	
At time of closing Health-E-Community is paid for note held in the amount of	\$ 108,000.00
Nonprofit receives net proceeds from sale in the amount of	\$ 2,000.00
less recording fees paid by non profit	\$ 250.00
Net proceeds to Nonprofit	\$ 1,750.00

Soft Second

The soft second is a non recourse deed of trust held by James City County for 15 years in the form of a zero interest forgivable loan beginning one year after closing based on the balance owed. One fifteenth or \$2333.33, of loan will be forgiven annually. If sale of home is purchased by eligible person approved by James City based on income and credit worthiness then soft second is assumable otherwise soft second is payable upon sale of home.

Benefits

To Homebuyer

No mortgage insurance requirements for homebuyer (Sales price \$143,000 with a soft second at \$33,000 represents 23% of Sales Price)
Savings of 1 1/2% of sales price and 1/2 % escrow of loan amount About \$40 a month

To County

Keeps purchaser from selling home with the intent to turn a quick profit

To Builder

Builder receives tax write-off as an incentive to build affordable housing only if property has been held for at least one year

To Nonprofit

A source of income for the nonprofit to keeps funds in the community for community needs

Nonprofit has no liability on property since the nonprofit closes on the property with Health-E-Community on the same day that the homeowner purchases the town home

Health E Community Concept

Create a home that ensures a healthy environment for its occupant thereby promoting health for future generations.

Construct a home that has a high level of comfort and a low total energy consumption during its lifetime

Construct a home that is durable thereby reducing future waste and depletion of natural resources

Design projects with approaches that the building team can readily understand and adopt without substantially increasing the cost of construction.

Achieve goals while keeping construction costs not greater than 1% of the same model built to the Model Energy Code.

Enhanced Indoor Air Quality & Sustainable Building practices

- Fresh air intake into the air handler to bring fresh air into the house
- Low VOC Wood Kitchen and Bath Cabinets
- Low VOC Paints
- "Green label" carpets certified by the Rug Institute to be free of Formaldehyde
- Avantech's Low VOC sub-flooring
- Dehumidifier installed in the home to help control relative humidity in the house
- Oven exhaust hood vented to the outside to exhaust fumes from cooking
- Controlling moisture within the walls to prevent mold and mildew

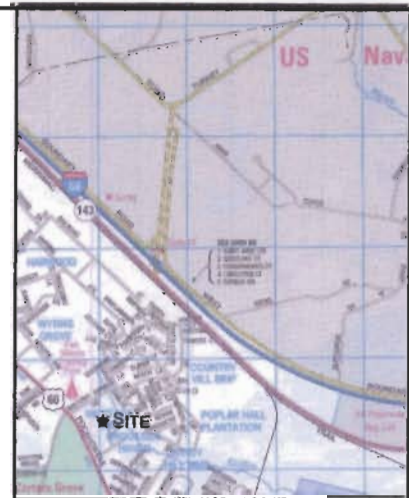
Energy Efficient / Green Building Techniques

- Engineered HVAC system to reduce the size of the unit
- Transfer grills for balanced heating and cooling
- Mastic seal on the HVAC duck work to limit leakage of air
- Round Main HVAC supply line vs. rectangular supply lines for better airflow
- All HVAC individual supply lines at a 45-degree angle to improve air flow
- All HVAC ductwork and air handler in conditioned areas of the house
- Low -E Windows to increase energy efficiency
- Cellulose Insulation treated with boric acid reduces pest infestation and is recyclable
- Value engineered framing practices to save lumber for future generations
(California corner, open web floor joists,)

Master Plan Of Pocahontas Square

(Rose Marie Hall Property)

Pocahontas Trail
James City County, Virginia



LOCATION MAP
Scale : 1" = 2,000'



Site Data

Site Area: \approx 14 Ac
 Existing Zoning: R-5 with Proffers
 Proposed Use: Townhouses
 Allowable Units: 96
 (\approx 12 developable acres x 8)
 Proposed Units: 96

Setbacks

Front Yard: 35'
 Side Yard: 20' Between Buildings
 Rear Yard: 20'
 (35' from adjoining multi-family, Business, Industrial)
 (50' from adjoining residential other than R-5)

Open Space Summary

Open Space Required:
 (35% of site area): 4.9 Ac
 Open Space Provided: 6.8 Ac
 Recreation Area Required
 (1 Acre per 100 Units): 41,817 SF
 Recreation Area Provided: 43,298 SF

Parking Summary

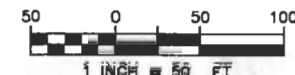
Parking Required:
 (96 units x 2.5): 240
 Parking Provided: 245

Landscape Summary

R/W Frontage Landscaping (50' buffer): 39,746 SF
 Shrubs required (3/400SF) 299
 Trees required (1/400SF) 100
 Transitional Screening (35'buffer): 84,570 SF
 Shrubs required (3/400SF) 635
 Trees required (1/400SF) 212
 Building Landscaping (10' perimeter): 52,120 SF
 Shrubs required (5/200SF) 1,310
 Trees required (1/200SF) 262

Mixed Price Housing		
14		1650 SF
13		1550 SF
7		1450 SF
38		1384 SF
24		1200 SF

Notes:
 1. Acreage is Approximate. Since Area Totals Are Not Based On A Recent Survey, all Numbers Are Subject To Change.
 2. Private Trash Collection Will Be Provided W/ Trash Receptacles For each Unit.
 3. The townhouses are to be built using the Health -E- Community concept. This concept insures that the homes will be more efficient than a standard Model Energy Code home and the homes will limit the off gassing of Volatile Components thereby enhancing the indoor air quality of the townhouse.



Revised by Jay Epstein
 DATE: 03/01/05

Exhibit For Proffer Amendment

This concept plan was developed without a recent survey and is intended for planning purposes only. This plan is not to be used for construction.



MSA, P.C.
 Landscape Architecture
 Planning
 Surveying
 Engineering
 Environmental Sciences
 MSA PROJ. # 03066A

RESOLUTION

CASE NO. Z-14-04/MP-1-05. POCAHONTAS SQUARE PROFFER AMENDMENT

- WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. Z-14-04/MP-1-05 for amending the existing Pocahontas Square Master Plan and proffers; and
- WHEREAS, the Planning Commission of James City County, following its public hearing on March 7, 2005, recommended approval of Case No. Z-14-04/MP-1-05, by a vote of 7 to 0; and
- WHEREAS, the proposed change is shown on the amended Master Plan prepared by MSA, P.C. and Jay Epstein, dated March 1, 2005 and entitled “Master Plan of Pocahontas Square;” and
- WHEREAS, the property is located at 8814, 8838, and 8844 Pocahontas Trail and further identified as Parcel Nos. (1-4), (1-5A), and (1-5) on James City County Real Estate Tax Map No. (59-2).
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-14-04/MP-1-05 and accept the voluntary proffers.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2005.

Z-14-04.res

MEMORANDUM

DATE: April 12, 2005
TO: The Board of Supervisors
FROM: Stephanie Ahrendt, Purchasing Director
SUBJECT: Award of Comprehensive Agreement Contract for Stages 2 and 3 of the Design and Construction of Site Improvements and Roadways at the Warhill Site

The Warhill Site Improvements contract will be negotiated and awarded in three stages. On February 22, 2005, the Board of Supervisors approved the negotiation and award of a Comprehensive Agreement contract for Stage 1, preliminary engineering and permitting. Since that time, a panel of staff members from General Services, Development Management, Purchasing, Information Resources Management, Administration, the County Attorney's Office, and the James City Service Authority have met with Curtis Contracting, Inc., and McDonough Bolyard Peck, the County's construction management consultant, to develop detailed costs, schedules, and terms and conditions for Stage 2, right-of-way acquisition and utility relocation, and Stage 3, construction and certification.

Curtis Contracting, Inc., and County staff negotiated a not-to-exceed cost of \$839,306 for Stage 2 and a not-to-exceed cost of \$13,419,408 for Stage 3. The attached Exhibit A outlines these costs. The attached resolution authorizes negotiation and award of a Comprehensive Agreement contract to Curtis Contracting, Inc., in an amount not-to-exceed \$14,258,714 for Stages 2 and 3 for the Warhill Site Improvements.

This project will be primarily financed through the proceeds of a bond sale that is expected to close in June 2005.

Staff recommends approval of the attached resolution.

Stephanie Ahrendt

CONCUR:

John E. McDonald

AS/gs
warhillroad.mem

Attachments

RESOLUTION

AWARD OF COMPREHENSIVE AGREEMENT CONTRACT FOR

STAGES 2 AND 3 OF THE DESIGN AND CONSTRUCTION OF SITE IMPROVEMENTS AND

ROADWAYS AT THE WARHILL SITE

WHEREAS, on February 22, 2005, the Board of Supervisors authorized the negotiation and award of a Comprehensive Agreement contract to Curtis Contracting, Inc., for Stage 1 of the Warhill Site Improvements consisting of preliminary engineering and permitting; and

WHEREAS, staff met with Curtis Contracting, Inc., and McDonough Bolyard Peck to negotiate the detailed cost, schedule, and terms and conditions for Stage 2, right-of-way acquisition and utility relocation, and Stage 3, construction and certification; and

WHEREAS, upon Board approval, staff is prepared to execute a Comprehensive Agreement contract with Curtis Contracting, Inc., for a not-to-exceed amount of \$839,306 for Stage 2 and a not-to-exceed amount of \$13,419,408 for Stage 3 of the Warhill Site Improvements. The Board expects to appropriate proceeds from the June 2005 bond sale to finance this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the negotiation and award of a Comprehensive Agreement contract for Stages 2 and 3 of the Warhill Site Improvements in a not-to-exceed amount of \$14,258,714 to Curtis Contracting, Inc.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th of April, 2005.

warhillroad.res

Exhibit A - Warhill Site Improvements Stages 2 and 3

Stage 1 - The Board of Supervisors authorized negotiation and award of Stage 1 on February 22, 2005.

Preliminary Engineering and Permitting **\$441,286** Lump Sum

Stage 2

Right-of-Way Acquisition	\$120,000 Allowance
Utility Relocations	400,000 Allowance
Wetland Mitigation	66,920 Lump Sum
Administration Construction	252,386 Lump Sum
Total Not-to-Exceed	\$839,306

Stage 3

Construction and Certification based on the Scope of Work as presented in the original Request for Proposal.

Completion of Design and Construction Engineering Inspections	\$ 1,487,482
Construction	11,931,926
Total Not-to-Exceed	\$13,419,408

Not-to-Exceed Total for Stages 1, 2, and 3 **\$14,700,000**

warhillroad.att