

**A G E N D A**

**JAMES CITY COUNTY BOARD OF SUPERVISORS**

**County Government Center Board Room**

**May 10, 2005**

**7:00 P.M.**

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**I. PUBLIC COMMENT**

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**L. CLOSED SESSION**

1. Pursuant to Section 2.2-3711(A)(7) of the Code of Virginia to Consider Acquisition of a Parcel/Parcels of Property for Public Use

**M. ADJOURNMENT**

**AT A BUDGET WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 18TH DAY OF APRIL 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. BOARD CONSIDERATIONS**

1. Williamsburg-James City County School Board

Mr. Brown welcomed the Williamsburg-James City County School Board (“School Board”).

The School Board members gave an overview of the proposed FY 2006 School Budget.

Discussion included the feasibility of constructing an eighth elementary school while the third high school was under construction; the possibility of sharing facility management with the County; and increased special education factors.

Discussion was held on the source and quantity of funding increases to the Schools in recent history and percentage of funding allocation increases to the Schools by the County; tax relief for local citizens in the form of not raising the tax rate and the money that was passed on to the Schools; and the fund balance was discussed.

The School Board provided an overview of the factors considered while developing the School Budget and requested the Board support the education of youth by fully funding the School Budget.

Mr. Brown thanked the School Board members for the presentation and discussion.

Mr. Brown recessed the Board for a break at 7:55 p.m.

Mr. Brown reconvened the Board at 8:01 p.m.

2. Review of the FY 2006 Proposed Operating Budget

Mr. Brown inquired if the Board should proceed in consideration of the funding of the School Budget.

The Board discussed the funding shortfall for the School Budget and where the County could reduce its budget to makeup some of the School funding gap; and fiscal factors associated with the opening of the new elementary school.

The Board discussed anticipated revenue levels and alternative sources of revenue to generate additional funds and diversification of revenues.

a. FY 2006 General Operating Fund

Mr. John E. McDonald, Director of Financial and Management Services, introduced Ms. Stephanie Ahrendt, Acting Director of Budget and Accounting.

Ms. Ahrendt provided the Board an overview of the Proposed Operating Budget for Fiscal Year 2006.

The Board and staff discussed the increased workload in the Development Management Department and the funding level requested by the Department in comparison to the proposed funding level presented in the FY 2006 Budget.

The Board and staff discussed a proposed fee increase associated with the Planning and Development services to fund personnel positions to support those services.

Mr. Brown requested additional information related to the overtime funding for the Fire Department.

The Board and staff discussed the overtime requirements for the Fire Department and the need to maintain staffing levels to respond to emergencies as well as the need to provide time for training and certification requirements, and the staffing needs for the other emergency service departments.

The Board and staff discussed potential reductions in the Operating Budget, allocation of funds that have become available due to staffing turnover, and identifying ways to reduce the gap of funding the School Budget as well as funding other County priorities.

The Board concurred on the following items: follow Mr. Wanner's suggestion to fund 1.1 million of the Stonehouse Elementary School expansion through debt, finding ways to fund the proposed additional positions for the Planning and Environmental Divisions; find additional funding to close the gap in the School Budget by funding an additional \$200,000; and finding reductions in expenditures in non-departmental budgets to cover the additional funding to Schools and pay for performance increases for County employees.

The Board discussed the level of additional funding to the Schools and increasing the County personnel pay raise to 4 percent from the 3.8 percent budgeted.

The Board discussed the feasibility of the eighth elementary school being opened for 2007 and directed staff to have a serious discussion with Schools on the timeline for the development and construction of the eighth elementary school.

b. Referendum

The Board and staff discussed the items and funding levels to be put forth in the November 2005 Bond Referendums regarding the acquisition of greenspace and preserving open space.

C. **RECESS**

At 10:30 p.m., Mr. Brown recessed the Board until 7 p.m. on April 20, 2005.

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Sanford B. Wanner  
Secretary to the Board

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**AT A BUDGET WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 20TH DAY OF APRIL 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. BOARD CONSIDERATIONS**

1. Library Board

Mr. Brown welcomed Mr. John Moorman, Library Director, and Ms. Victoria Gussman, Chair of the Williamsburg Regional Library (WRL) Board of Trustees.

Ms. Gussman thanked the Board for its support of WRL.

Mr. Moorman made a brief presentation to the Board on the WRL Budget and thanked the County for its support.

Discussion of the Library Board Budget followed.

2. Proposed FY 2006 James City Service Authority Operating Budget

Mr. Larry M. Foster, General Manager of the James City Service Authority (JCSA), invited the Board to attend the ribbon cutting ceremony for the Groundwater Treatment Facility on April 22.

Mr. Foster provided an overview of the JCSA's Proposed FY 2006 Budget and stated the proposed budget does not introduce any increases in rates.

Mr. Foster introduced Mr. Robert H. Smith, Assistant Manager of the JCSA.

Mr. Smith provided a general overview of the JCSA's proposed Operating Budget and Capital Improvements Projects.

The Board and staff discussed staffing, quarterly billing, and educational materials to new customers.

3. Continued Review of the Proposed Operating Budget for FY 2006

a. Proposed FY 2006 Operating Budget - Other Funds

Ms. Stephanie Ahrendt, Acting Director of Budget and Accounting, provided an overview of the proposed Other Funds portion of the FY 2006 Budget.

The Board and staff discussed personnel needs for the programs, regional bus service, and fare-box revenues.

b. Proposed FY 2006 Operating Budget - Debt Service Fund

Mr. John E. McDonald, Manager of Financial and Management Services, provided an overview of the Debt Service Fund of the proposed FY 2006 Operating Budget.

The Board and staff discussed the anticipated expenditures including school facilities, the timeline developed by the Schools for the development of the eighth elementary school, the process for site selection, setting a benchmark for construction, and funding timeframes for the development and construction of the eighth elementary school.

The Board and staff decided that during the discussion with the Schools, if they agree that the timeline developed by the Schools is valid and they agree to the September 22, the critical date for formal review and the timeline is met for these items before September 22, then the project moves forward. If the critical items have not been completed by September 22, 2005, we would go to an August 2008 opening.

Mr. Brown stated that it would be necessary to have a formal agreement with the September 22, 2005 date incorporated.

The Board concurred with the benchmark, completion dates, and incorporation of that into a formal agreement.

c. Proposed FY 2006 Operating Budget - Special Projects/Grants Funds and Jamestown 2007 Fund

Mr. McDonald resumed an overview of the proposed Operating Budget.

The Board and staff briefly discussed the Jamestown 2007 Fund allocations.

4. Outstanding Items

Mr. McDonald presented a list of items the Board has requested as well as items staff has asked the Board to consider in the FY 2006 Budget.

The Board discussed reductions in the Operating Budget in order to make changes previously discussed.

The Board discussed the increase to the Operating Budget of the Schools and the impact to the current and future budgets.

The Board discussed diversifying the County's revenue sources.

The Board discussed construction of a field house that could serve the three high schools in a central location that citizens and schools could use.

The Board concurred to make reductions in the Operating Budget to fund changes previously discussed.

**C. ADJOURNMENT**

Mr. Brown complimented Ms. Ahrendt on her performance as the Acting Director of Budget and Accounting.

Mr. Brown thanked Mr. McDonald for his assistance with the Budget process.

Mr. McDonald thanked Theresa Quinn for her assistance in adjusting the Budget.

Mr. Wanner thanked the Board and staff for the open discussions and support during the Budget process.

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 8:48 p.m., Mr. Brown adjourned the Board until 7 p.m. on April 26, 2005.

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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 26TH DAY OF APRIL 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  
Leo P. Rogers, County Attorney

Sanford B. Wanner, County Administrator  
Michael Drewry, Assistant County Attorney

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

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

**D. HIGHWAY MATTERS**

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Residency Administrator, stated that the traffic engineering speed limit study for Hickory Sign Post Road (Route 629) has been completed and he is awaiting the results; stated that although some trimming has been done along Church Lane (Route 1001) more trimming is needed and will be completed soon; and stated that the design work for the installation of the traffic light at the intersection of Williamsburg West and Longhill Road will be completed on May 6 and will then be turned over to the contractor who will have 40 days to complete the installation.

Mr. Brewer stated that a public information meeting will be held on April 28 from 4:30 p.m. to 7 p.m. at Jamestown High School regarding the Route 5 bridge (Judith Stewart Dresser Memorial Bridge) replacement project.

Mr. Brewer stated that **Segment II**, *improve Route 199 to a four-lane section from the Henry Street South Intersection to Brookwood Drive*, is progressing with the placement of stone and hope it will be open by November to the public; and it is anticipated that **Segment III**, *improve the Jamestown Road/Route 199 Intersection*, will be completed and open to the public in July of 2005.

The Board congratulated Mr. Brewer on his promotion and thanked him for the work he does that benefits the County and Commonwealth.

Mr. Harrison requested VDOT look further into the sinkhole and pavement erosion issues at Frond Lane (Route 1467) and stated that the James City Service Authority has reviewed as well.

Mr. Brewer stated that settlement is occurring and VDOT will be back out there later this week to take another look at the situation.

Mr. Goodson requested, on behalf of the business owners in the County, that VDOT improve the signage along Route 60 East and the exit from Busch Gardens to direct traffic to Williamsburg for services before they leave the area.

Mr. McGlennon requested Mr. Brewer provide information regarding the County's involvement in the construction of soundwalls along Route 199.

Mr. Brewer stated that to his knowledge the County had no involvement in the construction of the soundwalls and when asked to participate, the County declined. He stated that Williamsburg Landing and the central office of VDOT worked out the arrangements for the construction of the soundwalls.

Mr. McGlennon inquired if the Jamestown Corridor Project Section II will be completed in November of 2005.

Mr. Brewer stated that the through lanes will be completed by that time and open to traffic, and just minor work will need to be completed.

Mr. Brown inquired if the repaving of Route 199 East near Mounts Bay Road will also be completed by that time.

Mr. Brewer stated that the repaving will be done as well.

Mr. Bradshaw inquired how citizens can inquire about or request a speed limit study for a road.

Mr. Brewer stated that a citizen can contact VDOT and make a request. VDOT will then decide if a need for a study has been proven, if so, then a study will be conducted - unless one has been completed within a year. The traffic engineers then perform the study and look at factors such as traffic flow, road condition, and surrounding environment to determine if it is appropriate to adjust the speed limit of a road.

Mr. Bradshaw requested VDOT look into the speed limits of Old Stage Road across from the Stonehouse Elementary School, on the curve on Richmond Road just west of the Village and before the CSX crossing, and the 3100 block of Forge Road and its curve/embankment.

Mr. Bradshaw requested VDOT provide a status report on the progress of the improvements of the shoulder along Croaker Road and to portions of Ware Creek Road.

Mr. Bradshaw requested VDOT look at and address the erosion situation along the southside of Richmond Road near Anderson's Corner.

## E. PUBLIC COMMENT

1. Ms. Debra Salisbury, 121 King William Drive, requested the Board accept and fund the School Budget as presented by the School Board, and requested the Board consider the housing developments being approved and the associated increased demands on public services such as schools.

2. Ms. Ginger Bailey, 100 Stone Path, requested the Board fully fund the School Budget for FY 2006 to provide adequate staffing and adequate space to provide the educational experience the students deserve and require.

3. Mr. Ollie Ferreira, 3196 Derby Lane, stated that the Internal Revenue Service (IRS) offers a \$250 tax credit for teacher expenses and the County submits over 52-percent of its budget to the Schools; suggested the Board approach the General Assembly about providing a Commonwealth of Virginia tax credit in the amount of \$500 to teachers such as the IRS; recommended the County diversify its economy which is currently heavily slanted towards tourism; and suggested economic development look to retail to broaden the tax base.

4. Mr. Steve Suders, 104 Stanley Drive, requested the Board continue to consider funding the auxiliary gym at Jamestown High School rather than a centrally located gym in the County, which would not address the unsafe practice conditions at Jamestown High School.

5. Mr. Robert Duckett, Director of Public Affairs of the Peninsula Housing and Builders Association, thanked the Board for recognizing the issues raised in connection with the proposed site plan review fee increases, and requested the Board not consider other fee increases to cover the costs for staffing.

6. Mr. Ed Oyer, 139 Indian Circle, stated that the dismal attendance at Lafayette High School for the new superintendent forum shows how much the citizens do not care about education; commented on a recent Wall Street Journal article regarding education and athletic achievements; and a recent article about the water issues.

Mr. Brown recognized George Billups, member of the Planning Commission, and Mark Rinaldi, member of the Economic Development Authority, in the audience.

## F. CONSENT CALENDAR

Mr. McGlennon requested Item No. 6, Establishment of Positions - Williamsburg Area Medical Assistance Corporation, be pulled.

Mr. Bradshaw made a motion to adopt the remaining items on the Consent Calendar, including the amended minutes of April 12 and April 14.

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

### 1. Minutes

- a. April 12, 2005, Regular Meeting
- b. April 14, 2005, Budget Work Session

2. Dedication of Streets in Stonehouse, Phase 1, Section 5B

**RESOLUTION**

**DEDICATION OF STREETS IN STONEHOUSE, PHASE 1, SECTION 5B**

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

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

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

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

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

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

3. Appointment of Assistant Fire Marshal, Authorization of Fire Prevention Powers, and Authorization of Police Powers

**RESOLUTION**

**APPOINTMENT OF ASSISTANT FIRE MARSHAL, AUTHORIZATION OF FIRE**

**PREVENTION POWERS, AND AUTHORIZATION OF POLICE POWERS**

WHEREAS, Section 27-34.2 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to arrest, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law for violation of local fire prevention and fire safety and related ordinances; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local fire marshal to have the same law enforcement powers as a police officer for the purpose of investigation and prosecution of all offenses involving fires, fire bombings, attempts to commit such offenses, false alarms relating to such offenses, and the possession and manufacture of explosive devices, substances, and fire bombs; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local fire marshal to exercise the powers authorized by the Fire Prevention Code; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may appoint Assistant Fire Marshals, who, in the absence of the Fire Marshal, shall have the powers and perform the duties of the Fire Marshal; and

WHEREAS, Darryl C. Stanton, Jr., has completed all minimum training and certification requirements of the Department of Criminal Justice Services and the Department of Fire Programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Darryl C. Stanton, Jr., as a James City County Assistant Fire Marshal with all such police powers and authority as provided in Virginia Code Sections 27.30 et. seq.

4. Endorsement of the FY06 Strategic Management Plan

**RESOLUTION**

**STRATEGIC MANAGEMENT PLAN**

WHEREAS, the County's Strategic Management Plan was developed collaboratively and serves as a framework for achieving the County's mission of working in partnership with all citizens to achieve a quality community; and

WHEREAS, the Strategic Management Plan charts the County's future direction by setting forth long-range Strategic Directions that describe our needs, priorities, aspirations, and outlines Pathways or key initiatives that will move us forward in the right direction; and

WHEREAS, it is important to re-affirm the County's Strategic Directions principles.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the Strategic Management Plan.

5. Revenue Bond Financing for Williamsburg Landing, Inc.

**RESOLUTION**

**REVENUE BOND FINANCING FOR WILLIAMSBURG LANDING, INC.**

WHEREAS, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended, authorizes the creation of the Economic Development Authority of James City County, Virginia (the "Authority"), and empowers the Authority to assist Williamsburg Landing, Inc., a Virginia nonstock corporation (the "Company"), by the issuance of up to \$18,000,000 of tax-exempt revenue bonds of the Authority (the "Bonds") to (a) finance the cost of constructing and equipping twenty-two (22) single- and duplex-cluster homes and a wellness and fitness center (the "Project") at the Company's facility for the residence and care of the aged in the County of James City, Virginia (the "Facility"); (b) refund the outstanding balance of the Authority's Residential Care Facility First Mortgage Revenue Bonds ("Williamsburg Landing, Inc."), Series 1996B (the "Series 1996B Bonds"); (c) finance all or a portion of a debt service reserve fund; and (d) finance a

portion of expenses incurred in connection with the issuance of the Bonds; and

WHEREAS, the Facility is owned by the Company and the Project will be owned by the Company; and

WHEREAS, the Company has its principal place of business at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires approval by this Board of the issuance of any private activity bonds by the Authority after the Authority has held a public hearing to consider the issuance of such bonds as one of the acts required in order for the interest on such bonds to qualify for exemption from the imposition of Federal income tax; and

WHEREAS, the Authority held a Public Hearing on April 26, 2005, in compliance with the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"), and after such public hearing adopted a resolution to issue the Bonds, subject to the adoption of this resolution; and

WHEREAS, the Company has represented that it is a corporation described in Section 501(c)(3) of the Code which is not organized and operated exclusively for religious purposes and which is exempt from Federal income taxation pursuant to Section 501(a) of the Code; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, a record of the public hearing with respect to the Bonds, and a Fiscal Impact Statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with this Board.

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

Section 1: That the recitals in the first three preambles hereto are adopted as a part of this resolution as if fully written herein.

Section 2: That this Board approves the issuance of the Bonds by the Authority to the extent required by the Code and the Virginia Code.

Section 3: That the approval of the issuance of the Bonds as requested by the Company and as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code is solely for Federal tax purposes, does not constitute an endorsement to a prospective purchaser of the Bonds of the proposed use of the proceeds of the Bonds or the creditworthiness of the Company or the Project and, as required by Virginia law, the Bonds shall provide that neither the Commonwealth of Virginia, the County of James City nor the Authority shall be obligated to pay the principal, or premium, if any, of the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged therefor and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the County of James City or the Authority shall be pledged thereto.

Section 4: That the County, including its elected representatives, officers, employees, and agents, shall not be liable and hereby disclaims all liability for any damage to the Company or the Project, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.

Section 5: That this resolution shall be in effect from and after its adoption.

6. Establishment of Positions – Williamsburg Area Medical Assistance Corporation

Ms. Judith N. Knudson, Executive Director of Olde Towne Medical Center, stated that the Olde Towne Medical Center has been awarded a grant to expand the Medications program and additional staff is needed to handle the increased workload of the program.

Ms. Knudson requested the Board approve the resolution authorizing the three positions needed to support that program.

Mr. McGlennon made a motion to adopt the resolution.

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

## **RESOLUTION**

### **ESTABLISHMENT OF POSITIONS**

#### **WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION**

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) has received a grant from the Virginia Health Care Foundation to expand the Medications Assistance Program (MAP) at Olde Towne Medical Center; and

WHEREAS, the Board of Directors has approved the addition of a MAP Supervisor, a second Clinical Assistant (MAP), and a Clinic Secretary (MAP) to the staff of Olde Towne Medical Center; and

WHEREAS, James City County is the Fiscal Agent for the Williamsburg Area Medical Assistance Corporation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisor of James City County, Virginia, approves the addition of three full-time other positions including a MAP Supervisor, a second Clinical Assistant (MAP) and a Clinic Secretary (MAP) to the staff of Olde Towne Medical Center.

## **G. PUBLIC HEARINGS**

### **1. Case No. Z-05-05. Pocahontas Trail - James River Commerce Center Rezoning**

Mr. Matthew Smolnick, Planner, stated that Keith A. Taylor, Secretary, Economic Development Authority, has applied to update the proffered uses in the James River Commerce Center (Park), which are all currently permitted uses in property zoned M-1, in order to include new uses, promote taxable capital investment, attract new and relocating businesses, and create new jobs in the area, which is located on 219 acres zoned M-1, Limited Business/Industrial with amended proffers, at 8907 Pocahontas Trail and further identified as Parcel Nos. (1-17), (1-45), (1-49), (1-50), (1-51), (1-52), (91-53), (1-54), (1-55) and (1-56) on James City County Real Estate Tax Map Number (59-2).

Staff found the proposal to amend the proffers would not negatively impact the adjacent properties and the uses proposed by the proffer amendment are uses currently permitted in the M-1 Zoning District.

Staff found the proposal to be consistent with the Land Use policies of the Comprehensive Plan.

At its meeting on April 4, 2005, the Planning Commission voted 5-0, with one abstention, to approve the application.

Staff recommended the Board approve the amended proffers for the James River Commerce Center.

Mr. Brown opened the Public Hearing.

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

Mr. Goodson made a motion to adopt the resolution.

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

## **RESOLUTION**

### **CASE NO. Z-05-05. POCAHONTAS TRAIL -**

### **JAMES RIVER COMMERCE CENTER REZONING**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners were notified, and a hearing was scheduled for Case No. Z-05-05 for amending the proffers for approximately 219 acres from M-1, Limited Business/Industrial, with proffers, to M-1, Limited Business/Industrial, with amended proffers; and

WHEREAS, the site can be further identified as Parcel Nos. (1-17), (1-45), (1-49), (1-50), (1-51), (1-52), (1-53), (1-54), (1-55), and (1-56) on James City County Real Estate Tax Map No. (59-2); and

WHEREAS, Planning Commission of James City County, following its public hearing on April 4, 2005, recommended approval of Case No. Z-05-05, by a vote of 5 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-05-05 as described herein and accepts the amended proffers.

### 2. **Case No. ZO-02-05. Zoning Ordinance Amendment, Proffer Appeal Process, Section 24-19. Petition for Review of Decision**

Mr. Rogers introduced Matthew Widmer, a law intern.

Mr. Widmer provided an overview of the Zoning Ordinance Amendment and stated that the proposed amendment sets for, in greater specificity, the procedure used when a party wishes to have a decision reviewed by the Board of Supervisors, which will require the Board to hear the appeal within 45 days after the petition requesting review has been filed. The amendment also details the notice requirement that will be in effect and adds specificity to the appeals process.

Mr. Widmer requested the Board adopt the amendment that will provide greater guidance to those parties wishing to appeal a decision of the Zoning Administrator.

Mr. McGlennon inquired if this amendment is consistent with other jurisdictions.

Mr. Widmer stated that it is more generous because it gives the Board more time for staff to provide



notice to those people impacted.

Mr. Brown requested clarification on the notification to occupants and the parcel owners.

Mr. Allen Murphy, Zoning Administrator, stated that the language in the ordinance amendment mirrors the State Code and the current ordinance; and stated that staff currently notifies owners of the property and will continue to do so after the amendment.

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 amended ordinance.

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

3. Extinguishment of Easement at 3651 John Tyler Highway for the Greensprings Trail

Mr. O. Marvin Sowers, Jr., Planning Director, stated that VDOT in cooperation with James City County, has begun right-of-way acquisition for the Greensprings Trail. The County owns the stormwater management facility and access easement on property at 3651 John Tyler Highway. The access easement must be extinguished to permit the trail. VDOT has requested that the easement be extinguished at this time to expedite the right-of-way assembly process so that bids can be advertised in May 2005 and construction started by fall 2005.

Mr. Harrison requested information on the amount of local funding that is supporting this project.

Mr. Sowers stated that the project is funded by the Federal Scenic By-Ways Grant, and based upon the design estimates for the project; Board may be responsible for up to \$450,000 in local funds to complete the project. These funds would come from future State Secondary Road and Revenue Sharing funds.

Mr. McGlennon inquired what the estimated total cost for the project is.

Mr. Sowers stated \$2 million dollars.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

**RESOLUTION**

**EXTINGUISHMENT OF EASEMENT AT 3651 JOHN TYLER HIGHWAY**

**FOR THE GREENSPRINGS TRAIL**

WHEREAS, James City County currently has a Deed of Easement in Deed Book 521, Page 567, on a certain parcel located at 3651 John Tyler Highway in the Berkeley District designated as Tax Parcel No. 4610100002; and

WHEREAS, there is a proposed Memorandum of Agreement with the Virginia Department of Game and Inland Fisheries, the Virginia Department of Transportation, James City County, the Williamsburg Land Conservancy, and the Fieldcrest Homeowner's Association ("Memorandum of Agreement"), regarding the Virginia Capital Trail-Greensprings Phase; and

WHEREAS, the Deed of Easement is identified in the Memorandum of Agreement as an easement burdening the development of the Virginia Capital Trail-Greensprings Phase; and

WHEREAS, the Board of Supervisors following a public hearing is of the opinion the County should extinguish the Deed of Easement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator, to extinguish the Deed of Easement, previously recorded in Deed Book 521, Page 567, on the parcel known as 3651 John Tyler Highway, Tax Parcel No. 4610100002 for the purpose of complying with the proposed Memorandum of Agreement regarding the Virginia Capital Trail-Greensprings Phase.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator, to execute a deed and any other documents needed to extinguish the Deed of Easement on the parcel known as 3651 John Tyler Highway, Tax Parcel No. 4610100002.

4. **Greensprings Trail Transfer of Right-of-Way and Temporary Construction Easement on 2900 Greensprings Road**

Mr. O. Marvin Sowers, Jr., Planning Director, stated that VDOT in cooperation with the County, has begun right-of-way acquisition for the Greensprings Trail. The County owns a certain parcel at 2900 Greensprings Road (Property) and VDOT has requested a transfer of right-of-way of approximately 0.403 acres of the property and a temporary construction easement on 0.305 acres of the Property for the development of the Greensprings Trail. VDOT has made this request to expedite the right-of-way assembly process and temporary construction easement so that bids can be advertised in May 2005 and construction started by fall 2005.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

**RESOLUTION**

GREENSPRINGS TRAIL TRANSFER OF RIGHT-OF-WAY AND TEMPORARY  
CONSTRUCTION EASEMENT ON 2900 GREENSPRINGS ROAD

WHEREAS, James City County currently owns a certain parcel containing 66.645 acres located at 2900 Greensprings Road in the Berkeley District designated as Tax Parcel No. 461010009, (the "Property"); and

WHEREAS, 0.403 acres, more or less, of the Property shall be needed for the development of the Virginia Capital Trail - Greensprings Phase Plans, and 0.305 acres, more or less, of the Property shall be needed for a temporary construction easement ("Right-of-Way and Easement"), as shown on Sheet No. 5 of the plans for Route 5, State Highway Project 0005-047-111, RW-201; and

WHEREAS, the Board of Supervisors following a public hearing is of the opinion the County should transfer the Right-of-Way and Easement, by deed, to the Commonwealth of Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to transfer the Right-of-Way and Easement by Deed on the Property, as shown on Sheet No. 5 of the plans for Route 5, State Highway Project 0005-047-111, RW-201.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute a deed and any other documents needed to transfer the Right-of-Way and Easement on the Property.

Mr. Wanner stated that 17.5 miles of trail have been completed in James City County, approximately 11.5 miles of trail are under construction, and approximately 14 miles of trail of proposed trails are being considered on the bond referendum.

**H. BOARD CONSIDERATIONS**

1. FY 2006 County Budget (deferred from April 12, 2005)

Ms. Stephanie Ahrendt, Acting Director of Budget and Accounting, provided the Board with an overview on the proposed FY 2006 Budget and the County's fiscal goals for 2006; and stated that the Site Plan and Environmental Fee Ordinance Amendments deferred from the April 12 Board meeting have been withdrawn.

Mr. McGlennon stated that the FY06 Budget deals with the pressing needs of the community and some things are not met in the Budget, but given the constraints on revenue, the Board is not able to fund everything.

Mr. McGlennon stated that the Board looks for ways to address revenue constraints and has considered the construction of an auxiliary gym in a central location, which would serve the needs of the students as well as the general public.

Mr. Harrison stated that the County needs to look to ways to diversify funding sources to reduce its reliance on real estate taxes, which will in turn maintain a positive bond rating and provide relief in the real estate tax rate.

Mr. Goodson stated the Board worked well together to develop the Budget that is before the Board

for FY 2006, and made a motion to adopt the resolution.

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

Mr. Wanner thanked the Board for its efforts to address the needs of the community in the FY 2006 Budget and for the guidance of staff in its development.

**RESOLUTION**

**RESOLUTION OF APPROPRIATION**

WHEREAS, the County Administrator has prepared a Proposed Budget for the fiscal year beginning July 1, 2005 and ending June 30, 2006, and a five-year Capital Improvements Program, four years of which are for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2005, and ending June 30, 2006, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations.

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

1. The following amounts are hereby appropriated in the FY 2006 General Fund for the offices and activities in the amounts as shown below:

**GENERAL FUND REVENUES**

	<u>FY 2006</u>
General Property Taxes	\$ 81,137,835
Other Local Taxes	17,994,518
Licenses, Permits and Fees	8,097,535
Fines and Forfeitures	313,000
Revenue from Use of Money and Property	464,131
Revenue from the Commonwealth	21,118,528
Revenue from the Federal Government	8,100
Charges for Current Services	3,279,007
Miscellaneous Revenues	<u>83,100</u>
<b>TOTAL REVENUES</b>	<b><u>\$132,495,754</u></b>

**GENERAL FUND EXPENDITURES**

	<u>FY 2006</u>
Administrative	\$ 1,099,042
Elections	274,970
Human Resources	1,177,355
Financial Administration	3,442,364
General Services	4,946,073
Information Resource Management	1,936,719
Development Management	4,049,164

Judicial	2,566,614
Public Safety	17,032,428
Community Services	5,804,137
Contributions - Other	3,299,654
Library and Arts Center	3,955,989
Health Services	1,311,350
Regional Jail	1,627,200
Nondepartmental	3,886,000
WJCC Schools	71,882,437
Contribution - Capital Projects Fund	2,232,436
Contributions - Other Funds	<u>1,971,822</u>
TOTAL EXPENDITURES	<u>\$132,495,754</u>

The appropriation for education includes \$60,193,282 as a local contribution to the Williamsburg-James City County Schools operations.

Year-End Fund Balance	\$ 2,165,522
Contribution to Capital Projects Budget	\$ 2,165,522

2. That the property tax rates be set for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 assessed value	\$0.825
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

3. That the following amounts are hereby appropriated in other budgets in FY 2006 for the activities in the amounts as shown below:

CAPITAL PROJECTS BUDGET

Revenues:

Debt Proceeds	\$89,697,000
Contribution from General Fund	4,369,958
Proffer Revenue	1,800,000
Other Revenue	<u>460,000</u>
	<u>\$96,326,958</u>

Expenditures:

Schools	\$57,247,085
Community Development	3,700,990
Parks and Recreation	15,050,000
General Services	19,374,623
Public Safety	<u>954,260</u>
	<u>\$96,326,958</u>

DEBT SERVICE BUDGET

From General Fund - Schools	\$11,670,000
From General Fund - Other	2,250,000
Other Revenue	<u>516,817</u>
Total Debt Service Fund Revenues	<u>\$14,436,817</u>
Current Year Expenditures	\$14,334,834
To Fund Balance - Capital Reserve	<u>101,983</u>
Debt Service Fund Disbursements	<u>\$14,436,817</u>

VIRGINIA PUBLIC ASSISTANCE FUND

Revenues:

From the Federal Government/Commonwealth	\$ 4,176,487
From the General Fund	1,365,296
Comprehensive Services Act	174,050
Revenue Maximization	241,447
Other	<u>422,115</u>

Total Virginia Public Assistance Fund Revenues	<u>\$ 6,379,395</u>
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Expenditures:

Administration and Assistance	\$ 6,137,948
Revenue Maximization	<u>241,447</u>

Total Virginia Public Assistance Fund Expenditures	<u>\$ 6,379,395</u>
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COMMUNITY DEVELOPMENT FUND

Revenues:

General Fund	\$ 711,910
Grants	1,494,508
Generated Program Income	470,000
Other	<u>100,000</u>

Total Community Development Fund Revenues & Fund Balance	<u>\$ 2,776,418</u>
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Expenditures:

Administration and Programs	\$ 600,636
Housing & Community Development Programs	<u>2,175,782</u>

Total Community Development Fund Expenditures	<u>\$2,776,418</u>
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SPECIAL PROJECTS/GRANTS FUND

Revenues:

Colonial Drug Task Force	\$ 27,000
Transfer from General Fund	89,764
Revenues from the Commonwealth	<u>68,700</u>
	<u>\$ 185,464</u>

Expenditures:

Colonial Drug Task Force	\$ 27,000
Litter Control Grant	8,700
COPS Grant	<u>149,764</u>
	<u>\$ 185,464</u>

JAMESTOWN 2007 FUND

Revenues:

County Contribution	\$ 60,000
From Fund Balance	<u>193,000</u>
Total Revenues	<u>\$ 253,000</u>

Expenditures:

Historic Triangle Corridor Enhancement Program	\$ 25,000
Jamestown Settlement	200,000
Community Activities	20,000
Historic Triangle 2007 Host Committee	<u>8,000</u>
Total Expenditures	<u>\$253,000</u>

4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this Resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors. There will be a salary increase included on the employee's salary with variable increases based on performance and funded at an average of 4 percent.
6. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings at a divisional level.
7. All outstanding encumbrances in all County funds at June 30, 2005, shall be an amendment to the FY 2006 budget, and appropriated to the FY 2006 budget to the same department and account for which they were encumbered in the previous year.

8. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.
9. The Board of Supervisors of James City County, Virginia, hereby adopts the following budgets for the purposes of future financial and operational planning only:

CAPITAL IMPROVEMENT PROGRAM:

FY 2007

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>6,545,290</u>
	<u>\$6,545,290</u>

Expenditures:

Schools	\$2,891,110
Development Management	1,258,524
PDR/Greenspace Debt Service	1,200,000
Public Safety	945,656
Parks and Recreation	<u>250,000</u>
	<u>\$6,545,290</u>

FY 2008

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>7,158,350</u>
	<u>\$ 7,158,350</u>

Expenditures:

Schools	\$3,093,350
Development Management	1,223,661
Public Safety	1,226,336
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>415,000</u>
	<u>\$7,158,350</u>



FY 2009

Revenues:

Debt Proceeds	\$16,000,000
Other Funding	<u>7,796,370</u>
	<u>\$23,796,370</u>

Expenditures:

Schools	\$19,231,370
Development Management	1,585,000
Public Safety	1,220,000
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>560,000</u>
	<u>\$23,796,370</u>

FY 2010

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>8,503,820</u>
	<u>\$ 8,503,820</u>

Expenditures:

Schools	\$3,339,820
Development Management	1,289,115
Public Safety	1,774,885
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>900,000</u>
	<u>\$8,503,820</u>

2. Case Nos. Z-14-04/MP-01-05. Pocahontas Square Proffer Amendment (deferred from April 12, 2005)

Ms. Ellen Cook, Planner, stated that the case has been deferred from April 12, 2005, and staff continues to recommend the approval of the proffer and master plan amendment with the voluntary proffers. The voluntary proffers provide for: water and sewer service to the development will be provided by Newport News Waterworks; \$425 per "Restricted" lot (38 of the 96 lots), and \$1,250 per non "Affordable" or "Restricted" lot (34 of 96) to offset community impacts; \$1,275 per "Restricted" lot (38 of the 96 lots) and \$3,750 per non "Affordable" or "Restricted" lot (34 of 96) to offset community impacts on school services; and \$12,960 for a Homeowners Reserve Fund (from the Owners Association Proffer).

Mr. Bradshaw made a motion to adopt the resolution.

Mr. McGlennon stated that the changes enhance the original proposal and helps the Board to see the potential for contributions through cash proffers of the developer for the Capital Costs of the County.

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

## **RESOLUTION**

### **CASE NO. Z-14-04/MP-01-05. 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-01-05 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-01-05, 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, 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-01-05 and accept the voluntary proffers.

### **3. Appropriation of Funds - Ironbound Square Stormwater Basin**

Mr. Richard B. Hanson, Housing and Community Development Administrator, stated that construction of the regional Stormwater Management facility is needed as a result of the development of senior citizen apartments and new single-family homes within the Ironbound Square Redevelopment Area, as well as the planned widening of Ironbound Road by VDOT.

Mr. Hanson requested the Board approve the appropriation of Water Quality funds for the development of the Ironbound Square Regional Stormwater Basin.

Mr. Harrison inquired if the basin will be adequately designed to also address the current stormwater problems in the community.

Mr. Hanson stated that the regional basin will serve the redevelopment area as well as other areas, and the curbing and guttering will redirect runoff to the basin; however, not all the runoff from the area west of Waterfront Lane will drain towards the basin.

Mr. Harrison thanked the citizens and staff for working to increase the pace of the project for completion.

Mr. Harrison made a motion to adopt the resolution.

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



**RESOLUTION**

**IRONBOUND SQUARE REGIONAL STORMWATER BASIN APPROPRIATION**

WHEREAS, development of a regional stormwater basin is required to accommodate planned development in a thirty-acre watershed which includes a senior citizen apartment development, new single-family homes, and the widening of Ironbound Road; and

WHEREAS, \$180,000 was appropriated by the Board of Supervisors in the FY 2003 Budget for this purpose and transferred into the Community Development Fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby amend the Community Development Fund Budget, as adopted for the fiscal year ending June 30, 2005, as follows:

Revenue:

Water Quality Fund Balance \$180,000

Expenditure:

Housing and Community Development Programs \$180,000

and that the appropriation of the water quality fund balance funds be designated a continuing appropriation, to carry beyond FY 2005 until completion of the development of the Ironbound Square Regional Stormwater Basin.

**I. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, commented on several recent articles related to sludge and the safety issues associated with sludge, and commended the Board for not approving a compost facility in the County.

2. Mr. Chris Henderson, 101 Keystone, commented on the economic development in the County, commented on the landbook values of residential units and revenues generated from the residential units in comparison to the landbook values and revenues generated from the business sector; suggested the County look at more business development in the County; and suggested the funds for the construction of the 2007 commemorative building should be reallocated to a donation towards the events for that year.

**J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that a public information meeting of the Jamestown 2007 activities will be held at the Jamestown Settlement at 6 p.m. on May 12 and citizens are invited to attend.

Mr. Wanner stated that rating agency tours for the third high school bond will be completed by the end of next week.

Mr. Wanner recommended the Board recess briefly for a James City Service Authority (JCSA) Board of Directors meeting, then reconvene to go into Closed Session pursuant to Section 2.2-3711 (A)(1) for the consideration of appointments to Boards and Commissions, and at the conclusion of the Board's meeting, the Board adjourn until 7 p.m. on April 12.

**K. BOARD REQUESTS AND DIRECTIVES**

Mr. Brown inquired if a Closed Session is desired by the Board members.

Mr. Harrison made a motion to reappoint Rita Davis, Julia Levernz, Richard Locke, and Deborah Schneider to four-year terms on the Cable Communications Advisory Committee, terms to expire on April 30, 2009; to appoint Lawrence Rabinowitz to a four-year term on the Cable Communications Advisory Committee, term to expire on April 30, 2009; to reappoint Michael Fox to a four-year term on the Williamsburg Regional Library System Board of Trustees, term to expire on April 30, 2009; and to appoint Doug Powell, Acting Community Services Manager, to fill the unexpired term of Anthony Conyers, Jr., on the Williamsburg Area Medical Assistance Corporation (WAMAC), term to expire December 31, 2005.

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

Mr. Goodson invited citizens to attend a Public Hearing by VDOT on the relocation of Route 60 through the Roberts District to be held at the James River Elementary School at 4:30 p.m. on May 11, and stated that citizens can review the different alignment proposals under consideration as well as provide feedback on the proposal.

Mr. McGlennon emphasized the public information meeting to be held on April 28 from 4:30 p.m. to 7 p.m. at Jamestown High School regarding the Route 5 bridge replacement project.

Mr. Bradshaw stated that a team of students from the Toano Middle School participated in the Air and Space Museum's Junior Giving Program and after much consideration and evaluation of area charities, decided to give the \$1,000 award to the Child Development Resources.

Mr. Bradshaw commented on the ease and accessibility of the Department of Motor Vehicle (DMV) services now offered at the Satellite Office in Toano.

Mr. Wanner thanked Mr. Porter and all the staff involved in getting the DMV services available at the Satellite Office.

**L. ADJOURNMENT**

Mr. Goodson made a motion to adjourn.

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

At 8:23 p.m., Mr. Brown adjourned the Board until 7 p.m. on May 10, 2005.

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Sanford B. Wanner  
Secretary to the Board

MEMORANDUM

DATE: May 10, 2005  
TO: The Board of Supervisors  
FROM: Needham S. Cheely, III, Director of Parks and Recreation  
SUBJECT: May is Bike Month

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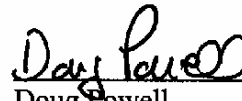
Bicycle enthusiasts, organizations, and businesses nationally recognize the month of May as "Bike Month." During this month various local organizations in conjunction with local government will be conducting a number of activities including "Pedal the Parkway."

At the request of citizens, Williamsburg Area Bicyclists, and the Parks and Recreation Advisory Commission, staff has prepared a resolution for consideration by the Board of Supervisors. This resolution recognizes the many benefits of bicycling and formally proclaims May 2005 as "Bike Month" in James City County.

Staff recommends adoption of the attached resolution.

  
\_\_\_\_\_  
Needham S. Cheely, III

CONCUR:

  
\_\_\_\_\_  
Doug Powell

NSC/gb  
Bikemonth05.mem

Attachment

**RESOLUTION**

**MAY IS BIKE MONTH**

WHEREAS, cycling is a relaxing and enjoyable mode of exercise and transportation for many men, women, and children throughout James City County; and it is a convenient and environmentally clean way for many to travel between work, school, and home; and

WHEREAS, James City County offers many bicycling opportunities for transportation, recreation, and exercise and it is important for children and adults to learn the basics of bicycle safety and to always wear a safety helmet while bicycle riding. Cyclists can enjoy the beautiful scenery, parks, area attractions, and historic sites of James City County from a unique vantage point; and

WHEREAS, Bike Month is designed to increase awareness about bicycling opportunities through organized activities such as bike-to-work days and bike rodeos for children.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize May 2005 as Bike Month in James City County, Virginia, and calls this observance to the attention of its citizens.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of May, 2005.

bikemonth05.res

MEMORANDUM

DATE: May 10, 2005  
TO: The Board of Supervisors  
FROM: Sanford B. Wanner, County Administrator  
SUBJECT: Riverside Health System Certificate of Public Need

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The Riverside Health System has applied to rezone property in the City of Williamsburg. Part of that rezoning request was to allow healthcare facilities to be located on the property. The City of Williamsburg has adopted a resolution supporting the proposed Certificate of Public Need for the Doctors' Hospital of Williamsburg to be submitted by Riverside Health System in order to establish an acute care hospital on the site known as Quarterpath in the City of Williamsburg, Va.

The Certificate of Public Need from the State Health Commissioner is required in order to establish such a hospital. It is staff's opinion that competition for health services is desirable and this will provide an alternative to the present sole provider of hospital services in the Greater Williamsburg area.

I recommend that the Board adopt the attached resolution supporting the Riverside Health System Certificate of Public Need.

---

Sanford B. Wanner

SBW/gs  
rezone.mem

Attachment



**RESOLUTION**

**RIVERSIDE HEALTH SYSTEM CERTIFICATE OF PUBLIC NEED**

WHEREAS, Riverside Health System has applied to rezone property in the City of Williamsburg, and part of this rezoning request is to allow healthcare facilities to be located on the property; and

WHEREAS, the James City County Board of Supervisors desires to continue to improve accessibility to healthcare services for its residents, and to make them available and affordable to all citizens of the County; and

WHEREAS, with rapid population growth, it is desirable that our citizens have a distinct choice in the scope and quality of care they receive, staff that provides that care, and the facilities where that care is available; and

WHEREAS, the Board of Supervisors believes that this goal can be achieved by competition among healthcare providers through the establishment of an alternative to the present sole provider of hospital services; and

WHEREAS, Riverside Health System has historically made significant investments in healthcare facilities in the greater Williamsburg area, including dialysis, diagnostic services, primary and specialty medical care, retirement services, assisted living and convalescent care; and

WHEREAS, Riverside Health System has already received a Certificate of Public Need from the State Health Commissioner to locate a long-term care facility on the property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports the plans of Riverside Health System to establish an acute care hospital within the City premises rezoned on April 14, 2005, and further, establish this hospital granting access to all citizens of the area without regard to ability to pay.

BE IT FURTHER RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby endorses the proposed Certificate of Public Need for the Doctors' Hospital of Williamsburg to be submitted by Riverside Health System in July 2005 to establish an acute care hospital on the site know as Quarterpath in the City of Williamsburg, Virginia.

\_\_\_\_\_  
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 10th day of May, 2005.

Rezone.res

253-6833

FOR: SANDY WANNER



**RESOLUTION #05-07  
RIVERSIDE HEALTH SYSTEM  
CERTIFICATE OF PUBLIC NEED**

**WHEREAS**, Riverside Health System has applied to re-zone property in the City of Williamsburg, and part of this re-zoning request is to allow health care facilities to be located on the property, and

**WHEREAS**, the City Council of Williamsburg desires to continue to improve accessibility to health care services for its residents, and to make them available and affordable to all citizens of the City, and

**WHEREAS**, in our region of rapid population growth, it is desirable that our citizens have a distinct choice in the scope and quality of care they receive, staff that provides that care, and the facilities where that care is available, and

**WHEREAS**, the City Council of Williamsburg believes that this goal can be achieved by competition among health care providers through the establishment of an alternative to the present sole provider of hospital services, and

**WHEREAS**, Riverside Health System has historically made significant investments in health care facilities in the greater Williamsburg area, including dialysis, diagnostic services, primary and specialty medical care, retirement services, assisted living and convalescent care, and

**WHEREAS**, Riverside Health System has already received a Certificate of Public Need from the State Health Commissioner to locate a long term care facility on the property;

**THEREFORE, BE IT RESOLVED**, that the City Council of Williamsburg hereby supports the plans of Riverside Health System to establish an acute care hospital on the premises rezoned this date, and further, establish this hospital granting access to all citizens of the area without regard to ability to pay.

**FURTHER, BE IT RESOLVED**, that the City Council of Williamsburg hereby endorses the proposed Certificate of Public Need for the Doctors' Hospital of Williamsburg to be submitted by Riverside Health System in July 2005 to establish an acute care hospital on the site know as Quarterpath in the City of Williamsburg, Virginia.

April 14, 2005

Attest: Shelley Crist  
Clerk of Council

Jeanne Zeidler  
Jeanne Zeidler, Mayor

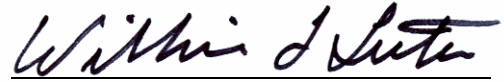
MEMORANDUM

DATE: May 10, 2005  
TO: The Board of Supervisors  
FROM: William T. Luton, Acting Fire Chief  
SUBJECT: Virginia Department of Emergency Management Grant Awards - \$79,346

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The Virginia Department of Emergency Management has provided additional FY 2005 funding in the amount of \$79,346 for the James City County Division of Emergency Management. These funds will be used for operations and improvements in the area of radiological preparedness, improvements in emergency plans, and the continuation of the Citizen Corps in James City County.

Staff recommends approval of the attached resolution.

  
William T. Luton

WTL/nb  
emermangeawds.memo

Attachment

**RESOLUTION**

**VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT GRANT AWARDS - \$79,346**

WHEREAS, the Virginia Department of Emergency Management (VDEM) has approved monetary assistance to the James City County Division of Emergency Management, providing:

- \$50,000 improvement in radiological emergency response capability.
- \$17,346 for improvement of emergency plans.
- \$12,000 to assist with the continuation of our local Citizen Corps.; and

WHEREAS, no local matching funds are required.

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

Revenue:

Transfer from the Virginia Department of Emergency Management	<u>\$79,346</u>
--	-----------------

Expenditures:

Radiological Emergency Response Grant (024-073-5604)	\$50,000
Local Emergency Planning Grant (024-073-5605)	17,346
Citizen Corp Grant (024-073-5607)	<u>12,000</u>
	<u>\$79,346</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 10th day of  
May, 2005.

MEMORANDUM

DATE: May 10, 2005

TO: The Board of Supervisors

FROM: O. Marvin Sowers, Jr., Planning Director

SUBJECT: Scenic Easement Encroachments at 3651 and 3751 John Tyler Highway for the Greensprings Trail

---

The Virginia Department of Transportation (VDOT), in cooperation with James City County, has begun right-of-way acquisition for the Greensprings Trail, a paved ten-foot-wide multi-use path that extends from Route 5 to the Colonial Parkway. The proffers applicable to two of the properties on which the trail would be located require an undisturbed 145-foot scenic easement parallel to Route 5. The trail would be partially located within this easement. The parcels are located at 3651 and 3751 John Tyler Highway. The former is vacant and is owned by the Williamsburg Land Conservancy (WLC), while the latter contains Jamestown High School (JHS). VDOT has requested that permission to place the trail within the scenic easement be granted at this time at this time to expedite the right-of-way assembly process so that bids can be advertised in May 2005 and construction started by Fall 2005.

The trail would extend for about 1,000 feet on the WLC property and about 1,600 feet on the JHS property. The trail would require a 16-foot permanent easement and a 30-foot temporary construction easement. On the WLC property almost 100 percent of the length of the trail would be located in an existing 40-foot-wide stormwater easement. On the JHS property, all but about 500 feet of the trail would follow an existing unpaved walking trail.

The Greensprings Trail will extend northward from the existing Greensprings Trailhead behind Jamestown High School within the Eagle Way right-of-way. It will then extend westward from the intersection of Route 5 and Eagle Way onto Jamestown High School (JHS) property, and then turn southward on a route generally parallel to Greensprings Road on properties owned by the Williamsburg Land Conservancy, James County, the Economic Development Authority (Mainland Farm) and several private parties. The trail will then parallel Jamestown Road and connect to an existing multi-use path along Route 359.

The Greensprings Trail is being constructed in support of the Jamestown 2007 commemoration, and is supported by the Governor. The trail is part of the larger Virginia Capital Trail that will extend from Richmond to Jamestown. Sections in Charles City County and Henrico are also in progress. The last section in James City County between Charles City County and Greensprings Road is expected to begin construction this Fall.

The scenic easement was created by a proffer in the 1986 rezoning of the 363 acre tract of land owned by David M. Murray. This tract now contains the Jamestown High School, the Fieldcrest subdivision and the WLC parcel.

Proffer No. 2 in the 1986 rezoning establishes a 145-foot-wide scenic easement adjacent and parallel to the centerline for State Route 5. The proffer also requires that existing trees, shrubbery and vegetation within the easement not be disturbed except upon approval by the Site Plan Review Committee (now known as the Development Review Committee) of the Planning Commission. While certain specified improvements may be permitted within the scenic easement, a multi-use path is not among the permitted items. However, the proffer does permit other, more intensive uses to locate in the easement, including roads, drainage structures,

and utilities. Staff believes that the location of the trail is consistent with the intent of the proffer, and that an amendment to the proffer is unnecessary. However, in order to permit the trail within the easement the Board would need to approve the attached resolution stating that it finds the trail consistent with the proffers.

Extensive discussions have taken place among VDOT, the Virginia Department of Game and Inland Fisheries (VDGIF), WLC, the Fieldcrest subdivision, and the County regarding drainage and wildlife management issues in the area during the course of planning for the trail. A memorandum of agreement (MOA) is currently under consideration to address these issues. Under the MOA, WLC's property would be transferred to VDGIF and it would assume wildlife management responsibilities. Certain drainage improvements would be made by VDOT, and WLC would be permitted to place a conservation easement on the property. Under the terms of the MOA, the County would ensure that the trail can be located within the scenic easement.

Staff has worked closely with VDOT in the location and design of the trail. The trail would primarily be located within the existing unpaved Greensprings walking trail corridor. The proposed location will minimize the amount of additional tree clearing and, along with supplemental plantings, minimize the visual impacts of any clearing and retain the visual integrity of the scenic easement.

Staff recommends that the Board of Supervisors approve the attached resolution which states that the Board finds locating the Greensprings Trail within the 145-foot scenic easement is consistent with the goals and objectives of Proffer No. 2 in the David M. Murray rezoning dated December 19, 1986. On May 3, 2005, the Williamsburg/James City County School Board approved the transfer of permanent right-of-way and a temporary construction easement for the trail within the 145-foot scenic easement.

---

O. Marvin Sowers, Jr.

CONCUR:

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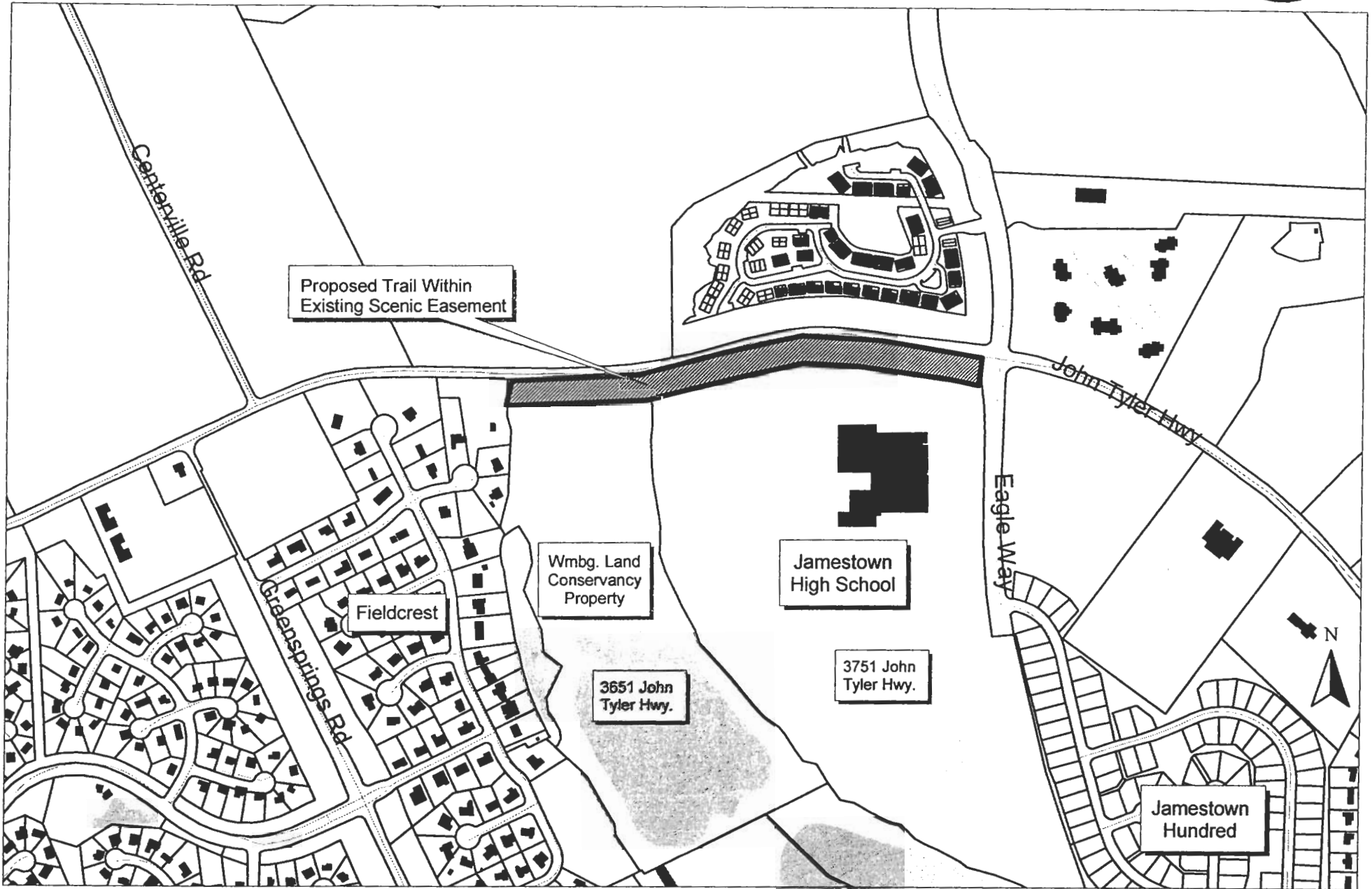
Michael Drewry

MD/OMS/tlc  
GTSscenic.mem

Attachments:

1. Parcel Location Map
2. Rezoning Proffer
3. Green Spring Trail Plan Sheet 3, 12 & 13
4. Resolution

# SCENIC EASEMENT ENCROACHMENTS AT 3651 & 3751 JOHN TYLER HWY. FOR THE GREENSPRINGS TRAIL



Proffer

334 519

AGREEMENT

WHEREAS, David M. Murray, (hereinafter called "the Owner") owns certain real property in James City County, Virginia, (hereinafter called "the Property") and more particularly described as follows:

All that certain lot, piece or parcel of land situate in James City County, Virginia, more fully shown and described on a plat entitled "DAVID M. MURRAY 363 Acres ±" said plat being attached hereto and made a part hereof.

WHEREAS, the Owner has applied for rezoning of the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1; and

WHEREAS, the County of James City may be unwilling to rezone the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1, because the Limited Residential District, R-1, zoning regulations may be deemed inadequate for the orderly development of the Property, because competing and incompatible uses may conflict; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Limited Residential District, R-1.

NOW, THEREFORE, this agreement witnesseth that for and in consideration of the County of James City rezoning the Property from the Limited Agricultural District, A-2, to the Limited Residential District, R-1, and pursuant to Section 15.1-491.1 et seq of the Code of Virginia, 1950, as amended and Section 20-14.2 et seq of Chapter 20 of the Code of James City County, Virginia, the Owner agrees that in addition to the regulations provided for in

ANDERSON, ENNETT  
& FRANK, P.C.  
ATTORNEYS AT LAW  
POST OFFICE DRAWER O  
WILLIAMSBURG, VA. 23187



the Limited Residential District, R-1, but subject to the current limitations set forth in the aforesaid Codes, he will meet and comply with all of the following conditions for the development of the Property.

#### CONDITIONS

1. The Property may be subdivided only in accordance with the then applicable provisions of the Regulations Governing Utility Service adopted by the County's Service Authority, but in no event shall any subdivision of the Property be approved unless and until public water and public sewer are available with adequate capacity to serve that portion of the Property proposed for subdivision.
2. Scenic easements shall be reserved across the Property 145 feet deep, adjacent to and parallel with the center line of Route 5 and 125 feet deep, adjacent to and parallel with the center line of Route 614. Existing trees, shrubbery and vegetation within said scenic easements shall remain "as is" provided, however, the Owner shall have the right to install and construct over, under, across and thru the scenic easements such new entrance roads, drainage structures, storm water management facilities, utilities and entrance signs, as may be necessary, in accordance with the terms of this Agreement and approved by the Subdivision Review Committee of the County's Planning Commission.
3. Only two (2) additional entrance roads to the Property shall be permitted, one (1) on Route 5 and one (1) on Route 614.
4. The Owner, at his expense, shall cause to be designated that portion of the Property constituting a "Conservation Area" as defined by the County's Comprehensive Plan then in effect, which designation shall be reviewed and approved by the County.
5. Existing trees, shrubbery and vegetation within said Conservation Area shall remain "as is" provided, however, the Owner shall have the right to install and construct over, under, across and thru the Conservation Area such new roads, drainage structures, storm water management facilities, utilities and entrance signs, as may be necessary, in accordance with the terms of this Agreement and approved by the Subdivision Review Committee of the County's Planning Commission.
6. The Owner shall cause to be prepared for review and approval by the County a Phase I and Phase II, as appropriate, archaeological study for each portion of the Property proposed for subdivision, but only when, as and if subdivision plans are submitted to the Subdivision Review Committee. A Phase I study shall include reconnaissance, systematic surface collection and shovel test pits every 90 - 150 feet. A Phase II study shall include shovel test pits every 25 - 40 feet with site identification and examination as appropriate.
7. The Owner, at his expense, shall cause to be prepared, a comprehensive drainage study of the Property for review and approval by the County.

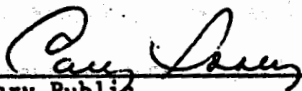
- 8. Upon approval of the drainage study, the Owner shall be obligated to incorporate the recommendations of the study in the subdivision of the Property and submit an implementation schedule to the County.
- 9. Upon the approval by the County of the implementation schedule, the Owner may, upon compliance with the aforesaid conditions and all applicable ordinances then in effect, proceed with subdivision of a portion of the Property but such portion of the property proposed for subdivision shall not exceed the greater of ten percent (10%) of the gross acreage of the Property or thirty five (35) acres. The remaining portion of the Property ("the Remainder Of the Property") may be subdivided when, as, and if, the Owner complies with the following conditions.
- 10. Prior to the approval of any subdivision of the Remainder Of The Property: (a) the Owner shall set aside that portion of the Remainder Of The Property required by and in accordance with Section 17-43 of the James City County Code and (b) the Owner, at his expense, shall cause to be prepared a comprehensive traffic study of the Remainder Of The Property for review and approval by the County.
- 11. Upon approval by the County of the traffic study, the Owner shall be obligated to incorporate the recommendations of the study in the subdivision of the Remainder Of The Property and submit an implementation schedule to the County.
- 12. Upon the approval by the County of the implementation schedule, the Owner may, upon compliance with the approved implementation schedule and all other applicable ordinances then in effect, proceed with the subdivision of the Remainder Of The Property.

  
 \_\_\_\_\_ (SEAL)  
 DAVID M. MURRAY

STATE OF VIRGINIA

CITY/COUNTY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me this 19 day of December, 1986, by David M. Murray.

  
 \_\_\_\_\_  
 Notary Public

VIRGINIA: City of Williamsburg and County of James City, to wit: My commission expires: 11-29-88

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City on the 18 day of November, 1987.  
 Presented with certificate annexed and admitted to record at 3:53 o'clock PM.

Teste: Isolene S. Ward, Clerk  
 by [Signature]  
 Deputy Clerk

ANDERSON, EMMETT  
 & FRANCH, P.C.  
 ATTORNEYS AT LAW  
 POST OFFICE DRAWER O  
 WILLIAMSBURG, VA. 23187

PLAT RECORDED IN  
 P.B. NO. 44 PAGE 95

SURVEYED BY: M.L. & R. P. 050473  
 DESIGNED BY: 050473

THESE PLANS ARE UNFINISHED AND ARE NOT TO BE USED FOR ANY TYPE OF CONSTRUCTION.

REVISED	STATE	FEDERAL AID PROJECT	ROUTE	STATE PROJECT	SHEET NO.
	VA.		5	0005-047-III, M-501 RW - 201	3

TV Cable Owner: Cox Communications  
 Contact: Walter Edwards  
 Address: 1323 W. Pembroke Ave.  
 Hampton, VA 23661

### Proposed trail within scenic easement

Telephone Line Owner: Verizon Virginia Inc  
 Contact: Tracie Crowell  
 Address: 5701 Cleveland St. 5th  
 Floor Va. Beach, Va 23462  
 Phone: 757-667-5434  
 Fax: 757-667-5432

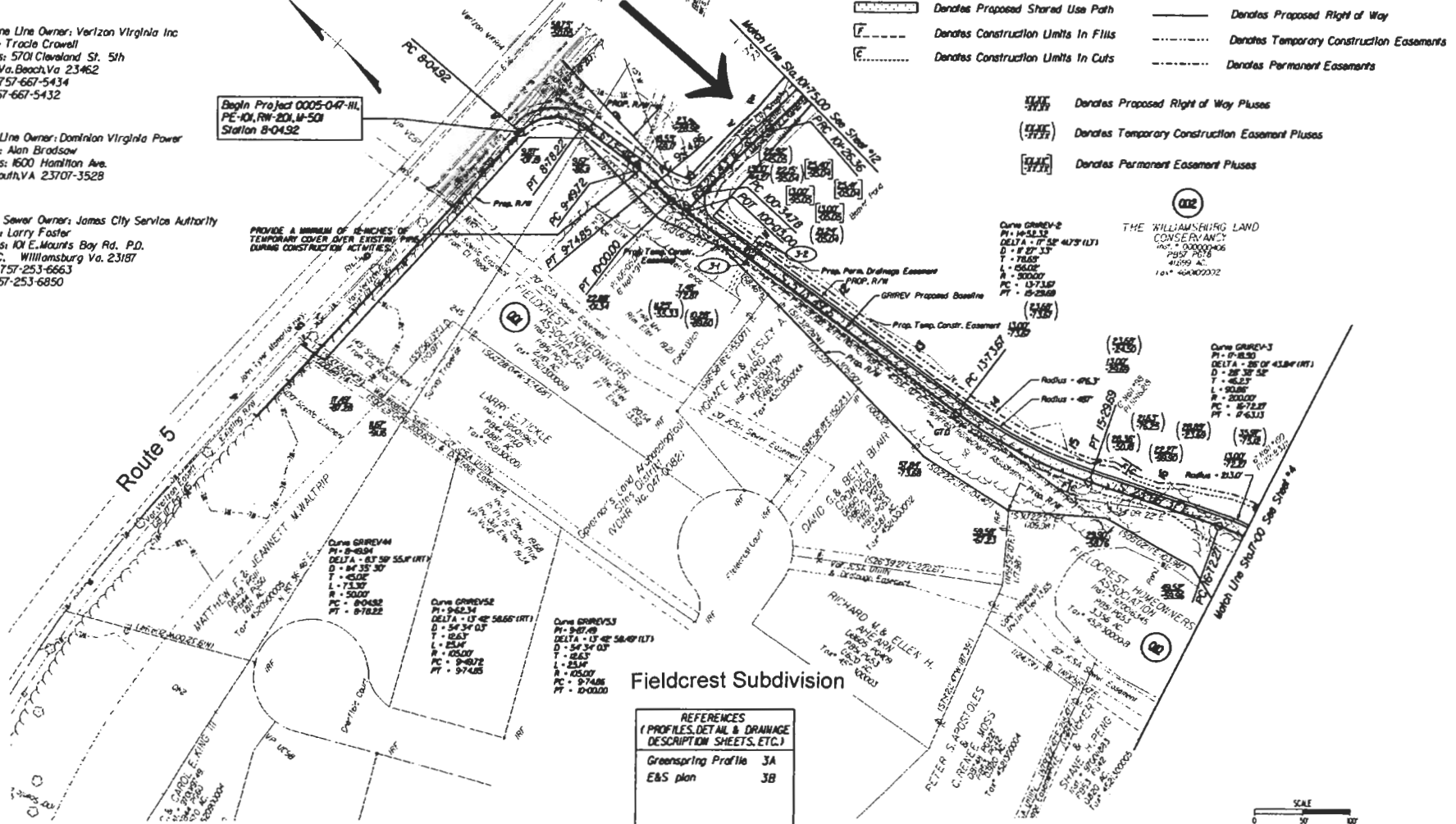
Power Line Owner: Dominion Virginia Power  
 Contact: Alan Bradshaw  
 Address: 1600 Hamilton Ave.  
 Portsmouth, VA 23707-3528

Gravity Sewer Owner: James City Service Authority  
 Contact: Larry Foster  
 Address: 101 E. Mounts Bay Rd. P.D.  
 Box J.C. Williamsburg Va. 23187  
 Phone: 757-253-6663  
 Fax: 757-253-6850

Begin Project 0005-047-III, PE-101, RW-201, M-501 Station 8+04.92

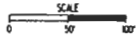
PROVIDE A MINIMUM OF 6 INCHES OF TEMPORARY COVER OVER EXISTING PIPES DURING CONSTRUCTION ACTIVITIES.

- Denotes Proposed Shared Use Path
- Denotes Proposed Right of Way
- Denotes Construction Limits In Fills
- Denotes Construction Limits In Cuts
- Denotes Temporary Construction Easements
- Denotes Temporary Construction Easements
- Denotes Permanent Easements
- Denotes Proposed Right of Way Pluses
- Denotes Temporary Construction Easement Pluses
- Denotes Permanent Easement Pluses



### Fieldcrest Subdivision

REFERENCES	
(PROFILES, DETAIL, & DRAINAGE DESCRIPTION SHEETS, ETC.)	
Greenspring Profile	3A
E&S plan	3B

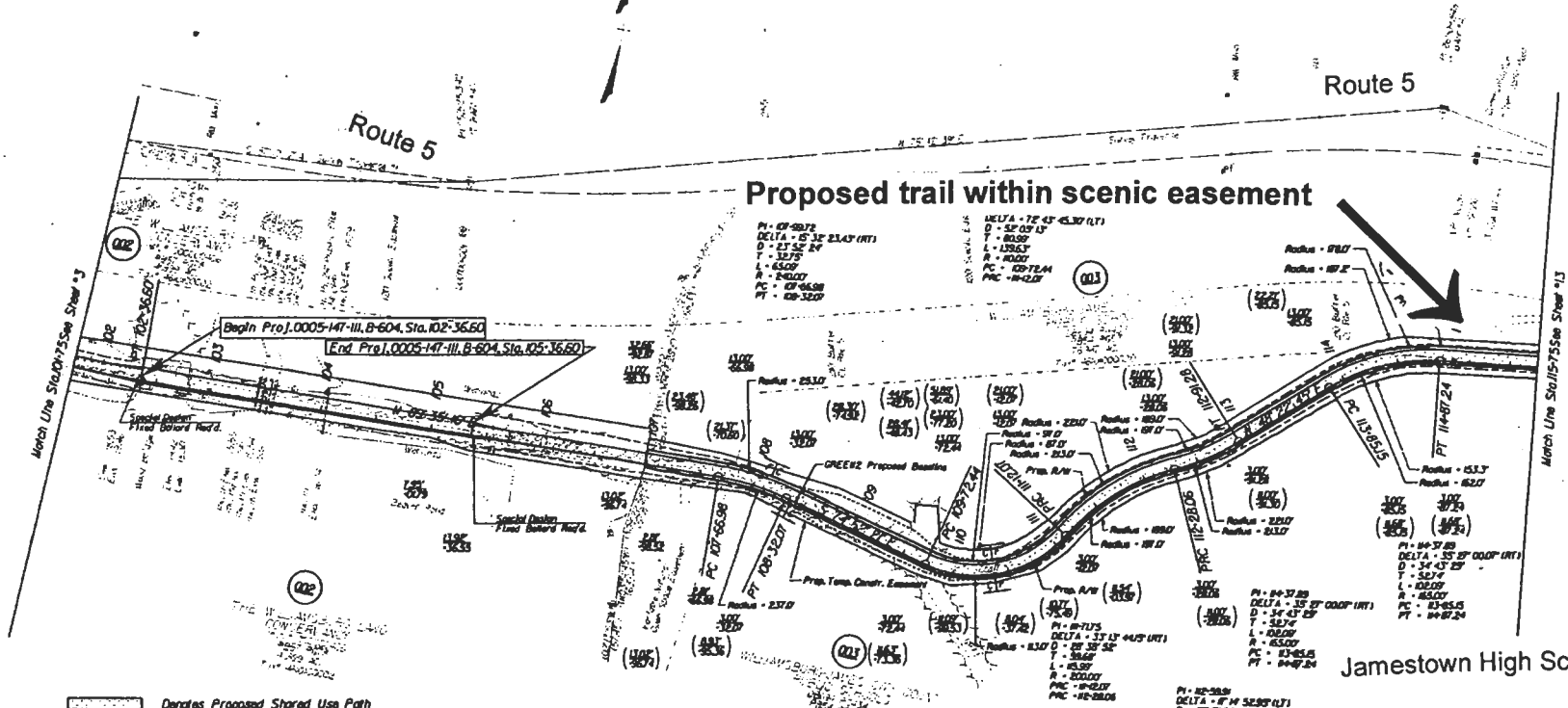


PLAN NO.	PROJECT	FILE NO.	SHEET NO.
	0005-047-III		3

DESIGN FEATURES RELATING TO CONSTRUCTION OR TO REGULATION AND CONTROL OF TRAFFIC MAY BE SUBJECT TO CHANGE AS DEEMED NECESSARY BY THE DEPARTMENT

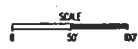
SECTION	STATION	PROJECT	ROUTE	PROJECT	SHEET
	1+00		5	0005-047-III, M-504 B-604, RM-204	12

THESE PLANS ARE UNFINISHED AND ARE NOT TO BE USED FOR ANY TYPE OF CONSTRUCTION.



- Denotes Proposed Shared Use Path
- Denotes Construction Limits in Fills
- Denotes Construction Limits in Cuts
- Denotes Temporary Silt and Erosion Control Fence
- Denotes Proposed Right of Way
- Denotes Temporary Construction Easements
- Denotes Permanent Easements
- Denotes Proposed Right of Way Pluses
- Denotes Temporary Construction Easement Pluses
- Denotes Permanent Easement Pluses

REFERENCES (PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.)	
Greenspring Profile	12A
E&S plan	12B



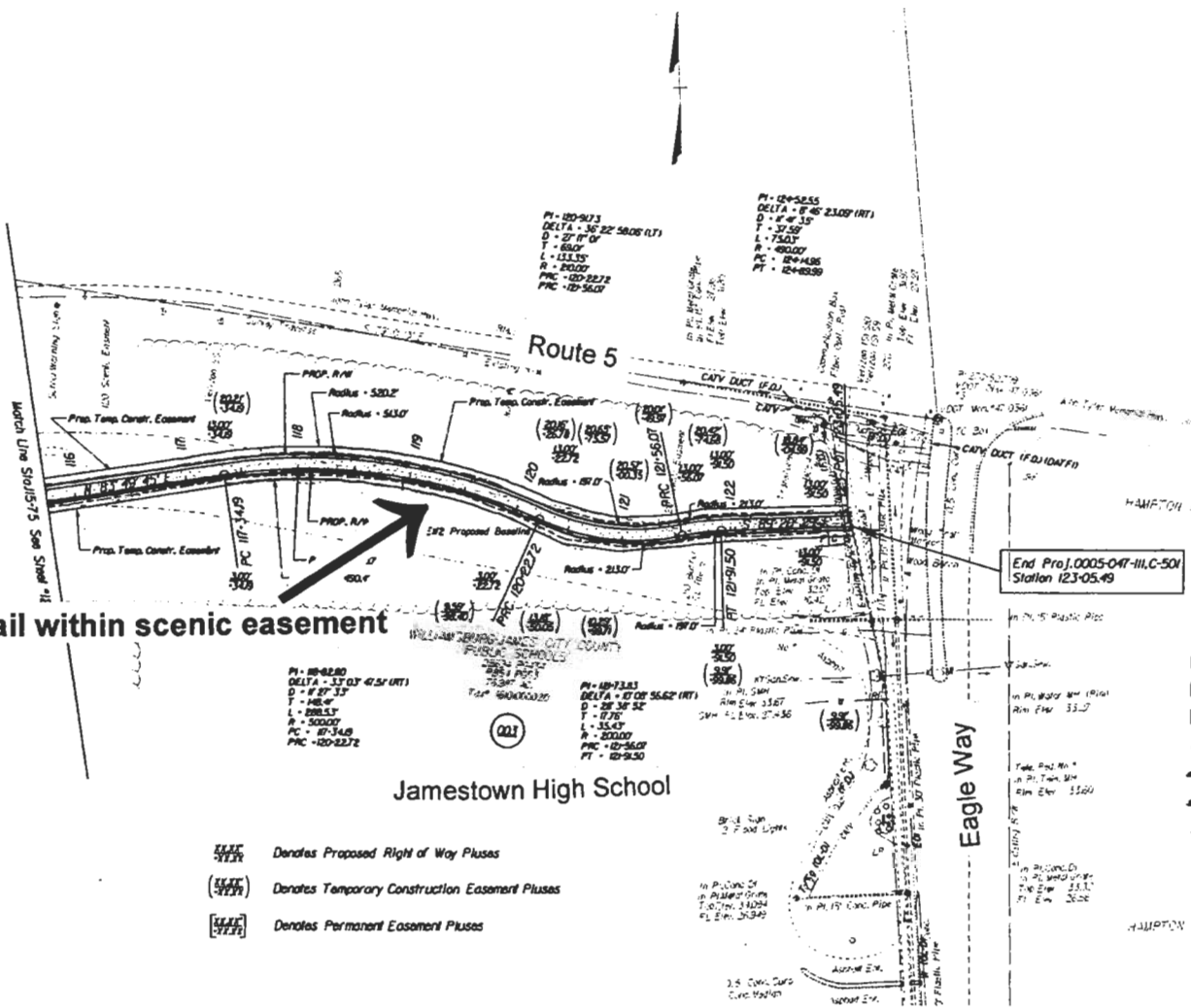
PLAN NO.	PROJECT	FILE NO.	SHEET NO.
	0005-047-III		12

DESIGN FEATURES RELATING TO CONSTRUCTION OR TO REGULATION AND CONTROL OF TRAFFIC MAY BE SUBJECT TO CHANGE AS DEEMED NECESSARY BY THE DEPARTMENT

DATE	TIME	ISSUE	SCALE	STATE	SHEET NO.
		PROJECT			
		PROJECT	5	0005-047-III-M-501	13
				RW-201	

THESE PLANS ARE UNFINISHED AND ARE NOT TO BE USED FOR ANY TYPE OF CONSTRUCTION.

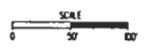
REFERENCES (PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.)	
Greenspring Profile 13A	EBS plan 13B



Proposed trail within scenic easement

- Denotes Proposed Right of Way Pluses
- Denotes Temporary Construction Easement Pluses
- Denotes Permanent Easement Pluses

- Denotes Proposed Shared Use Path
- Denotes Construction Limits In Fills
- Denotes Construction Limits In Cuts
- Denotes Temporary Silt and Erosion Control Fence
- Denotes Proposed Right of Way
- Denotes Temporary Construction Easements
- Denotes Permanent Easements



PLAN NO.	PROJECT	FILE NO.	SHEET NO.
	0005-047-III		13

47

1/25/2010 10:58:11 AM

**RESOLUTION**

**SCENIC EASEMENT ENCROACHMENTS AT 3651 AND 3751 JOHN TYLER HIGHWAY**

**FOR THE GREENSPRINGS TRAIL**

WHEREAS, the James City County Board of Supervisors accepted voluntary proffers from David M. Murray dated December 19, 1986, which are recorded in the James City County Circuit Court Clerk's Office in Deed Book 334, at Pages 519 - 521, and which apply to certain parcels commonly known as 3651 and 3751 John Tyler Highway in the Berkeley District and designated as Tax Parcel No. 4610100002 and Tax Parcel No. 461010002D, respectively; and

WHEREAS, said proffers provide for the reservation of a scenic easement across the property 145 feet deep, adjacent to and parallel with the center line of State Route 5, John Tyler Highway; and

WHEREAS, certain improvements are permitted within the scenic easement such as roads, drainage structures and utilities but the proffers are silent in regard to trails; and

WHEREAS, there is a proposed Memorandum of Agreement with the Virginia Department of Game and Inland Fisheries, the Virginia Department of Transportation, James City County, the Williamsburg Land Conservancy, and the Fieldcrest Homeowner's Association ("Memorandum of Agreement"), regarding the Virginia Capitol Trail-Greensprings Phase; and

WHEREAS, the proffered scenic easement is identified in the Memorandum of Agreement as an easement burdening the development of the Virginia Capitol Trail-Greensprings Phase.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby find that locating the Greensprings Trail within the 145-foot scenic easement as proposed by the Virginia Department of Transportation on Plan Sheets 3, 12 and 13, entitled "Project 0005-047-111, M-501, B-604, RW-201" dated January 26, 2005, is consistent with the goals and objectives of the proffers described above, and agrees to allow the trail to encroach within the scenic easement as shown on said plan sheets.

\_\_\_\_\_  
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 10th day of May, 2005.

MEMORANDUM

DATE: May 10, 2005  
TO: The Board of Supervisors  
FROM: Richard B. Hanson, Housing and Community Development Administrator  
SUBJECT: HOME and CDBG Local Business and Employment Plan

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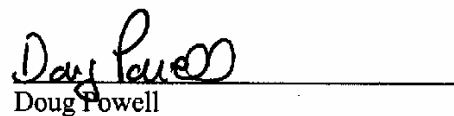
As an administrator of the Rehabilitation Demonstration and Indoor Plumbing Rehab Programs funded by the Federal HOME Program, as well as a recipient of Community Development Block Grants (CDBG), James City County is obliged to adhere to the requirements of a variety of Federal laws and regulations in areas such as environmental protection, equal opportunity, and labor standards. One such law is Section 3 of the Housing and Urban Development Act. This law requires that a locality which receives HOME or CDBG funds must adopt a written plan which sets forth steps the locality will take to identify and then notify minority, female, and locally-owned businesses of goods and services to be purchased with grant funds. This plan also describes procedures that will be followed to notify lower-income James City County residents of training and employment opportunities. The County has adhered to these Section 3 requirements in its previous CDBG projects, and these requirements are consistent with the affirmative action policies within the County's purchasing and employment regulations.

The attached Local Business and Employment Plan is based on the model plan suggested by the Virginia Department of Housing and Community Development, which administers the HOME and CDBG funds.

Staff recommends approval of the attached resolution to adopt the HOME and CDBG Local Business and Employment Plan.

  
Richard B. Hanson

CONCUR:

  
Doug Powell

RBH/gs  
HOMEemploy.mem

Attachments

**RESOLUTION**

**HOME AND CDBG LOCAL BUSINESS AND EMPLOYMENT PLAN**

WHEREAS, James City County administers housing and community development programs funded by Community Development Block Grants and HOME funds, including the Indoor Plumbing Rehabilitation Program and the Rehabilitation Demonstration Program; and

WHEREAS, Section 3 of the Housing and Urban Development Act of 1968 specifies that low-income project area residents and businesses should be utilized to the greatest extent feasible and further requires that recipients of Community Development Block Grant and HOME funds must adopt and act in accordance with a written Local Business and Employment Plan Funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia adopt the attached Local Business and Employment Plan.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of May, 2005.

HOMEemploy.res



## JAMES CITY COUNTY

### LOCAL BUSINESS AND EMPLOYMENT PLAN

1. The County of James City designates as its Local Business and Employment Project Area the boundaries of James City County or, where applicable, the Community Development Block Grant Project Area.
2. The County of James City, its contractors, and designated third parties shall, in utilizing Community Development Block Grant or HOME funds, utilize businesses and lower-income residents of the Project Area in carrying out all activities, to the greatest extent feasible.
3. In awarding contracts for work and for procurement of materials, equipment, or services of its contractors and designated third parties, the following steps shall be taken to utilize businesses which are located in or owned in substantial part by persons residing in the Project Area:
  - (a) The County of James City shall ascertain what work and procurements are likely to take place through the Community Development Block Grant or HOME funds.
  - (b) The County of James City shall ascertain through various and appropriate sources, including *The Daily Press*, Newport News, Virginia, the business concerns within the Project Area which are likely to provide materials, equipment, and services, which will be utilized in the activities funded through the Community Development Block Grant or HOME funds.
  - (c) The identified business concerns shall be apprised of the opportunities to submit bids, quotes, or proposals for work or procurement contracts which utilize Community Development Block Grant or HOME funds.
  - (d) To the greatest extent feasible, the identified businesses and any other Project Area business concerns shall be utilized in activities which are funded with Community Development Block Grant or HOME funds.
4. In the utilization of trainees or employees for activities funded through Community Development Block Grant or HOME funds, the County of James City, its contractors, and designated third parties, shall take the following steps to utilize lower-income persons residing in the Project Area:
  - (a) The County of James City, in consultation with its contractors (including design professionals), shall ascertain the types and number of positions for both trainees and employees which are likely to be utilized during the project funded by Community Development Block Grant or HOME funds.

- (b) The County of James City shall advertise the availability of such positions in *The Daily Press*, Newport News, Virginia, with the information on how to apply.
  - (c) The County of James City, its contractors, and designated third parties shall be required to maintain a record of inquiries and applications by Project Area residents who respond to advertisements and shall maintain a record of the status of such inquiries and applications.
  - (d) To the greatest extent feasible, the County of James City, its contractors, and designated third parties shall utilize lower-income Project Area residents in filling training and employment positions necessary for implementing activities funded by Community Development Block Grant or HOME funds.
5. In order to ascertain substantial compliance with the above affirmative actions and Section 3 of the Housing and Community Development Act of 1968, the County of James City shall keep and require to be kept by its contractors and designated third parties listings of all persons employed and all procurements made through the implementation of activities funded by Community Development Block Grant or HOME funds. Such listings shall be completed and shall be verified by site visits and interviews, cross-checking of payroll reports and invoices, and through audits, if necessary.

HOMEemploy.att

MEMORANDUM

DATE: May 10, 2005  
TO: The Board of Supervisors  
FROM: John T. P. Horne, Development Manager  
SUBJECT: Historic Triangle Wayfinding System Agreement

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In June 2004, the Historic Triangle Wayfinding Task Group was established under the auspices of the Historic Triangle 2007 Host Committee. The Task Group was charged with designing a wayfinding signage system that would more effectively direct visitors to destinations in the Historic Triangle. Members of the Task Group include:

- City of Williamsburg
- James City County
- York County
- Virginia Department of Transportation
- Colonial Williamsburg Foundation
- College of William & Mary
- Busch Gardens/Water Country USA
- Convention and Visitors Bureau
- National Park Service
- Jamestown-Yorktown Foundation

The Task Group began meeting in July 2004, hired Frazier and Associates in August 2004, and produced a final system design report in March 2005. The system will consist of approximately 145 signs in the area, including two interstate signs. Approximately 40 signs will be located in James City County. A number of existing signs would be removed or altered once these signs are in place. Fabrication and installation costs in James City County are estimated to be \$90,000-\$100,000. Funding was included in the FY 2006 Budget. Installation is expected in late 2005 and early 2006.

In order to operate and maintain the system once it is installed, staffs of the City of Williamsburg, James City County, and York County are recommending the establishment of the Historic Triangle Wayfinding Group through adoption of the attached agreement. Members would be from three jurisdictions and they would be responsible for all activities related to maintenance and administration of the wayfinding signage system.

Staff recommends adoption of the attached resolution.

---

John T. P. Horne

JTPH/gs  
wayfindsign.mem

Attachments

**RESOLUTION**

**HISTORIC TRIANGLE WAYFINDING SYSTEM AGREEMENT**

WHEREAS, the Historic Triangle 2007 Host Committee established the Historic Triangle Wayfinding Task Group to develop a wayfinding signage system for the Historic Triangle; and

WHEREAS, the final report of the Task Group has been completed and a sign system is expected to be installed in 2005-2006; and

WHEREAS, the Board of Supervisors wishes to establish a group to manage the maintenance and administration of the signage system once it is installed.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the Historic Triangle Wayfinding System Agreement between Williamsburg, James City County, and York County, and authorizes the County Administrator to sign the agreement.

\_\_\_\_\_  
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 10th day of May, 2005.

wayfindsign.res

## HISTORIC TRIANGLE WAYFINDING SYSTEM AGREEMENT BETWEEN WILLIAMSBURG, JAMES CITY COUNTY AND YORK COUNTY

WHEREAS, the Jamestown 2007 Host Committee identified the need to create a system of highway signs to guide visitors to significant destinations within Virginia's Historic Triangle; and

WHEREAS, for this purpose the 2007 Host Committee established the Historic Triangle Wayfinding Task Group, (the "Task Group") consisting of the following organizations; and

City of Williamsburg  
James City County  
York County  
Virginia Department of Transportation  
Colonial Williamsburg Foundation  
College of William and Mary  
Busch Gardens/Water Country USA  
Convention and Visitors Bureau  
National Park Service  
Jamestown-Yorktown Foundation

WHEREAS, the Task Group assisted by Frazier Associates, has developed a Wayfinding sign system for the Historic Triangle of Williamsburg, Jamestown and Yorktown; and

WHEREAS, the three political subdivisions consisting of the City of Williamsburg, James City County and York County (the "Wayfinding Group" desire to enter into an agreement for the ownership, operation, and maintenance of the Wayfinding system for 2007 and future years.

### **AGREEMENT**

NOW, THEREFORE, the three jurisdictions agree to install, own, operate and maintain the sign system developed by the Task Group in accordance with the following terms and conditions:

1. **NAME:** The association created to carry out this Agreement is hereby known as the Historic Triangle Wayfinding Group (the "Wayfinding Group").
2. **PURPOSE:** The purpose of the Wayfinding Group shall be to manage the Historic Triangle Wayfinding Sign System, to include initial start-up and installation, repair, replacement, alteration and expansion.
3. **MEMBERSHIP; VOTING:** Members of the Wayfinding Group are the City Williamsburg, James City County and York County. The Wayfinding Group's business shall be carried on by a board of directors consisting of one

representative from each member jurisdiction. The Chief Administrative Officer of each jurisdiction shall appoint one representative and one alternate to serve on the board of director's as the jurisdiction's representative. Each member shall have one vote as cast by its Representative as to any issue considered by the board of directors. VDOT will be invited to participate as ex-officio, non-voting member. A quorum at all board meetings shall consist of at least two voting members in attendance throughout the meeting. A majority vote shall be required for passage of any motion before the board.

4. **CHAIR:** The Wayfinding Group's board of directors shall annually select its chair on a rotating basis.
5. **MEETINGS:** The board of directors shall determine the time and place of meetings, but at least one meeting will be held semi-annually.
7. **ADMINISTRATIVE SUPPORT:** The City of Williamsburg will initially provide administrative support including coordinating sign procurement, and acting as fiscal agent. Williamsburg will not receive compensation for the provision of such services. The Wayfinding Group's board of directors may make changes in administrative support arrangements as it deems necessary.
8. **ADMINISTRATIVE FUNDING:** Wayfinding Group Members will contribute administrative funding on an in-kind basis. Administrative costs for non in-kind costs will be shared equally among the members.
9. **INITIAL PROCUREMENT/INSTALLATION** - All Wayfinding Signs shall be installed not later than July 1, 2006. Each member jurisdiction will be responsible for the cost of initial procurement and installation of the wayfinding signs located in their jurisdiction, except for the cost of two "Gateway" signs on Interstate 64, which will be shared equally among the jurisdictions. The City of Williamsburg will install the signs within its city limits, and VDOT will install the signs in the counties including the two I-64 Gateway signs. Except in the case of Gateway Signs, any charges made by VDOT for such sign installation of signs in a particular jurisdiction shall be borne by that jurisdiction. Any VDOT charges for installation of Gateway Signs shall be borne equally by the three member jurisdictions. If for any reason VDOT does not install the signs in the counties, that responsibility will fall to the counties, with each county bearing its installation costs, except for the cost of Gateway Sign installation which shall be borne equally by all three jurisdictions.
10. **OPERATIONAL FUNDING:** Each member jurisdiction is responsible for funding the repair, replacement, alteration, and expansion of the signs located in their own jurisdiction, except for the Gateway signs on Interstate 64, which are shared equally among the jurisdictions. Each jurisdiction shall at all times maintain the Wayfinding Signs (including Gateway Sign) located in its jurisdiction in good repair and in a fresh and attractive condition.

11. **SYSTEM GUIDELINES:** The Wayfinding Group's board of directors will develop, adopt and follow guidelines to govern the sign system. The guidelines will initially consist of the "Historic Triangle Wayfinding Sign System Study" dated March 2005, and the plans and specification developed pursuant thereto.

12. **TERMINATION:** Any member may terminate the Agreement upon 90 days written notice to the other members. Upon termination, that jurisdiction is responsible for removal of the wayfinding signs in its jurisdiction. However, the remaining member(s) may elect to keep all or a portion of the signs in the terminating jurisdiction. The remaining member(s) of the Wayfinding Group will determine which signs will remain, if any, and the responsibility for ownership, operation and maintenance of such remaining signs.

13. **TERM OF AGREEMENT:** Unless sooner terminated by the parties, this Agreement shall remain in force until June 30, 2025 at which time it shall automatically renew for successive periods of five (5) years each until terminated.

WITNESS the following signatures.

County of James City

By \_\_\_\_\_

Date approved by governing body:  
\_\_\_\_\_, 2005

APPROVED AS TO FORM

  
COUNTY ATTORNEY

County of York

By: \_\_\_\_\_

Date approved by governing body:  
\_\_\_\_\_, 2005

City of Williamsburg

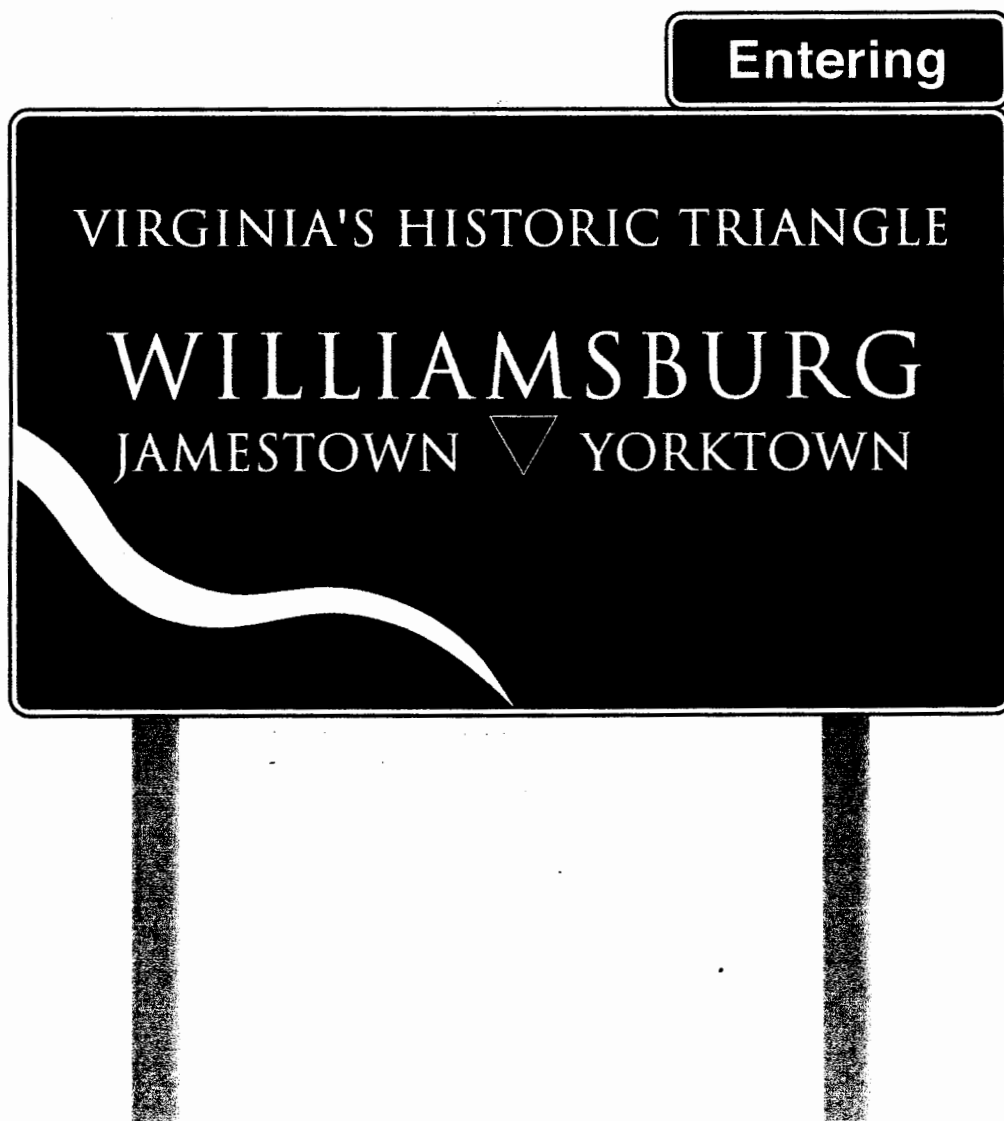
By: \_\_\_\_\_

Date approved by governing body:  
\_\_\_\_\_, 2005

**B. SIGN TYPES IN WAYFINDING SIGN SYSTEM**

**1. INTERSTATE SIGNS**

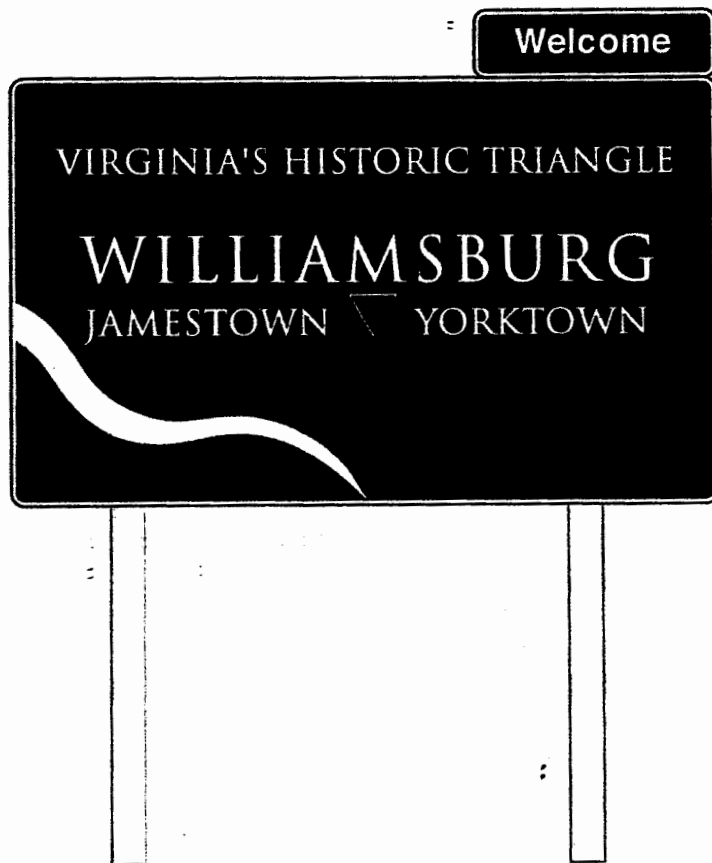
Eastbound located just before exit 231. Westbound located just before exit 247. Refer to map IIA1.b, page 13.





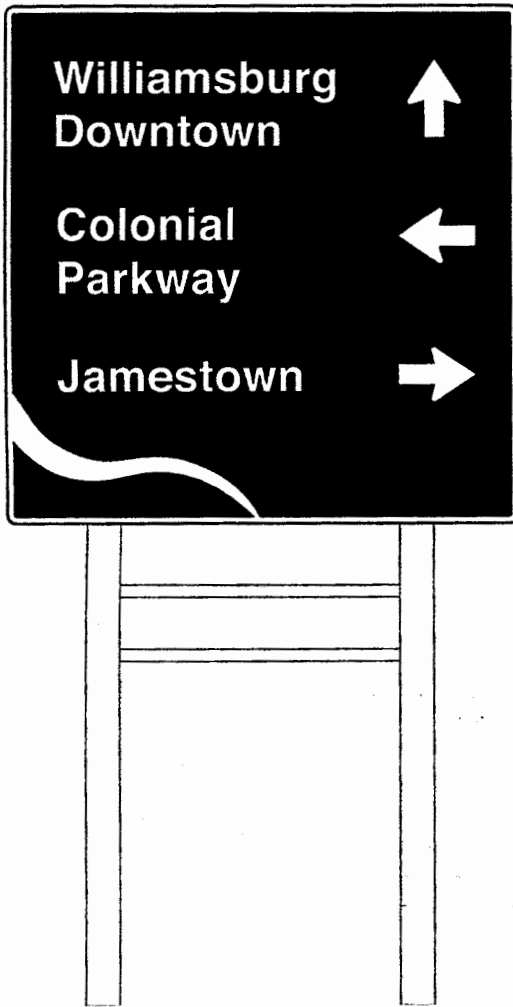
2. GATEWAY SIGNS

Refer to map IIA1.b for gateway locations, page 13.

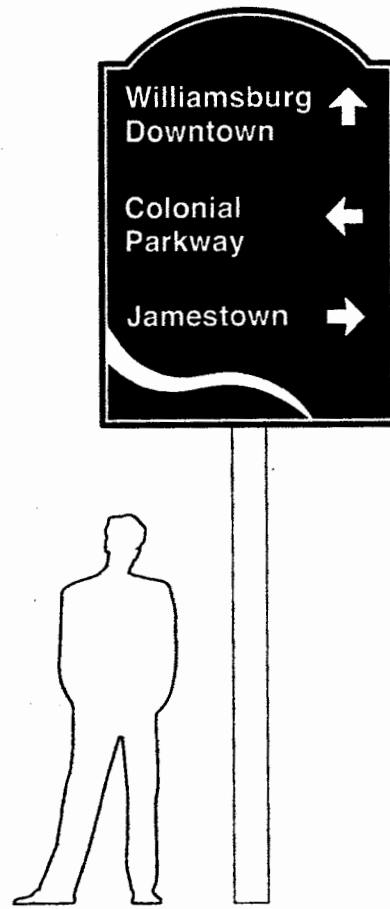


### 3. TRAILBLAZER SIGNS

Refer to sign schedule for directional information and sign type "A" or "B". Refer to Sign Location Maps in back of report for location of each sign.



Trailblazer "A" Sign



Trailblazer "B" Sign

**REZONING CASE NO. 02-05/MASTER PLAN CASE NO. 03-05. Ironbound Square Redevelopment Staff Report for the May 10, 2005, Board of Supervisors Public Hearing**

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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.

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**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

**Building F Board Room; County Government Complex**

April 4, 2005, 7:00 p.m.  
May 10, 2005, 7:00 p.m.

**SUMMARY FACTS**

Applicant: Mr. Rick Hanson, James City County Office of Housing and Community Development

Land Owner: Williamsburg Redevelopment Housing Authority  
James City Service Authority (JCSA)

Proposal: To rezone 6.03 acres from R-2, General Residential, to MU, Mixed Use, with proffers, for the construction of a 67-unit, age- and income-restricted apartment facility and five single-family residential lots.

Location: 150, 108, 112, and 120 Carriage Road, and 4408, 4406, 4404, and 4400 Ironbound Road

Tax Map/Parcel Nos.: (39-1)(1-64); (39-1)(1-57); (39-1)(1-58); (39-1)(1-59); (39-1)(8-3); (39-1)(8-4); (39-1)(8-1); and (39-1)(8-5)

Parcel Size: 6.03 acres

Proposed Zoning: MU, Mixed Use, with proffers

Existing Zoning: R-2, General Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

**STAFF RECOMMENDATION**

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff finds the proposal, as a part of the overall Ironbound Square Redevelopment, consistent with surrounding land uses, the Land Use and Housing policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends approval of the Rezoning and Master Plan applications and the acceptance of the voluntary proffers.

Staff Contact:

Trey Davis, Planner

Phone: 253-6685

## PLANNING COMMISSION RECOMMENDATION

On April 4, 2005, the Planning Commission recommended approval of this case by a vote of 6-0.

- ◆ **Proffers:** Are signed by property owners and submitted in accordance with the James City County Proffer Policy.

## PROJECT DESCRIPTION

Mr. Rick Hanson of the James City County Office of Housing and Community Development has applied to rezone approximately 6.03 acres of land along Ironbound Road from R-2, General Residential, to MU, Mixed Use, for the development of a 67-unit, age- and income-restricted apartment facility and five single-family residential lots. This is the first phase of the Ironbound Square Redevelopment Project, which encompasses a total of approximately 49 acres.

The apartment facility will be three stories and will be limited to elderly households with at least one member age 62 or older and having an adjusted annual income no greater than 50 percent of the Area Median Income (AMI) adjusted for family size as determined by the U.S. Department of Housing and Urban Development (HUD). No other age restrictions would apply to the project.

Three of the five single homes developed on the designated single-family lots will be sold to households with incomes no greater than 80 percent of the AMI adjusted for household size. Currently this equals \$42,600 for a family of three.

The applicant is proposing a request for modifications to the setback requirements in Sections 24-527(a) and (b) and the landscape requirements in Section 24-96(a) of the Zoning Ordinance. These requests are pursuant to Section 24-527(d) in order to integrate the proposed development with the surrounding neighborhood and will be considered by the Development Review Committee when development plans are submitted. The Planning Division is supportive of these modifications. This is an infill project and is consistent with the surrounding neighborhood and the New Town development across Ironbound Road.

As a part of its review, the Planning Commission considered and granted a waiver to Section 24-59(g)(2) for a reduction to the minimum off-street parking requirements for the senior apartment facility. This waiver reduces the ordinance requirement of 1.5 spaces per unit to one space per unit for this project.

## PUBLIC IMPACTS

### Archaeology Impacts:

- ◆ **Staff Comments:** The subject property is a previously disturbed site and is not located within an area identified as a highly sensitive area in the James City County archaeological assessment “Preserving Our Hidden Heritage: An Archaeological Assessment of James City County, Virginia.”
- ◆ **Staff Conclusions:** Staff feels that given the size and nature of the site, no archaeological studies are necessary.

### Fiscal Impacts:

- ◆ **Staff Comments:** A fiscal impact analysis was not required for this project. The applicant did submit a community impact statement and has acknowledged that the net fiscal impact of the proposal will be negative. However, the proposal addresses goals of the Housing section of the Comprehensive Plan specifically related to the Ironbound Square neighborhood by providing affordable housing and housing for low-income seniors.
- ◆ **Staff Conclusions:** Staff concurs that this development would result in a negative fiscal impact but that

the nature of the project is consistent with the Comprehensive Plan.

### **ENVIRONMENTAL IMPACTS**

- ◆ **Watershed:** College Creek
- ◆ **Environmental Staff Conclusions:** Staff has been in discussion with the applicant and the Virginia Department of Transportation (VDOT) about the possibility of a regional stormwater management basin nearby. The Environmental Division understands that an interim stormwater management option may be necessary for this site until the regional basin can be developed. This will include the use of low-impact development techniques and the existing Watford Lane stormwater management facility. Based on the preliminary engineering report submitted by the applicant, it initially appears that there may be adequate available volume in the Watford Lane/Pump Station area for a dry pond interim Best Management Practices (BMP) to meet basic water quality/stream channel protection volume requirements. The interim BMP would be for only the initial phases of work and will require extensive excavation.
- ◆ **Staff Comments:** Staff has provided the applicant with preliminary comments to consider during the site plan process should this project move forward. These comments encourage low-impact development techniques.

### **HOUSING**

The proposed development would have 67 one-bedroom senior apartments and five single-family houses. All of the senior apartments would be affordable as specified in the proffers. Renters of these units must be individuals or families with at least one member 62 years of age or older and having an adjusted annual income no greater than 50 percent of the AMI adjusted for family size as determined by HUD. Three of the five single-family units will be sold as affordable units to households with incomes no greater than 80 percent of the AMI adjusted for household size as specified in the proffers.

- ◆ **Affordable Housing Proffers:** For a period of 20 years from the date the first Senior Housing Unit on the Property is placed in service, all Senior Housing Units on the property shall be occupied by individuals or families with at least one member 62 years of age or older and having an adjusted annual income no greater than 50 percent of the AMI adjusted for family size as determined by HUD. The Senior Housing Unit resident shall pay rent and utility expenses in accordance with HUD Section 202 Supportive Housing for Elderly Program regulations (“HUD Regulations”).

Three of the five single-family units developed on the Property shall be sold to households with incomes no greater than 80 percent of the AMI adjusted for household size as determined by HUD.

- ◆ **Staff Conclusions:** This proposal is consistent with the Comprehensive Plan affordable housing goals.

### **PUBLIC UTILITIES**

- ◆ **Staff Comments:** The site is located within the Primary Service Area (PSA) and will be served by public water and sewer.
- ◆ **Proffers:** Water conservation measures shall be submitted to and approved by JCSA prior to final site plan approval.
- ◆ **JCSA Staff Conclusions:** The JCSA staff has provided the applicant with preliminary comments to consider during the site plan process and guidelines for developing the water conservation standards. Since this is an affordable housing project, JCSA has not requested water system reimbursements.

## SCHOOLS

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. With respect to this test, the following information is offered by the applicant:

The impact of the development subject to this rezoning will have a negligible impact on the Williamsburg-James City County School system given that in all likelihood, no net new students will be added to the population because a majority of the development is limited to households with at least one member being 62 years of age or older, and the single-family lots will be marketed to persons who currently reside or work in James City County and Williamsburg.

<u>Schools serving Ironbound Square</u>	<u>2004 Enrollment</u>	<u>Design Capacity</u>
Clara Byrd Baker Elementary	772	804
Berkeley Middle School	851	725
Jamestown High School	1,451	1,250

Based on the generation rate of 0.4 children per unit, the five single-family houses could produce a total of two additional students ( $5 \times 0.4 = 2$ ). The expected distribution given the current ratios would be one student added to Clara Byrd Baker Elementary and one added to Jamestown High School.

- ◆ **Staff Conclusions:** It is possible, but not likely, that the senior housing units may generate additional students. Residency is limited to individuals or families with at least one member 62 or older. The senior apartments will be one bedroom units of approximately 550 square feet each. Staff feels these factors will greatly limit the number, if any, of school-age children generated by the senior housing units.

Based on the Board of Supervisors policy, the development does not pass the adequate public facilities schools test. As with other affordable housing proposals, any capital contribution (i.e., cash proffer) to the school system to mitigate impacts would impair the ability to provide these units at the affordable rents proposed. Consequently, no cash has been proffered. Based on information presented to staff to date, and other public benefits provided by this proposal, staff recommends acceptance of the proffers, as currently proposed.

## TRAFFIC

A traffic impact analysis, though not required, was prepared for the applicant by DRW, Inc. According to the report, the proposed senior apartments and all single-family houses on Carriage Road (proposed and existing) will generate approximately 405 trips per day with 6 a.m. peak-hour vehicle trips and approximately 25 p.m. peak-hour vehicle trips. The intersection with Carriage Road warrants a left-hand turn lane southbound on Ironbound Road and a right-turn radius for the northbound lane of Ironbound Road.

- ◆ **Ironbound Road Improvement Project:** This segment of Ironbound Road is included in the Six-Year Secondary Road Plan with a bid ad date of 2008 for widening to four lanes. Left-hand turn lanes from Ironbound Road will be provided for all intersections included in this project at that time.

In the interim, a left-hand turn lane is required from Ironbound Road onto Carriage Road. A right-turn radius from Ironbound Road to Carriage Road is also required. Staff agrees that these are public safety issues which need to be addressed.

- ◆ **Traffic Proffers:** The Senior Housing Parcel Owners shall install, in accordance with VDOT recommendations, standards and specifications for the following road improvements: a curbed entrance from Carriage Road into the Senior Housing parcel; curb, gutter, paving, and sidewalks on the northern side of Carriage Road from Ironbound Road to the intersection with Watford Lane; as shown on the Master Plan.

The Senior Housing Parcel Owners shall dedicate to the County an unrestricted 30-foot-wide strip of land on the western property line, adjacent to the existing Ironbound Road right-of-way. The dedicated 30-foot strip shall run from the northern edge of the Carriage Road right-of-way to the southern edge of the Magazine Road right-of-way. This dedication shall be for the purpose of accommodating the planned widening of Ironbound Road.

The preceding road improvements and dedication shall be completed prior to issuance of any certificates of occupancy for dwelling units on the Senior Housing Parcel.

They shall be constructed in accordance with VDOT recommendations, standards, and specifications with a left-turn lane for southbound Ironbound Road at the Carriage Road intersection, and a right-turn radius from the northbound lane of Ironbound Road onto Carriage Road.

Left-turn lane and right-turn radius shall be completed prior to issuance of any certificates of occupancy for dwelling units on the Senior Housing Parcel.

The off-site improvements to Ironbound Road, including the left-turn lane, are not currently funded. The costs for these improvements would be borne by the County. All improvements would need to be fully-funded and installed before the senior housing units can be occupied. The applicant expects that construction will begin in the summer of 2006 and be complete by the summer or fall of 2007.

- ◆ **VDOT Conclusions:** VDOT staff agrees with the findings presented in the traffic study and requests that any right-of-way needed for the future VDOT widening project be dedicated in association with the proposed redevelopment.

### **COMPREHENSIVE PLAN**

The James City County Comprehensive Plan Land Use Map designates this property for Low Density Residential development. One of the Goals in the Housing section of the Comprehensive Plan is to increase the availability of affordable housing.

The Ironbound Square Revitalization Project is specifically mentioned in the Housing section of the Comprehensive Plan as a focus area for assistance programs. In addition to the rehabilitation of existing homes, the Comprehensive Plan states that the project “intends to provide approximately 100 additional affordable housing units including single-family homes as well as rental units for senior citizens.”

- ◆ **Staff Conclusions:** Low-density residential developments are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher-quality design, a residential community with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. Depending on the extent of benefits, developments up to four units per acre will be considered for a special use permit. The location criteria for low-density residential require that these developments be located within the PSA where utilities are available. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

This phase of the development creates a density of 12 dwelling units per acre. However, the overall Ironbound Square Redevelopment Project, exclusive of Ironbound Village, encompasses approximately 49 acres with a total of 198 dwelling units, thus creating a total gross density of four dwelling units per acre.

Because of the project's mixed-cost and affordable housing components and unit type, staff finds the proposal, as a part of the overall Ironbound Square Redevelopment project, is consistent with the Land Use section and Housing policies of the Comprehensive Plan. Furthermore, staff finds that the proposed infill development is of a scale and type which is consistent with the existing neighborhood, the New Town development on Ironbound Road, and the objectives of the focus area as described in the Housing section of the Comprehensive Plan.

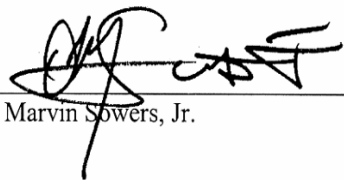
**RECOMMENDATION**

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal, as a part of the overall Ironbound Square Redevelopment, consistent with the surrounding land uses, the Land Use and Housing policies of the Comprehensive Plan, and with the Comprehensive Plan Land Use Map designation. Staff also finds that the added benefit of affordable housing for seniors will meet an important need in James City County. Staff recommends that the Board of Supervisors approve the Rezoning and Master Plan applications and accept the voluntary proffers.

---

Trey Davis

CONCUR:



---

O. Marvin Sowers, Jr.

TD/gs  
Z-02-05\_MP-03-05.doc

**ATTACHMENTS:**

1. Approved Planning Commission Minutes
2. Location Map
3. Master Plan (under separate cover)
4. Community Impact Statement
5. Proffers
6. Resolution



**APPROVED MINUTES OF THE PLANNING COMMISSIONS APRIL 4, 2005  
MEETING**

Z-2-05/MP-3-05 Ironbound Square Redevelopment

Mr. Trey Davis presented the staff report. Mr. Rick Hanson of the James City County Office of Housing and Community Development, applied to rezone approximately 6.03 acres of land along Ironbound Road from R-2, General Residential, to MU, Mixed Use for the development of a 67-unit, age and income-restricted apartment facility and five single-family residential lots.

Ms. Blanton asked for elaboration on storm water management issues referenced in the staff report.

Mr. Davis said that the Virginia Department of Transportation, and County Environmental and Housing agencies have had discussions regarding creating a regional storm water management facility in this area for the entire Ironbound neighborhood redevelopment. Those discussions have not been completed so on-site management is included with this proposal.

Ms. Blanton asked about the need for an age restriction.

Mr. Davis said the Comprehensive Plan update in 2003 identified this need. He also indicated that the restrictions are a part of Housing and Urban Development (HUD) requirements.

Mr. Hunt opened the public hearing.

Mr. Rick Hanson, Housing and Community Development, gave a presentation on the proposal giving the history of the project.

Mr. Joshua Gemerek, BayAging, represented the developer. He gave the company's credentials and talked about similar projects in Virginia.

Ms. Jones asked about the approximate square footage of the units.

Mr. Gemerek said the units would be approximately 550 square feet.

Mr. Billups wanted to know if elevators would be installed.

Mr. Gemerek answered yes.

Mr. Billups wanted to know how a denial of the various variance requests would affect the project.

Mr. Hanson explained that the requests are due to the nature of the concept for the proposal itself.

Mr. Fraley asked about the request for a variance for landscaping.

Mr. Davis said the landscape modification request would be reviewed at the time of site plan approval.

Mr. Hanson told the members that a portion of the property would be leased to the County for use as a park.

Mr. Kennedy wanted to know how much of the land had been acquired through condemnation.

Mr. Hanson said none of the property in this proposal was obtained by that method.

Mr. Kennedy thought the original proposal for the property was for single family affordable housing.

Mr. Hanson confirmed that it had been designated as such during the revitalization plan but that after meeting with neighbors the actual re-development plan designated the property for senior housing with no stipulation for attached or detached.

Mr. Kennedy inquired about the status of two of the five single family homes that were not designated as affordable like the other three.

Mr. Hanson said that was to allow for the possibility that one or two of the buyers might be slightly above the 80% median income.

Mr. Kennedy asked about the price points for those over the 80% threshold.

Mr. Hanson said prices might be from \$100,000 to \$150,000 and might not differ between the two income levels.

Mr. Kennedy and Mr. Hanson discussed the possibility of the applicant amending the proposal later.

Ms. Jones asked what the rents would be for the senior housing.

Mr. Hanson said it would be based on their incomes.

Mr. Hanson and Ms. Jones discussed approximate rental amounts.

Mr. Hanson and Mr. Fraley talked about HUD's requirement that the units be no more than 550 square feet and the amount of common area in the proposal.

Ms. Blanton questioned if the development would be a good fit for seniors raising grandchildren.

Mr. Gemereck acknowledged that none of their other communities had occupants under age 62 living in them primarily because there is only one bedroom.

Ms. Blanton expressed concern about accessibility for pedestrians crossing over Ironbound Road to New Town.

Mr. Hanson said they are working with the state to address that issue. There is currently a proposal for a signal at Watford Lane.

Ms. Blanton asked about accessibility to public transportation.

Mr. Hanson answered that the area is on a public transportation route that will eventually be re-routed to eliminate the need to cross over to access transportation traveling in the opposite direction.

Mr. Billups asked if the proposal had support from the community.

Mr. Hanson said several public meetings were held including participating in a tour of similar projects in Richmond and West Point.

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

Mr. Kennedy felt the proposal had good merit and although he had some concerns he will support it.

Ms. Blanton stated she will support the proposal but requested the applicant to continue to work on transportation aspects.

Mr. Billups also voiced concerns but stated he will support the application.

Mr. Fraley supported the application stating that it was consistent with the Comprehensive Plan.

Ms. Jones supported the project echoing Ms. Blanton's concerns regarding accessibility to New Town.

Mr. Hunt shared Mr. Kennedy's concerns but stated he will also support the project.

Mr. Kennedy motioned to approve the application.

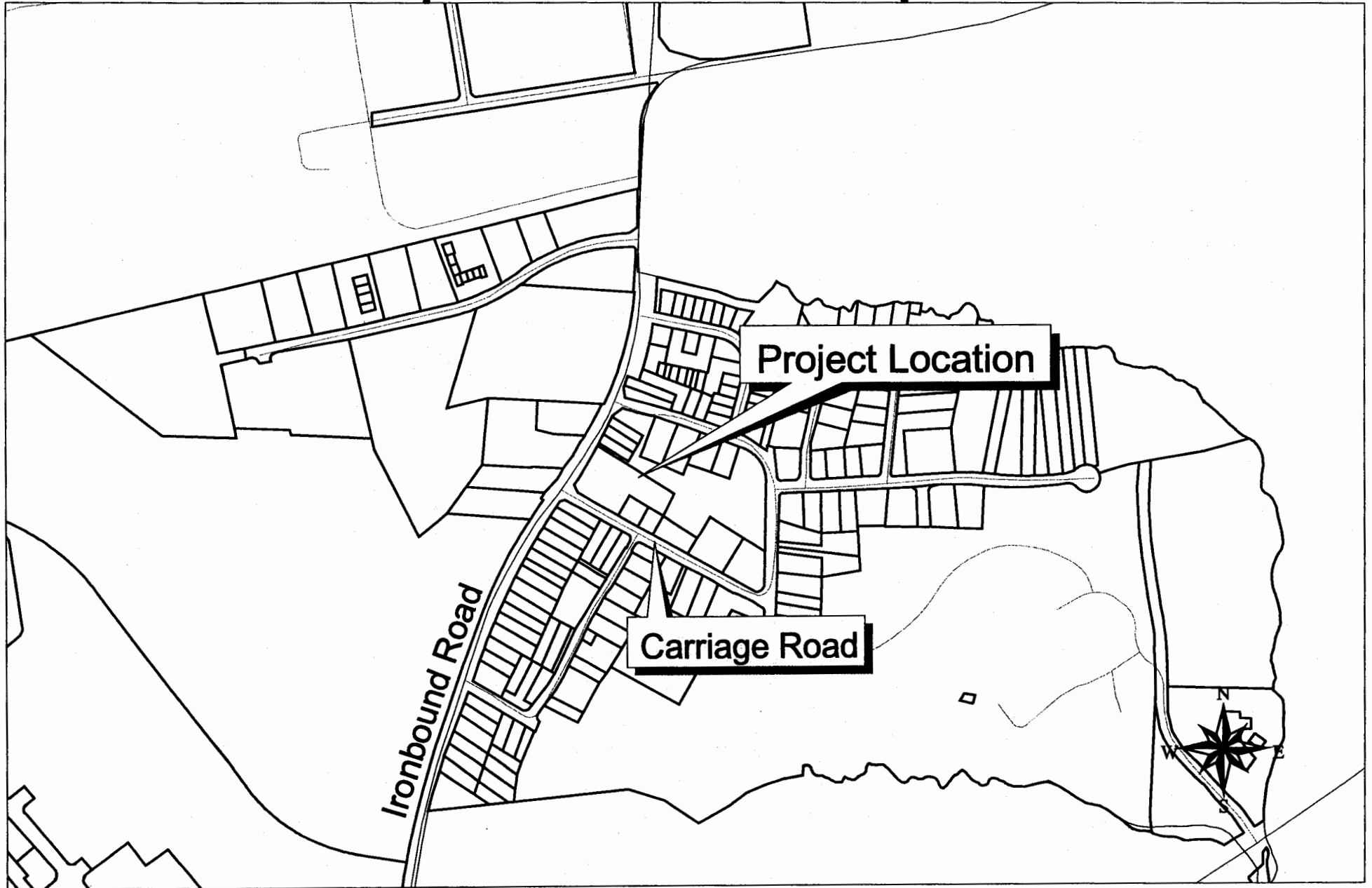
Ms. Blanton seconded motion.

Mr. Drewry confirmed that the motion included a waiver of parking requirements.

In a unanimous roll vote the application was approved 6-0. AYE: Billups, Fraley, Kennedy, Blanton, Jones, Hunt (6); NAY (0); Absent Kale.

# Z-02-05/MP-03-05

## Ironbound Square Redevelopment



# **Community Impact Statement**

For the

## **Master Plan**

Prepared For

James City County Department of  
Housing and Community Development

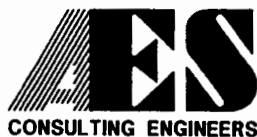
### **Phase I**

## **Ironbound Square Redevelopment Project**

February 22, 2005

AES Project Number: 9014

Prepared by:



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

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- III Color Conceptual Plan

## I. INTRODUCTION

James City County Office of Housing and Community Development (JCC OHCD) is proposing to rezone approximately 6.03 acres in James City County from R-2 to Mixed Use, MU zoning. The property is located along Ironbound Road (Route 615) in the section of the Ironbound Square neighborhood designated the Ironbound Square Redevelopment area. Ironbound Square is designated a "Community Development Focus Area" by the 2003 Comprehensive Plan. The property is comprised of 9 lots and comprises 6.03 acres zoned R-2.

The site currently contains 6 vacant lots, a neighborhood park and a James City Service Authority well site. In February of 2002 the James City County Board of Supervisors approved the Ironbound Square Redevelopment Plan in support of efforts to remove blighted structures, rehabilitate existing homes and to aid in the relocation of residents living in unsafe and unsanitary homes. These lots are located within the Redevelopment Area at its most northern region. In July 2002 James City County entered into a contract with the Williamsburg Redevelopment and Housing Authority (WRHA) to assist in implementing the Redevelopment Plan.

The JCC OHCD implemented a redevelopment effort in the Ironbound Square in the spring of 2000. The Office has used Community Development Block Grant (CDBG) funding to rehabilitate existing structures and remove blighted structures. The majority of the rehabilitation activities occurred on properties located in the eastern part of the neighborhood away from that part which fronts on Ironbound road. Many vacant and blighted lots front along the Ironbound road section of the neighborhood, this rezoning allows that property to be put to use in providing affordable housing for County residents and those who work in James City County, the City of Williamsburg. Developing this property enriches the property of the existing residents and provides strength and stability throughout the neighborhood.

Through its' innovative use of funding, the James City County Office of Housing and Community Development has been able to secure funding for below market rate mortgages for qualified first time homebuyers in the affordable housing market. These efforts are integral to meeting the stated need for housing affordable to those working residents in the County whose household income is at 80% or less of the Area Median Income. This income is currently computed to be \$59,000 for a household of four.



## II. THE PROJECT TEAM

The following organizations are involved in the planning and development of the 6.03 acre property.

- Applicant Williamsburg Redevelopment Housing Authority and  
J.C.C. Housing and Community Development  
James City County, VA
- Developer Bay Aging – Urbanna, VA
- Civil Engineer AES Consulting Engineers - Williamsburg, VA
- Land Planning/  
Landscape Architecture AES Consulting Engineers - Williamsburg, VA
- Traffic Planning DRW Consultants - Richmond, VA
- Architect DBF Associates – Charlottesville, VA

### III. PROJECT DESCRIPTION

Bay Aging is proposing to build 67 multifamily units as part of Senior Supportive housing for Low and Moderate Income senior citizens. The portion of the redevelopment area bounded on the north by Magazine road on the west by Ironbound road and on the south and east by Carriage road will be the location of a three story structure that houses the Senior Supportive housing apartments.

A site analysis reveals the following results:

Total acreage:	6.03 acres
Senior Supportive	3.75 acres
Single Family lots	.68 acres
Park / Open Space	1.60 acres

Drainage will be collected by a combination of curb and gutter and an open ditch system.

Run-off will be treated by on site BMPS (Bio-Retention devices, wet and dry ponds) and feed into an off site retention facility, ultimately discharging into an existing channel on the east side of the site.

The open space adjacent to the Senior Supportive housing development will be dedicated as a neighborhood park. The eastern part of the site currently serves as a neighborhood park; the existing park will receive improvements to existing equipment and have additional facilities constructed.

The development of the property is as follows:

1. The existing lots along Ironbound road between Magazine road and Carriage road will form the site for the Senior Supportive housing facility, five single family lots and a park. This site totals 6.03 acres. This entire site will be rezoned from R-2 to MU.
2. 67 multi-family, affordable units will be built on approximately 3.75 acres (Use Designation D)
3. Five Single Family lots will be created as part of this rezoning, they will each have an area of approximately 5000sf (Use Designation A)
4. The remainder of the 6.03 acres will be park land (Land Use Designation J).

The project location is shown on the following exhibit:

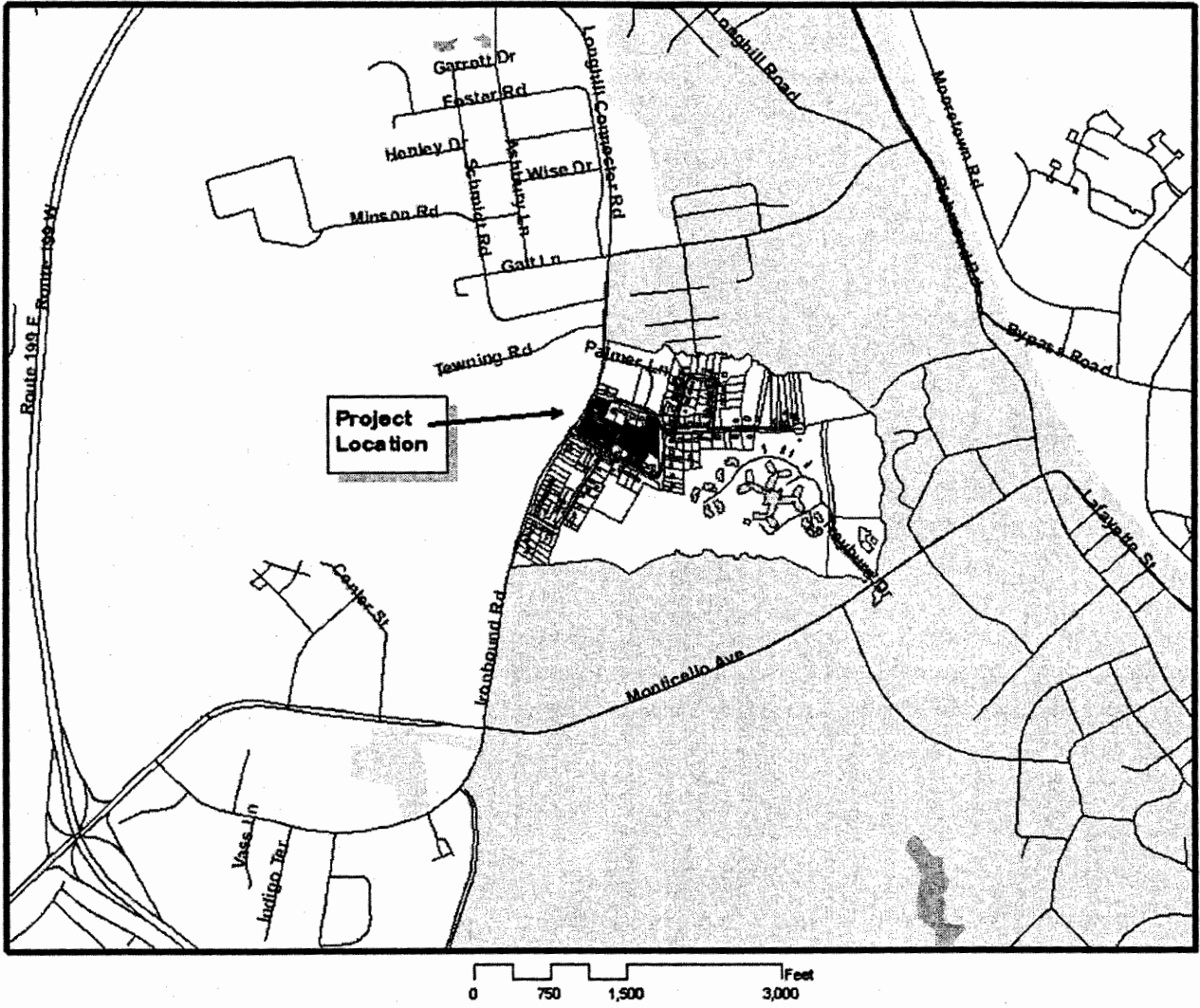


Exhibit 1

### A. Planning Considerations

A review of the Comprehensive Plan of James City County shows this area designated as "Low Density Residential." Under this classification, a density of 1 dwelling unit per acre up to four dwelling units per acre is allowed. Site statistics provided for the entire redevelopment show that with this and future improvements the overall density for Ironbound Square, exclusive of Ironbound Village will not exceed 4 units per acres. The Mixed Use zoning designation is being requested because it provides the flexibility required to allow the Senior Apartments as well as single family lots that do not meet the

minimum requirements for R-2 zoning. Rezoning this area to Mixed Use will provide an urgently needed public benefit to the community. This zoning will allow 67 dwelling units with supportive services for residents of the area that are 62 years or older and with incomes that fall below 50% of the Area Median Income limit. The most current calculation places that amount at \$20,700 for a single person.

An additional planning consideration is the management and services this particular facility will provide. Bay Aging, an Area Agency on Aging based in Urbanna, VA is partnering with the Peninsula Area Agency on Aging to provide management and support services for the 67 unit Senior Supportive housing facility.

#### **IV. ANALYSIS OF IMPACTS TO PUBLIC FACILITIES AND SERVICES**

##### **A. Public Water Facilities**

The subject properties will be served with public drinking water by the existing JCSA water distribution system in the area. JCSA currently maintains water mains along all existing roadways surrounding the site and include a 12-inch water main along Ironbound Road, an 8-inch water main along Carriage Road, and a 6-inch main along Watford Lane. Sufficient water supply and pressure is provided by the 1 MG Ironbound Road Water Storage Facility near the intersection of Monticello Avenue and Ironbound Road west of New Quarter Industrial Park on the south side of New Town. A 16-inch main on Monticello Avenue and numerous water main interconnections in New Town convey the water from the booster pump station to the 12-inch water main on Ironbound Road in front of the site. The existing well facility (JCSA W-23) located at 120 Carriage Road will be abandoned. JCSA has previously determined that this well is not needed to provide adequate water supply for the area.

A water distribution system model will be completed and submitted prior to or with the final site or subdivision plans. The model will examine flow rates and pressures throughout the immediate water system area. The water model will account for larger multi-family buildings having sprinkler fire suppression system meeting NFP-13R. The model may indicate that the upgrade of smaller pipes in the existing system including the 6-inch main along Watford Lane be required to meet current fire flow requirements.

##### **B. Public Sewer Facilities**

Sanitary sewer service can be provided to the subject development by existing JCSA Lift Station 4-1. This station conveys sewage flow into the existing 24-inch HRSD force main which runs along Ironbound Road. The HRSD main eventually discharges at the Williamsburg Wastewater Treatment Plant. JCSA Lift Station 4-1 is located on the east

side of Watford Lane (122A Watford Lane) and was built to serve Ironbound Square over 25 years ago as part of Sanitary District #3. All of the sewage flows generated from the proposed rezoning area will flow by gravity into this station. Table 1 below shows the flows generated by the redevelopment that will be conveyed to the existing lift station less the existing flows currently generated.

**Table 1 – Total Estimated Wastewater Flows**

Type of Development	No. of Units	Flow (GPD/Unit)	Average Daily Flow (GPD)	Duration (hrs)	Average Flow (GPM)	Peak Flow (GPM)
<b>PROPOSED REDEVELOPMENT</b>						
Single-family detached	5	300	1,500	24	1.0	2.6
Senior Apartments	67	225	15,075	24	10.5	26.2
Subtotal	72		16,575		11.5	28.8
<b>EXISTING</b>						
Single-family detached	7	300	2,100	24	1.5	3.6
Subtotal	7		2,100		1.5	3.6
<b>Total Additional Flow</b>	<b>65</b>		<b>14,475</b>		<b>10.1</b>	<b>25.1</b>

The existing 8-inch gravity sewer system can convey the flow for more than 660 single family detached homes. Therefore, the existing sewers are adequate for the proposed rezoning and have ample capacity.

JCSA Lift Station 4-1 has been renovated to provide better operating characteristics. However, due to unusually high operating pressures in the HRSD force main, the station has had periods where the pumps could not overcome the pressure. The station currently operates at approximately 200 GPM at a pressure of 95 feet. Because the pumps run at a constant speed, varying pressures in the destination force main create large variations in the pumping rate. At high pressures, the pumping rate may not exceed the inflow rate, limiting the station capacity. As a result, a complete study of the sanitary sewer will be completed and submitted prior to or with the final site or subdivision plans. Recommendations are likely to include upgrades to the station pumps and electrical system. Building renovations may also be recommended to maintain the character of the redevelopment project.

### **C. Schools**

The 67 units proposed as part of this rezoning will be limited to households with at least one member who is 62 years of age or older and whose income does not exceed 50 percent of the area on a formula set out by HUD. The possibility of this development contributing to the Williamsburg James City school population is unlikely.

Five single family lots are also proposed as part of this rezoning. These lots will be developed in conjunction with the Ironbound Square Revitalization Program underway in the Ironbound Square Redevelopment Area. JCC OHCD will develop these lots within its' Affordable Housing Incentive Program (AHIP) which provides down-payment and closing cost assistance to financially qualified families and individuals. Some of these families may also purchase the homes built on these lots with below market rate (FHA, VHDA) mortgages provided through JCC OHCD.

JCC OHCD administers AHIP and has followed its' focus of providing affordable housing opportunities for persons with income at or below 80% of the median income. These individuals must also have the credit worthiness necessary to secure a mortgage. Priority is given to participants who live in James City County and to those persons who work in James City County or Williamsburg.

The impact of the development subject to this rezoning will have a negligible impact on the Williamsburg / James City County Schools system given that in all likelihood no net new students will be added to the population because a majority of the development is limited to households with at least one member being 62 years of age or older, and the single family lots will be marketed to persons who currently reside or work in James City County, and Williamsburg.

#### **D. Fire Protection and Emergency Medical Services (EMS)**

There are currently five fire stations providing fire protection and EMS services to James City County. In addition, there exists a mutual aid agreement with the City of Williamsburg and York County for backup assistance. The station located closest to the project is Station 4 located on Olde Towne Road. Station 4 is less than three miles from the site. Additionally, there is a fire station on Route 5 and the City of Williamsburg Fire Station located on Lafayette Street which provide backup to Station 4 for emergencies which may occur at this site. The physical locations of these stations in respect to the project will provide more than adequate response times for fire protection and EMS services.

#### **E. Solid Waste**

The property will generate solid waste that will require collection and disposal to ensure a safe and healthy environment. Collection of solid waste will be by private contract with reputable haulers acting in accordance with local health standards. This waste will be transported to the James City County Solid Waste transfer station.

#### **F. Gas and Electricity**

Electricity is supplied by Dominion / Virginia Power. Virginia Natural Gas, Cox Communications and Verizon Communications will also be providing services to the Redevelopment of Ironbound Square.

## V. ANALYSIS OF STORMWATER MANAGEMENT/BMP

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

The goal of the stormwater management plan is to adhere to local and state stormwater requirements. In evaluating preliminary stormwater management solutions of the proposed development on the subject site, the unique site characteristics are considered. Preliminary site observations and mapping identify the following unique site characteristics to be considered in stormwater management planning:

- Existing stormwater management facilities do not exist.
- The project drains to the extreme upper reaches of College Creek, a tributary of the James River.
- Drainage is upstream of Lake Matoaka, located in the City of Williamsburg on the College of William and Mary Campus.
- Drainage from Ironbound Road passes through the project creating a large volume of runoff from impervious areas.

The planned stormwater management facilities will detain and release designed storm events for the on-site and the currently uncontrolled off-site drainage. Stormwater management will be accomplished in accordance with all current applicable standards including James City County Guidelines for Design and Construction of Stormwater Management BMP's, Virginia Stormwater Management Handbook, and Virginia Erosion and Sediment Control Handbook. BMPs will be designed to provide downstream channel protection by providing 24 hour drawdown of the 1-year, 24-hour storm volume.

Stormwater collection pipes will be constructed to convey runoff to a BMP located adjacent to JCSA Lift Station 4-1 on Watford Lane. This BMP will serve mostly as a peak attenuation device and detention of the 1-year, 24-hour runoff volume for downstream channel protection. Stormwater treatment will also occur in upstream Low Impact Development (LID) measures such as Bioretention basins, Dry Swales, etc. as needed to meet requirements for new developments.

A regional stormwater management pond is planned immediately downstream of the Watford Lane BMP. It is not expected that this facility will be completed prior to the construction of the project which necessitates construction of the Watford Lane BMP. This new facility will not only receive drainage from the proposed rezoning area, but the remainder of the Ironbound Square redevelopment project and all or portions of the Ironbound Road widening project currently under design by the Virginia Department of Transportation. When this facility is constructed, the Watford Lane BMP will be converted into a forebay for the downstream facility.

In summary, with the preliminary analysis of the project, the stormwater management plan proposed will improve the overall downstream water quality and will

help to control downstream erosion from uncontrolled runoff from the neighboring properties.

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

## **VI. ENVIRONMENTAL STUDIES**

Utilizing the best available offsite references coupled with onsite review, the following resources were explored:

- Topography
- Soils
- Surface Water
- Wetlands
- Floodplains
- Chesapeake Bay Preservation Areas
- Vegetation
- Wildlife
- Rare, Threatened and Endangered Species
- Cultural

### **A. Existing Conditions**

The property has few environmental resources related to physiography, drainage, vegetation cover, and historical land use. The environmental attributes of the property are described in the sections that follow.

### **B. Topography**

The topography of the retail site gently slopes to the north and west of the site. Elevations on the site average approximately 100 feet mean sea level as indicated by the JCC GIS Mapping Department with a contour interval of 5-feet.



### **C. Soils**

The *Soil Survey of James City and York Counties and the City of Williamsburg, Virginia* (USDA 1985) maps several soil types within the Chesapeake Retail property boundary. The retail site is situated on well-drained soils (e.g. Kempsville, Kempsville-Emporia and Suffolk). Shrink-swell potential is low in all soils mapped within the site boundary, and the erosion hazard potential is slight in all soils.

### **D. Surface Water**

There is no surface water located on the subject property.

### **E. Wetlands**

No jurisdictional wetlands are evident on the property.

### **F. Floodplain**

No portions of the site lie within the FEMA determined 100-year floodplain limits.

### **G. Chesapeake Bay Prevention Areas**

No RPA features are present on the subject property; however, James City County has been designated as a RMA in its entirety.

### **H. Vegetation**

A few significant trees are located along the perimeter of the site, particularly in the park. None of which will be affected by the project. The site has been previously developed and most of the area affected by the proposed expansion is currently an open, mowed, grass field

### **I. Wildlife**

As stated in paragraph g: Vegetation, the affected area is a grass field. No resident wildlife was observed on site.

## **J. Rare, Threatened and Endangered Species**

Information concerning Virginia's threatened and endangered species, rare species, and unique natural communities is available from the databases maintained by the Virginia Department of Game and Inland Fisheries (DGIF), the Virginia Department of Conservation and Recreation Division of Natural Heritage (DCR), and/or the United States Fish and Wildlife Service (FWS). Based upon the data from DGIF, two federally listed species have been confirmed to occur in James City County. These include the bald eagle (*Haliaeetus leucocephalus*) and the small whorled pogonia (*Isotria medeoloides*). This site does not contain the habitat to support either species.

## **K. Cultural Resources**

According to the JCC Planning Staff, the site is not located in a highly sensitive area on the JCC Archaeological Assessment.

In conclusion there are no significant environmental resources present on the site.

## **VII. ANALYSIS OF THE IMPACTS TO TRAFFIC**

(See Traffic Study by DRW, Consultants)

## **VIII. CONCLUSION**

The proposed Ironbound Square Apartments for the Elderly will address a serious deficiency in James City County of housing which is appropriate to the special needs of the elderly, including the frail elderly, and which is affordable to lower income senior citizens. This development is also a key element in the Ironbound Square Redevelopment Plan. Bay Aging, in partnership with the Peninsula Area Agency on Aging, successfully obtained an award of \$5.2 million dollars in U.S. Department of Housing and Urban Development (HUD) funding for a Section 202 Supportive Housing for the Elderly Program grant to finance the development and operation of this proposed apartment project.

Under the Section 202 program, HUD provides interest-free capital advances to private, nonprofit sponsors to finance the development of supportive housing for the elderly. Section 202 apartments are typically one bedroom, 550 square foot units. The

program guidelines allow for common areas and office space to enable the sponsors to provide supportive services on site. Residency in Section 202 financed developments is restricted to households with at least one member who is 62 years of age or older and whose income does not exceed 50 percent of the area median (currently \$20,700 for a one person household). The Section 202 program provides project-based rental assistance which covers the difference between the HUD approved operating cost and tenant rental payments. Tenant rent payments equal 30 percent of the tenant's adjusted income.

The demand for Section 202 funding is high, and the number of projects which can be funded each year is very limited. Bay Aging, which is the Area Agency on Aging serving the Northern Neck and Middle Peninsula, has been very successful in obtaining Section 202 funding, developing and managing Section 202 fund communities, and providing support services to the residents. Bay Aging currently manages 195 elderly apartment units in five developments within the Northern Neck and Middle Peninsula. The inclusion of the Peninsula Area Agency on Aging, which currently provides a wide array of services to James City County elderly residents, as the project co-sponsor will ensure a strong support service component for the proposed Ironbound Square elderly development. The ability of the County to waive building permit fees and water connection fees under existing ordinances and regulations greatly improved the competitiveness of the application for Section 202 funding and will enable savings to be invested in upgrades to the building.

JCSA is also contributing the site where 3 single family lots are to be developed. These lots along with two others will be placed in the inventory of the County's Affordable Housing Incentive Program (AHIP). Through AHIP the County has been successful in assisting persons of moderate to low income in achieving the dream of homeownership. As a means of lessening fiscal and environmental impacts associated with development AHIP is focused on persons who currently live or work in James City County and Williamsburg.

In summary, this project provides for an acknowledged need for housing affordable to elderly citizens of the County who have low incomes. The James City County Office of Housing and Community Development has worked with the residents of the Ironbound Square over the past 5 years and the need for Senior Supportive Housing was identified by the residents as an important consideration in the planning of the Ironbound Square Redevelopment.

## PROFFERS

THESE PROFFERS are made this 10<sup>th</sup> day of March, 2005 by the WILLIAMSBURG REDEVELOPMENT AND HOUSING AUTHORITY and the JAMES CITY SERVICE AUTHORITY (together with their successors and assigns, the "Owners") and BAY AGING, INC., a Virginia Corporation (together with its successors and assigns, the "Purchaser").

## RECITALS

- A. Owners are the collective owners of eight tracts or parcels of land located in James City County, Virginia, described as follows and hereinafter referred to as the "Property":

<u>Address</u>	<u>JCC Tax Parcel</u>	<u>Approximate Acreage</u>
1) 4408 Ironbound Road	#3910100057	.138 acres
2) 4406 Ironbound Road	#3910100058	.138 acres
3) 4404 Ironbound Road	#3910100059	.138 acres
4) 4400 Ironbound Road	#3910800003	1.833 acres
5) 108 Carriage Road	#3910800004	.207 acres
6) 112 Carriage Road	#3910800001	.164 acres
7) 150 Carriage Road	#3910100064	2.748 acres
8) 120 Carriage Road	#3910800005	.663 acres

- B. Owners have submitted to the County of James City, Virginia, (the "County") a master plan entitled "Master Plan for Rezoning Apartments for Senior Housing at Ironbound Square" prepared by AES Consulting Engineers dated February 22, 2005 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.
- C. Purchaser has contracted to purchase approximately 3.75 acres of the Property, designated as area "A" on the Master Plan (the "Senior Housing Parcel") conditioned upon the rezoning of the Property
- D. Owners have applied to rezone the Property from R-2 to MU Mixed Use District, with proffers
- E. Owners and Purchaser desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owners agree that they 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. **Density.** There shall be no more than 72 dwelling units on the Property, consisting of no more than 5 single family dwelling units ("Single Family Units") located in the portion of the Property with a Master Plan area designation of "A" and no more than 67 senior housing dwelling units ("Senior Housing Units") located in the portion of the Property with a Master Plan area designation of "D". The Senior Housing Units shall be limited to occupancy by elderly households, defined as a household including one or more persons 62 years of age or older.
2. **Water Conservation.** Water conservation standards for the Property shall be submitted to and approved by the James City Service Authority. The Owners shall be responsible for enforcing these standards. The standards shall address such 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 subdivision or site plan approval.
3. **Affordable Housing.** For a period of 20 years from the date the first Senior Housing Unit on the Property is placed in service all Senior Housing Units on the Property shall be occupied by individuals or families with at least one member 62 years of age or older and having an adjusted annual income no greater than 50% of the Area Median Income ("AMI") adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). The Senior Housing Unit resident shall pay rent and utility expenses in accordance with HUD Section 202 Supportive Housing for the Elderly Program regulations ("HUD Regulations").

Three of the five Single Family Units developed on the Property shall be sold to households with incomes no greater than 80% of the AMI adjusted for household size as determined by HUD.

4. **Road Improvements.** The Senior Housing Parcel Owner shall install, in accordance with Virginia Department of Transportation ("VDOT") recommendations, standards and specifications the following road improvements: a curbed entrance from Carriage Road into the Senior Housing Parcel; curb, gutter, paving and sidewalks on the northern side of Carriage Road from

Ironbound Road to the intersection with Watford Lane as shown on the Master Plan.

The Senior Housing Parcel Owners shall dedicate to the County an unrestricted thirty foot (30') wide strip of land on the western property line, adjacent to the existing Ironbound Road right of way. The dedicated 30' strip shall run from the northern edge of the Carriage Road right of way to the southern edge of the Magazine Road right of way. This dedication shall be for the purpose of accommodating the planned widening of Ironbound Road.

The preceding road improvements and dedication shall be completed prior to issuance of any certificates of occupancy for dwelling units on the Senior Housing Parcel.

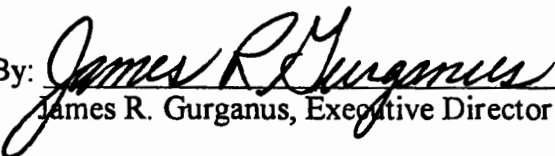
There shall be constructed in accordance with VDOT recommendations, standards and specifications, a left-turn lane for southbound Ironbound Road at the Carriage Road intersection, and a right turn radius from the northbound lane of Ironbound Road onto Carriage Road.

Left-turn lane and right turn radius shall be completed prior to issuance of any certificates of occupancy for dwelling units on the Senior Housing Parcel.

5. **Recreation.** Senior Housing Parcel Owners shall lease, at no cost to the County, approximately 1.2 acres located adjacent to the park on the Master Plan to the County for recreational use and will permit but not fund the improvements indicated on the Master Plan.
6. **Design Review.** Senior Housing Parcel Owners shall submit a preliminary site plan with preliminary building elevations for the Senior Housing Units to the New Town Design Review Board ("DRB"). Final building plans and site plan shall be consistent as determined by the DRB with the approved Preliminary Plans.

WITNESS the following signatures:

WILLIAMSBURG REDEVELOPMENT and HOUSING AUTHORITY

By:   
James R. Gurganus, Executive Director

JAMES CITY SERVICE AUTHORITY

By: Larry M. Foster  
Larry M. Foster, General Manager

~~BAY AGING, INC.~~

By: Kathy E. Vesley  
~~Allyn W. Gemerck, President~~  
Kathy E. Vesley, Chief Operating Officer

STATE OF VIRGINIA

CITY / COUNTY OF WILLIAMSBURG, to wit:

The foregoing instrument was acknowledged this 29<sup>th</sup> day of March, 2005, by James R. Gurganus, WRHA Executive Director.

My commission expires: 6/30/2005

[Signature]  
Notary Public

STATE OF VIRGINIA

CITY / COUNTY OF JARRAM, to wit:

The foregoing instrument was acknowledged this 29<sup>th</sup> day of March, 2005, by Larry M. Foster, JCSA General Manager.

My commission expires: 12-31-08

[Signature]  
Notary Public

STATE OF VIRGINIA

CITY / COUNTY OF Middlesex, to wit:

The foregoing instrument was acknowledged this 28<sup>th</sup> day of April,  
2005, by ~~Allyn W. Gernerck, Bay Aging, Inc., President.~~

Kathy E. Vesley Chief Operating Officer

My commission expires: 10/31/08

Lisa McFarlin Walker  
Notary Public

Prepared by the James City County Office of Housing and Community Development,  
5248 Olde Towne Road, Suite 10, Williamsburg, VA 23188; (757) 220-1272.



**RESOLUTION**

**CASE NOS. Z-02-05 AND MP-03-05. IRONBOUND SQUARE REDEVELOPMENT**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-13 of the James City County Zoning Ordinance, a Public Hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning Case No. Z-02-05 and Master Plan Case No. MP-03-05 for rezoning ±6.03 acres from R-2, General Residential, to MU, Mixed-Use, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on April 4, 2005, recommended approval of Case Nos. Z-02-05 and MP-03-05 by a vote of 6 to 0; and

WHEREAS, the properties are located at 150, 108, 112, and 120 Carriage Road, and 4408, 4406, 4404, and 4400 Ironbound Road, and further identified as Parcel Nos. (1-64), (1-57), (1-58), (1-59), (8-3), (8-4), (8-1), and (8-5) on James City County Real Estate Tax Map No. (39-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-02-05 and MP-03-05 and accept the voluntary proffers.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of  
May, 2005.

Z-02-05\_MP-03-05.res

**REZONING CASE NO. 3-05/SPECIAL USE PERMIT CASE NO. 6-05. Centerville Road Subdivision Staff Report for the May 10, 2005, Board of Supervisors Public Hearing**

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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.

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**PUBLIC HEARINGS**

**Building F Board Room; County Government Complex**

Planning Commission:

April 4, 2005, 7:00 p.m.

Board of Supervisors:

May 10, 2005, 7:00 p.m.

**SUMMARY FACTS**

Applicant: Mr. Henry Stephens, Associated Developers

Land Owner: Armin Ali and Powhatan Olde Towne Square, LLC

Proposal: 78-lot single-family subdivision

Location: 6001 and 6061 Centerville Road

Tax Map/Parcel Nos.: (31-1)(1-36), (31-1)(1-33)

Parcel Size: 43.429 acres

Proposed Zoning: R-2, General Residential, with proffers

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: Low-Density Residential

Primary Service Area: Inside

**STAFF RECOMMENDATION**

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses and the Comprehensive Plan. Staff recommends the Board of Supervisors approve the rezoning, Special Use Permit (SUP), and accept the voluntary proffers.

Staff Contact:

Matthew D. Arcieri

Phone: 253-6685

**PLANNING COMMISSION RECOMMENDATION**

On April 4, 2005, the Planning Commission recommended approval by a vote of 4 to 2. The Planning Commission also approved the proposed buffer reduction.

**Proposed Changes Made After Planning Commission Consideration**

The applicant has submitted revised proffers that provide a \$312 contribution per unit to offset the cost of construction of sewer for this project. The proffers also have increased the per lot cash contribution for CIP projects, including schools from \$2,451 per lot to \$3,939 per lot.

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

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
Water (CIP contribution)	\$1,061 per lot
Sewer (Project specific contribution)	\$312 per lot
CIP projects (including schools)	\$3,939 per lot
<b>Total Per Lot</b>	<b>\$5,312 per lot</b>
<b>Total Amount (2005 dollars)</b>	<b>\$414,336</b>

**PROJECT DESCRIPTION**

Associated Developers has submitted an application to rezone 43.429 acres located on Centerville Road from A-1, General Agricultural, to R-2, General Residential, with proffers. If approved, the developer would construct a 78-lot single-family subdivision.

This project proposes a gross density of 1.8 dwelling units per acre. In accordance with Section 24-254(c) of the Zoning Ordinance, the Board of Supervisors may grant an SUP for subdivisions to have a maximum gross density of two dwelling units per acre if the developer provides the following:

1. Implementation of the County’s Streetscape Guidelines;
2. Implementation of the County’s Archaeological Policy;
3. Provision of sidewalks along one side of all internal streets;
4. Provision of recreation facilities in accordance with the County’s Parks and Recreation Guidelines; and
5. Implementation of the County’s Natural Resources Policy.

**PUBLIC IMPACTS**

**Archaeology**

The County archaeological policy is proffered.

**Environmental Impacts**

- ◆ **Watershed:** Gordon Creek
- ◆ **Staff Comments:** The Environmental Division has no comments with respect to the rezoning and SUP. Prior to development plan approval and issuance of a land-disturbing permit the plan of development must be in compliance with all applicable local, State and Federal stormwater requirements.

**Public Utilities**

**Primary Service Area (PSA):**

The site is inside the PSA and served by public water and sewer.

◆ **Public Utility Proffers:**

Cash Contribution: A cash contribution of \$1,061 per lot for water is proffered. A cash contribution of \$312 per lot to offset the James City Service Authority’s (JCSA) direct costs associated with the construction of the Warhill gravity sewer system.

Water Conservation: Water conservation measures will be developed and submitted to the JCSA for review and approval prior to any development plan approval.

- ◆ **JCSA Comments:** The JCSA has reviewed the revised proffers and, with the addition of the sewer proffer, has no further comments.

**Fiscal Impact**

The applicant has provided a fiscal impact statement which is included as an attachment to this report. In summary, at buildout this project is expected to have an annual negative fiscal impact of \$68,000.

- ◆ **Proffers:** Cash Contribution: A cash contribution for CIP projects, including school uses, of \$3,939 per lot is proffered.
- ◆ **Staff Comments:** The Department of Financial and Management Services concurs with the applicants fiscal impact statement. While the cash contributions proffered for this development are higher than cash contributions for recent cases, the amount will not completely fund all capital costs to the County generated by this development.

**Schools**

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

<i>School</i>	<i>Design Capacity</i>	<i>Program Capacity</i>	<i>Current Enrollment (9/30/2004)</i>	<i>Projected Students Generated</i>	<i>Enrollment + Projected Students</i>
Norge Elementary	760	665	644	14	658
Toano Middle	775	782	811	8	819
Lafayette High	1,250	1,296	1,536	10	1,546

- ◆ **Staff Comments:** The Adequate Public Schools Facility Test is based on design capacity. The proposal passes the adequate public school test at the elementary school but fails for the middle school.

Although the capacity of Lafayette High School is clearly exceeded, the Adequate Public School Facilities Test states that if physical improvements have been programmed through the County CIP, then the application will be deemed to have passed the test. On November 2, 2004, voters approved the third high school referendum and the new high school is scheduled to open in September 2007; therefore staff believes that this proposal passes for the high school.

**Parks and Recreation/Greenway**

The project proposes a gazebo/picnic shelter with grill, tot lot, one-acre playing field and approximately 2,200 feet of soft-surface walking trail.

The James City County Greenway Master Plan calls for a 10-foot-wide multiuse path along the project’s Centerville Road frontage. The path is envisioned to connect the Warhill Sports Complex/Thomas Nelson Community College/Third High School site with Freedom Park. In lieu of providing the required five-foot

sidewalk, the applicant has proffered either 1) constructing the 10-foot path in a 35-foot easement and dedicating the facility to the County or 2) dedicating the easement to the County and providing a cash contribution towards future construction of the 10-foot path.

Staff finds this proposal satisfies both the Parks and Recreation Master Plan and the Greenway Master Plan.

### **Traffic**

As this proposal generates less than 100 peak hour vehicle trips, a traffic study was not required. According to the applicant's analysis, the proposal will generate approximately 766 trips per day with 60 a.m. peak hour vehicle trips and approximately 81 p.m. peak hour vehicle trips.

- ◆ **2003 Traffic Counts:** Centerville Road: 8,281 vehicles per day
- ◆ **2026 Volume Projected:** Centerville Road shows 15,000 vehicles per day on a two-lane road and is listed in the "watch" category in the 2003 Comprehensive Plan as the capacity for such roads is 13,000 vehicles.
- ◆ **Road Improvements:** The entrance will require a 100-foot right-turn taper.
- ◆ **Traffic Proffer:** Road Improvements: The proffers provide for the road improvement listed above.
- ◆ **VDOT Comments:** VDOT concurs with the applicant's analysis and the recommended entrance improvement.

### **COMPREHENSIVE PLAN**

The James City County Comprehensive Plan Land Use Map designates this property for low-density residential development. Low-density residential developments are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher-quality design, a residential community with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community.

The Zoning Ordinance will specify the benefits which may be the basis for a permit to go beyond one unit per acre. The location criteria for low-density residential require that these developments be located within the PSA where utilities are available. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

- ◆ **Staff Comments:** Section 24-254(c) of the Zoning Ordinance specifies what particular benefits must be offered in order to achieve a density of two dwelling units per acre. This proposal meets those specifications. In addition, the proposal provides an additional public benefit as it is in accordance with the Greenway Master Plan. The proposal is consistent with the Land Use policies of the Comprehensive Plan.

### **COMMUNITY CHARACTER CORRIDOR BUFFER REDUCTION**

The applicant has requested a reduction in width of the Centerville Road community character corridor buffer. General residential districts require a 150-foot community character corridor buffer along the right-of-way. Such buffers are required to be left in an undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover. It is possible to get a reduction granted by the Planning Commission during the rezoning process if one or more of the criteria are met:

1. The development is less than five acres and a majority of the units are dedicated to affordable housing;  
or
2. The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full barrier; or
3. The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

The applicant has requested a reduction of the buffer to seventy-five feet, the maximum reduction permitted by ordinance, for a nine hundred foot section between the project's northern property line and the proposed entrance. The area of the proposed reduction is currently an open field with little or no vegetation and the depth of the parcel along this portion of frontage is between 400 to 600 feet. The applicant, in accordance with Criteria No. 3, has proposed a landscaped berm in the buffer and has proffered that the Planning Director shall approve the buffer design and landscaping plan. The buffer will be designed to include a ten-foot-wide multiuse path. A majority of the developable area gained from the buffer reduction will be used as a playing field and recreation area for the development. As part of its deliberations on April 4, 2005, the Planning Commission approved the buffer reduction as proposed.

### RECOMMENDATION

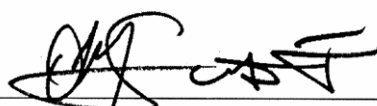
With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses and the Comprehensive Plan. Staff recommends that the Board of Supervisors approve the rezoning and accept the voluntary proffers.

Staff also recommends approval of the attached SUP. On April 4, 2005, the Planning Commission recommended approval by a vote of 4 to 2.

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Matthew D. Arcieri

CONCUR:



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O. Marvin Sowers, Jr.

MDA/gb  
Rezoning3-5&sup6-05

Attachments:

1. Planning Commission Minutes
2. Location Map
3. Master Plan (under separate cover)
4. Conceptual Berm Cross Section (under separate cover)
5. Fiscal Impact Statement
6. Citizen Comments
7. Proffers
8. Resolutions

**APPROVED MINUTES OF THE PLANNING COMISSIONS APRIL 4, 2005  
MEETING**

Z-3-05/SUP-6-05 Centerville Road Subdivision

Mr. Matthew Arcieri presented the staff report. Mr. Henry Stephens has applied on behalf of Armin Ali and Powhatan Old Towne Square LLC to rezone 43.429 acres of land from A-1, General Agricultural, to R-2, General Residential District, with proffers. The applicant proposes to develop 78 single family lots at a gross density of 1.8 units per acre. The property is located at 6001 and 6061 Centerville Road,

Mr. Billups wanted to know if an R-8 designation would support the proposal.

Mr. Arcieri answered no.

Ms. Blanton asked for clarification of the fiscal impact.

Mr. Arcieri said that experience has shown that there tends to be a slightly positive fiscal impact with homes in this price range.

Ms. Blanton wanted an explanation of the request for a buffer reduction.

Mr. Arcieri said the applicant has offered increased landscaping as required by the ordinance when a reduction is granted.

Mr. Fraley asked for the motivation for the reduction in buffer.

Mr. Arcieri deferred the question to the applicant.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. He agreed with the staff recommendation. Mr. Geddy gave reasons for the buffer reduction request.

Ms. Blanton asked about the character of surrounding property.

Mr. Geddy said the property is designated for this type of development and that surrounding properties are of slightly higher or comparable densities.

Mr. Donald Blair, Foxridge resident, expressed concern about the location of the entrance into the development and water run-off.

Ms. Parker, adjacent property owner, was concerned about the buffer to her property and drainage and asked to be kept abreast of the status of the project.

Mr. Stephens offered to contact Ms. Parker to keep her informed about the status of the project.

Mr. Geddy pointed out that Mr. Stephens had made an effort to meet with adjacent owners and he also showed the correct location of the entrance on the location map.

Mr. Billups and Mr. Geddy discussed traffic impacts.

Mr. Matt Hipple, 120 Jolly Pond Road, did not want to stand in the way of the owners developing their property. He met with Mr. Stephens previously where he requested a berm be installed adjacent to his property.

Hearing no requests to speak, Mr. Hunt closed the public hearing

Ms. Jones supported the project. She believed it was a good location.

Mr. Fraley asked for and received confirmation that the development plan would be considered by the Development Review Committee (DRC) where the drainage concerns will be addressed. He supported the project.

Ms. Blanton was reluctant to approve a proposal for high end homes.

Mr. Kennedy was inclined to oppose the proposal.

Mr. Billups said his only concern was storm water management issues. If those matters are taken into consideration he will support the proposal.

Mr. Hunt stated he will support the proposal. He echoed concerns regarding drainage.

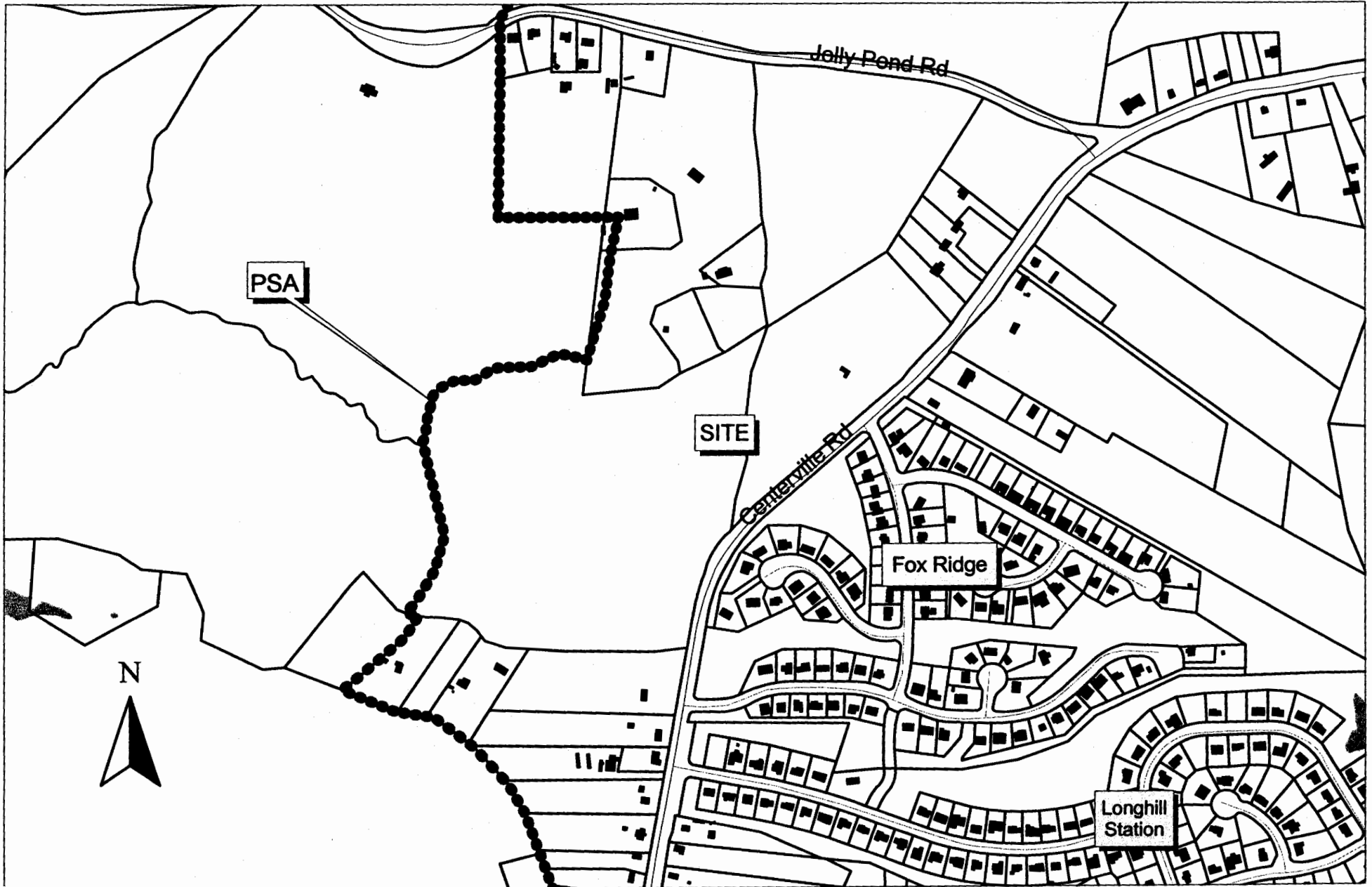
Mr. Fraley motioned to approve.

Ms. Jones seconded the motion.

In a roll call vote the application was approved 4-2. AYE: Billups, Fraley, Jones, Hunt (4); NAY: Blanton, Kennedy (2); Absent Kale.



# Z-3-05/SUP-6-05; Centerville Road Subdivision



**Ali Property**  
**Fiscal Impact on James City County, Virginia**  
**March 2005**

**Prepared for:**

**Associated Developers, Inc. of**  
**Newport News, Virginia**

**Prepared by:**

***The Wessex Group, Ltd.***  
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## Ali Property

### Fiscal Impact on James City County, Virginia

#### EXECUTIVE SUMMARY

As part of a rezoning application submitted to James City County by **Associated Developers, Inc.**, this report from **The Wessex Group, Ltd. (TWG)** presents estimates of the fiscal impact of developing the Ali Property. This community is proposed for a 40-acre site in James City County on Centerville Road, and it will consist of 78 single-family homes offering a variety of amenities including a tot lot, picnic shelter, walking trails and a recreation playfield. The specific development plans are presented in Table A.

**Table A**  
**Ali Property Development Plans**

Name of Development	Development Components	Square Feet	Average Market Value
Ali Property	78 single-family homes	2,800	\$400,000

**Development Schedule and Construction Investment:** The developer anticipates that the proposed on-site infrastructure, 78 homes, and amenities will begin construction at the beginning of 2006, and be fully occupied by fall 2010. The fiscal impact estimates reflect a calendar year cycle. Residential construction is estimated at about \$31.3 million including \$78,000 in amenities.

**County Revenues, Expenditures, and Net Fiscal Impact:** Residential developments in James City County generate several types of revenues, including real estate tax, personal property tax, and retail sales tax. It is important to note that for the purposes of the analysis, **The Wessex Group** used the following population per household figures based on population projections for James City County by the U.S. Census Bureau and James City County's estimate of the number of school-aged children generated per single-family home:

- 2.3 persons/household for the 78 single-family units (1.9 adults per household and 0.4 children)

The cumulative residential population is estimated at 179 persons once the residential construction is completed and all units are assumed occupied. Using this estimate at buildout, the analysis indicates that Ali Property would provide an estimated \$2.0 million annually in net new revenues for the County. In turn, the costs that the County will absorb due to this development will be nearly \$1.4 million at buildout. These costs include services such as police protection, fire protection, and public education. Once fully developed and occupied, it is estimated the Ali Property will net cost the County approximately \$68,000 per year once fully developed. However, over the five-year period the net present value of this development (discounted at 5%) is estimated at almost \$524,000. Cash inflows and outflows during development and at buildout are shown in Table B. All dollar figures contained in this report are expressed in 2005 dollars. No attribution for economic inflation has been made.

**Table B**  
**Ali Property - Net Fiscal Impact (\$ Thousands)\***

Development Component	Year 1	Year 2	Year 3	Year 4	Buildout
<b>Total Annual Governmental Revenues</b>	\$235	\$386	\$512	\$438	\$400
<b>Total Annual Governmental Expenditures</b>	13	163	313	451	468
<b>Net Fiscal Impact</b>	<b>\$223</b>	<b>\$224</b>	<b>\$200</b>	<b>(\$13)</b>	<b>(\$68)</b>

\* Rounding may affect totals.

**Ali Property**  
**Fiscal Impact on James City County, Virginia**

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## Ali Property

### Fiscal Impact on James City County, Virginia

As part of a rezoning application submitted to James City County by **Associated Developers, Inc.**, this report from **The Wessex Group, Ltd.** (TWG) presents estimates of the fiscal impact of the Ali Property, a proposed development that will include 78 single-family homes offering amenities such as a tot lot, picnic shelter, walking trails and a recreation playfield. The proposed development is planned for approximately a 40-acre site located on Centerville Road in the County.

#### Introduction to the Study

The purpose of this report is to describe estimates of the fiscal revenues and expenditures that the housing development will generate for the local government of James City County. Fiscal impacts are those that directly affect a locality's budget. Any new development that attracts new County residents generates increased need for public services, such as school expenses, emergency medical services, police, and fire protection. In turn, the development also generates additional tax revenue for the County. The major portion of the County's revenues from residential development is derived from real estate taxes and local household spending. All dollar figures contained in this report are expressed in 2005 dollars with County revenues and expenditures based on the James City County's 2004-2005 Adopted Budget. No attribution for economic inflation has been made.

The plans and estimates included in this report cover the development and sales schedules, construction investment, the employment directly associated with the construction of this development, and the local spending of new residents in the development. Employment estimates are used to calculate the marginal cost of government services and no attribution is made as to the residence location of any employees. The fiscal impacts that flow from the development efforts and new residents are the new revenues that James City County will collect and the new expenditures that James City County will incur to provide government services to Ali Property.

#### Development Plans and Construction Investment

The proposed development plans for Ali Property include the following:

- 78 single-family homes, averaging 2,800 square feet.
- Amenities for the residents will include a tot lot, picnic shelter, walking trails and a recreation playfield.

Development is assumed to begin at the beginning of 2006 with buildout by 2010. Occupancy is assumed to begin in 2007 with final occupancy in 2010. Estimates for occupancy are based on a calendar year. Based on estimates provided by the developer, construction costs of all residential development at Ali Property will total \$31.3 million. Details of the development schedule and costs are shown in Table 1 on the next page.

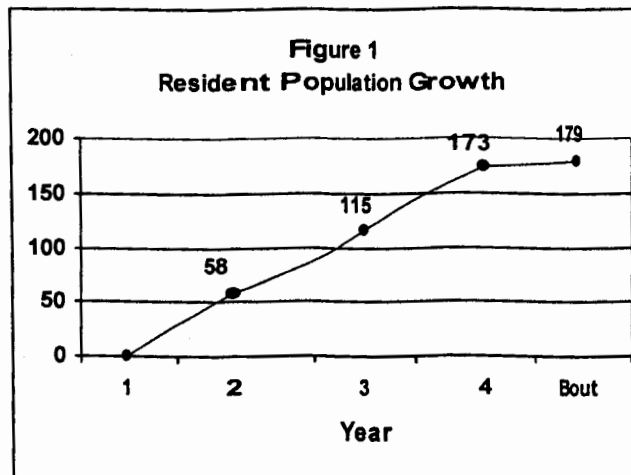
**Table 1**  
**Development Schedule and Construction Investment\***

	Year 1	Year 2	Year 3	Year 4	Buildout
<b>Residential Development</b>					
Single Family Units Developed Annually	25	25	25	3	0
<b>Total Annual Units Developed</b>	<b>25</b>	<b>25</b>	<b>25</b>	<b>3</b>	<b>0</b>
<b>Cumulative Residential Units</b>	<b>25</b>	<b>50</b>	<b>75</b>	<b>78</b>	<b>78</b>
<b>Unit Occupancy Schedule</b>					
Annual Units Occupied	0	25	25	25	3
Cumulative Units Occupied	0	25	50	75	78
Incremental Residential Population	0	58	58	58	7
Cumulative Residential Population	0	58	115	173	179
<b>Construction Investment (\$ Millions)</b>					
Residential	\$10.1	\$10.0	\$10.0	\$1.2	\$0.0
Commercial	0.0	0.0	0.0	0.0	0.0
<b>Total Annual Construction Investment</b>	<b>\$10.1</b>	<b>\$10.0</b>	<b>\$10.0</b>	<b>\$1.2</b>	<b>\$0.0</b>
<b>Cumulative Construction Investment</b>	<b>\$10.1</b>	<b>\$20.1</b>	<b>\$30.1</b>	<b>\$31.3</b>	<b>\$31.3</b>
<b>Construction Materials &amp; Supplies (\$ Millions)</b>					
Annual Total	\$5.0	\$5.0	\$5.0	\$0.6	\$0.0
Annual Purchases in James City County	\$0.5	\$0.5	\$0.5	\$0.1	\$0.0
<b>Construction Payroll</b>	<b>\$4.0</b>	<b>\$4.0</b>	<b>\$4.0</b>	<b>\$0.5</b>	<b>\$0.0</b>

\*Rounding may affect totals.

Area contractors indicate that construction materials account for approximately 50% of all construction costs. The cost of materials for this project will average about \$3.9 million per year during construction. It is estimated that 10% of materials are purchased in James City County, resulting in average sales of \$391,000 a year for County businesses.

**Cumulative Population:** To estimate the population of Ali Property, *The Wessex Group* used a population per household figure based on population projections for James City County by the U.S. Census Bureau and estimates of the number of school-aged children generated by single-family homes by James City County. Based on the current population projections, it is estimated that the average number of persons per single-family household is 2.3. Using these estimates, the estimated cumulative population for this development is 179 (Figure 1).



## Employment and Payroll

The number of incremental FTE employees is included in this fiscal impact analysis because it is one basis of local government expenditure estimates attributed to new the construction activity. Assuming that payroll is 40% of construction costs and that construction workers earn an average of \$34,950 per year (based on wage data obtained from the Virginia Employment Commission), the construction efforts should provide jobs for an average of 120 workers per year through Year 4, as indicated in Table 2 below.

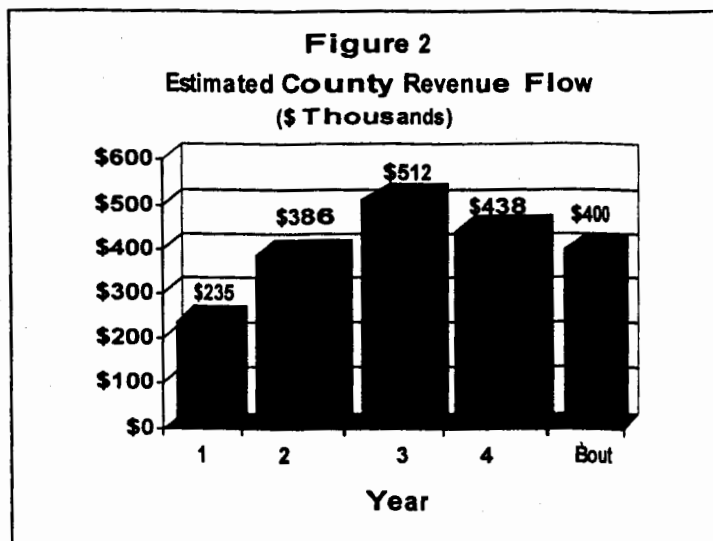
**Table 2**  
**Employment Schedule**

	Year 1	Year 2	Year 3	Year 4	Buildout
<b>Construction Employment</b>					
Full Time Employees	10	50	50	10	0
Part Time Employees	20	100	100	20	0
<b>Total Employees</b>	<b>30</b>	<b>150</b>	<b>150</b>	<b>30</b>	<b>0</b>
<b>Construction FTE Employment</b>					
	<b>20</b>	<b>90</b>	<b>90</b>	<b>10</b>	<b>0</b>

On a Full Time Equivalent (FTE) basis, the construction employment averages approximately 80 annual positions. FTE employment is based on the assumption that 50% of all workers are full time and that part time employees work half time.

## Local Government Revenues

Residential developments in James City County generate several types of revenues, including real estate tax, personal property tax, and retail sales tax. Figure 2 illustrates the annual revenue streams that the County can expect from this development. Throughout the four-year construction phase of this project, the county can expect a total of \$1.6 million in revenues. At buildout in Year 5 and beyond, an estimated \$400,000 in revenues is estimated to be generated by this development. The annual line item estimates are contained in Table 3 and assumptions associated with the various components of the revenue stream follow.



**Table 3**  
**Local Government Revenues**

Revenue Component	Year 1	Year 2	Year 3	Year 4	Buildout
Real Property Taxes	\$86,000	\$172,200	\$259,200	\$272,000	\$274,700
Personal Property Taxes	0	21,600	43,300	64,900	67,500
Proffers	87,800	87,800	87,800	10,536	0
Meals Tax	0	1,500	3,000	4,500	4,600
Retail Sales Tax	0	4,700	9,300	14,000	14,500
Business & Professional License Tax	16,100	16,900	17,900	4,700	2,900
Building Permits, Water & Sewer, etc.	28,300	24,800	24,800	3,000	0
Recordation	11,622	41,322	41,422	34,000	5,000
Miscellaneous Revenues	5,600	15,500	25,400	30,300	30,900
<b>Total Annual Revenues</b>	<b>\$235,422</b>	<b>\$386,322</b>	<b>\$512,122</b>	<b>\$437,936</b>	<b>\$400,100</b>

\* Rounding may affect totals.

- Real Estate Tax:** The County's budget indicates that the current real estate tax rate is \$0.845 per hundred dollars of assessed value, and no change in this rate is assumed for the analysis. For this study, TWG researched comparable residential developments in the County to determine the appropriate real annual appreciation rate. The developments included Powhatan Woods and Monticello Woods which revealed a 1% real appreciation rate. Based on this assumption, the County is expected to receive \$789,000 in cumulative real estate property revenues during the period of development, and nearly \$275,000 annually after buildout.
- Personal Property Tax:** In the current budget, James City County collects about \$19.4 million in personal property taxes including car tax relief from the state. This amount has been used to estimate the personal property tax revenue generated by Ali Property and applied to all residential units. Once completely constructed and fully occupied, the development is expected to generate \$68,000 per year in personal property taxes.
- Proffers:** In an arrangement with James City County, the developer is proffering \$3,512 per single-family home totaling almost \$274,000 over the construction period.
- Meals Tax:** James City County levies a four-cent tax on restaurant food and beverages. The County anticipates that approximately 30% of its tax revenues will be generated by local residents rather than by tourists. Of the \$4.4 million in meals taxes budgeted, \$1.3 million is expected to come from local residents dining out in restaurants located in the County, a per household average of about \$60. Using these assumptions, the county will realize about \$9,000 in meals taxes during construction and about \$5,000 annually at buildout and beyond in this particular tax.
- Retail Sales Tax:** The Commonwealth of Virginia collects 5.0% of retail sales dollars in sales tax and returns 1% to the locality in which it was generated. Typically, approximately one third of a household's income is spent on local retail sales (Bureau of Business Research). The household income of Ali Property residents is assumed to be the median household income in the County (reported to be \$62,168 by the U.S. Census Bureau). By buildout, it is expected that the residents will generate approximately \$15,000 annually in retail sales tax revenue using these assumptions.
- Business License Tax:** The estimated business license tax is based on three items: (1) the value of construction on the site, (2) the incremental retail sales that this development will generate, and (3) the revenues of commercial and office businesses that are assumed to be net new to the county. The county's tax rate for retailers is \$0.20 per \$100 and has been applied to estimated retail sales.

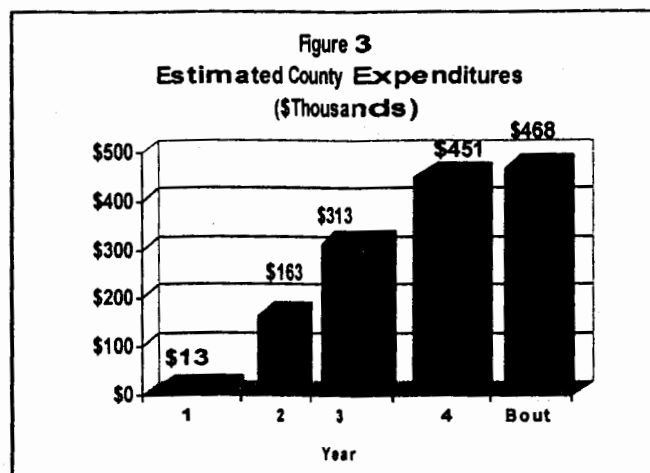


Contractors doing business in James City County pay a rate of \$0.16 per \$100 of the total construction investment. The cumulative revenue from this tax will be approximately \$56,000 over the period of construction and is estimated to level off at nearly \$3,000 per year at build-out.

- **Building Permits and Rezoning Fees:** Building permit fees are estimated at \$990 per single-family residential unit. Also, rezoning fees of \$3,571 paid by the developer have been included only in the first year of development. Using these estimates, this revenue category will provide a total of \$81,000 throughout all construction activity.
- **Recordation Tax:** JCC collects recording taxes on real estate transfers. These taxes include a deed recording tax of \$0.33 per \$100 of the selling price and a deed of trust recording tax of \$0.33 per \$100 of the selling price or of the face value of the mortgage, whichever is greater. In the first year, the county will collect recordation taxes on the purchase price of the land (\$1,180,000) totaling \$3,900. For this particular project, Associated Developers will build the housing infrastructure on each lot and sale each lot for approximately \$90,000 as suggested by the developer. It has been estimated that 26 lots will be sold in Year 1, 2 and 3 collecting recordation taxes on each sale for the County. Last of all, a builder will construct the actual structure of the home and the homes are estimated to be sold for \$400,000 each. For all of completed residential homes, this tax has been applied at the time the homes are originally sold. Throughout this project, the County can expect about \$133,000 in recordation taxes generated by this development.
- **Miscellaneous Taxes and Revenues:** Other taxes and revenues collected by James City County include public service taxes, a variety of licenses, permits and fees, fines and forfeitures, revenues from the use of money and property, revenues from the Commonwealth and the Federal government, charges for services, and recording taxes. The County's budget shows that miscellaneous revenue sources (excluding revenue from the Commonwealth for public education and recording taxes) are expected to total more than \$10.8 million. For this analysis, 90% of miscellaneous revenues have been attributed to county residents in this development at a per capita figure of \$172. The remaining 10% has been attributed to new employment on site. The VEC's most recent data indicates that there are 29,038 people working in the county. On a per employee basis, 10% of the listed revenues is \$37. This figure has been attributed to incremental employees generated by this construction. Throughout construction, approximately \$77,000 in miscellaneous taxes will be collected. Once construction ends and thereafter, it is estimated the County will receive almost \$31,000 in this tax.
- **State Tax for Education:** To account for this revenue, the amount received from the state has been subtracted from the public education expenditure estimates rather than added to incremental revenue totals. The County's budget indicates that this revenue will total almost \$6.2 million.

### Local Government Expenditures

The County's estimated costs for providing public services to the Ali Property are shown in Figure 3. The data reflected in the figure can be seen in Table 4 below the graph. By buildout, the development will generate estimated county expenditures of \$468,000 each year and beyond.



**Table 4**  
**Local Government Expenditures**

Expenditures	Year 1	Year 2	Year 3	Year 4	Buildout
General Government & Administration	\$400	\$7,800	\$15,200	\$22,200	\$23,100
Health & Welfare	0	3,800	7,600	11,400	11,900
Statutory, Unclassified	2,000	6,500	11,000	13,600	14,000
Recreation & Culture	800	9,400	18,100	26,000	27,000
Public Safety	7,200	24,000	40,900	51,400	52,700
Public Works	700	10,600	20,400	29,700	30,800
Capital Improvements (Non-School)	1,500	4,700	8,000	9,900	10,200
Capital Improvements-Schools	0	10,900	21,800	32,700	34,000
Education-Operating Costs	0	84,800	169,500	254,300	264,400
<b>Total Annual Expenditures</b>	<b>\$12,600</b>	<b>\$162,500</b>	<b>\$312,500</b>	<b>\$451,200</b>	<b>\$468,100</b>

\* Rounding may affect totals.

To estimate the incremental expenditures that this development will generate for James City County's government, the current per capita costs as reported in the County's budget have been applied to the estimated population for the households in this scenario. Based on the County's 2005 population projection of 56,662, the per capita costs of government in the County's budget are presented in Table 5.

**Table 5**  
**Per Capita Expenditures**

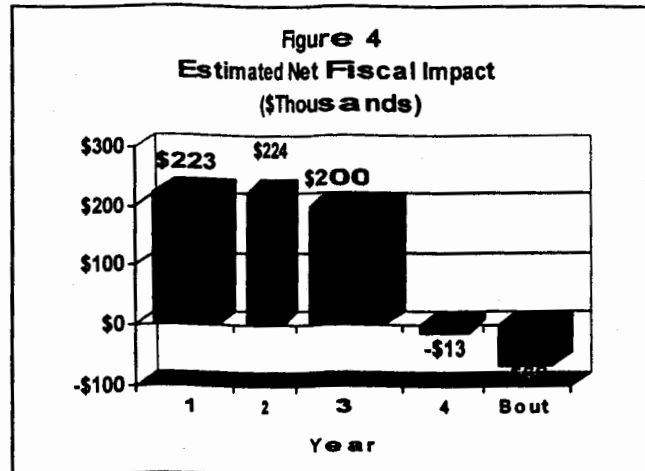
Expenditure Category	Per Capita Cost
General & Administrative	\$128.75
Health & Welfare	66.10
Statutory, Unclassified	77.81
Recreation & Culture	150.45
Capital Improvements (Non-School)	56.74
Public Safety	293.65
Public Works	171.78

The construction effort to build Ali Property will generate some incremental County expenditures. Dr. Robert W. Burchell's Employment Anticipation Method has been used on a per FTE employee basis. This is a method of marginal costing that is based on an extensive study of the increase in a locality's government costs generated by new, non-residential development. The Employment Anticipation Method predicts the change in municipal costs by using the coefficients developed in the study by Dr. Burchell, the per capita cost of government, and the number of incremental FTE employment positions.

As indicated in Table 4 on the previous page, the operating and capital improvements costs associated with public education will generate the largest expenditures estimated at almost \$298,000 annually at buildout and beyond. The capital improvements for schools and education operating costs have been calculated using James City County's estimate of 0.4 children per single-family household totaling 31 children once the development is completed. The second largest category of expenditures will be for public safety estimated at nearly \$53,000 once construction ends.

## Net Fiscal Impact

The net fiscal impact of a development on the local government is calculated simply by subtracting government expenditures from government revenues. The annual estimated net fiscal impacts during the development period and at build-out are illustrated in Figure 3 and in Table 6. As indicated by the analysis, this development during construction will generate a cumulative positive net fiscal impact of \$633,000 for the County. Once buildout occurs, Ali Property is estimated to cost the County approximately \$68,000 per year. Over the development of the project period, the net present value of this development (discounted at 5%) will total almost \$524,000.



**Table 6**  
**Net Fiscal Impact\***

Cash Inflow and Outflow	Year 1	Year 2	Year 3	Year 4	Buildout
Total Annual Revenues	\$235,422	\$386,322	\$512,122	\$437,936	\$400,100
Total Annual Expenditures	\$12,600	\$162,500	\$312,500	\$451,200	\$468,100
Net Fiscal Impact	\$222,822	\$223,822	\$199,622	(\$13,264)	(\$68,000)

\* Rounding may affect totals.

**Matthew Arcieri**

---

**From:** Cheryl Waldren on behalf of Development Management  
**Sent:** Tuesday, March 22, 2005 1:16 PM  
**To:** 'Bob Jackson'  
**Subject:** RE: 6001-6061 Centerville Rd.

Good afternoon Mr. Jackson:

I have received your concerns and will forward the information to the Planner who is working on this file. I'm quite sure they will discuss your concerns about the flooding and washout issues.

Thank you and have a good day.

Cheryl D. Waldren  
James City County  
Development Management  
101 - A Mounts Bay Road  
Williamsburg, VA 23187  
(W) 757-253-6671, Fax 757-253-6822

-----Original Message-----

**From:** Bob Jackson [mailto:frwhasec@msn.com]  
**Sent:** Monday, March 21, 2005 9:27 PM  
**To:** Development Management  
**Subject:** 6001-6061 Centerville Rd.

I have some concerns about the 78 home subdivision. We currently have a flooding and road washout problem on Fox Hollow and Fox Hill. Water from both sides of Centerville Road currently flows down Fox Hollow overflowing the ditch and washing out around the pipe under Fox Hill. If possible please direct the flow from the other side of Centerville Rd. through the new subdivision away from Fox Hollow instead of towards Fox Hollow. Please block the pipe under Centerville Rd. Any additional flow through Fox Ridge will be devastating.

A left turn lane into Fox Hill off Centerville Rd. is needed as can be shown by the skid marks on the pavement. Sun blinds drivers coming upon a stopped car. Also when some drivers pass on the right using the bike path at full speed, following drivers do not slow soon enough due to the stopped car being blocked from view by the car suddenly veering off the shoulder to pass illegally.

Bob Jackson  
FRWHA Secretary  
P. O. Box 413  
Lightfoot, VA 23090  
<http://groups.msn.com/FoxRidgeDepartmentofPublicSafety>

Mr. & Mrs. J.D. Townsend  
601 O Fox Den  
Williamsburg, VA 23188



March 16, 2005

Matt Arcieri  
JCC Planning Division  
P.O. Box 8784  
Williamsburg, VA 23187-8784

RE: Proposed Centerville Subdivision  
6001 & 6061 Centerville Rd.

Dear Mr. Arcieri:

My husband and I have received a letter (dated March 8, 2004 - attached) from Henry Stephens, Associated Developers, Inc., regarding the rezoning and proposed development of approximately 78 homes on Centerville Road.

After reviewing Mr. Stephen's letter and site map, I came to your office to review the complete proposal and subsequent reviewing departmental comments. Although I do not have any objection to the proposal, as it will increase the property value of my home, I do have a few concerns.

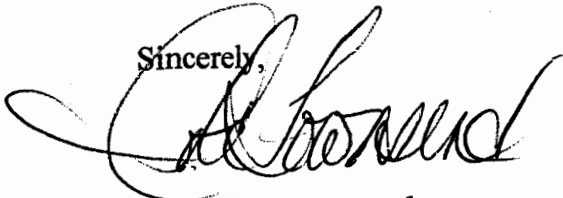
My primary concern is in regards to the sanitary force main. I am concerned that the existing lift station in Fox Ridge cannot accommodate the increased demand from this proposed development. I understand that JCSA would prefer they tie into Longhill Station and I lean towards this decision.

My other concern is for the proposed entrance. Would it not be wiser to have the entrance adjacent to Fox Hill Rd? I would think that by adding the entrance and proposed tapers at this point it would benefit both the proposed subdivision and Fox Ridge as well. Typically, traffic bottlenecks at the Fox Hill Road entrance in the p.m. hours. I would think VDOT would be agreeable to this solution, as it helps the community in general and not just one subdivision.

Last, I do not believe Mr. Stephens is offering enough in cash proffers to accommodate the increase in services that will be required (fire, police, school, utilities, etc.) I believe it should be commensurate with the added cost to hire another fire fighter, police officer, teacher and so on.

I wish to thank you for the opportunity to review the proposal and look forward to reviewing additional information as it becomes available.

Sincerely,

A handwritten signature in cursive script, appearing to read "J.D. Townsend". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Mrs. J.D. Townsend

PROFFERS

THESE PROFFERS are made this ~~30<sup>th</sup>~~ day of April, 2005 by ARMIN U. ALI and AMINA ADOSSA-ALI (together "Ali") and POWHATAN-OLDE TOWNE SQUARE, LLC, a limited liability company ("Powhatan") (Ali and Powhatan, together with their respective successors in title and assigns, are hereinafter sometimes referred to as the "Owner").

RECITALS

A. Ali is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 6001 Centerville Road, Williamsburg, Virginia and being Tax Parcel 3110100036 containing approximately 31.8, being more particularly described on Schedule A hereto (the "Ali Property").

B. Powhatan is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 6061 Centerville Road, Williamsburg, Virginia and being Tax Parcel 3110100033 containing approximately 7.7 acres, being more particularly described on Schedule A hereto (the "Powhatan Property"). The Ali Property and the Powhatan Property are hereinafter sometimes referred to as the "Property."

C. The Property is designated Low Density Residential on the County's Comprehensive Plan Land Use Map and is now zoned A-1. Owners have applied to rezone the Property from A-1 to R-2, General Residential District, with proffers.

C. Owners have submitted to the County a master plan entitled "Preliminary Master Plan, Centerville Road Subdivision" prepared by Vanasse Hangen Brustlin, Inc. dated February 21, 2005 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

D. Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

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, Owners agree that they 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 developed generally in accordance with the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be a maximum of 78 lots on the Property.

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 each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association, shall require each initial purchaser of a lot to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the lot (but no less than \$100.00) 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 each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. If there is more than one Association created for the Property the Associations shall enter into a costs sharing agreement allocating responsibility for maintenance and expenses for common areas described above between the Associations.

**3. Water Conservation.** (a) The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently 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 subdivision or site plan approval.

**4. Cash Contributions for Community Impacts.** (a) A contribution of \$1,061.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system 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.

(b) A contribution of \$312.00 for each dwelling unit on the Property shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the

Property. The JCSA may use these funds for any project related to improvements to the JCSA sewer system 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.

(c) A contribution of \$3,939.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for school uses.

(d) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat approval for such unit or, at the election of Owner, such contributions shall be payable within one year from the date of final subdivision plat approval provided Owner has posted with the County a letter of credit in form acceptable to the County Attorney in the amount of such deferred payment to secure Owner's obligation to make such payment, unless the Board of Supervisors specifically approves another time for payment upon application of the Owner.

(e) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year

Property generally as shown on the Master Plan. The buffer shall be exclusive of any lots or units. The portion of the buffer located south of the entrance into the Property shall have a width of at least 150 feet and shall be left undisturbed and in its natural state except as provided herein. Owner shall remove storm debris from this portion of the buffer and, if required by the Director of Planning, shall replant pine seedlings in areas where storm debris has been removed. The portion of the buffer located north of the entrance into the Property shall have a width of at least 75 feet and there shall be installed within this portion of the buffer a landscaped berm pursuant to a landscaping plan approved by the Director of Planning generally as shown on the Master Plan. With the prior approval of the Development Review Committee, trails, sidewalks, bike lanes, utilities, lighting, entrance features and signs may be located in the buffer. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants, windfalls and deadfalls may be removed from the buffer area.

6. **Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted

to the Director of Planning for approval during the development plan approval process.

7. **Recreation.** (a) Prior to the County being obligated to issue building permits for more than 39 lots on the Property, Owner shall provide a gazebo/picnic shelter with grill, tot lot with play equipment, and open play area of approximately one acre and a soft-surface pedestrian trail generally in the location shown on the Master Plan.

8. **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.

9. **Entrance Tapers.** There shall be installed or bonded in form acceptable to the County Attorney prior to final subdivision plat approval a 100 foot right turn taper from south bound Route 614 into the entrance to the Property and a 48 foot right turn taper from the entrance to the property onto southbound Route 614. Such tapers will be striped to include the existing bike lane along Centerville Road.

10. **Sidewalks.** There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan.

11. Greenway Easement. At or prior to the County being obligated to approve any final subdivision plat of the Property, Owner shall grant to the County free of charge an easement 35 feet in width over the area of the Property immediately adjacent to Route 614 as shown on the Master Plan permitting the County to construct and maintain a greenway trail in the easement area. Owner, in its sole discretion, shall either (i) construct a 10 foot wide multi-use path within the easement area pursuant to plans approved by the Director of Planning (such path to be a part of the County greenway system and maintained by the County) or (ii) in lieu thereof, make a cash contribution to the County for use by the County for greenway capital improvements in an amount acceptable to the Director of Planning based on the estimated costs of construction of the path.

WITNESS the following signatures.

[balance of page intentionally left blank]

Armin U. Ali

ARMIN U. ALI

Amina Adossa Ali

AMINA ADOSSA-ALI

POWHATAN-OLDE TOWNE SQUARE,  
LLC

By: [Signature]

Title: MANAGER

STATE OF New York  
CITY/COUNTY OF New York to-wit:

The foregoing instrument was acknowledged this 30<sup>th</sup>  
day of April, 2005, by ARMIN U. ALI.

[Signature]  
NOTARY PUBLIC

DANUTA J. KOCH  
Notary Public, State of New York  
No. 31-4950299

My commission expires: Qualified in New York County  
~~Commission Expires April 24, 2007~~

STATE OF New York  
CITY/COUNTY OF New York to-wit:

The foregoing instrument was acknowledged this 30<sup>th</sup>  
day of April, 2005, by AMINA ADOSSA-ALI.

[Signature]  
NOTARY PUBLIC

DANUTA J. KOCH  
Notary Public, State of New York  
No. 31-4950299

My commission expires: Qualified in New York County  
~~Commission Expires April 24, 2007~~



STATE OF Virginia  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 2  
day of May, 2005, by Lawrence E. Beamer, as manager  
of POWHATAN-OLDE TOWNE SQUARE, LLC on behalf of the company.

Barbara J. Claus  
NOTARY PUBLIC

My commission expires: 1/31/07.

EXHIBIT A

PARCEL 1

ALL that certain piece or parcel of land with appurtenances thereto, situate, being and lying in the Powhatan Magisterial District, James City County, Virginia and containing twenty one-half (20-1/2) acres of land more or less by actual survey and being a portion of the tract of land commonly called the Marston "tract of land" or "The triangle" near Centerville and bounded as follows to wit: on the North by the road and on the South and West by the land now or formerly of B. Clarence Vaiden.

LESS AND EXCEPT, that the conveyance by Andrew Byrd Estate, C.C. Byrd Agent got James City County Virginia to the Commonwealth of Virginia which Deed is recorded in the Clerks Office of the Circuit Court of James City County, Virginia in Deed Book 30, page 541.

BEING the same property conveyed in part to Armin U. Ali and Francis P. Ali, as joint tenants with right of survivorship as at common law, dated September 23, 1981 and recorded in Deed Book 220, page 402. The said Francis P. Ali having departed this life on May 20, 2001. And further being the same as conveyed in part to Armin U. Ali by Deed from Alvin Gary Parker dated September 26, 2002, and recorded in James City County, November 12, 2002 as Instrument Number 02002665; and by Deed from Shirley P. Holmes dated September 26, 2002, and recorded in James City County, November 12, 2002 as Instrument Number 02002665.

PARCEL 2

All that certain lot of land, estimated to contain eight (8) acres, more or less, enclosed within the following boundaries: beginning at a point on the Centerville Road opposite an oak stump; thence running west along a chopped line to a dogwood tree, then a white oak, then another dogwood, then a red oak, then an oak tree along the road separating this property from the property now or formerly of W.B. Vaiden thence in a southeasterly course along the road separating this property from the property formerly of W.B. Vaiden to the Centerville Road; thence in a northerly course

along the Centerville Road to the point of the beginning.

Together with all and singular the buildings and improvements thereon, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Subject, however, to all easements, restrictions, conditions and covenants of record or apparent on the ground.

Being the same property as that conveyed to Signor Bradby by Deed dated April 24, 1937 from Berkley Jones and Mary Lee Jones, his wife, Ernest Jones and Carries Jones, his wife, and Annie Bradby, of record at James City County Deed Book 29, page 273. The said Signor Bradby died testate on January 25, 1959, his Will is of record at James City County Will Book 6, page 478. By virtue of said Will, the only devisee of Signor Bradby was his daughter, Elizabeth Carter. Elizabeth Carter died testate on October 23, 2003, her Will is of record at James City County Will File Number 5703. By virtue of Article Four of said Will Elizabeth Carter devised that subject real property described herein to her daughter, Celestine Elizabeth Overbey, and her grandson, A. Dudley Overbey, the Grantors herein.

**RESOLUTION**

**CASE NO. Z-3-05. CENTERVILLE ROAD SUBDIVISION**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning Case No. Z-3-05 for rezoning 43.429 acres from A-1, General Agricultural, to R-2, General Residential, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on April 4, 2005, recommended approval of Case No. Z-3-05, by a vote of 4 to 2; and

WHEREAS, the properties are located at 6000 and 6001 Centerville Road and further identified as Parcel Nos. (1-33) and (1-36) on James City County Real Estate Tax Map No. (31-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-3-05 and accepts 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 10th day of May, 2005.

z-3-05.res

**REZONING CASE NO. 16-04/SPECIAL USE PERMIT CASE NO. 35-04/MASTER PLAN CASE NO. 12-04. Burlington Woods**

**Staff Report for the May 10, 2005, Board of Supervisors Public Hearing**

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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.

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**PUBLIC HEARINGS**

Planning Commission:

Board of Supervisors:

**Building F Board Room; County Government Complex**

April 4, 2005, 7:00 p.m.

May 10, 2005, 7:00 p.m.

**SUMMARY FACTS**

Applicant:

Mr. Michael Baust, Rickmond + Bury

Land Owner:

Mr. Michael Smith, Tidewater Partners Property & Development, LLC

Proposal:

26-lot single-family subdivision

Location:

3931 Longhill Road, Powhatan District

Tax Map/Parcel No.:

(33-3)(1-20)

Primary Service Area:

Inside

Parcel Size:

17.32 acres

Existing Zoning:

R-8, Rural Residential

Proposed Zoning:

R-2, General Residential, with proffers

Comprehensive Plan:

Low-Density Residential

**STAFF RECOMMENDATION**

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses and the Comprehensive Plan. Staff recommends the Board of Supervisors approve the rezoning, special use permit, and master plan applications, and accept the voluntary proffers.

Staff Contact:

Christopher Johnson, Senior Planner

Phone: 253-6685

**PLANNING COMMISSION RECOMMENDATION**

On April 4, 2005, the Planning Commission recommended approval of the rezoning, special use permit, and master plan applications by a vote of 5 to 1.

**Proposed Changes Made After Planning Commission Consideration**

The applicant has submitted revised proffers that provide a \$3,692 contribution per lot to offset the cost of providing sanitary sewer for this project. The proffers also have increased the per lot cash contribution for CIP projects, including schools from \$2,451 per lot to \$2,939 per lot.

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

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
Water (CIP contribution)	\$1,061 per lot
Sanitary Sewer (project specific contribution)	\$3,692.31 per lot
CIP Projects (including schools)	\$2,939 per lot
Total Amount (2005 dollars)	\$200,000
Total Per Lot	\$7,692.31 per lot

### **PROJECT DESCRIPTION**

Mr. Michael Baust of Rickmond + Bury, on behalf of Mr. Michael Smith of Tidewater Partners Property & Development, LLC, has submitted an application to rezone 17.32 acres from R-8, Rural Residential, to R-2 General Residential, with proffers. The property is located at 3931 Longhill Road and is further identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (33-3). If approved, the developer would construct a 26-lot single-family subdivision at a gross density of 1.5 dwelling units per acre.

In accordance with Section 24-254(c) of the Zoning Ordinance, the Board of Supervisors may grant a special use permit for subdivisions to have a maximum gross density of two dwelling units per acre if the developer provides the following:

1. Implementation of the County’s Streetscape Guidelines;
2. Implementation of the County’s Archaeological Policy;
3. Provision of sidewalks along one side of all internal streets;
4. Provision of recreation facilities in accordance with the County’s parks and recreation guidelines; and
5. Implementation of the County’s Natural Resources Policy.

### **PUBLIC IMPACTS**

#### **Archaeological Impacts**

- ◆ **Staff Comments:** There are several known archaeological sites in the vicinity of the subject property. The design and layout of the development may need to be altered to incorporate measures necessary to preserve, protect, and restore any archaeological sites that may be found on the property following a Phase IA archaeological survey.
- ◆ **Proffers:** The County archaeological policy has been proffered.

#### **Environmental Impacts**

- ◆ **Watershed:** Powhatan Creek
- ◆ **Environmental Comments:** The use of Low Impact Development (LID) practices is encouraged for use on the site. Based on the Environmental Inventory letter submitted with the application, there does not appear to be any perennial streams or Resource Protection Area features on the site.
- ◆ **Proffers:** The applicant has proffered to incorporate on-site stormwater management strategies and on-lot practices to reduce run-off and pollutant loading into the stormwater management system in accordance with

the goals and priorities of the adopted Powhatan Creek Watershed Management Plan. These practices will include the use of rain gardens, bio-retention cells and infiltration swales where possible on the property.

**Public Utilities**

- ◆ **Utilities:** The site is located inside the Primary Service Area (PSA) and is served by public water and sewer.
- ◆ **JCSA Comments:** The JCSA has reviewed the proposal and recommends the applicant proffer a cash contribution to offset the JCSA’s direct costs associated with upgrading Lift Station 7-2 to allow gravity sewer to serve the development.
- ◆ **Proffers:** A cash contribution of \$1,061 per lot is proffered for water and a cash contribution of \$3,692 per lot is proffered for sanitary sewer. Water conservation measures will be developed and submitted to the JCSA for review and approval prior to any development plan approval. The applicant has also submitted a proffer which states that the site will be developed in accordance with water conservation standards which will be approved by the JCSA prior to site plan approval.

**Fiscal Impacts**

The applicant has provided a fiscal impact statement which is included as an attachment to this report. In summary, at buildout this project is expected to have an annual positive fiscal impact of between \$20,000 - \$30,000 (assuming a real estate value per dwelling of \$400,000 - \$450,000).

- ◆ **Proffers:** A cash contribution for CIP projects, including schools, emergency services, off-site road improvements, libraries, and public use sites of \$2,939 per lot, has been proffered by the applicant to mitigate impacts on County services.
- ◆ **Staff Comments:** The Department of Financial and Management Services concurs with the applicant’s fiscal impact statement. While the cash contributions proffered for this development are higher than cash contributions for recent cases, the amount will not completely fund all capital costs to the County generated by this development.

**School Impacts**

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

<i>School</i>	<i>Design Capacity</i>	<i>Program Capacity</i>	<i>Current Enrollment (9/30/04)</i>	<i>Projected Students Generated</i>	<i>Enrollment + Projected Students</i>
D.J. Montague Elementary	757	645	738	5	743
Toano Middle	775	782	811	3	814
Lafayette High	1,250	1,296	1,536	4	1,540

- ◆ **Staff Comments:** The Adequate Public Schools Facility Test is based on design capacity. The proposal passes the adequate public school test at the elementary school level but fails at the middle school.

Although the design capacity of Lafayette High School is clearly exceeded, the Adequate Public School Facilities Test states that if physical improvements have been programmed through the County CIP, the application will be deemed to have passed the test. On November 2, 2004, voters approved a bond referendum for the construction of the third high school. The third high school is expected to be open by

September 2007; therefore, staff believes that this proposal passes the test at the high school level.

### **Parks and Recreation/Greenways**

The applicant proposes to construct a tot lot in an area approximately one acre in size within the development. The James City County Greenway Master Plan calls for a 10-foot-wide multiuse path along the north side of Longhill Road. The path is envisioned to connect Freedom Park to the Warhill Sports Complex, Thomas Nelson Community College, and the third high school. The applicant has provided a proffer to either construct the required five-foot sidewalk along the Longhill Road frontage or make a cash contribution to the County towards future construction of the multiuse path on the north side of Longhill Road.

- ◆ **Staff Comments:** Staff finds that this proposal satisfies the Parks and Recreation Master Plan and the Greenway Master Plan.

### **Traffic Impacts**

- ◆ **2003 Traffic Counts:** 9,361 vehicle trips per day on Longhill Road from Route 614 (Centerville Road) to Route 1530 (entrance to the Season's Trace subdivision)
- ◆ **2026 Volume Projections:** 10,000 vehicle trips per day
- ◆ **Road Capacity:** A two-lane collector road with turn lanes has a capacity of 14,000 vehicle trips per day
- ◆ **VDOT Comments:** VDOT reviewed the traffic impact study submitted with the application and concurred with the analysis. VDOT recommended that the applicant provide a 100-foot right-turn taper from Longhill Road.
- ◆ **Staff Comments:** According to the traffic impact study, the development will generate approximately 302 vehicle trips per day with 28 a.m. peak hour vehicle trips and 32 p.m. peak hour vehicle trips.
- ◆ **Proffers:** The proffers provide a guarantee that a 100-foot right-turn taper from Longhill Road into the development will be installed or bonded prior to subdivision plat approval by the County if VDOT concludes that road improvements are required during development plan review for the project.

### **COMPREHENSIVE PLAN**

The James City County Comprehensive Plan Land Use Map designates this property as Low-Density Residential. Low-density residential developments are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher-quality design, a residential community with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. The Zoning Ordinance specifies the benefits which allow a development to achieve densities above one unit per acre. The location criteria for low-density residential require that these developments be located within the PSA where utilities are available. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

- ◆ **Staff Comments:** Section 24-254(c) of the Zoning Ordinance specifies what particular benefits must be offered in order to achieve a gross density of two dwelling units per acre. This development meets those specifications. In addition, the proposal provides additional public benefits as it is in accordance with the adopted Greenway Master Plan and Powhatan Creek Watershed Management Plan. The proposal is consistent with the Land Use policies of the Comprehensive Plan.



## RECOMMENDATION

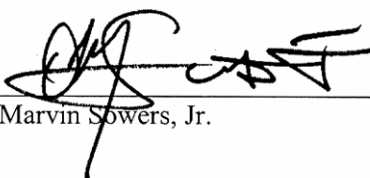
With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses and the Comprehensive Plan. Staff recommends that the Board of Supervisors approve the rezoning and master plan applications, and accept the voluntary proffers.

Staff also recommends approval of the attached SUP. On April 4, 2005, the Planning Commission recommended approval by a vote of 5 to 1.

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Christopher Johnson

CONCUR:



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O. Marvin Sowers, Jr.

CJ/gb

Z-16-04SUP-35-04MP-12-04

Attachments:

1. Planning Commission Minutes from April 4, 2005
2. Location Map
3. Master Plan (under separate cover)
4. Fiscal Impact Statement
5. Proffers
6. Resolutions

**APPROVED MINUTES OF THE PLANNING COMMISSIONS APRIL 4, 2005  
MEETING**

Z-16-04/MP-12-04/SUP-35-04 Burlington Woods

Mr. Chris Johnson presented the staff report. Mr. Michael Baust of Rickmond Bury applied on behalf of property owner Tidewater Partners Property & Development, LLC to rezone approximately 17.32 acres from R-8, Rural Residential, to R-2, General Residential, with proffers for the construction of a 26 lot single family subdivision. The property is located at 3931 Longhill Road.

Mr. Kennedy asked about concerns expressed by adjacent property owner, Mr. William Lee, in a letter included in the staff report.

Mr. Johnson said the drainage issue referenced in the letter will be resolved during development stage. Staff did not support the request for installation of an 8 ft privacy fence.

Ms. Blanton asked what amount of cash proffers would cover costs associated with this development.

Mr. Johnson shared the many variables used for those calculations stating that the overall fiscal impact was expected to be positive given the expected sales prices of the homes.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy, representing the applicant, stated he agreed with the staff recommendations including amending the proffers prior to the Board of Supervisor's meeting and made himself available for questions.

Ms. Elizabeth Marotta, 3973 Longhill Road, stated she does not believe all impacts have been adequately addressed. She felt the proposal would have negative impacts on the surrounding community.

Mr. Thomas Wallace, 3897 Longhill Road, spoke to the character of the current property owner. Mr. Wallace, prior owner, stated he is satisfied with the project and the quality of homes to be built. He considered the surrounding community before agreeing to sell the property.

Mr. William Lee, 3975 Longhill Road, said the proposal conflicts with the County's desire for more green space. He stated his concerns regarding drainage and his desire for a fence to keep trespassers off his property.

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

Ms. Blanton thought the proposal was suitable for the property but wasn't convinced that it represented the best way to develop the site. She was also concerned about the cost of the homes.

Mr. Geddy answered questions regarding the low density residential designation in the Comprehensive Plan allows for a range between 1 and 4 units per acre. This project requests 1.5 units per acre. He pointed out that the surrounding single family communities have a greater density. He reminded Commissioners that the applicant has met every County policy. The proposed sales prices reflect the high demand for this level of housing in James City County. The small scale of this project will not drive out affordable housing.

Mr. Kennedy believed the Board of Supervisors had requested Planning staff to review amending the Ordinance for R-8 and A-1 Zoning Districts as well as developing a Cash Proffer Policy.

Mr. Johnson confirmed that Planning staff had been asked to review rural lands for R-8 and A-1 but that committee had not been formed. A committee had been formed to consider a Cash Proffer Policy.

Mr. Sowers confirmed that Staff had been asked to review areas located outside of the Primary Service Area (PSA). A recommendation on a Cash Proffer Policy would not be submitted until late spring or early summer.

Mr. Kennedy highlighted his concerns related to schools and over crowding and water. He liked the proposal but would not support it.

Mr. Hunt was confident that Mr. Lee's concerns would be met. He stated he has had similar concerns but also believed in the rights of property owners.

Mr. Fraley shared Mr. Kennedy's concerns regarding proffers and schools. However; he thought more moderate priced housing would mean increased density. He also was confident that Mr. Lee's concerns would be addressed at the site plan level. He supported the proposal.

Mr. Billups said many proposals had been approved with much higher density particularly inside the PSA. He had no objections to this project.

Ms. Jones supported Mr. Smith's right to sale and develop this property. She was comfortable with the density. Ms. Jones was sympathetic with Mr. Lee's concerns and said drainage issue should be monitored.

Mr. Fraley motioned to approve the application and conditions.

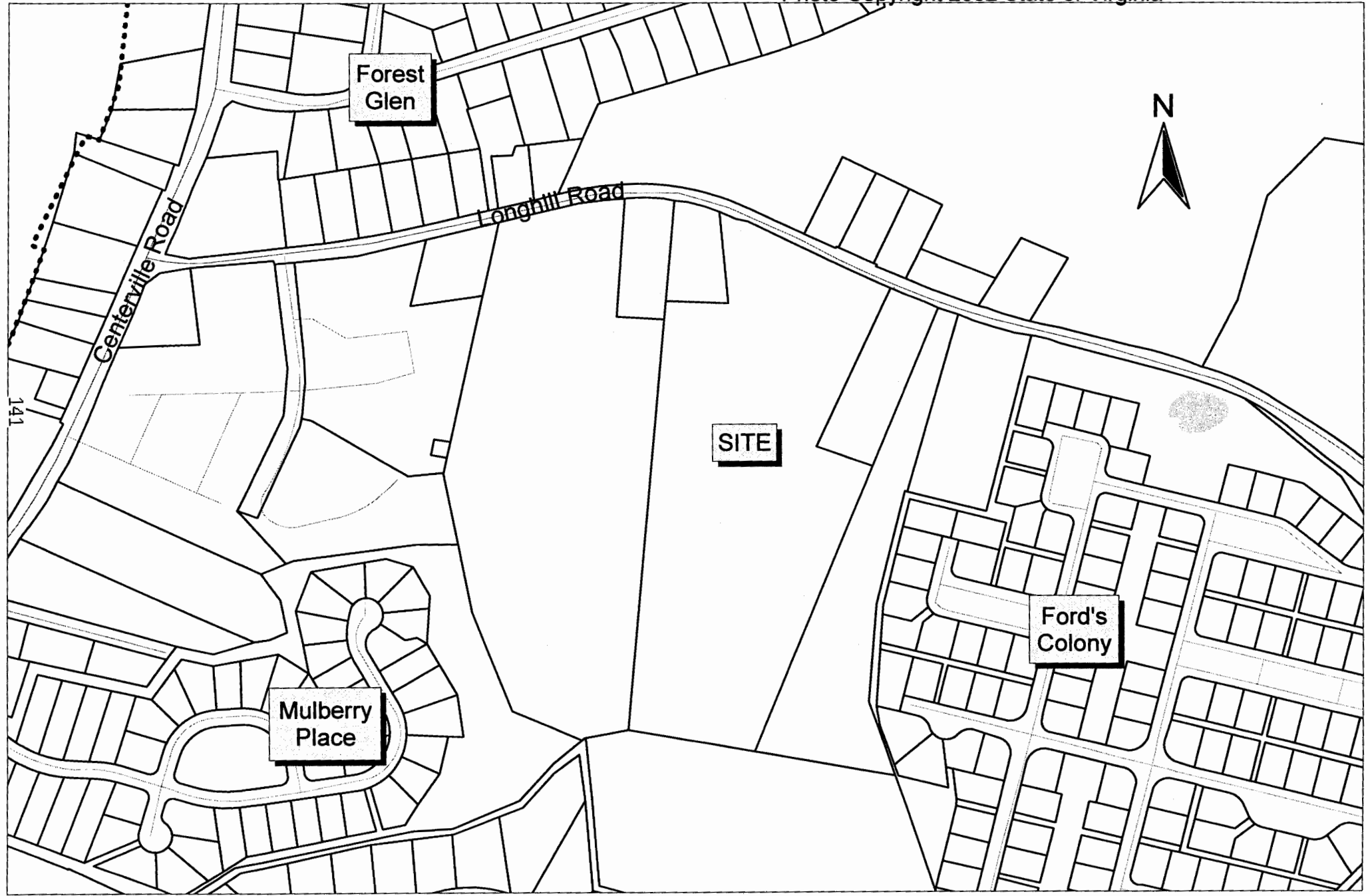
Mr. Billups seconded the motion.

In a roll call vote the application was approved 5-1. AYE: Billups, Blanton, Fraley, Jones, Hunt (5); NAY: Kennedy (1). Absent Kale

# Case Nos. Z-16-04, SUP-35-04, MP-12-04. Burlington Woods



Photo Copyright 2002 State of Virginia



**Burlington Woods**

**Economic Impact  
December 2004**

**Prepared for:**

**James City County**

**Prepared by:**

***ProFocus Incorporated***

## **Burlington Woods**

### **Economic Impact in James City County, Virginia**

As part of the rezoning application submitted to the James City County Planning Commission, this report from ProFocus Incorporated presents estimates of the economic impact of the proposed Burlington Woods development. The proposed development consists of approximately 17.32 acres located at 3931 Longhill Road in James City County.

The study was done from the perspective of the county. The primary information sources used were the adopted budget 2004 WJCC Website, 2003 James City County Comprehensive Plan. Information provided by the James City Planning Department and WJCC public schools. In addition, we used information provided by Ford's Colony, the major development neighboring Burlington Woods.

Currently 3931 Longhill "3931" has two small homes and numerous discarded vehicles located on the property. Located to the east of "3931" is the Ford's Colony entrance leading to the Golf Club and the Marriott Timeshare/Hotel. Between the Ford's Colony entrance and 3931 Longhill is the New Zion Church (3991 Longhill). Neighboring "3931" to the west is a well-groomed 18 acre property. At the corner of Longhill and Centerville Road are apartments and the Trammwell Crow Development.

In total, the development plan calls for 26 residential lots consisting of a minimum lot size of 13,000 square feet. The concept is to develop a small custom wooded community that will enhance the proposed area, increase tax revenue and improve the surrounding infrastructure with minimal impact on schools and public services.

All dollar figures contained in the report are expressed in 2004 dollars. No attribution for economic inflation has been made. However, it is assumed that real appreciation for all of residential lots will be 3%.

## Development Cost

Currently "3931" consists of approximately 6.5 acres of cleared land along Longhill Road. The wooded area south of the cleared portion consists of the remaining 10.82 acres. The concept plan calls for subdivision infrastructure improvements for roads, utilities, storm water, gravity sewer and other requirement.

### Development Cost Estimate

Mobilization/Demobilization	\$20,000.00
Clear & Grub	\$14,000.00
Grading	\$30,000.00
Roadway System – Entrance	\$20,000.00
Road w/Curb & Gutter	\$ 380,000.00
Utilities – Water Lines, Values Etc	\$ 90,000.00
Gravity Sewer	\$ 175,000.00
Storm Water Management – BMPS	\$ 72,500.00
Conveyance System	\$ 66,500.00
Street Lights	\$ 5,000.00
Power	\$ 40,000.00
Permits & Applications Fees	\$ 25,000.00
<b>Total</b>	<b>\$ 898,000.00</b>
Engineering Fee (0.12%)	\$ 165,760.00
Contingency (15%)	\$ 134,700.00
<b>Total</b>	<b>\$1,198,660.00</b>



## **Residential Population**

Based on the 2003 Comprehensive Study, James City County is in the "Top 10" in population growth. It also has one of the oldest populations in the state. The population of Burlington Woods is estimated to reach 66-70 persons at build-out for all 26 residential units. The assumptions used to arrive are as follows.

- 2.47 persons/household for 20 single family units
- 2 persons/household for 6 single family units

Even though the population has significantly increased according to the comprehensive plan, the average number per household has declined, thus reflecting an older population. In addition, data from other Virginia localities indicate that single family detached homes in the price range of \$400,000.00 - \$450,000.00 have fewer school age children than multi-family attached units.

It appears that a trend towards larger homes, less land, less association costs and smaller intimate communities has evolved. A subdivision like Burlington Wood is designed to accommodate this type of setting.

## **Fiscal Impact of Burlington Woods Development**

The following is an estimate of the local tax revenue in constant 2004 dollars that can be expected to accrue to the county from 26 custom single family homes.

Real property projections estimate average dollars per square foot valuations which are based on current market conditions and which have been compared to current county assessments.

Personal property projections are based on occupants owning multiple vehicles, 15% of occupants owning a recreation vehicle and 20% owning a small water craft. An average valuation of approximately \$53,000.00 per household, higher per household valuations can be expected from custom homes.

### **Estimated Residential Valuation & Property Tax Revenues**

Value Per Sq.Ft. (include lot value)	\$125 - \$130
Avg. Real Estate Value	\$450,000.00
Avg. Annual R.E. Tax <i>(\$450 X .825)</i>	\$ 3,712.00
Avg. Personal Value	\$ 53,000.00
Personal Property Tax	\$ 2,120.00

## Fiscal Impact of Burlington Woods

Utilizing the property tax estimates and the approved 2004 James City County budget the following calculations estimate the net fiscal impact on the county for each new single family home in Burlington Woods. These figures assume constant 2004 dollars and are reflective of average per household operating costs, and do not estimate new capital expenditures.

### Estimated Tax Revenues

Real Property	\$3,712.00
Personal Property Tax	\$2,120.00
Meal & Beverage Tax	\$ 114.00
Motor Vehicle Licenses	\$ 125.00
Retail Sales Taxes	\$ 175.00
	<u>\$6,246.00</u>

### Local per Capital Operating Costs

(Before Education Cost & Based on rounded estimate of Ford's Colony \$450k existing homes.)

① General Fund Expenditures	\$ 2,204.00
Social Services	\$ 78.00
Humane Services	\$ 166.00
<b>Total Local per Household Cost</b>	<u><b>&lt;\$2,744.00&gt;</b></u>

### Estimated Cost of Public Education

② At one Child per Household	\$ 5,002.00
At County Average of .47	<u>&lt;\$2,390.00&gt;</u>
<b>Net Gain</b>	<u><b>\$ 1,112.00</b></u>

<b>2004 General Expenditure Budget</b>	<b>\$114,831,730.00</b>
<b>2004 WJCC Schools</b>	<b>\$ 62,531,823.00</b>
<b>2004 General Fund Expenditures (Excluding Schools)</b>	<b>\$ 52,299,900.00</b>

## **The 2004 General Expenditure Budget of \$114,831,730.00**

The 2004 General Expenditure Budget of \$114,831,730.00 is what is projected to meet the operational cost of the county. General property taxes constitute 56% of the revenue generated to meet the county budget. Clearly higher valued homes generate higher property taxes.

Housing units of all price ranges has increased between 1990 and 2000 to a total of 20,772 housing units by the 2000 census. That represents roughly 270 new houses per year. Based on that same growth pattern it's estimated that James City County has approximately 23,735 housing units currently.

The cost per housing unit on average to meet the demand of public services, fire, police and other expenditures (excluding schools) is estimated to be \$2,204.00 per unit. ( $\$52,299,900.00 \div 23,735$ )

## **Public Education Cost per Child**

Even though the growth rate for youth has increased 30% over the past 10 years ending in 2000. The youth segment (age 6-18) has actually decreased proportionally. Based on the growth pattern from 1990 through 2000 and information from WJCC public schools it estimated that a total of 12,501 youths attend James City County schools. Clearly the largest expense of the counties general expenditure is schools roughly 54%. Based on the counties adopted budget amount of \$62,531,823.00 the average cost per child is estimated to be \$5,002.00 ( $\$62,531,823.00 \div 12,501$ ).

The counties demographic study denotes that the average size detached single family unit has 2.47 people per household or roughly .47 youths. An estimate of 10 to 12 youths may be added to the school system at build out of Burlington Woods.

## **Public Education Cost per Child**

Even though the growth rate for youth has increased 30% over the past 10 years ending in 2000. The youth segment (age 6-18) has actually decreased proportionally. Based on the growth pattern from 1990 through 2000 and information from WJCC public schools it estimated that a total of 12,501 youths attend James City County schools. Clearly the largest expense of the counties general expenditure is schools roughly 54%. Based on the counties adopted budget amount of \$62,531,823.00 the average cost per child is estimated to be \$5,002.00 ( $\$62,531,823.00 \div 12,501$ ).

The counties demographic study denotes that the average size detached single family unit has 2.47 people per household or roughly .47 youths. An estimate of 10 to 12 youths may be added to the school system at build out of Burlington Woods.

## PROFFERS

THESE PROFFERS are made this 29<sup>th</sup> day of April, 2005 by TIDEWATER PARTNERS PROPERTY & DEVELOPMENT, LLC, a Virginia limited liability company (together with its successors in title and assigns, the "Owner").

## RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 3931 Longhill Road, Williamsburg, Virginia and being Tax Parcel 33-3-1-20 containing approximately 17.32, being more particularly described on Schedule A hereto (the "Property").

B. The Property is designated Low Density Residential on the County's Comprehensive Plan Land Use Map and is now zoned R-8. Owners have applied to rezone the Property from R-8 to R-2, General Residential District, with proffers.

C. Owners have submitted to the County a master plan entitled "Burlington Woods Master Plan" prepared by Bury + Partners - Virginia, Inc. dated December 23, 2004 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

D. Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the

Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owners agree that they 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 developed generally in accordance with the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be a maximum of 26 lots on the Property.

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 each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association, shall require each



initial purchaser of a lot to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the lot (but no less than \$100.00) 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 each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. If there is more than one Association created for the Property the Associations shall enter into a costs sharing agreement allocating responsibility for maintenance and expenses for common areas described above between the Associations.

**3. Water Conservation.** (a) The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently 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 subdivision or site plan approval.

4. Cash Contributions for Community Impacts. (a) A contribution of \$1,061.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system 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.

(b) A contribution of \$3,692.31 for each dwelling unit on the Property shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for improvements to Lift Station 7-2 or any project related to improvements to the JCSA sewer system 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.

(c) A contribution of \$484.75 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the

County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, off-site road improvements, library uses, and public use sites.

(c) A contribution of \$2,454.25 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for school uses.

(d) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat approval for such unit.

(e) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (d) of this Section. The

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

5. Longhill Road Community Character Buffer. There shall be a 150 foot buffer along the Longhill Road frontage of the Property generally as shown on the Master Plan. The buffer shall be exclusive of any lots or units. There shall be installed landscaping in the buffer of at least 125% of ordinance requirements, unless otherwise approved by the Director of Planning, pursuant to a landscape plan approved by the Director of Planning. With the prior approval of the Development Review

Committee, trails, sidewalks, bike lanes, utilities, lighting, entrance features and signs may be located in the buffer. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants, windfalls and deadfalls may be removed from the buffer area. The 35 foot perimeter buffer adjacent to Tax Parcel 3130100019 (Wallace parcel) and Tax Parcel 3130100020A (New Zion Baptist Church parcel) shall be landscaped in accordance with a landscape plan approved by the Director of Planning.

6. Streetscape Guidelines. The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the development plan approval process.

7. Recreation. (a) Owner shall provide a tot lot, with play equipment, and parkland of approximately one acre prior to issuance of the first certificate of occupancy for a dwelling unit on the Property.

(b) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Recreation Master Plan or in lieu of such additional facilities Owner shall make cash contributions to the

County in amount determined pursuant to the County's Recreation Master Plan (with the amount of such cash contributions being determined by escalating the amounts set forth in the Recreation Master Plan from 1993 dollars to dollars for the year the contributions are made using the formula in Section 4(e)) or some combination thereof. All cash contributions proffered by this Proffer 7 shall be used by the County for recreation capital improvements or for any other 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. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee.

8. **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.

9. **Sidewalks**. There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan. Owner shall either (i) install a sidewalk along the Longhill Road frontage of the Property or (ii) in lieu thereof, make a payment to the County

for sidewalk improvements included in the County's capital improvements plan in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalk.

**10. Taper.** If required by the Virginia Department of Transportation, there shall be installed or bonded in form acceptable to the County Attorney prior to final subdivision plat approval a 100 foot right turn taper from Longhill Road into the entrance to the Property.

**11. Environmental.** The Property is located within Subwatershed 204, Catchment 204-101-1 of the Powhatan Creek watershed. Pursuant to the County's Comprehensive Plan and the goals of the Powhatan Creek Watershed Management Plan, Owner shall incorporate on-site stormwater management strategies and on-lot practices to reduce stormwater run-off and pollutant loading into the stormwater management system for the Property as approved by the Director of Environmental Division. These practices shall include, but are not limited to, rain gardens, bio-retention cells and infiltration swales and shall compliment but not replace traditional stormwater management practices.

WITNESS the following signatures.



TIDEWATER PARTNERS PROPERTY &  
DEVELOPMENT, LLC

By: Michael M. Smith  
Title: Managing member

STATE OF Virginia  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 2nd  
day of May, 2005, by Michael M. Smith, as Managing member  
of TIDEWATER PARTNERS PROPERTY & DEVELOPMENT, LLC on behalf  
of the company.

Jan M. Bell  
NOTARY PUBLIC

My commission expires: 12/31/09.

## EXHIBIT A

All that certain piece or parcel of land situate in Berkeley Magisterial District, James City County, Virginia, containing 17.32 acres, more or less and being shown and designated as 20.4 acres "Theodore Wallace" on that certain plat entitled "Wallace - Taylor, Plat showing division of Property Situated near Centerville, Jamestown Magisterial District, James City County, Va." dated March 7, 1952, made by R. V. Carter, Certified Land Surveyor, recorded in the Clerk's Office of James City County along with a partition deed between Theodore Wallace and Pearl Wallace Taylor dated April 21, 1952, and recorded in the Clerk's Office May 6, 1952, in Deed Book 47, page 326. The said property is bounded on the North by State Highway No. 612, on the East by the property now or formerly of Elizabeth (Lizzie) Lee and New Zion Baptist Church, on the South by the property formerly owned by Siggarr Bradby and on the West by the property of Pearl Wallace Taylor and James Melvin Wallace and Betty W. Wallace. Being a part of Parcel B conveyed to Theodore Wallace and Lillian B. Wallace by deed dated April 21, 1952, recorded in the Clerk's Office of James City County, Virginia in Deed Book 47, page 328, SAVE AND EXCEPT a portion of the property containing 1.0796 acres which was conveyed to James Melvin Wallace and Betty W. Wallace by Deed dated January 9, 1970, from Theodore R. Wallace and Lillian B. Wallace, recorded in Deed Book 125, at page 39, LESS AND EXCEPT a portion of the property containing 0.99 acres, more or less, which was conveyed to New Zion Baptist Church by Deed dated September 8, 1997, from Thomas B. Wallace, recorded as instrument number 970016355, LESS AND EXCEPT a portion of the property containing 1.00 acres, more or less, which was conveyed to Geneva Wallace, James Jackson, Sr., Willie Brown, Elvin Jones, and Robert Kenneth Taylor, Sr., Trustees of the New Zion Baptist Church dated November 12, 2001, from Thomas B. Wallace, recorded as instrument number 010021684.

Together with all and singular the buildings and improvements thereon, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Subject, however, to all easements, conditions, and restrictions of record affecting said property.

**RESOLUTION**

**CASE NOS. Z-16-04 AND MP-12-04. BURLINGTON WOODS**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning and Master Plan Case Nos. Z-16-04 and MP-12-04 for rezoning approximately 17.32 acres from R-8, Rural Residential, to R-2, General Residential, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public Hearing on April 4, 2005, recommended approval of Case Nos. Z-16-04 and MP-12-04, by a vote of 5 to 1; and

WHEREAS, the property is identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (33-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-16-04 and MP-12-04 and accepts 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 10th day of May, 2005.

Z-16-04MP-12-04.res

**RESOLUTION**

**CASE NO. SUP-35-04. BURLINGTON WOODS**

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

WHEREAS, Mr. Michael Baust of Rickmond + Bury has applied on behalf of Tidewater Partners Property & Development, LLC for a special use permit to allow a single-family subdivision with a maximum gross density of 1.5 units per acre in accordance with the provisions of Section 24-254 (c) of the Zoning Ordinance; and

WHEREAS, the property is identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (33-3); and

WHEREAS the Planning Commission of James City County, following its Public Hearing on April 4, 2005, recommended approval of Case No. SUP-35-04 by a vote of 5 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 35-04 as described herein with the following conditions:

1. If construction has not commenced on this project within thirty-six months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining a land-disturbing permit and start of land-disturbing construction activities for the project.
2. A landscaping plan shall be approved by the Planning Director or his designee prior to final approval of any subdivision plat for the development. The owner shall provide enhanced landscaping for the area along the property frontage on Longhill Road and adjacent to any residential dwellings. Enhanced landscaping shall be defined as 133 percent of Zoning Ordinance landscape requirements.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of May, 2005.

Sup-35-04.res

**MEMORANDUM**

DATE: May 10, 2005

TO: The Board of Supervisors

FROM: Shari Diener, William & Mary Law Student  
Stephen McDonald, William & Mary Law Student

SUBJECT: Proposed Amendments to Chapter 9, Fire Protection, of the Code of James City County

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Attached are proposed amendments to Chapter 9, Fire Protection, of the Code of James City County, submitted by Shari Diener and Stephen McDonald from Professor Ronald Rosenberg’s local government and land use seminar at the College of William & Mary School of Law.

Research and analysis into possible code revisions were initiated at the Board’s request. The law students worked with Deputy Fire Marshal Joe Davis and County Attorney Leo Rogers through an internship component of Professor Rosenberg’s seminar to analyze and offer recommendations to the Board regarding the James City County open burning ordinance. The analysis consisted of research into relevant code sections of neighboring jurisdictions regarding open burning and permitting requirements. The research was compiled into a memorandum which was transmitted to the County Attorney as well as the Fire Department.

The Board is asked to consider amending Chapter 9, Article I of the Code of James City County (“The Code”) to incorporate a prohibition on the open burning of land clearing debris waste within the primary service area (“PSA”) of James City County. This amendment will not affect open burning of debris waste conducted outside of the PSA. The rationale behind the proposal stems from the impact of open burning of land clearing debris waste on surrounding communities within the PSA. Specifically, impacts such as smoke, ash, visual intrusions, and offensive odors support the prohibition within the PSA. This prohibition will not be applicable to open burning in existing agricultural and/or forestal practices within the PSA. In addition, there is an exception providing for the open burning of land clearing debris waste within the PSA in the event of a locally declared emergency, in order to ensure the public’s safety, health, and well-being.

The Board is also asked to consider amending The Code to clarify the prohibition of consumer fireworks by the addition of appropriate subsections to Section 9-2 and Section 9-3.

Looking ahead, the Board should be apprised that the issue of permit fees was analyzed in conjunction with the research conducted. In December 2005, the County intends to revisit the issue of possible permit fee increases in anticipation of the budget for Fiscal Year 2007.

Staff recommends that the Board approve the attached ordinance, amending Chapter 9 Fire Protection, Article I Fire Prevention Code of the Code of James City County.

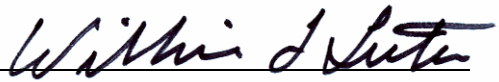
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Shari Diener

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Stephen McDonald

CONCUR:



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William T. Luton

SD/SM/tlc  
Fireprotect.mem

Attachment:

1. Amended Ordinance

ORDINANCE NO.

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

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and reordained by amending Section 9-2, Definitions; Section 9-3, Amendments; and by amending and renaming Section 9-4, Open burning prohibitions.

CHAPTER 9. FIRE PROTECTION

Article I. Fire Prevention Code\*

**Sec. 9-2. Definitions.**

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

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

*Fireworks.* Any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or flammable compound or substance and is intended or commonly known as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The term "fireworks" shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term "fireworks" shall not include auto flares or caps for pistols.

IFC. International Fire Code/2000.

*Jurisdiction.* The County of James City, Virginia.

*Debris waste.* Include stumps, wood, brush and leaves from land clearing operations.

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

*Primary service area. The primary service area (PSA) is the area as defined in Chapter 24, Article I, Section 24-2 of this Code.*

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

**Sec. 9-3. Amendments.**

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

- (1) *SFPC Section 107.2, Permits required* , is hereby added:

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

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

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

- (2) *SFPC Table 107.2, Operational Permit Requirements* is hereby added:

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

- (3) *SFPC Section 112.1, Local Board of Fire Prevention Code Appeals (BFPCA)*, is hereby added:

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

- (4) *SFPC Section 112.2.1, Chairman* is hereby added:

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

- (5) *IFC Section 503.2.2, Authority* is hereby added:

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



- (6) *IFC Section 307.2.2, Prohibited open burning*, is hereby added:

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

- (a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.
- (b) Except as provided in subsection (c), during the period beginning February 15 and ending April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county or any portion thereof organized for forest fire control under the direction of the state forester, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set on federal lands.

- (c) Subsection (b) shall not apply to any fire set between February 15 and March 1 of each year, if:
  - 1. The fire is set for “prescribed burning” that is conducted in accordance with a “prescription” and managed by a “certified prescribed burn manager” as those terms are defined in Va. Code section 10.1-1150.1;
  - 2. The burn is conducted in accordance with Va. Code section 10.1-1150.4;
  - 3. The state forester has, prior to February 1, approved the prescription for the burn; and
  - 4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year; (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or (iii) management necessary for natural heritage resources.

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

- (d) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.
- (e) Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the state forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.

- (7) *IFC Section 307.3, Location*, is added:

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

- (8) *IFC Section 1404.3, Open burning* is hereby added:

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

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

- (9) *IFC Section 307.2.2, Prohibited open burning* is hereby added:

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

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

(10) *IFC 3301.1.3 Fireworks, Exception 4 is hereby deleted.*

(101) *SFPC Section 3301.2, Permit required, is hereby added:*

(a) *Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any fireworks without a permit.*

(b) *The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the fire official for the public or private display of fireworks, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.*

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

(11) *SFPC Section 3302.1, Definitions, is hereby amended to read:*

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

~~"Fireworks." Any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or flammable compound or substance and is intended or commonly known as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The term "fireworks" shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term "fireworks" shall not include auto flares or caps for pistols.~~

~~"Permissible fireworks." Any auto flares or caps for pistols.~~

(12) *SFPC Section 3301.2.4.2, Fireworks display* is amended to read:

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

(13) *SFPC Section 3301.7, Seizure* is amended to read:

*The fire marshal or any law enforcement officer shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered or exposed for display or sale, stored, possessed or held in violation of this section. Violation of this chapter is a class 1 misdemeanor.*

#### **Sec. 9-4. Open burning of yard waste ~~prohibitions.~~**

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

##### **I. Yard waste.**

(1) *IFC Section 307.2.2, Prohibited open burning*, is hereby added.

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

**2. *Land clearing debris.***

*Except as otherwise provided in this section, open burning of land clearing debris within the PSA shall be prohibited.*

**Secs. 9-5 - 9-6. Reserved.**

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Michael J. Brown, Chairman  
Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 10th day of May, 2005.

FireProtect.ord1

## M E M O R A N D U M

DATE: May 10, 2005

TO: The Board of Supervisors

FROM: Clara C. Christopher, General Registrar

SUBJECT: Establishment of Polling Places and Election Precincts Berkeley C and Powhatan C

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The Code of Virginia § 24.2-307 states that the general registrar shall notify the governing body whenever the number of voters who voted in a precinct in an election for President of the United States exceeds 4,000. Within six months of receiving the notice, the governing body shall proceed to revise the precinct boundaries, and any newly established or redrawn precinct shall have no more than 5,000 registered voters.

Official results of the November 2, 2004, Presidential Election show that Berkeley B had 4,345 voters and Powhatan A had 4,496. Mr. Bruce C. Goodson, Chairman, was notified by the General Registrar on November 18, 2004. The James City County Electoral Board met on March 21, 2005, and approved the revision of precinct boundaries for Berkeley Precinct B and Powhatan Precinct A and the creation of polling places and election precinct boundaries for Berkeley Precinct C and Powhatan Precinct C, as provided in the attached ordinance amendments. The precinct boundaries have been reviewed for accuracy by planning and mapping staff.

Prior to implementing the ordinance change, the Voting Rights Acts of 1965 requires the County to receive approval from the Department of Justice. This approval process generally takes a minimum of 60 days and cannot be initiated until the Board adopts the implementing ordinance. After adoption and approval, all registered voters whose polling place and election precinct has changed will be notified at least 15 days prior to the next election. It is recommended that the effective date of the amended ordinance be August 19, 2005.

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Clara C. Christopher

CONCUR:

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Michael H. Drewry

CCC/gb  
Election.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, MAGISTERIAL DISTRICT, ELECTION DISTRICTS AND ELECTION PRECINCTS, BY AMENDING SECTION 2-4, ELECTION PRECINCTS AND POLLING PLACES ESTABLISHED; AND SECTION 2-5, ELECTION DISTRICT BOUNDARIES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-4, Election precincts and polling places established; and Section 2-5, Election district boundaries

CHAPTER 2. ADMINISTRATION

Article II. Magisterial District, Election Districts and Election Precincts

**Sec. 2-4. Election precincts and polling places established.**

(a) Pursuant to authority contained in the Code of Virginia, Chapter 24.2, the precincts and their respective polling places for the county are hereby created and established as set forth in this section.

(b) The precincts for each election district and the polling place for each precinct shall be as set forth below:

*Berkeley Election District:*

Berkeley Precinct A - James City-Williamsburg Community Center polling place.

Berkeley Precinct B - Jamestown High School polling place.

*Berkeley Precinct C - Jamestown High School polling place.*

*Jamestown Election District:*

Jamestown Precinct A - Clara Byrd Baker Elementary School polling place.

Jamestown Precinct B - Rawls Byrd Elementary School polling place.

*Roberts Election District:*

Roberts Precinct A - Mt. Gilead Baptist Church polling place.

Roberts Precinct B - James River Elementary School polling place.

Roberts Precinct C - Grace Baptist Church polling place.

*Powhatan Election District:*

Powhatan Precinct A - D.J. Montague Elementary School polling place.  
Powhatan Precinct B - Christian Life Center.  
*Powhatan Precinct C - Greensprings Chapel.*

*Stonehouse Election District:*

Stonehouse Precinct A - Toano Middle School polling place.  
Stonehouse Precinct B - Norge Elementary School.

**Sec. 2-5. Election district boundaries.**

*Berkeley Election District:*

*Berkeley Precinct A.* Beginning at the intersection of State Route 199 and State Route 615 (West) extended to intersect with State Route 615 (East); thence northerly following the centerline of State Route 199 to its intersection with State Route 612; thence westerly following the centerline of State Route 612 to its intersection with an unnamed dirt road 577 feet south of State Route 658; thence northeasterly following the centerline of the unnamed dirt road projected 706 feet across State Route 199 to its intersection with an unnamed dirt road parallel to State Route 199; thence northerly following the centerline of the unnamed dirt road to its intersection with State Route 658; thence northerly following the centerline of State Route 658 to its intersection with U.S. Route 60; projecting the centerline of State Route 658 easterly to its intersection with the southwest corner of Parcel (33-3) (1-10); thence easterly along the southern property line of Parcel (33-3) (1-10) to the James City County-York County boundary line; thence southerly along the James City County-York County boundary line to its intersection with the James City County-Williamsburg boundary line; thence southerly along the James City County-Williamsburg boundary line to its intersection with State Route 615 and State Route 616; thence westerly along the centerline of State Route 615 (East) extended to intersect with State Route 615 (West); thence westerly along the centerline of State Route 615 (West) to its intersection with State Route 5; thence easterly following the centerline of State Route 5 to its intersection with Mill Creek; thence northerly following the centerline of Mill Creek to its intersection with State Route 199; thence northerly following the centerline of State Route 199 to the point of beginning.

*Berkeley Precinct B.* Beginning at the intersection of State Route 5 and Mill Creek; thence southerly following the centerline of Mill Creek to its intersection with State Route 629; thence west following the centerline of State Route 629 to its intersection with State Route 615; thence southerly following the centerline of State Route 615 to its intersection with State Route 681; thence southerly following the centerline of State Route 681 to its intersection with State Route 31; thence westerly following the centerline of State Route 31 to its intersection with State Route 614; thence northerly following the centerline of State Route 614 to its intersection with State Route 5; thence westerly following the centerline of State Route 5 to the point where it intersects Shellbank Creek; thence southerly following the centerline of Shellbank Creek extended to the centerline of the James River; thence westerly following the centerline of the James River to the centerline of the Chickahominy River and the James City County-Charles City County boundary line; thence northerly following the centerline of the Chickahominy River and the James City County-Charles City County boundary line to its intersection with *State Route 5; thence easterly following the centerline of State Route 5 to the point of beginning.* ~~the extended centerline of Gordon Creek; thence easterly following the centerline of Gordon Creek to Pine Woods Creek; thence following the centerline of Pine Woods Creek to its intersection with the southwest corner of Parcel (35-4) (1-9); thence easterly following the northwest boundary of Parcel (35-4) (1-9) to its intersection with State Route 613; thence easterly following the centerline of State~~



~~Route 613 to its intersection with State Route 614; thence north following the centerline of State Route 614 to its intersection with State Route 613; thence easterly following the centerline of State Route 613 to its intersection with Old News Road; thence following the centerline of Old News Road to its intersection with State Route 615 (West); thence southerly following the centerline of State Route 615 (West) to its intersection with State Route 5; thence easterly following the centerline of State Route 5 to the point of beginning.~~

*Berkeley Precinct C. Beginning at the intersection of State Route 615 and State Route 5; thence westerly following the centerline of State Route 5 to its intersection with the Charles City County-James City County boundary line at the centerline of the Chickahominy River; thence north following the Charles City County-James City County boundary and the centerline of the Chickahominy River to the extended centerline of Gordon Creek; thence easterly following the centerline of Gordon Creek to Pine Woods Creek; thence following the centerline of Pine Woods Creek to its intersection with the southwest corner of Parcel (35-4) (1-9); thence easterly following the northwest boundary of Parcel (35-4) (1-9) to its intersection with State Route 613; thence easterly following the centerline of State Route 613 to its intersection with State Route 614; thence northerly following the centerline of State Route 614 until its intersection with State Route 613; thence easterly following the centerline of State Route 613 to its intersection with Old News Road; thence following the centerline of Old News Road to its intersection with State Route 615 (West); thence southerly following the centerline of State Route 615 (West) to the point of beginning.*

*Jamestown Election District:*

*Jamestown Precinct A. Beginning at the intersection of the projected centerline of Mill Creek and the centerline of the James River; thence north following the centerline of Mill Creek to Lake Powell; thence northwest following the centerline of Lake Powell to Mill Creek; thence following the centerline of Mill Creek to its intersection with State Route 629; thence westerly following the centerline of State Route 629 to its intersection with State Route 615; thence south following the centerline of State Route 615 to State Route 681; thence south following the centerline of State Route 681 to State Route 31; thence southerly following the centerline of State Route 31 to its intersection with State Route 614; thence north following the centerline of State Route 614 to its intersection with State Route 5; thence west following the centerline of State Route 5 to its intersection with Shellbank Creek; thence south following the centerline of Shellbank Creek extended to the centerline of the James River; thence easterly following the centerline of the James River to the point of beginning.*

*Jamestown Precinct B. Beginning at the intersection of the projected centerline of Mill Creek and the centerline of the James River; thence north following the centerline of Mill Creek to Lake Powell; thence northwest following the centerline of Lake Powell to Mill Creek; thence following the centerline of Mill Creek to its intersection with State Route 199; thence northerly following the centerline of State Route 199 to its intersection with State Route 615 (West) extended to intersect with State Route 615 (East); thence easterly following the centerline of State Route 615 (East) to its intersection with the James City County-Williamsburg boundary line; thence southerly following the James City County-Williamsburg boundary line to its intersection with College Creek; thence southerly following the centerline of College Creek 2,456 feet to its intersection with the extended centerline of an unnamed dirt road; thence following the centerline of the unnamed dirt road to its intersection with Marclay Road; thence westerly following the centerline of Marclay Road to its intersection with State Route 617; thence southerly following the centerline of State Route 617; projecting the centerline of State Route 617 to its intersection with the centerline of the James River; thence westerly following the centerline of the James River to the point of beginning.*

*Powhatan Election District:*

*Powhatan Precinct A.* Beginning at the intersection of State Route 614 and the Dominion Resources Inc. Transmission Easement; thence northerly following the centerline of the Dominion Resources Inc. Transmission Easement to its intersection with Yarmouth Creek; thence following the centerline of Yarmouth Creek to Shipyard Creek; thence following the centerline of Shipyard Creek to the Chickahominy River; thence southerly following the Chickahominy River and the James City County-Charles City County boundary line to its intersection with the projected centerline of Gordon Creek; thence easterly following the centerline of Gordon Creek to Pine Woods Creek; thence following the centerline of Pine Woods Creek to its intersection with the southwest corner of Parcel (35-4) (1-9); thence easterly following the northwest boundary of Parcel (35-4) (1-9) to its intersection with State Route 613; thence easterly following the centerline of State Route 613 to its intersection with State Route 614; thence north following the centerline of State Route 614 to its intersection with State Route 613; thence easterly following the centerline of State Route 613 to its intersection with *Powhatan Creek*; thence northerly following the centerline of *Powhatan Creek* until its intersection with State Route 612; thence westerly following the centerline of State Route 612 until its intersection with State Route 614; thence northerly following the centerline of State Route 614 to the point of beginning. ~~Old News Road; thence following the centerline of Old News Road to its intersection with State Route 615 (West); thence following to a point where State Route 615 (West) extended to State Route 615 (East) intersects with State Route 199; thence northerly following the centerline of State Route 199 to its intersection with State Route 612; thence westerly following the centerline of State Route 612 to its intersection with State Route 614; thence northerly following the centerline of State Route 614 to the point of beginning.~~

*Powhatan Precinct B.* Beginning at the intersection of U.S. Route 60 and State Route 614; thence westerly following the centerline of State Route 614 to its intersection with State Route 612; thence easterly following the centerline of State Route 612 to its intersection with an unnamed dirt road 577 feet south of State Route 658; thence northeasterly following the centerline of the unnamed dirt road projected 706 feet across State Route 199 to its intersection with an unnamed dirt road parallel to State Route 199; thence northerly following the centerline of the unnamed dirt road to its intersection with State Route 658; thence northerly following the centerline of State Route 658 to its intersection with U.S. Route 60; projecting the centerline of State Route 658 easterly to its intersection with the southwest corner of Parcel (33-3) (1-10); thence easterly along the southern property line of Parcel (33-3) (1-10) to the James City County-York County boundary line; thence northerly along the James City County-York County boundary line to the point of beginning.

*Powhatan Precinct C.* Beginning at the intersection of State Route 613 and *Powhatan Creek*; thence easterly following the centerline of State Route 613 to its intersection with *Old News Road*; thence following the centerline of *Old News Road* to its intersection with State Route 615 (West); thence following to a point where State Route 615 (West) extended to State Route 615 (East) intersects with State Route 199; thence northerly following the centerline of State Route 199 to its intersection with State Route 612; thence westerly following the centerline of State Route 612 to its intersection with *Powhatan Creek*; thence southerly following the centerline of *Powhatan Creek* to the point of beginning.

The Ordinance Amendments shall become effective following approval by the Department of Justice, and the first election in which the Ordinance Amendments will be utilized shall be November 8, 2005.

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Michael J. Brown, Chairman  
Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 10th day of May, 2005.

Election.ord

MEMORANDUM

DATE: May 10, 2005  
TO: The Board of Supervisors  
FROM: Richard B. Hanson, Housing and Community Development Administrator  
SUBJECT: Housing Rehabilitation Demonstration Program Appropriation

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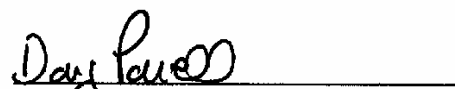
James City County Office of Housing and Community Development (OHCD) is one of 19 organizations statewide selected based on competitive applications to receive an award of Federal HOME grant funds available through the Rural Virginia Housing Rehabilitation Demonstration Program. This Program is a one-time investment program created to fund rural housing projects outside the scope of other Federal and State funded major housing rehabilitation programs. James City County was awarded a grant of \$200,000. This grant, along with local matching resources, will be used to undertake major rehabilitation or replacement of approximately seven homes owned and occupied by low- and moderate-income County households. Forty-two potential recipients of this assistance were identified in December 2004 through a review of OHCD's database and files, a survey of other County Departments and local agencies, and inquiries received based on an article published in the local press. A ranking system was developed to give priority to assist eligible owners whose homes have major electrical, heating, plumbing, and/or structural system failures, as well as homes occupied by elderly or disabled persons with accessibility needs and significant system improvement needs.

Households assisted through the Housing Rehabilitation Demonstration Program will be provided loans with repayment amount based on ability to pay and forgivable after ten years. For projects whose costs exceed limits established under the Rural Virginia Housing Rehabilitation Demonstration Program, income from previous rehabilitation loan repayments will be used and the loan repayment term will be extended beyond ten years. It is projected that \$40,000 of supplemental funding from the Community Development Fund will be required for this purpose. Additionally, Housing Partnerships Inc., has committed labor, material, and financial resources valued at over \$50,000 for several of the rehabilitation and replacement projects.

In addition to appropriation of funds to operate the Housing Rehabilitation Demonstration Program, the attached resolution designates the allowable uses for future program income from the Housing Rehabilitation Demonstration Program as well as the Indoor Plumbing Rehabilitation Program, which is also funded with Federal HOME funds. Staff recommends adoption of the attached resolution to appropriate funds to operate the Housing Rehabilitation Demonstration Program.

  
Richard B. Hanson

CONCUR:

  
Doug Powell

RBH/gs  
housingapp.mem

Attachment

**RESOLUTION**

**HOUSING REHABILITATION DEMONSTRATION PROGRAM APPROPRIATION**

WHEREAS, the Commonwealth of Virginia has established the Rural Virginia Housing Rehabilitation Demonstration Program with funding from the Federal HOME Program to provide assistance to low- and moderate-income homeowners with housing rehabilitation needs which cannot be addressed by current assistance programs; and

WHEREAS, James City County submitted an application to participate in the Rural Virginia Housing Rehabilitation Demonstration Program and was awarded a grant of \$200,000; and

WHEREAS, local matching funds of \$40,000 are required to supplement the grant funds; and

WHEREAS, program income is anticipated to be earned from loan repayments from the Housing Rehabilitation Demonstration Program and the Indoor Plumbing Rehabilitation Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Community Development Fund Budget, as adopted for the fiscal year ending June 30, 2005, as follows:

Revenues:

Housing Rehabilitation Demonstration Program Funds	\$200,000
Community Development Fund Balance	<u>40,000</u>
Total	<u>\$240,000</u>

Expenditure:

Housing Rehabilitation and Administration	<u>\$240,000</u>
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BE IT FURTHER RESOLVED that the appropriation of funds for the Housing Rehabilitation Demonstration Program be designated a continuing appropriation, to carry beyond FY 2005 until the activities of the Rural Virginia Housing Rehabilitation Demonstration Program are completed.

BE IT FURTHER RESOLVED that Housing Rehabilitation Demonstration and Indoor Plumbing Rehabilitation Program income shall be used for additional housing rehabilitation, substantial reconstruction, replacement housing, or homeownership assistance and administrative expenses in accordance with HOME program regulations and requirements of the Virginia Department of Housing and Community Development.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of  
May, 2005.

housingapp.res

MEMORANDUM

DATE: May 10, 2005  
TO: The Board of Supervisors  
FROM: John E. McDonald, Manager of Financial and Management Services  
SUBJECT: The Issuance and Sale of General Obligation Public Improvement Bonds

On November 2, 2004, James City County voters approved financing up to \$39,820,000 for the construction of a third high school. The issuance on sale of General Obligation Public Improvement Bonds will provide the financing for this project. The bonds are expected to be sold on or about May 24.

The attached resolution prepared by Troutman-Sanders, LLP, the County's bond counsel, allows the Chairman and County Administrator to officially close on the financing next month.

Staff recommends approval of the attached resolution.

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John E. McDonald

JEM/gb  
obligbonds05.mem

Attachment

**RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF**

**GENERAL OBLIGATION SCHOOL BONDS, SERIES 2005,**

**OF THE COUNTY OF JAMES CITY, VIRGINIA,**

**AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF**

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum principal amount of \$39,820,000 was approved by the qualified voters of the County in a referendum at a special election held on November 2, 2004, to finance a new high school (the "Project"); and

WHEREAS, the County's Board of Supervisors (the "Board") determines that it may now be in the best interests of the County to issue and sell general obligation school bonds to finance the Project. The Board determines that it would be advantageous to the County to sell such bonds in a competitive sale.

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

**Section 1.**            **Authorization, Issuance and Sale.** There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation school bonds of the County in the principal amount not to exceed \$39,820,000 to finance the costs of the Project and to pay the costs incurred in connection with issuing such bonds. The Board hereby elects to issue such bonds under the provisions of the Act.

**Section 2.**            **Bond Details.** Such bonds shall be designated "General Obligation School Bonds, Series 2005" (the "Bonds"), shall be dated June 1, 2005, shall be in registered form, in denominations of \$5,000 and multiples thereof, and shall be numbered R-1 upward. Subject to Section 4, the Bonds shall mature in installments, or have mandatory sinking fund installments, on each December 15 ending no later than the year 2036. Interest on the Bonds shall be payable on December 15, 2005, and semiannually thereafter on each June 15 and December 15 (each, an "Interest Payment Date"), and shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Board authorizes the issuance and sale of the Bonds on such terms as shall be satisfactory to the County Administrator or the Chairman of the Board; *provided*, that the Bonds (a) shall have a true or "Canadian" interest cost not to exceed 5.50% per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98% nor more than 103% of the original aggregate principal



amount thereof; (c) shall have a weighted average maturity of no more than twenty-five (25) years; (d) shall be issued in an aggregate amount not to exceed \$39,820,000; and (e) shall be subject to optional redemption, so long as the Bonds may be optionally redeemed after eleven years (or such shorter period as deemed advisable in the sale of the Bonds in accordance with Section 4(e)), with a redemption premium no greater than two percent (2.00%) of the principal amount of the Bonds to be optionally redeemed.

Principal and premium, if any, on the Bonds shall be payable to the registered owners upon surrender of the Bonds as they become due at the designated corporate trust office of the Registrar, as defined in Section 8 below. Interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on the registration books kept by the Registrar as of the close of business on the first day of the month in which each Interest Payment Date occurs. In case the date of maturity or redemption of the principal of any Bond or an Interest Payment Date shall be a date on which banking institutions are authorized or obligated by law to close at the place where the designated corporate trust office of the Registrar is located, then payment of principal and interest need not be made on such date, but may be made on the next succeeding date which is not such a date at the place where the designated corporate trust office of the Registrar is located, and if made on such next succeeding date no additional interest shall accrue for the period after such date of maturity or redemption or Interest Payment Date. Principal, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless such Bond is (a) authenticated before December 15, 2005, in which case it will bear interest from June 1, 2005, or (b) authenticated upon an Interest Payment Date or after the record date with respect thereto, in which case it will bear interest from such Interest Payment Date (unless payment of interest thereon is in default, in which case interest on such Bond shall be payable from the date to which interest has been paid).

**Section 3.** **Book-Entry System.** Initially, one Bond certificate for each maturity of the Bonds shall be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee. The County has entered into or will enter into a Blanket Issuer Letter of Representations relating to a book-entry system to be maintained by DTC with respect to certain securities issued by the County, including the Bonds. As used herein, the term "Securities Depository" shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section 3.

In the event that (a) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar or the County, or (b) the County in its sole

discretion determines (i) to select a new Securities Depository or (ii) that beneficial owners of Bonds shall be able to obtain certificated Bonds, then the County Administrator shall, at the direction of the County, attempt to locate another qualified securities depository to serve as Securities Depository or arrange for the authentication and delivery of certificated Bonds to the beneficial owners or to the Securities Depository's participants on behalf of beneficial owners, substantially in the form provided for in Exhibit A. In delivering certificated Bonds, the County Administrator shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository's participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth in Section 8.

So long as there is a Securities Depository for the Bonds (1) it or its nominee shall be the registered owner of the Bonds, (2) notwithstanding anything to the contrary in this Resolution, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges, and receipt of notices shall be the responsibility of the Securities Depository and shall be effected pursuant to rules and procedures established by such Securities Depository, (3) the Registrar and the County shall not be responsible or liable for maintaining, supervising, or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants, (4) references in this Resolution to registered owners of the Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial owners of the Bonds, and (5) in the event of any inconsistency between the provisions of this Resolution and the provisions of the above-referenced Letter of Representations, such provisions of the Letter of Representations, except to the extent set forth in this paragraph and the next preceding paragraph, shall control.

**Section 4. Redemption Provisions.**

- (a) Optional Redemption. Subject to the provisions of Section 2 above and subsection (e) below, the Bonds may be subject to optional redemption prior to their respective stated dates of maturity as determined by the County Administrator or the Chairman of the Board.
- (b) Mandatory Sinking Fund Redemption. Any term bonds may be subject to mandatory sinking fund redemption as determined by the County Administrator or the Chairman of the Board. If there are any term bonds, on or before the 70th day next preceding any mandatory sinking fund redemption date, the County may apply as a credit against the County's mandatory sinking fund redemption obligation for any Bonds maturing on such date, Bonds that previously have been optionally redeemed or purchased and canceled or surrendered for cancellation by the County and not previously applied as a credit against any mandatory sinking fund redemption

obligation for such Bonds. Each such Bond so purchased, delivered or previously redeemed shall be credited at 100% of the principal amount thereof against the principal amount of the Bonds required to be redeemed on such mandatory sinking fund redemption date. Any principal amount of Bonds so purchased, delivered or previously redeemed in excess of the principal amount required to be redeemed on such mandatory sinking fund redemption date shall similarly reduce the principal amount of the Bonds to be redeemed on future mandatory sinking fund redemption dates, as selected by the County Administrator or the Chairman of the Board.

- (c) Bonds Selected for Redemption. If less than all of the Bonds are called for optional redemption, the maturities of the Bonds to be redeemed shall be selected by the County Administrator or the Chairman of the Board in such manner as he may determine to be in the best interest of the County. If less than all the Bonds of any maturity are called for redemption, the Bonds to be redeemed shall be selected by DTC or any successor Securities Depository pursuant to its rules and procedures or, if the book-entry system is discontinued, shall be selected by the Registrar by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof and (b) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. If a portion of a Bond is called for redemption, a new Bond in principal amount equal to the unredeemed portion thereof will be issued to the registered owner upon the surrender thereof.
- (d) Notice of Redemption. The County shall cause notice of the call for redemption identifying the Bonds or portions thereof to be redeemed to be sent by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the redemption date, to the Securities Depository as the registered owner of the Bonds or, if the book-entry system is discontinued, by registered or certified mail to the registered owners of the Bonds to be redeemed.
- (e) Determination of Final Redemption Provisions. The Board authorizes the County Administrator or the Chairman of the Board, in collaboration with Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor"), (1) to determine the dates on which and redemption prices at which the Bonds may be optionally redeemed, and (2) to determine whether the issuance of any term bonds would be beneficial to the County.



**Section 5.**            **Execution and Authentication.** The Bonds shall be signed by the manual or facsimile signature of the Chairman or Vice Chairman of the Board and the Board's seal shall be affixed thereto or a facsimile thereof printed thereon and attested to by the manual or facsimile signature of the Clerk or Deputy Clerk of the Board; *provided*, that no Bond shall be valid until it has been authenticated by the manual signature of an authorized representative of the Registrar and the date of authentication noted thereon. Upon execution and authentication, the Bonds shall be delivered to or on behalf of the successful bidder upon payment for the Bonds.

**Section 6.**            **Bond Form.** The Bonds shall be in substantially the form set forth in Exhibit A attached hereto, with such changes, insertions, completions or omissions to reflect the final terms of the Bonds.

**Section 7.**            **Pledge of Full Faith and Credit.** The full faith and credit of the County are irrevocably pledged for the payment of principal of, premium, if any, and interest on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of, premium, if any, and interest on the Bonds, as the same become due.

**Section 8.**            **Registration, Transfer and Owners of Bonds.** SunTrust Bank, Richmond, Virginia, is appointed paying agent and registrar for the Bonds (the "Registrar"). The Registrar shall maintain registration books for the registration of the Bonds. Upon surrender of any Bonds at the designated corporate trust office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute, and the Registrar shall authenticate and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or his duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books on the first day of the month in which each Interest Payment Date occurs.

**Section 9.** **Sale of Bonds.** The Board approves the following terms of the sale of the Bonds. The Bonds will be sold by competitive bid. The County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, shall receive bids for the Bonds and award the Bonds to the bidder providing the lowest true or “Canadian” interest cost, all subject to the limitations set forth in Section 2. The Board further authorizes the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, to (a) determine the principal amount of the Bonds, subject to the limitations set forth in Section 2, (b) determine the maturity schedule of the Bonds, subject to the weighted average maturity limitations and other limitations set forth in Section 2, and (c) establish the redemption provisions for the Bonds, subject to the limitations set forth in Section 2 and Section 4(e). Prior to the sale of the Bonds, the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, may change the dated date of the Bonds and the payment dates provided therein (so long as the interest payment dates for any series are semi-annual) to facilitate the sale and delivery of the Bonds. The actions of the County Administrator or the Chairman of the Board in selling the Bonds shall be conclusive, and no further action with respect to the sale and issuance of the Bonds shall be necessary on the part of the Board.

**Section 10.** **Official Statement.** The form of the Preliminary Official Statement of the County, to be dated the date of its mailing (the “Preliminary Official Statement”), has been made available to the Board prior to the adoption of this Resolution. The use and distribution of the Preliminary Official Statement, in substantially the form made available to the Board, including the use and distribution of an Appendix to the Preliminary Official Statement describing the County, are hereby authorized and approved. The Preliminary Official Statement, including such Appendix, may be completed and “deemed final” by the County Administrator or the Chairman of the Board as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”), except for the omission from the Preliminary Official Statement of such pricing and other information permitted to be omitted pursuant to the Rule. The delivery of the Preliminary Official Statement to the Financial Advisor shall be conclusive evidence that it has been deemed final as of its date by the County Administrator or the Chairman of the Board, except for the omission of such pricing and other information.

The County Administrator or the Chairman of the Board shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement (the “Official Statement”). The use and distribution of the Official Statement are hereby authorized and approved. The County Administrator or the Chairman of the Board shall arrange for the delivery to the successful bidder of a reasonable number of copies of the Official Statement, within seven (7) business days after the Bonds have been sold, for delivery to each potential investor requesting a copy of the Official

Statement and to each person to whom the successful bidder initially sells Bonds.

The County Administrator or the Chairman of the Board is authorized, on behalf of the County, to deem the Official Statement to be final as of its date within the meaning of the Rule. The County Administrator or the Chairman of the Board is authorized and directed to execute the Official Statement, which execution shall be conclusive evidence that the Official Statement has been deemed final.

**Section 11.**        **Continuing Disclosure.** A substantially final form of the Continuing Disclosure Agreement to be given by the County (the “Continuing Disclosure Agreement”), evidencing conformity with certain provisions of the Rule, has been made available to the Board prior to the adoption of this Resolution. The Continuing Disclosure Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Continuing Disclosure Agreement to reflect the final terms of the Bonds, the completion of the Official Statement or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Continuing Disclosure Agreement. The Board hereby authorizes the County Administrator or the Chairman of the Board to execute and deliver the Continuing Disclosure Agreement on behalf of the County.

The County hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Resolution, failure of the County to comply with the Continuing Disclosure Agreement shall not be considered a default under this Resolution or the Bonds; *provided*, that any holder of the Bonds, including owners of beneficial interests in the Bonds, may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the County to comply with its obligations under this Section 11 and the Continuing Disclosure Agreement.

**Section 12.**        **Sale Documents.** The use and distribution of the Notice of Bond Sale, the Summary Notice of Bond Sale, and the Official Bid Form, pursuant to which the Bonds will be offered for sale, are hereby authorized and approved.

**Section 13.**        **Arbitrage Covenants.**

(a)        **No Composite Issue.** The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bonds within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the “Code”).

- (b) No Arbitrage Bonds. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code, or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from its legally available funds.

**Section 14.** Non-Arbitrage Certificate and Elections. Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bonds in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bonds.

**Section 15.** Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bonds are not and will not be “federally guaranteed,” as such term is used in Section 149(b) of the



Code. No portion of the payment of principal of or interest on the Bonds is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

- Section 16.** **Discharge upon Payment of Bonds.** The Bonds may be defeased, as permitted by the Act. Any defeasance of the Bonds, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bonds or release the County from its obligations to pay the principal of, premium, if any, and interest on the Bonds as contemplated herein until the date the Bonds are paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 13 and 15 until the date the Bonds are paid in full.
- Section 17.** **Other Actions.** All other actions of the members of the Board, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and a Blanket Issuer Letter of Representations to the Securities Depository, and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.
- Section 18.** **Limitation of Liability of Officials of the County.** No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a member of the Board, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Board, officer, employee or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.
- Section 19.** **Contract with Registered Owner.** The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bonds for so long as the Bonds are outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bonds.
- Section 20.** **Repeal of Conflicting Resolutions.** All resolutions or parts of resolutions in conflict herewith are repealed.
- Section 21.** **Effective Date.** This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the City of Williamsburg and County of James City.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of  
May, 2005.

Obligbonds05\_res