

AGENDA

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

September 13, 2005

7:00 P.M.

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A. ROLL CALL	
B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE - Sarah Phillips, a fifth-grade student at D. J. Montague Elementary School, and Matthew Phillips, a second-grade student at D. J. Montague Elementary School	
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H. PUBLIC COMMENT

I. REPORTS OF THE COUNTY ADMINISTRATOR

J. BOARD REQUESTS AND DIRECTIVES

K. CLOSED SESSION

1. Consideration of personnel matters, the appointment of individuals to County boards and/or commissions; pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Social Services Advisory Board
 - b. Parks and Recreation Advisory Commission
 - c. Community Action Agency - Alternate
2. Consideration of the acquisition of a parcel(s) of property for public use; pursuant to Section 2.2-3711(A)(3) of the Code of Virginia

L. ADJOURNMENT

B. Observance of Holidays

1. If a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday; if a holiday falls on a Sunday, the following Monday shall be observed as the holiday. County operations which are open on holidays shall observe the actual holiday for purposes of holiday pay.
2. If an observed holiday falls on a day an employee is not otherwise scheduled to work, the employee shall earn compensatory leave in the amount of his monthly sick leave accrual rate for the observed holiday. In cases where this would present a hardship because of workload, the department manager may authorize payment in lieu of the compensatory leave if the budget permits.
3. An employee who is on approved leave with pay during a period in which a holiday falls, shall not be charged leave for the observed holiday.
4. An employee who is on military leave with pay during a period in which a holiday falls shall not receive any additional pay or compensatory leave for the holiday.
5. An employee forfeits eligibility to be compensated for the holidays observed by the County unless the employee works the last scheduled work day before the holiday and the first scheduled work day after the holiday. The forgoing does not apply to employees who are on authorized leave with pay.

C. Working on Holidays

1. If an employee is required to work on an observed holiday, he shall receive holiday pay as outlined in Chapter 4, Section 4.12.
2. Certain employees who are called to work on a County-observed holiday on which they are not scheduled to work may be eligible for premium pay as outlined in Chapter 4, Section 4.14.

Section 5.4 Leave

- A. Policy Statement - James City County recognizes the importance of balancing the productivity needs of the County with the needs of County employees and their families by providing employees with time away from work. It is the policy of the County to provide employees with continued income and benefits during certain approved absences of specified durations.
- B. Eligibility - Employees in part-time permanent and limited-term positions are eligible for leave on a pro-rated basis.

- C. Definition of Immediate Family - The immediate family is defined as: spouse, parent, son, daughter, brother, sister, grandparents, grandchildren, step-children, step-parents, guardian, spouse's parent, and any persons residing in the same household as the employee.
- D. Family and Medical Leave Act (FMLA) of 1993 - is a Federal law which guarantees employees who have ~~worked for~~ *been employed by* the County for *12 months and worked* at least 1,250 hours in the previous 12 months, up to 12 weeks away from work during a fiscal year for the purposes outlined below. An employee must use the appropriate type of leave during the absence. An employee who is absent under the FMLA will retain his employee benefits. Upon returning to work, the employee will return to the same job or a job with equivalent status, pay, and benefits.
1. Purpose - FMLA protects employees' jobs and benefits for specified periods of time, if they are absent from work because of:
 - a. the birth of a child and the care of that child;
 - b. the adoption or foster care placement of a child with the employee;
 - c. the need to care for a spouse, child, or parent with a serious health condition; or
 - d. the serious health condition of the employee that makes the employee unable to perform the essential functions of his position.
 2. Definition - For purposes of this policy, a week is defined as the annual authorized hours of the employee's position divided by 52.
 3. Employee Requirements - An eligible employee ~~wishing to take~~ *requesting* time off for one of the purposes listed in 1. above must comply with certain requirements. An employee must:
 - a. inform his supervisor that he is requesting leave under the FMLA and of the purpose of the leave;
 - b. work with his supervisor to identify the type of County leave(s) which will be taken during the FMLA absence;
 - c. provide medical certification of the situation necessitating the absence and a date on which the employee can be expected to return to work;
 - d. keep the supervisor informed of the status of the absence, including any change in the circumstances for which the leave is being taken, and the employee's intent to return to work; and
 - e. provide a fitness for duty certification from a physician before returning to work if the leave was taken for the employee's own serious health condition.

4. Supervisor Responsibility - If an employee requests leave for one of the purposes listed in 5.4.D.1 above, *or when the supervisor recognizes an employee's leave qualifies under FMLA*, the supervisor ~~may~~ shall inform *Human Resources* and the employee that it qualifies under FMLA and ask the employee to follow the requirements covered in 5.4.D.3 above. ~~The supervisor Human Resources shall inform the employee who has requested or taken leave under FMLA,~~ in writing, of his rights and responsibilities *under FMLA*.

- E. Types of Leave - The County offers the following types of leave. A brief summary of purposes for which leave may be used is listed below. For more details, see individual subsections.

Annual Leave	Any purpose.
Sick Leave	Personal doctor appointment, illness, or short-term disability. Immediate family member doctor appointment or illness.
Funeral Leave	Death of immediate family member.
Civil Leave	Serving on a jury. Attending court as a witness under subpoena.
Military Leave	National Guard or reserve member to engage in annual active duty for training or called forth by Governor during a disaster.
School Leave	Meet with teachers, attend school functions, or do volunteer work in any public or private school grades K-12 or a licensed preschool or daycare center.
Leave Without Pay	Unpaid absences from work.

1. Annual Leave - may be used by an employee to provide paid absences for any purpose.

a. Accrual -

- 1) New employees will have available up to the equivalent of five (5) months of annual leave accrual upon employment. The leave will be available immediately and leave not used will be credited to the employee's annual leave balance at the beginning of the sixth (6th) month.

- 2) Beginning in the sixth (6th) month of employment, annual leave shall be accrued in accordance with the chart below:

Monthly Accrual Rate			
Annual Authorized Hours	< 5 years of service	5<15 years of service	≥ 15 years of service
< 261	1	1.5	2
261-520	2	3.0	4
521-780	3	4.5	6
781-1,040	4	6.0	8
1,041-1,300	5	7.5	10
1,301-1,560	6	9.0	12
1,561-1,820	7	10.5	14
1,821-2,080	8	12.0	16
2,081-2,340	9	13.5	18
2,341-2,600	10	15.0	20
2,601-2,860	11	16.5	22
>2,860	12	18.0	24

- 2) The maximum amount of leave that an employee may accumulate is the amount of leave he can earn in a two-year period.
- 3) The employee's leave balance must be within the maximum accumulation amount on July 1 of each year or the excess shall be forfeited.

b. Payment for Accumulated Leave Upon Separation from Employment

- 1) No payment shall be made for any unused portion of annual leave if an employee leaves employment within the first five months.
- 2) Employees shall receive the monetary equivalent of their annual leave balance up to the annual maximum accumulation except as noted in item one (1) above. If two weeks' notice is not given by an employee, the equivalent of one day shall be deducted from the leave payments for each day that the employee failed to give notice of termination up to a two-week maximum. Exceptions may be made by the department manger.

2. Sick Leave - may be used by an employee to provide paid absences for health-related reasons as outlined below. Accumulated sick leave provides continued income for employees during periods of disability.

a. Purpose - Sick leave provides paid absences for the following reasons:

- 1) A personal illness, injury, and/or disability not incurred in the line of duty, which incapacitates the employee from being able to perform assigned duties;
- 2) Appointments for examination and/or treatment related to health when approved in advance by the department manager and when such appointments cannot reasonably be scheduled during nonwork hours.
- 3) An illness or appointment for examination and/or treatment related to the health of an immediate family member requiring the attendance of the employee and approved by the department manager, not to exceed twelve (12) days per fiscal year. Use of additional sick leave requested in excess of the permitted allowance may be approved if recommended by the department and approved by the Human Resource Manager.

b. Accrual

- 1) Sick leave shall be accrued in accordance with the chart below:

Annual Authorized Hours	Monthly Accrual Rate
< 261	1
261-520	2
521-780	3
781-1,040	4
1,041-1,300	5
1,301-1,560	6
1,561-1,820	7
1,821-2,080	8
2,081-2,340	9
2,341-2,600	10
2,601-2,860	11
>2,860	12

- 2) There is no limit to the amount of sick leave an employee may accrue.

- c. Payment for Accumulated Leave Upon Separation from Employment - Employees with two (2) years or more of continuous service with the County shall be compensated for their sick leave balance at the rate of one hour's pay for every four hours of accrued sick leave or the maximum amount listed below, whichever is less. If two weeks' notice is not given by the employee, or if the employee is discharged for disciplinary reasons, sick leave payments shall be forfeited. Exceptions may be made by the department manager.

Years of Service	Maximum Payment
2 – 14	\$1,000
15 – 24	\$2,500
25 or more	\$5,000

- d. Sick Leave Bank - Employees may elect to pool accumulated sick leave into a sick leave bank for the purpose of providing participating employees additional leave for extended illness or injury. Such a bank shall be administered by employees, supported by employees, and shall cease to exist should there be insufficient employee interest.
3. Funeral Leave - may be used by an employee to provide paid absences upon the death of a member of an employee's immediate family.
- a. Amount of Leave - Funeral leave, if requested by the employee, shall be granted by the supervisor for up to three (3) days per death of an employee's immediate family member. Exceptions may be granted by the department manager.
4. Civil Leave - may be used by an employee to provide paid absences while serving on a jury, or attending court as a witness under subpoena.
- a. Compensation - An employee compensated for civil duties, as by jury or witness fees, shall either take annual or compensatory leave, or turn over compensation received to the County.
- b. Return to Work - Any employee serving four or more hours (including travel time) is not required to start any shift that begins between 5 p.m. and 3 a.m. following the court appearance. The time will be charged to Civil Leave.
- b c. Exclusion - In those circumstances where a County employee is not subpoenaed and is acting as an expert witness in a court proceeding which is not directly related to his duties for the County, the

employee shall be charged annual or compensatory leave or leave without pay.

5. Military Leave - may be used by an employee who is a member of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia to provide paid absences of up to fifteen days per Federal fiscal year during which he is engaged in annual active duty for training, or when called forth by the Governor during a disaster.

a. Special Circumstances - Employees who are members of the forces listed above and are involuntarily called to Federally funded military active duty shall receive the following:

- 1) A Military Pay Differential in the amount of the difference between the employee's military base pay plus basic allowances for housing and subsistence, and the employee's regular County base pay. If the employee's military pay plus allowance exceeds the County pay, no differential shall be paid.
- 2) Up to one year's accrual of sick and annual leave credited to the employee 30 days after return to employment. Exceptions may be granted by the County Administrator.

(This section shall expire on 6/30/2005.)

6. School Leave - may be used by an employee to provide paid absences to perform volunteer work in a school, to meet with a teacher or administrator concerning the employee's children, step-children, or children over whom the employee has custody, or to attend a school function in which such a child is participating. School leave may be used for these purposes in a public or private elementary, middle, or high school, or a licensed preschool or daycare center.

a. Amount of Leave

- 1) Employees in full-time permanent and limited-term positions may take up to eight (8) hours of School Leave per fiscal year.
- 2) Employees in part-time permanent and limited-term positions may take up to the number of hours of their monthly sick leave accrual rate per fiscal year.

7. Leave Without Pay - may be used by an employee to provide unpaid absences for a variety of reasons outlined below including any mutually agreeable reason.

Section 4.14 Overtime

- A. Responsibility — ~~The authorization and control of all overtime work is the responsibility of the department manager. Overtime assignments shall be permitted only when required by operational necessity. Department managers may require employees to work overtime assignments as necessary. Department managers shall assure that adequate funds are available for payment for overtime work.~~
- B. Eligibility — ~~All employees except those in bona fide professional, administrative, executive, or seasonal positions, as defined by the Fair Labor Standards Act, are eligible to earn overtime. The Human Resource Department shall review each position to determine whether it is exempt or non-exempt from overtime payments. The status of job classes shall be indicated in the Compensation Plan, and the status of individual positions shall be indicated in the Human Resource Information System.~~
- C. Computation of Overtime Pay — ~~Monetary overtime compensation shall be one and one-half times the employee's hourly rate of pay for each hour of overtime worked. The hourly rate of pay shall be determined by dividing the employees' annual salary by the number of hours per year that a full-time employee in that position or class would be required to work.~~
- D. Minimum Increment of Overtime — ~~Overtime shall be earned in increments no smaller than thirty minutes.~~
- E. Computation of Overtime Hours
1. ~~Overtime shall be paid when, due to operational necessity, a non-exempt employee is required to work in excess of the maximum number of allowable hours in the work period.~~
 2. ~~The work periods and maximum allowable hours for County employees are as follows:~~

<u>Category of Personnel</u>	<u>Work Period (Consecutive Days)</u>	<u>Allowable Hours</u>
Firefighting and EMS	21	159
Law Enforcement	24	147
All Other	7	40

~~Other work periods, in compliance with the overtime provisions of the Fair Labor Standards Act (FLSA), may be implemented with the approval of the County Administrator.~~

- ~~3. Paid or unpaid time off during which the employee is absent from the service of the County shall not be counted as hours worked in determining if the maximum allowable number of hours has been exceeded. Such absences include, but are not limited to, sick, annual, compensatory, civil, personal and military leave, holidays, leaves of absence, lunch periods and inclement weather days. This provision shall not apply to hours worked between the FLSA overtime maximum of 159 hours and the 168 regularly scheduled work hours for sworn Fire Department employees working a 21-day cycle. These 9 hours shall be paid at the rate of one half of the employee's hourly rate, in addition to the regular semimonthly pay, regardless of any paid time off taken during the 21-day cycle.~~

F. Compensatory Leave or Compensatory Time

- ~~1. Non-exempt employees who are authorized to work in excess of their regularly scheduled work hours, but who do not exceed the maximum allowable number of hours as defined in E above, may be granted compensatory leave in the amount of one hour of leave for each hour worked or may be paid their regular hourly rate in lieu of compensatory leave for hours worked.~~
- ~~2. Non-exempt employees who are authorized to work in excess of their regularly scheduled work hours, and the hours exceed the maximum allowable number of hours as defined in E above, may in lieu of overtime pay be granted compensatory leave in the amount of one and one half hours of leave for each hour worked during the work period in excess of the maximum allowable hours.~~
- ~~3. The department manager shall determine the most appropriate form of compensation based on available funds and workload. Compensatory leave shall be specifically approved by the department manager in advance of its being earned.~~
- ~~4. Employees in sworn public safety positions may accrue up to 480 hours of compensatory leave. All other employees may accrue up to 240 hours of compensatory leave. Employees shall be paid for all hours in excess of the maximum allowed.~~
- ~~5. Compensatory leave earned within the fiscal year shall be used by September 30 of the following fiscal year or the employee shall be paid for it. (Revised 10-15-90)~~

A. Policy – In keeping with James City County’s value of “Communicating openly and constructively and working in a collaborative manner”, it is James City County’s policy to comply with all requirements of the Fair Labor Standards Act (FLSA), including the salary basis requirements. Therefore, we will not make any improper deductions from the salaries of employees in non-exempt or exempt positions.

B. Legal Basis - The FLSA (29 C.F.R pt.541) is a federal law which requires that most employees in the United States be paid at least the federal minimum wage for all hours worked, and receive overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

C. Coverage

1. General - All paid employees are covered by the FLSA. However, Section 13(a)(1) of the FLSA provides an exemption from overtime pay for individuals employed in bona fide executive, administrative, and professional positions. Section 13(a)(1) and Section 13 (a)(17) also exempt certain employees in computer positions.

The Human Resource Department shall review each position to determine whether it is exempt or non-exempt from overtime payments. The status of job classes shall be indicated in the Compensation Plan, and the status of individual positions shall be indicated in the Human Resource Information System.

2. Exemptions

a. Salary Basis and Requirements - To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee’s specific job duties and salary must meet all the requirements of the FLSA regulations.

These salary requirements do not apply to teachers and employees practicing law or medicine. Employees in exempt computer positions may be paid at least \$455 per week on a salary basis or on an hourly basis at a rate of not less than \$27.63 an hour.

Being paid on a “salary basis” means an employee regularly receives a predetermined amount of compensation each pay period on a twice monthly basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee’s work, but can be reduced because of disciplinary reasons.

Subject to exceptions listed below, an employee in an exempt position must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. However, employees in exempt positions do not need to be paid for any workweek in which they perform no work unless appropriate accrued paid leave is used.

If the employer makes deductions from an employee’s predetermined salary because of the operating requirements of the business, that employee is not paid on a “salary basis.” If the employee is ready, willing, and able to work, deductions may not be made for time when work is not available.

b. Salary Basis Exceptions

(i) Deductions from pay are permissible when an employee in an exempt position is either:

(a) absent from work for one or more full days for personal reasons, other than sickness or disability;

(b) absent from work for one or more full days due to sickness or disability, if the deduction is made in accordance with a bona fide plan, policy, or practice of providing compensation for salary lost due to illness;

(c) in receipt of payment for jury or witness fees, or for military pay;

(d) on an unpaid disciplinary suspension of one or more full days, imposed in good faith for workplace conduct rule infractions;

(ii) The employer is not required to pay an employee’s full salary:

(a) in the initial or terminal week of employment;

(b) for penalties imposed in good faith for infractions of safety rules of major significance; or,

(c) for weeks in which the employee takes unpaid leave under the Family and Medical Leave Act.

In these circumstances, either a partial-day or full-day deduction may be made.

D. Authorization - The authorization and control of all overtime work is the responsibility of the department manager. Overtime assignments shall be permitted only when required by operational necessity. Department managers may require employees to work overtime assignments as necessary. Department managers shall assure that adequate funds are available for payment for overtime work.

E. Computation of Overtime Pay

1. General – Monetary overtime compensation shall be one and one-half times the employee's hourly rate of pay for each hour of overtime worked. The hourly rate of pay shall be determined by dividing the employee's annual salary by the number of hours per year that the employee in that position is authorized to work.

2. Minimum Increment of Overtime - Overtime shall be earned in increments no smaller than fifteen (15) minutes.

3. Computation of Overtime Hours

a. Overtime shall be paid when, due to operational necessity, an employee in a non-exempt position is required to work in excess of the FLSA maximum number of allowable hours in the work period. The FLSA defines the maximum number of allowable hours in a work period of seven (7) days as forty (40). Section 207 (k) of the FLSA provides an exception for any employee in fire protection or law enforcement activities.

b. Categories of personnel, work periods, FLSA maximum number of allowable hours, and County authorized hours in a work period shall be indicated in the Compensation Plan.

Other work periods, in compliance with the overtime provisions of the FLSA, may be implemented with the approval of the County Administrator.

- c. *Paid or unpaid time off during which the employee is absent from the service of the County shall not be counted as hours worked in determining if the maximum allowable number of hours has been exceeded. Such absences include, but are not limited to, sick, annual, compensatory, civil, personal, and military leaves, holidays, leave without pay, lunch periods, and unexpected closings. (See Administrative Regulation No. 10.)*

This provision shall not apply to hours worked between the FLSA overtime maximum hours and the regularly scheduled work hours for sworn Fire Department employees in a regular work period. These hours shall be paid at the rate of one half of the employee's hourly rate, in addition to the regular semimonthly pay, regardless of any paid time off taken during the regular work period.

F. Compensatory Time in Lieu of Overtime

1. *Hour for Hour – Employees in non-exempt positions who are authorized to work in excess of their regularly-scheduled work hours, but who do not exceed the maximum allowable number of hours as defined in E.3 above may, in lieu of overtime pay, be granted compensatory time in the amount of one hour of leave for each hour worked or may be paid their regular hourly rate in lieu of compensatory time for hours worked.*
2. *Time and a Half – Employees in non-exempt positions who are authorized to work in excess of their regularly scheduled work hours, and the hours exceed the maximum allowable number of hours as defined in E.3 above may, in lieu of overtime pay, be granted compensatory time in the amount of one and one-half hours of leave for each hour worked during the work period in excess of the maximum allowable hours.*
3. *Authorization - The department manager shall determine the most appropriate form of compensation based on available funds and workload. Compensatory time shall be specifically approved by the department manager in advance of its being earned.*
4. *Maximum Accrual - Employees in sworn public safety positions may accrue up to 480 hours of compensatory time. All other*

employees may accrue up to 240 hours of compensatory time. Employees shall be paid for all hours in excess of the maximum allowed.

5. *Deadline for Use - Compensatory time earned within the fiscal year shall be used by September 30 of the following fiscal year or the employee shall be paid for it. (Revised 10-15-90.)*

G. Resolving Discrepancies

1. *Discrepancies – Employees who feel that an improper deduction has been made to their salary, or overtime was worked and they were not compensated appropriately, should immediately report this to their supervisor for resolution.*
2. *Complaint Procedure – In the event that a supervisor does not resolve the discrepancy, the employee will report the improper salary deduction or overtime payment denial to the Human Resource Department by completing the Improper Salary Deduction or Overtime Payment Denial Complaint Form.*
3. *Investigating a Complaint – Upon receipt of the completed Improper Salary Deduction or Overtime Payment Denial Complaint Form the Human Resource Department will promptly research the discrepancy.*
4. *Determination - If it is determined that an improper salary deduction or overtime payment denial has occurred, the employee will be promptly reimbursed for any improper salary deduction made or paid for overtime worked.*

Section 4.15 Holiday Pay

Any employee in a permanent or limited-term position who is eligible to earn overtime and is required by the supervisor to work on a holiday which is observed by the County, shall be compensated for that holiday at a rate of twice the regular hourly rate, or at the discretion of the department manager, authorized compensatory leave as outlined in Section 4.11(F) above.

An employee in a position which is not eligible to earn overtime (exempt) who is required to work on a holiday which is observed by the County, may take the holiday on another date mutually agreed upon with his supervisor. In cases where this would present a hardship because of work load, and where budget permits, the department manager may authorize payment for that holiday at a rate of twice the regular hourly rate for hours worked in lieu of another day off.

***IMPROPER SALARY DEDUCTION OR OVERTIME PAYMENT DENIAL
COMPLAINT FORM***

Name: _____ *Position:* _____

Department: _____ *Supervisor:* _____

Work telephone number: _____ *Work E-mail Address:* _____

Pay Period(s) of Questionable Deduction or Denial: _____

Please explain what occurred and why you believe it was improper:

Signed: _____ *Date:* _____



Right of Way Agreement

THIS RIGHT OF WAY AGREEMENT, is made and entered into as of this _____ day of _____, 2005, by and between

COUNTY OF JAMES CITY, a political subdivision
of the Commonwealth of Virginia,

("GRANTOR") and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation, doing business in Virginia as Dominion Virginia Power, with its principal office in Richmond, Virginia ("GRANTEE").

WITNESSETH:

1. That for and in consideration of the sum of One Dollar (\$1.00) cash in hand paid and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, **GRANTOR** grants and conveys unto **GRANTEE**, its successors and assigns, the perpetual right, privilege and easement over, under, through, upon and across the property described herein, for the purpose of transmitting and distributing electric power by one or more circuits; for its own internal telephone and other internal communication purposes directly related to or incidental to the generation, distribution, and transmission of electricity, including the wires and facilities of any other public service company in aid of or to effectuate such internal telephone or other internal communication purposes; and for lighting purposes; including but not limited to the right:

1.1 to lay, construct, operate and maintain one or more lines of underground conduits and cables including, without limitation, one or more lighting supports and lighting fixtures as **GRANTEE** may from time to time determine, and all wires, conduits, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith; the width of said easement shall extend fifteen (15) feet in width across the lands of **GRANTOR**; and

Initials: _____

This Document Prepared by Virginia Electric and Power Company and should be returned to:
Dominion Virginia Power, 1601 Hamilton Avenue Portsmouth VA 23707.

(Page 1 of 5 Pages)
DVPIDNo(s). 28-05-0063
Tax Map No. 1230100027

Right of Way Agreement

2. The easement granted herein shall extend across the lands of **GRANTOR** situated in James City County, Virginia, as more fully described on Plat(s) Numbered 28-05-0063, attached to and made a part of this Right of Way Agreement; the location of the boundaries of said easement being shown in broken lines on said Plat(s), reference being made thereto for a more particular description thereof.

3. All facilities constructed hereunder shall remain the property of **GRANTEE**. **GRANTEE** shall have the right to inspect, reconstruct, remove, repair, improve, relocate on the easement, and make such changes, alterations, substitutions, additions to or extensions of its facilities as **GRANTEE** may from time to time deem advisable.

4. **GRANTEE** shall have the right to keep the easement clear of all buildings, structures, trees, roots, undergrowth and other obstructions which would interfere with its exercise of the rights granted hereunder, including, without limitation, the right to trim, top, retrim, retop, cut and keep clear any trees or brush inside and outside the boundaries of the easement that may endanger the safe and proper operation of its facilities. All trees and limbs cut by **GRANTEE** shall remain the property of **GRANTOR**.

5. For the purpose of exercising the right granted herein, **GRANTEE** shall have the right of ingress to and egress from this easement over such private roads as may now or hereafter exist on the property of **GRANTOR**. The right, however, is reserved to **GRANTOR** to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, **GRANTEE** shall have such right of ingress and egress over the lands of **GRANTOR** adjacent to the easement. **GRANTEE** shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to **GRANTOR**.

6. **GRANTEE** shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and (b) outside the boundaries of the easement and shall repair or pay **GRANTOR**, at **GRANTEE**'s option, for other damage done to **GRANTOR**'s property inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and outside the boundaries of the easement caused by **GRANTEE** in the process of the construction, inspection, and maintenance of **GRANTEE**'s facilities, or in the exercise of its right of ingress and egress; provided **GRANTOR** gives written notice thereof to **GRANTEE** within sixty (60) days after such damage occurs.

Initials: _____

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DVPIDNo(s). 28-05-0063

Right of Way Agreement

7. **GRANTOR**, its successors and assigns, may use the easement for any reasonable purpose not inconsistent with the rights hereby granted, provided such use does not interfere with **GRANTEE**'s exercise of any of its rights hereunder. **GRANTOR** shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, **GRANTOR** may construct on the easement fences, landscaping (subject, however, to **GRANTEE**'s rights in Paragraph 4 of this Right of Way Agreement), paving, sidewalks, curbing, gutters, street signs, and below ground obstructions as long as said fences, landscaping, paving, sidewalks, curbing, gutters, street signs, and below ground obstructions do not interfere with **GRANTEE**'s exercise of any of its rights granted hereunder. In the event such use does interfere with **GRANTEE**'s exercise of any of its rights granted hereunder, **GRANTEE** may, in its reasonable discretion, relocate such of its facilities as may be practicable to a new site designated by **GRANTOR** and acceptable to **GRANTEE**. In the event any such facilities are so relocated, **GRANTOR** shall reimburse **GRANTEE** for the cost thereof and convey to **GRANTEE** an equivalent easement at the new site.

8. **GRANTEE** shall have the right to assign or transfer, without limitation, to any public service company all or any part of the perpetual right, privilege and easement granted herein.

9. If there is an Exhibit A attached hereto, then the easement granted hereby shall additionally be subject to all terms and conditions contained therein provided said Exhibit A is executed by **GRANTOR** contemporaneously herewith and is recorded with and as a part of this Right of Way Agreement.

10. Whenever the context of this Right of Way Agreement so requires, the singular number shall mean the plural and the plural the singular.

Initials: _____

(Page 3 of 5 Pages)

DVPIDNo(s). 28-05-0063



Right of Way Agreement

11. **GRANTOR** covenants that it is seised of and has the right to convey this easement and the rights and privileges granted hereunder; that **GRANTEE** shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that **GRANTOR** shall execute such further assurances thereof as may be reasonably required.

12. The individual executing this Right of Way Agreement on behalf of **GRANTOR** warrants that **GRANTOR** is a corporation duly organized and existing under the laws of the state hereinabove mentioned and that he or she has been duly authorized to execute this easement on behalf of said corporation.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, **GRANTOR** has caused its corporate name to be signed hereto by its authorized officer or agent, described below, on the date first above written.

Corporate Name: County of James City

By: Sanford B. Wanner

Its: County Administrator

State of Virginia

City/County of James City

The foregoing instrument was acknowledged before me this ____ day of _____, _____

by Sanford B. Wanner County Administrator
(Name of officer or agent) (Title of officer or agent)

of County of James City, a Virginia
(Name of corporation) (State of incorporation)

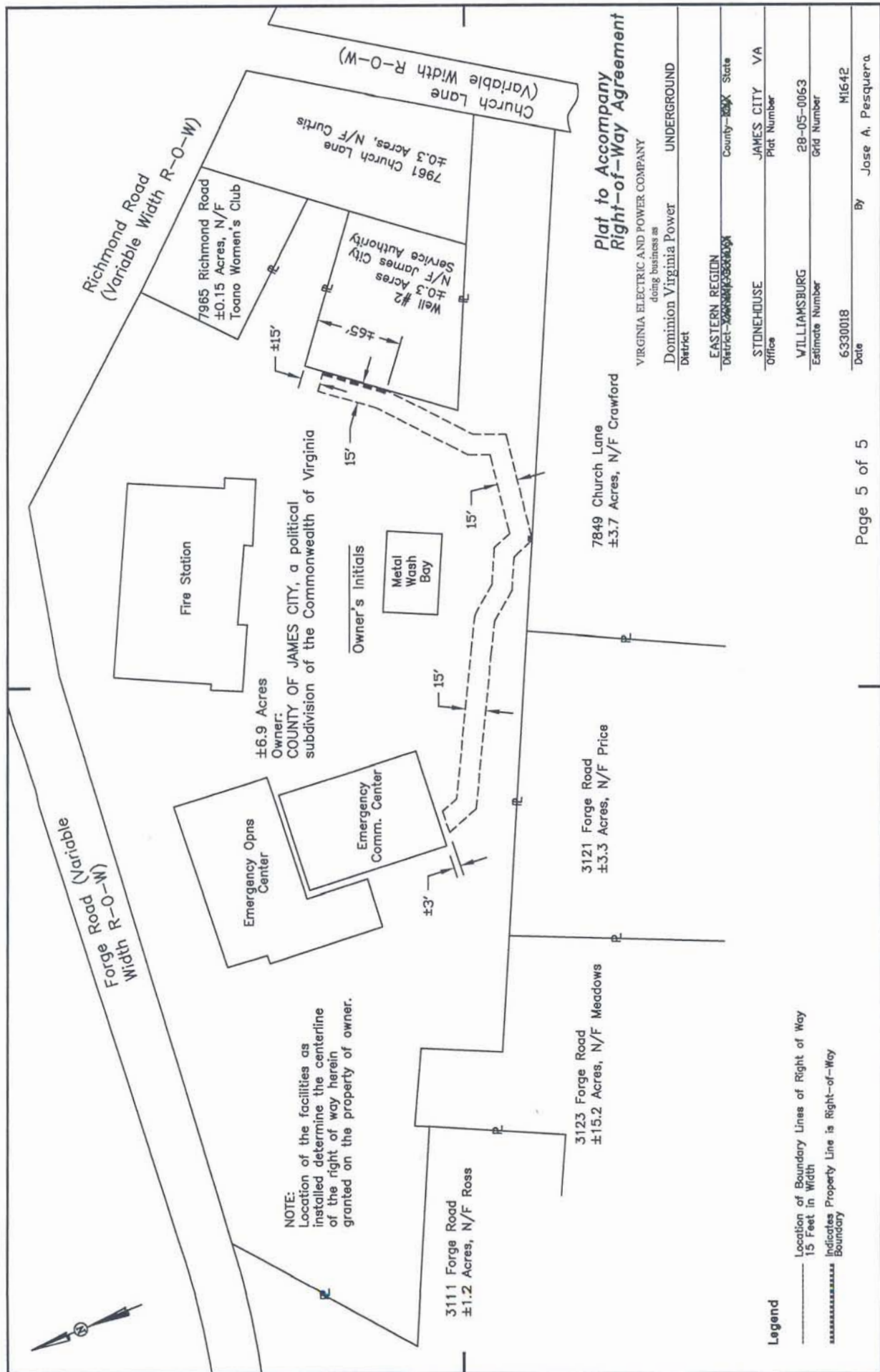
corporation, on behalf of the corporation.

Notary Public (Print Name)

Notary Public (Signature)

(Page 4 of 5 Pages)

My commission expires: _____



AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF AUGUST 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Holden Lipscomb, who will be a third-grade student at Stonehouse Elementary School this fall, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated that on July 29 the eastbound traffic on Route 60 E was backed up; stated concern about the impact of traffic jams on the ability of emergency crews to provide services; commented on possible code violations along Route 60 E such as a vacant mobile home and a red Datsun; and commented on a recent newspaper article regarding energy plants.

E. PRESENTATIONS

1. Resolution of Appreciation – John Berkenkamp

Mr. Brown presented John Berkenkamp with a Resolution of Appreciation for his distinguished service and dedication to the County and its citizenry while serving on the Economic Development Authority from September 1997 through June 2005.

Mr. Berkenkamp thanked the Board, Mr. Wanner, and Keith Taylor, Director of Economic Development.

Mr. Bradshaw echoed the sentiments stated in the resolution.

F. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Residency, stated that the transition associated with the Interstate maintenance contract is working well and Williamsburg Residency crews are now able to focus on road repair and maintenance work in the County; stated that the bids came in over budget for the turn-lane projects on Route 5, Route 60, and Route 199; stated that the right-of-way agreement has been satisfied and work on Monticello Avenue will proceed; stated that both lanes for eastbound Route 199 and a single lane of westbound Route 199 will be open shortly; and stated that road work on Richmond Road in the City of Williamsburg will begin next month and the project will be completed in December.

Mr. Bradshaw thanked Mr. Brewer for the reports on the results of the Speed Studies and requested that the results be reconsidered.

Mr. Bradshaw inquired about the status of the Barnes Road work.

Mr. Brewer stated that the work was interrupted because the paver machine broke; it is anticipated work will resume in approximately two weeks.

G. CONSENT CALENDAR

Mr. Goodson made a motion to adopt the items on the Consent Calendar including the amended minutes.

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

1. Minutes
 - a. July 26, 2005, Work Session
 - b. July 26, 2005, Regular Meeting (as amended)
2. Resolution of Appreciation – John Berkenkamp

RESOLUTION

CERTIFICATE OF APPRECIATION -

JOHN BERKENKAMP

WHEREAS, John Berkenkamp served as a member of the Economic Development Authority of James City County since September 1997, and retired from same effective June 2005; and

WHEREAS, John Berkenkamp served as Vice Chairman of the Industrial Development Authority of James City County from July 2000 to December 2001; and

WHEREAS, John Berkenkamp served on the County Comprehensive Plan Committee; and

WHEREAS, John Berkenkamp was instrumental in overseeing the development of the Fiscal Impact Model presently used by the Office of Economic Development and the Manager of Financial and

Management Services to evaluate expanding and prospective James City County business and industry; and

WHEREAS, throughout this period of service John Berkenkamp gave freely of his time, his energy, and his knowledge for the betterment of his County, as an active member; and

WHEREAS, John Berkenkamp consistently demonstrated those essential qualities of leadership, diplomacy, perseverance and dedication while providing exceptional service to the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby extends its sincere appreciation to John Berkenkamp and recognizes his distinguished service and dedication to the County and its citizenry.

3. Acceptance of Williamsburg Community Health Foundation Grant Award - \$250,000

RESOLUTION

ACCEPTANCE OF WILLIAMSBURG COMMUNITY HEALTH FOUNDATION

GRANT AWARD

WHEREAS, the Williamsburg Community Health Foundation has awarded a grant to the James City County Fire Department in the amount of \$250,000 for the purchase of an Advanced Life Support Ambulance and related medical equipment; and

WHEREAS, the grant requires no matching funds; and

WHEREAS, the grant reporting period is July 1, 2005, through June 30, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the Williamsburg Community Health Foundation Grant Award.

4. Acceptance of a Rescue Squad Assistance Grant Award - \$60,984.50

RESOLUTION

ACCEPTANCE OF A RESCUE SQUAD ASSISTANCE GRANT AWARD

WHEREAS, the Virginia Department of Health, Office of Emergency Medical Services (OEMS), Rescue Squad Assistance Fund (RSAF) has approved a grant to the James City County Fire Department in the amount of \$60,984.50 for the purchase of an ambulance; and

WHEREAS, the grant requires a cash local match of \$60,984.50, which is available in the FY 2006 Capital Improvement Project Fund; and

WHEREAS, the grant will be administered by OEMS, with a grant period of July 1, 2005, through June 30, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the RSAF grant.

5. Adoption of the James City County Emergency Operations Plan 2005

RESOLUTION

JAMES CITY COUNTY EMERGENCY OPERATIONS PLAN

WHEREAS, there exists many threats, including man-made disasters, natural disasters, and hostile actions by an unknown enemy; and

WHEREAS, the safety and protection of the citizens and property is of foremost concern to the Board of Supervisors of the County of James City; and

WHEREAS, the Board of Supervisors desires, and Commonwealth of Virginia statutes require, the adoption of appropriate planned protective measures.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the James City County Emergency Operations Plan dated July 2005.

6. Appropriation of Funds – Department of Motor Vehicles – Grant Award - \$1,500

RESOLUTION

APPROPRIATION OF FUNDS - DEPARTMENT OF MOTOR VEHICLES –

GRANT AWARD - \$1,500

WHEREAS, the Virginia Department of Motor Vehicles (DMV) has approved a grant for the Police Department in the amount of \$1,500; and

WHEREAS, the grant requires no matching funds; and

WHEREAS, the grant will be administered by DMV, with a grant period of July 20, 2005, through September 30, 2005.

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

Revenue:

DMV – Checkpoint Strikeforce

\$1,500

Expenditure:

DMV – Checkpoint Strikeforce	<u>\$1,500</u>
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7. Allocation of Funds – Department of Social Services Allocation for Child Welfare Services - \$23,724

RESOLUTION

ALLOCATION OF FUNDS - DEPARTMENT OF SOCIAL SERVICES ALLOCATION FOR

CHILD WELFARE SERVICES - \$23,724

WHEREAS, the Virginia Department of Social Services (VDSS) has allocated \$23,724 to the James City County Division of Social Services for the delivery of Child Welfare Services; and

WHEREAS, the caseloads of Social Workers in the Child Protective Services Unit far exceed accepted standards; and

WHEREAS, the local match and additional Federal funding are already available in the approved Division of Social Services budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Division of Social Services budget:

Revenue:

VDSS-Child Protective Services Social Worker I	<u>\$23,724</u>
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Expenditure:

VDSS-Child Protective Services Social Worker I	<u>\$23,724</u>
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BE IT FURTHER RESOLVED that the Board of Supervisors of James City County does hereby create a full-time permanent Social Worker I position.

8. Budget Appropriation – Stonehouse Development Company, LLC and Centex Homes Funds - \$15,000

RESOLUTION

BUDGET APPROPRIATION - STONEHOUSE DEVELOPMENT COMPANY, LLC

AND CENTEX HOMES FUNDS - \$15,000

WHEREAS, the Board of Supervisors of James City County has been requested to approve the appropriation of funds from Stonehouse Development Company and Centex Homes to the

Non-Departmental Water Quality Account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Non-Departmental Water Quality:

Revenue:

Miscellaneous Revenue	<u>\$15,000</u>
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Expenditure:

Non-Departmental Water Quality	<u>\$15,000</u>
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Mr. Wanner announced that Tal Luton has been named as the Fire Department's new Chief.

Mr. Wanner also stated that Luton is the first chief to rise from the ranks of firefighter to the top position in the history of the department and that Luton is a proven leader who has strong commitment to the County and he is confident that Luton will continue to build on the Fire Department's strengths as well as effectively provide leadership for new directions.

H. PUBIC HEARINGS

1. Case Nos. Z-9-05/MP-6-05. Governor's Grove at Five Forks

Mr. Matthew D. Arcieri, Planner, stated that Eric Nielsen, National Housing Corporation, submitted an application to rezone 23.26 acres located at 4310 and 4360 John Tyler Highway and 3181 and 3191 Ironbound Road from R-8, Rural Residential, and B-1, General Business, to MU, Mixed Use, with proffers; the property can be further identified as Parcel Nos. (1-14) and (1-37) on James City County Real Estate Tax Map No. (46-2) and as Parcel Nos. (1-35) and (1-36) on James City County Real Estate Tax Map No. (47-1).

Staff found the proposal, with submitted proffers, will not negatively impact surrounding property and also found the proposal to be generally consistent with surrounding land uses, the Comprehensive Plan, and the Primary Principles for Five Forks Area.

At its meeting on July 11, 2005, the Planning Commission recommended approval of the proposal by a vote of 5-0.

Staff recommended approval of the rezoning and master plan applications and acceptance of the voluntary proffers.

Mr. Brown opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, representing the applicant, gave a brief introduction of the applicant and the developer; provided an overview of the application including anticipated environmental and fiscal benefits to the community; and requested that the Board approve the application.

The Board and applicant discussed the estimated cost to clean up the site for development and level of cash proffers offered by the applicant.

2. Ms. Sarah Kadec, representing the Historic Route 5 Association, stated that the Association was opposed to the earlier proposal primarily due to the impacts to traffic and the Powhatan Creek; stated that although this is a different proposal, the impacts to traffic and the Powhatan Creek are still a concern; stated that the preservation and maintenance of the Community Character Corridor of Route 5 is important to the community; and requested that the Board deny the application.

3. Mr. Sasha Digges, 3612 Ironbound Road, stated concern about the displacement of citizens from the site and requested that the County and community lend assistance to the individuals being displaced.

4. Ms. Kay Thorington, 3195 Ironbound Road, stated concern about the treatment of individuals at the site and the eviction notices, and requested that the application be denied unless assistance is provided to the individuals who will be displaced.

5. Mr. Gary Bohlken, 119 Rothbury Drive, stated that he spoke in December against a development in this area and is speaking against this proposed development citing concerns about the adequacy of public services for the new growth, increased traffic concerns, and stated that the development should be considered for approval only if there is lower density.

6. Ms. Mary Catherine Digges, 3612 Ironbound Road, stated that as a member of the Five Forks Study team she feels that the proposed development is not consistent with the findings of the study; stated concerns about the recent increased traffic on Ironbound Road and impacts of this proposed development on those traffic levels; stated concern about the displacement of residents from the site; and requested that the proposal be deferred until assistance is provided to the citizens who will be displaced.

7. Ms. Judy Fuss, 3509 Hunters Ridge, representing the Powhatan Crossing Homeowners Association, stated that the proposed development does not address concerns about increased negative impacts to the traffic flow on Ironbound Road; the design capacity at schools are not adequate to handle the increased potential student population created by the development; the height of the proposed development is a concern as it is not in keeping with the surrounding Community Character Corridor; and stated that the Association is opposed to the development of this project.

8. Mr. David Fuss, 3008 Chelsford Way, representing the Friends of the Powhatan Creek Watershed, requested that the Board deny the application and rezoning request; stated concern about the associated negative impacts to the Powhatan Creek Watershed if the development were to be approved; recommended that the development of the site be in keeping with by-right development; and made a brief comment on the positive aspects of the proposal.

9. Ms. Melissa Gagne, 4716 Bristol Circle, stated that the proposed development is not in keeping with the Community Character Corridor; commented on the scale of the development infrastructures not being in scale with surrounding developments; requested a better proposal for use of the site, and stated concern that there is no affordable housing component with the proposal.

10. Mr. Ed Oyer, 139 Indian Circle, stated concern that the applicant indicated that the Board had met with him and inquired if there is a conflict of interest.

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

The Board and staff discussed the current traffic conditions on Ironbound Road and when the last traffic study was conducted along that corridor, conservation easements and open space, and environmental impact reviews by the Environmental Division prior to approval of the Site Plan for the development.

The Board and staff discussed services and assistance available to residents that are being evicted by the landowner.

Mr. Harrison made a motion to adopt the resolution.

The Board and staff discussed the impacts to the community on services and infrastructure and the proffers offered by the applicant to help mitigate the impacts.

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

RESOLUTION

CASE NO. Z-9-05/MP-6-05. GOVERNOR'S GROVE AT FIVE FORKS

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-9-05/MP-6-05, with Master Plan, for rezoning 23.26 acres from R-8, Rural Residential and B-1, General Business, to MU, Mixed Use, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on July 11, 2005, recommended approval of Case No. Z-9-05/MP-6-05, by a vote of 5 to 0; and

WHEREAS, the properties are located at 4310 and 4360 John Tyler Highway and 3181 and 3191 Ironbound Road and further identified as Parcel Nos. (1-14) and (1-37) on James City County Real Estate Tax Map No. (46-2) and Parcel Nos. (1-35) and (1-36) on James City County Real Estate Tax Map No. (47-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-9-05/MP-6-05 and accepts the voluntary proffers.

2. Case Nos. Z-4-05/SUP-7-05. Langley Federal Credit Union at New Town

Ms. Tammy Mayer Rosario, Senior Planner, stated that Tom Horner of Langley Federal Credit Union applied for a setback modification, special use permit (SUP), and rezoning of approximately two acres from M-1, Limited Business/Industrial, to MU, Mixed Use, with proffers to construct a two-story, 16,000-square-foot bank and office building at 5220 Monticello Avenue and further identified as Parcel No. (1-55) on James City County Real Estate Tax Map No. (38-4).

Staff found the proposed use, with revised proffers and master plan, to be consistent with the surrounding development, the New Town Design Guidelines, and the Comprehensive Plan.

At its meeting on August 1, 2005, the Planning Commission failed to approve the case by a vote of 3 to 4.

The New Town Design Review Board concurs with the Planning Commission's recommendation of a request for only four drive-through lanes.

Since August 1, the applicant has reduced the number of lanes requested for immediate approval from seven to five, has addressed all proffer issues raised by the Planning Commission, and has stated in writing his willingness to enter into a shared parking arrangement with the adjoining land owners for the joint use of the property's parking area.

Staff recommended that the Board approve the SUP and rezoning for the proposed use and accept the voluntary proffers.

The Board and staff discussed the New Town development guidelines, number of other drive-through lanes at other financial institutions, and size of the site for the proposed development.

Mr. Brown opened the Public Hearing.

1. Mr. Raymond H. Suttle, Jr., attorney for the applicant, thanked staff for assistance in the development of the proffers and the master plan, and was available to answer questions from the Board.

2. Mr. Tom Tingle, representing the applicant, provided an overview of the proposal and design, and requested approval of four drive-through lanes and a drive-up ATM lane for a total of five lanes.

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

The Board and staff discussed the development lot size, the revised proffers, and that the applicant has been compliant to the New Town guidelines.

Mr. Goodson made a motion to adopt the resolutions and accept the voluntary proffers.

Mr. Brown stated concern about the manner in which the Planning Commission conducted itself in the review and deliberation of this proposal, and stated that the primary role of the Planning Commission is to determine if a proposal conforms to current policies, ordinances, and the Comprehensive Plan.

Mr. Brown stated that additional input or views are welcome from the Planning Commission and its members in the form of written communication when the input and views are outside the normal scope of the considerations. However, it is a concern when the Planning Commission chooses to include those comments and views as part of its scope of consideration of the merits of a proposal.

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

RESOLUTION

CASE NO. Z-4-05. LANGLEY FEDERAL CREDIT UNION AT NEW TOWN

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 notified, and a hearing scheduled on Case No. Z-4-05 for rezoning two acres from M-1, Limited Business/Industrial, to MU, Mixed Use, with proffers; and

WHEREAS, at the James City County Planning Commission public hearing on August 1, 2005, the motion to approve Case No. Z-4-05, failed by a vote of 3 to 4; and

WHEREAS, the proposed use is shown on the master plan prepared by AES, dated February 22, 2005, with a revision date of July 21, 2005, and entitled "Master Plan for Rezoning & Special Use Permit - Langley Federal Credit Union;" and

WHEREAS, the property is located at 5220 Monticello Avenue and further identified as Parcel No. (1-55) on James City County Real Estate Tax Map No. (38-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-4-05 and accept the voluntary proffers.

RESOLUTION

CASE NO. SUP-7-05. LANGLEY FEDERAL CREDIT UNION AT NEW TOWN

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. Tom Horner of Langley Federal Credit Union has applied for a special use permit to allow for a 16,000-square-foot bank and office building at 5220 Monticello Avenue, further identified as Parcel No. (1-55) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, the proposed use is shown on the master plan prepared by AES, dated February 22, 2005, with a revision date of July 21, 2005, and entitled "Master Plan for Rezoning & Special Use Permit - Langley Federal Credit Union;" and

WHEREAS, at the James City County Planning Commission public hearing on August 1, 2005, the motion to approve Case No. SUP-7-05 failed by a vote of 3 to 4.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Case No. SUP-7-05.

3. Case No. ZO-4-05. Wireless Communications Facilities Amendment

Ms. Ellen Cook, Planner, stated that per an initiating resolution approved by the Planning Commission, staff proposed to add a new ordinance section and amend an existing ordinance section related to Wireless Communications Facilities (WCF).

Staff found that a tower greater than 120 feet in height is something that could potentially be accommodated in the R-4 District and that the amendment is consistent with the County's adopted Performance Standards for Wireless Communications Facilities.

At its meeting on July 11, 2005, the Planning Commission voted 5-0 to recommend approval of the amendment.

Staff requested that the Board approve the ordinance 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 ordinance.

Mr. Harrison requested a deferral to discuss broader approaches for wireless towers in the County.

The Board briefly discussed the deferral request.

Mr. Harrison withdrew his request for deferral.

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

I. BOARD CONSIDERATION

1. 2004 PDR Program – Offer to Sell a Conservation Easement: 4904 and 4920 Fenton Mill Road

Mr. Bradshaw stated that he has previously represented the property owners; however, he feels that he can impartially consider the item before the Board and does not see a conflict of interest in voting on the item.

Mr. Edward T. Overton, Purchase of Development Rights Program Administrator, stated that Williams and Mary Apperson agreed to terms of a conservation easement on their property located at 4904 and 4920 Fenton Mill Road at a negotiated price of \$400,000. The property can be further identified as Parcel Nos. (1-15) and (1-18) on James City County Real Estate Tax Map Nos. (14-4) and (24-2).

Staff recommended approval of the resolution accepting the offer to sell a conservation easement and authorizing the County Administrator to execute all documents necessary for completing the acquisition.

Mr. Bradshaw 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

2004 PDR PROGRAM - OFFER TO SELL A CONSERVATION EASEMENT:

4904 AND 4920 FENTON MILL ROAD

WHEREAS, the County has received an offer to sell a conservation easement under the Purchase of Development Rights (PDR) Program from the owners of the property known as 4904 and 4920 Fenton Mill Road, Tax Parcel Nos. 1440100015 and 2420100018; and

WHEREAS, the owners offered to sell a conservation easement on the property for a purchase price of Four Hundred Thousand and 00/100 Dollars (\$400,000), subject to the conditions set forth in the proposed deed of easement enclosed with the County's invitation of offer.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the offer to sell a conservation easement described above, or as modified by the County Attorney, and authorizes the County Administrator to execute all documents necessary for completing the acquisition.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the PDR Administrator to send a copy of this resolution to the owner of the property identified herein.

J. PUBLIC COMMENT

1. Mr. Richard Costello, 10020 Sycamore Landing Road, commented on the school cash proffer policy proposal; that low-impact developments are sensitive to filtration and are usually approved after soil borings are completed; and stated that he will provide Mr. Oyer with fertilizer loading information for turf management.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that the Board approve the expansion of the Thomas Nelson Community College Local College Board membership to a total of 14 members.

Mr. Harrison made a motion to approve the expansion to 14 members.

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

Mr. Wanner recommended that at the conclusion of the Board meeting, the Board adjourn until 7 p.m. on September 13, 2005.

L. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon made a motion to appoint L. Bruce Abbott to the Agricultural and Forestal District (AFD) Advisory Committee.

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

Mr. McGlennon thanked Mr. Costello for his comments.

Mr. Bradshaw reminded citizens that the County Fair is August 12 and 13 and parking will be off-site.

Mr. Bradshaw stated that he was pleased that York County was able to assist James City County by providing dispatch backup after the County's Emergency Communications Center was struck by lightning.

Mr. Wanner thanked Mr. Goodson for his regional foresight in moving forward an agreement with York County for the partnership.

Mr. Harrison responded to Mr. Oyer's stated concern about Board members meeting with applicants and stated that it is his responsibility to meet with citizens, constituents, businesses, and applicants in matters that impact the good of the community and ensure that no problems arise in the allocation of County time, funds, and resources.

M. 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 9:40 p.m., Mr. Goodson adjourned the Board until 7 p.m. on September 13, 2005.

Sanford B. Wanner
Secretary to the Board

080905bos.min

M E M O R A N D U M

DATE: September 13, 2005
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Dedication of Streets in Wexford Hills, Phases 3A and 1B

Attached is a resolution requesting acceptance of certain streets in Wexford Hills, Phases 3A and 1B, into the State Secondary Highway System. These streets have been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.

Darryl E. Cook

DEC/gb
WexfordHills.mem

Attachments

RESOLUTION

DEDICATION OF STREETS IN WEXFORD HILL, PHASES 3A AND 1B

WHEREAS, the streets described on the attached Additions Form LA-5A, 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 LA-5A, into 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.

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 13th day of September, 2005.

WaxfordHills.res

In the County of James City

By resolution of the governing body adopted September 13, 2005

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

A Copy Testee Signed (County Official): _____

Report of Changes in the Secondary System of State Highways

Form LA-5A
Local Assistance Division 6/2005

Project/Subdivision

Wexford Hills Phase 3A & 1B

Type of Change: **Addition**

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

Reason for Change: Addition, New subdivision street

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

Route Number and/or Street Name

Wrenfield Drive, State Route Number 1672

Description: **From:** Route 1671 (Beech Tree Lane)

To: Route 1673 (Richpress Drive)

A distance of: 0.32 miles.

Right of Way Record: Filed with the Land Records Office on 7/19/1993, Plat Book 57, Pg 91, and on 9/7/2001, Document #010012035, with a width of 50'-125'.

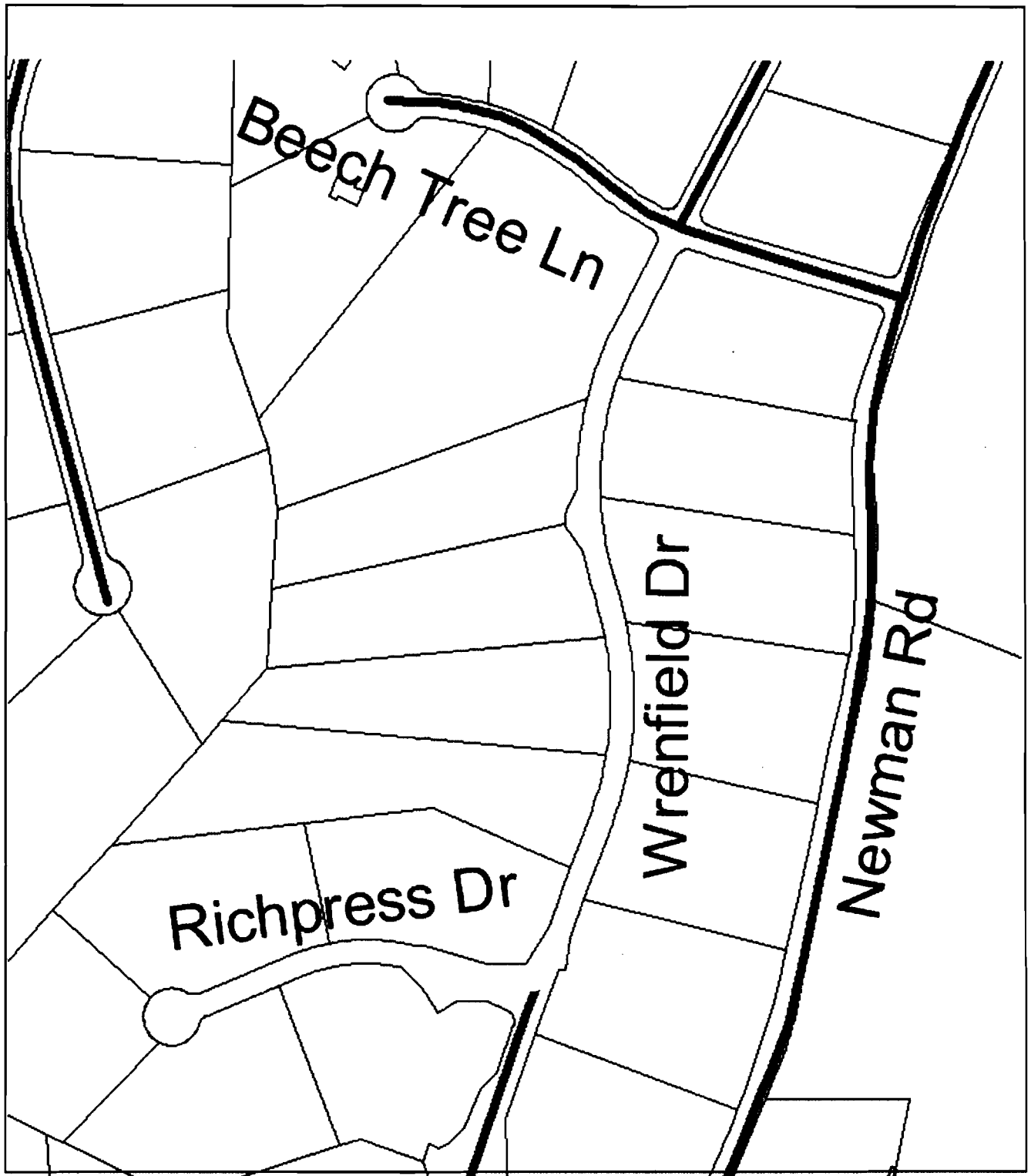
Richpress Drive, State Route Number 1673

Description: **From:** Route 1672 (Wrenfield Drive)

To: End of cul-de-sac

A distance of: 0.15 miles.

Right of Way Record: Filed with the Land Records Office on 9/7/2001, Document #010012035, with a width of 50'-125'.



**DEDICATION OF STREETS IN
WEXFORD HILLS - PHASES 3A & 1B**



Streets Being
Dedicated



MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: Steven W. Hicks, General Services Manager

SUBJECT: Creation of Full-Time Permanent Senior Office Assistant Position – General Services

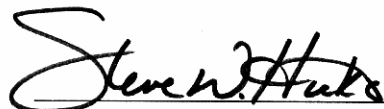
This memorandum requests the elimination of two part-time permanent custodial positions at 1,560 hours each and the establishment of a full-time permanent Senior Office Assistant position to help address the growing workload of the General Services Department and to free up the time of other staff to perform non-administrative duties.

General Services has been outsourcing custodial services as custodial positions have become vacant. By eliminating two part-time permanent custodial positions whose work has been outsourced, we can establish a full-time permanent Senior Office Assistant position without adding to the total number of full-time equivalent (FTE) positions in the Department.


The whole of General Services currently has only one part-time permanent 20 hour/week Senior Office Assistant attempting to provide administrative support to all divisions, including General Services Administration, Facilities and Grounds Maintenance, Custodial, Fleet and Equipment, Capital Projects, and Contract Administration. Tasks that cannot be accomplished by this position are completed by employees in professional, technical, and skilled craft positions, which is not the most efficient use of their time. The full-time Senior Office Assistant position would assume those administrative support duties that are unmet by the half-time position and would be given responsibility for the streetlight, street sign, and "Watch for Children" programs that were recently assigned to General Services.

The cost of creating the full-time Senior Office Assistant position is approximately \$22,800 including benefits for the remainder of this fiscal year. Funds are available within the operating expenses of General Services divisions.

Staff recommends that the Board approve the attached resolution that eliminates two part-time permanent custodian positions and establishes a full-time permanent position of Senior Office Assistant in General Services effective September 16, 2005.


Steven W. Hicks

CONCUR:


Sanford B. Wanner

SenOffAssntCreatn.mem2
SWH/nb

Attachment

RESOLUTION

CREATION OF FULL-TIME PERMANENT SENIOR OFFICE ASSISTANT POSITION -

GENERAL SERVICES

WHEREAS, General Services is requesting the elimination of two part-time permanent Custodian positions at 1,560 hours each and the establishment of a full-time permanent Senior Office Assistant to help address the growing workload of the General Services Department and to free up the time of other staff to perform non-administrative duties; and

WHEREAS, General Services has been outsourcing custodial services as positions have become vacant and by eliminating two part-time permanent custodial positions can establish a full-time permanent Senior Office Assistant position without adding to the total number of full-time equivalent (FTE) positions in the Department; and

WHEREAS, General Services currently has one part-time permanent (20 hours/week) Senior Office Assistant whose is providing administrative support to all General Services, including General Services Administration, Facilities and Grounds Maintenance, Custodial, Fleet and Equipment, Capital Projects, and Contract Administration.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby eliminates two part-time permanent Custodian position at 1,560 hours each and creates the full-time permanent position of Senior Office Assistant in General Services effective September 16, 2005.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

SenOffAssntCreatn.res

MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: Doug Powell, Acting Manager of Community Services

SUBJECT: Creation of Executive Director Position – Williamsburg Area Transport

Staff is working with several partners in an effort to create the Williamsburg Area Transport Authority (WATA), effective July 1, 2006. If established, WATA would be an independent regional public transportation agency with its own governing board of directors.

During the FY 06 budget process, \$60,000 was included in the budget for an Executive Director to be hired this fiscal year to assist with the creation of the Authority. Of this amount, \$57,000 is funded through a State grant. Although the funds were included in the budget, the position was not formally created.

Staff recommends that the Board approve the attached resolution that creates the full-time limited-term position of Executive Director of Williamsburg Area Transport effective September 16, 2005. A job description for the position is included in your reading file.



Doug Powell

WATExecDirPostn.mem
DP/nb

Attachment

RESOLUTION

CREATION OF EXECUTIVE DIRECTOR POSITION

WILLIAMSBURG AREA TRANSPORT

WHEREAS, James City County is working with regional partners to create the Williamsburg Area Transport Authority; and

WHEREAS, funds were included in the approved FY 06 budget for the position of Executive Director.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, creates the full-time limited-term position of Executive Director of Williamsburg Area Transport, effective September 16, 2005.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

WATExecDirPostn.res

MEMORANDUM

DATE: September 13, 2005

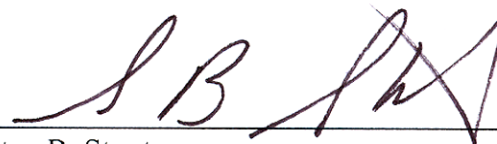
TO: The Board of Supervisors

FROM: Stan B. Stout, Inspector

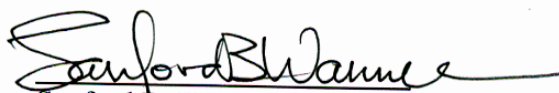
SUBJECT: Office of Justice Programs of the Department of Justice - Justice Assistance Grant (JAG)

The Office of Justice Programs of the Department of Justice - Justice Assistance Grant (JAG) has awarded the James City County Police Department a grant in the amount of \$12,643. There are no local matching funds required of this grant. The funds will be used to purchase an advanced Child ID Kit System that will allow Officers to create an ID card, similar to a credit card, with the child's photograph (digital) and one fingerprint (also digitally captured). This system will enhance the productivity and the capability of the Department's Community Services Unit (CSU), saving man-hours and expenses involved with film and replacement blank ID kits.

Staff recommends adoption of the attached resolution.


Stan B. Stout

CONCUR:


Sanford B. Wanner

SBS/gs
JAGgrant.mem

Attachment

RESOLUTION

OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE -

JUSTICE ASSISTANCE GRANT (JAG)

WHEREAS, the Office of Justice Programs of the Department of Justice - Justice Assistance Grant (JAG) has awarded the James City County Police Department a grant in the amount of \$12,643; and

WHEREAS, the grant requires no local matching funds; and

WHEREAS, the funds will be used to purchase an advanced Child ID Kit System that will allow officers to create an ID card, similar to a credit card, with the child's digital photograph and one digital fingerprint, thus enhancing the productivity and the capability of the Department's Community Services Unit (CSU) by saving man-hours and expenses involved with film and replacement blank ID kits; and

WHEREAS, the grant expires August 30, 2008, thus allowing any unexpended funds as of June 30, 2006, June 30, 2007, and June 30, 2008, to be carried forward to James City County's next fiscal year appropriately.

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

Revenue:

Police JAG Child ID Grant	<u>\$12,643</u>
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Expenditure:

Police JAG Child ID Grant	<u>\$12,643</u>
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Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

JAGgrant.res

MEMORANDUM

DATE: September 13, 2005

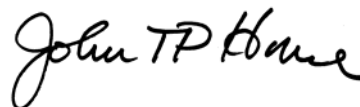
TO: The Board of Supervisors

FROM: John T. P. Horne, Development Manager

SUBJECT: Revenue Sharing Project Amendment – Watford Lane (Route 763)/Carriage Road (Route 672)

For FY 2006, the Board approved a list of Revenue Sharing projects that included a project on Watford Lane. Staff recommends that the Board amend the project list to include Watford Lane (Route 673)/Carriage Road (Route 672). The Watford Lane/Carriage Road project includes work on both routes that entails minor widening, drainage, and pedestrian facilities in conjunction with the County's Community Development Block Grant (CDBG) project. The cost of the project is estimated at \$300,000, which will be financed by Revenue Sharing funds in FY 2006-07.

Staff recommends approval of the attached resolution.



John T. P. Horne

JTPH/gs
watford.mem

Attachment

RESOLUTION

REVENUE SHARING PROJECT AMENDMENT –

WATFORD LANE (ROUTE 763)/CARRIAGE ROAD (ROUTE 672)

WHEREAS, the James City County Board of Supervisors is participating in the Virginia Department of Transportation (VDOT) Revenue Sharing Program for FY 2006-07; and

WHEREAS, the James City County Board of Supervisors has decided to amend one Revenue Sharing project; and

WHEREAS, VDOT requires written notification of the County's new project description.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that VDOT is hereby requested to amend the FY 2006 Revenue Sharing Project list to include an amended project description as Watford Lane (Route 763)/Carriage Road (Route 672).

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 13th day of September, 2005.

watford.res

MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: Carol M. Luckam, Human Resource Manager

SUBJECT: Revisions to the Family and Medical Leave, Civil Leave, and Overtime Policies of the James City County Personnel Policies and Procedures Manual

Attached are revisions to the County's Family and Medical Leave Act (FMLA) of 1993 Policy, Civil Leave Policy, and the Overtime Policy to clarify provisions of or reflect changes in the law.

The FMLA policy change clarifies that after working twelve months employees are guaranteed protection under the Family and Medical Leave Act of 1993 and Supervisors may identify leave taken by employees as FMLA. The Civil Leave policy change reflects changes in the law regarding jury duty. Employees serving on jury duty shall not be required to start any work shift that begins on or after 5:00 p.m. on the day of their service or begin before 3:00 a.m. on the day following their service. The Overtime policy change elaborates on proper payment of employees under the Fair Labor Standards Act and provides a procedure for employees to question payment of overtime and to seek correction of any discrepancies. The subject policies, with changes overstricken and italicized, are attached for your review.

Staff recommends the adoption of the attached resolution.


Carol M. Luckam

CML/gs
PPchange.mem

Attachments

RESOLUTION

REVISIONS TO THE FAMILY AND MEDICAL LEAVE, CIVIL LEAVE, AND

OVERTIME POLICIES OF THE JAMES CITY COUNTY

PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, it's the practice of the County to periodically review its personnel policies for conformance to laws and alignment with the County's values; and

WHEREAS, the Family and Medical Leave Act (FMLA) of 1993 policy description, employee requirements, and supervisor responsibility were revised to clarify provisions of the law; and

WHEREAS, the Civil Leave policy was changed to conform with changes in the law related to jury duty; and

WHEREAS, the Overtime policy was changed to clarify provisions in the Federal Labor Standards Act.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the attached revisions to Sections 5.4.D, 5.4.E.4 and 4.14 of the James City County Personnel Policies and Procedures Manual.

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 13th day of September, 2005.

PPchange.res

- C. Definition of Immediate Family - The immediate family is defined as: spouse, parent, son, daughter, brother, sister, grandparents, grandchildren, step-children, step-parents, guardian, spouse's parent, and any persons residing in the same household as the employee.
- D. Family and Medical Leave Act (FMLA) of 1993 - is a Federal law which guarantees employees who have ~~worked for~~ *been employed by* the County ~~for 12 months and worked~~ at least 1,250 hours in the previous 12 months, up to 12 weeks away from work during a fiscal year for the purposes outlined below. An employee must use the appropriate type of leave during the absence. An employee who is absent under the FMLA will retain his employee benefits. Upon returning to work, the employee will return to the same job or a job with equivalent status, pay, and benefits.
1. Purpose - FMLA protects employees' jobs and benefits for specified periods of time, if they are absent from work because of:
 - a. the birth of a child and the care of that child;
 - b. the adoption or foster care placement of a child with the employee;
 - c. the need to care for a spouse, child, or parent with a serious health condition; or
 - d. the serious health condition of the employee that makes the employee unable to perform the essential functions of his position.
 2. Definition - For purposes of this policy, a week is defined as the annual authorized hours of the employee's position divided by 52.
 3. Employee Requirements - An eligible employee ~~wishing to take~~ *requesting* time off for one of the purposes listed in 1. above must comply with certain requirements. An employee must:
 - a. inform his supervisor that he is requesting leave under the FMLA and of the purpose of the leave;
 - b. work with his supervisor to identify the type of County leave(s) which will be taken during the FMLA absence;
 - c. provide medical certification of the situation necessitating the absence and a date on which the employee can be expected to return to work;
 - d. keep the supervisor informed of the status of the absence, including any change in the circumstances for which the leave is being taken, and the employee's intent to return to work; and
 - e. provide a fitness for duty certification from a physician before returning to work if the leave was taken for the employee's own serious health condition.

4. Supervisor Responsibility - If an employee requests leave for one of the purposes listed in 5.4.D.1 above, ~~or when the supervisor recognizes an employee's leave qualifies under FMLA~~, the supervisor ~~may shall~~ inform ~~Human Resources and~~ the employee that it qualifies under FMLA and ask the employee to follow the requirements covered in 5.4.D.3 above. ~~The supervisor Human Resources shall inform the employee who has requested or taken leave under FMLA~~, in writing, of his rights and responsibilities ~~under FMLA~~.

- E. Types of Leave - The County offers the following types of leave. A brief summary of purposes for which leave may be used is listed below. For more details, see individual subsections.

Annual Leave	Any purpose.
Sick Leave	Personal doctor appointment, illness, or short-term disability. Immediate family member doctor appointment or illness.
Funeral Leave	Death of immediate family member.
Civil Leave	Serving on a jury. Attending court as a witness under subpoena.
Military Leave	National Guard or reserve member to engage in annual active duty for training or called forth by Governor during a disaster.
School Leave	Meet with teachers, attend school functions, or do volunteer work in any public or private school grades K-12 or a licensed preschool or daycare center.
Leave Without Pay	Unpaid absences from work.

1. Annual Leave - may be used by an employee to provide paid absences for any purpose.

a. Accrual -

- 1) New employees will have available up to the equivalent of five (5) months of annual leave accrual upon employment. The leave will be available immediately and leave not used will be credited to the employee's annual leave balance at the beginning of the sixth (6th) month.

- c. Payment for Accumulated Leave Upon Separation from Employment - Employees with two (2) years or more of continuous service with the County shall be compensated for their sick leave balance at the rate of one hour's pay for every four hours of accrued sick leave or the maximum amount listed below, whichever is less. If two weeks' notice is not given by the employee, or if the employee is discharged for disciplinary reasons, sick leave payments shall be forfeited. Exceptions may be made by the department manager.

Years of Service	Maximum Payment
2 – 14	\$1,000
15 – 24	\$2,500
25 or more	\$5,000

- d. Sick Leave Bank - Employees may elect to pool accumulated sick leave into a sick leave bank for the purpose of providing participating employees additional leave for extended illness or injury. Such a bank shall be administered by employees, supported by employees, and shall cease to exist should there be insufficient employee interest.
3. Funeral Leave - may be used by an employee to provide paid absences upon the death of a member of an employee's immediate family.
- a. Amount of Leave - Funeral leave, if requested by the employee, shall be granted by the supervisor for up to three (3) days per death of an employee's immediate family member. Exceptions may be granted by the department manager.
4. Civil Leave - may be used by an employee to provide paid absences while serving on a jury, or attending court as a witness under subpoena.
- a. Compensation - An employee compensated for civil duties, as by jury or witness fees, shall either take annual or compensatory leave, or turn over compensation received to the County.
- b. Return to Work - Any employee serving four or more hours (including travel time) is not required to start any shift that begins between 5 p.m. and 3 a.m. following the court appearance. The time will be charged to Civil Leave.
- b c. Exclusion - In those circumstances where a County employee is not subpoenaed and is acting as an expert witness in a court proceeding

which is not directly related to his duties for the County, the employee shall be charged annual or compensatory leave or leave without pay.

5. Military Leave - may be used by an employee who is a member of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia to provide paid absences of up to fifteen days per Federal fiscal year during which he is engaged in annual active duty for training, or when called forth by the Governor during a disaster.

- a. Special Circumstances - Employees who are members of the forces listed above and are involuntarily called to Federally funded military active duty shall receive the following:

- 1) A Military Pay Differential in the amount of the difference between the employee's military base pay plus basic allowances for housing and subsistence, and the employee's regular County base pay. If the employee's military pay plus allowance exceeds the County pay, no differential shall be paid.
- 2) Up to one year's accrual of sick and annual leave credited to the employee 30 days after return to employment. Exceptions may be granted by the County Administrator.

(This section shall expire on 6/30/2005.)

6. School Leave - may be used by an employee to provide paid absences to perform volunteer work in a school, to meet with a teacher or administrator concerning the employee's children, step-children, or children over whom the employee has custody, or to attend a school function in which such a child is participating. School leave may be used for these purposes in a public or private elementary, middle, or high school, or a licensed preschool or daycare center.

- a. Amount of Leave

- 1) Employees in full-time permanent and limited-term positions may take up to eight (8) hours of School Leave per fiscal year.
- 2) Employees in part-time permanent and limited-term positions may take up to the number of hours of their monthly sick leave accrual rate per fiscal year.

7. Leave Without Pay - may be used by an employee to provide unpaid absences for a variety of reasons outlined below including any mutually agreeable reason.

Section 4.14 Overtime

- A. Responsibility ~~The authorization and control of all overtime work is the responsibility of the department manager. Overtime assignments shall be permitted only when required by operational necessity. Department managers may require employees to work overtime assignments as necessary. Department managers shall assure that adequate funds are available for payment for overtime work.~~
- B. Eligibility ~~All employees except those in bona fide professional, administrative, executive, or seasonal positions, as defined by the Fair Labor Standards Act, are eligible to earn overtime. The Human Resource Department shall review each position to determine whether it is exempt or non-exempt from overtime payments. The status of job classes shall be indicated in the Compensation Plan, and the status of individual positions shall be indicated in the Human Resource Information System.~~
- C. Computation of Overtime Pay ~~Monetary overtime compensation shall be one and one-half times the employee's hourly rate of pay for each hour of overtime worked. The hourly rate of pay shall be determined by dividing the employees' annual salary by the number of hours per year that a full-time employee in that position or class would be required to work.~~
- D. Minimum Increment of Overtime ~~Overtime shall be earned in increments no smaller than thirty minutes.~~
- E. Computation of Overtime Hours
1. ~~Overtime shall be paid when, due to operational necessity, a non-exempt employee is required to work in excess of the maximum number of allowable hours in the work period.~~
 2. ~~The work periods and maximum allowable hours for County employees are as follows:~~

<u>Category of Personnel</u>	<u>Work Period (Consecutive Days)</u>	<u>Allowable Hours</u>
Firefighting and EMS	21	159
Law Enforcement	24	147
All Other	7	40

~~Other work periods, in compliance with the overtime provisions of the Fair Labor Standards Act (FLSA), may be implemented with the approval of the County Administrator.~~

- ~~3. Paid or unpaid time off during which the employee is absent from the service of the County shall not be counted as hours worked in determining if the maximum allowable number of hours has been exceeded. Such absences include, but are not limited to, sick, annual, compensatory, civil, personal and military leave, holidays, leaves of absence, lunch periods and inclement weather days. This provision shall not apply to hours worked between the FLSA overtime maximum of 159 hours and the 168 regularly scheduled work hours for sworn Fire Department employees working a 21-day cycle. These 9 hours shall be paid at the rate of one half of the employee's hourly rate, in addition to the regular semimonthly pay, regardless of any paid time off taken during the 21-day cycle.~~

F. Compensatory Leave or Compensatory Time

- ~~1. Non-exempt employees who are authorized to work in excess of their regularly scheduled work hours, but who do not exceed the maximum allowable number of hours as defined in E above, may be granted compensatory leave in the amount of one hour of leave for each hour worked or may be paid their regular hourly rate in lieu of compensatory leave for hours worked.~~
- ~~2. Non-exempt employees who are authorized to work in excess of their regularly scheduled work hours, and the hours exceed the maximum allowable number of hours as defined in E above, may in lieu of overtime pay be granted compensatory leave in the amount of one and one-half hours of leave for each hour worked during the work period in excess of the maximum allowable hours.~~
- ~~3. The department manager shall determine the most appropriate form of compensation based on available funds and workload. Compensatory leave shall be specifically approved by the department manager in advance of its being earned.~~
- ~~4. Employees in sworn public safety positions may accrue up to 480 hours of compensatory leave. All other employees may accrue up to 240 hours of compensatory leave. Employees shall be paid for all hours in excess of the maximum allowed.~~
- ~~5. Compensatory leave earned within the fiscal year shall be used by September 30 of the following fiscal year or the employee shall be paid for it. (Revised 10-15-90)~~

A. Policy – In keeping with James City County's value of "Communicating openly and constructively and working in a collaborative manner", it is James City County's policy to comply with all requirements of the Fair Labor Standards Act (FLSA), including the salary basis requirements. Therefore, we will not make any improper deductions from the salaries of employees in non-exempt or exempt positions.

B. Legal Basis - The FLSA (29 C.F.R pt.541) is a federal law which requires that most employees in the United States be paid at least the federal minimum wage for all hours worked, and receive overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

C. Coverage

1. General - All paid employees are covered by the FLSA. However, Section 13(a)(1) of the FLSA provides an exemption from overtime pay for individuals employed in bona fide executive, administrative, and professional positions. Section 13(a)(1) and Section 13 (a)(17) also exempt certain employees in computer positions.

The Human Resource Department shall review each position to determine whether it is exempt or non-exempt from overtime payments. The status of job classes shall be indicated in the Compensation Plan, and the status of individual positions shall be indicated in the Human Resource Information System.

2. Exemptions

a. Salary Basis and Requirements - To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the FLSA regulations.

These salary requirements do not apply to teachers and employees practicing law or medicine. Employees in exempt computer positions may be paid at least \$455 per week on a salary basis or on an hourly basis at a rate of not less than \$27.63 an hour.

Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on a twice monthly basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work, but can be reduced because of disciplinary reasons.

Subject to exceptions listed below, an employee in an exempt position must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. However, employees in exempt positions do not need to be paid for any workweek in which they perform no work unless appropriate accrued paid leave is used.

If the employer makes deductions from an employee's predetermined salary because of the operating requirements of the business, that employee is not paid on a "salary basis." If the employee is ready, willing, and able to work, deductions may not be made for time when work is not available.

b. Salary Basis Exceptions

(i) Deductions from pay are permissible when an employee in an exempt position is either:

(a) absent from work for one or more full days for personal reasons, other than sickness or disability;

(b) absent from work for one or more full days due to sickness or disability, if the deduction is made in accordance with a bona fide plan, policy, or practice of providing compensation for salary lost due to illness;

(c) in receipt of payment for jury or witness fees, or for military pay;

(d) on an unpaid disciplinary suspension of one or more full days, imposed in good faith for workplace conduct rule infractions;

(ii) The employer is not required to pay an employee's full salary:

(a) in the initial or terminal week of employment;

(b) for penalties imposed in good faith for infractions of safety rules of major significance; or,

(c) for weeks in which the employee takes unpaid leave under the Family and Medical Leave Act.

In these circumstances, either a partial-day or full-day deduction may be made.

D. Authorization - The authorization and control of all overtime work is the responsibility of the department manager. Overtime assignments shall be permitted only when required by operational necessity. Department managers may require employees to work overtime assignments as necessary. Department managers shall assure that adequate funds are available for payment for overtime work.

E. Computation of Overtime Pay

1. General - Monetary overtime compensation shall be one and one-half times the employee's hourly rate of pay for each hour of overtime worked. The hourly rate of pay shall be determined by dividing the employee's annual salary by the number of hours per year that the employee in that position is authorized to work.

2. Minimum Increment of Overtime - Overtime shall be earned in increments no smaller than fifteen (15) minutes.

3. Computation of Overtime Hours

a. Overtime shall be paid when, due to operational necessity, an employee in a non-exempt position is required to work in excess of the FLSA maximum number of allowable hours in the work period. The FLSA defines the maximum number of allowable hours in a work period of seven (7) days as forty (40). Section 207 (k) of the FLSA provides an exception for any employee in fire protection or law enforcement activities.

b. Categories of personnel, work periods, FLSA maximum number of allowable hours, and County authorized hours in a work period shall be indicated in the Compensation Plan.

Other work periods, in compliance with the overtime provisions of the FLSA, may be implemented with the approval of the County Administrator.

- c. Paid or unpaid time off during which the employee is absent from the service of the County shall not be counted as hours worked in determining if the maximum allowable number of hours has been exceeded. Such absences include, but are not limited to, sick, annual, compensatory, civil, personal, and military leaves, holidays, leave without pay, lunch periods, and unexpected closings. (See Administrative Regulation No. 10.)

This provision shall not apply to hours worked between the FLSA overtime maximum hours and the regularly scheduled work hours for sworn Fire Department employees in a regular work period. These hours shall be paid at the rate of one half of the employee's hourly rate, in addition to the regular semimonthly pay, regardless of any paid time off taken during the regular work period.

F. Compensatory Time in Lieu of Overtime

1. Hour for Hour – Employees in non-exempt positions who are authorized to work in excess of their regularly-scheduled work hours, but who do not exceed the maximum allowable number of hours as defined in E.3 above may, in lieu of overtime pay, be granted compensatory time in the amount of one hour of leave for each hour worked or may be paid their regular hourly rate in lieu of compensatory time for hours worked.
2. Time and a Half – Employees in non-exempt positions who are authorized to work in excess of their regularly scheduled work hours, and the hours exceed the maximum allowable number of hours as defined in E.3 above may, in lieu of overtime pay, be granted compensatory time in the amount of one and one-half hours of leave for each hour worked during the work period in excess of the maximum allowable hours.
3. Authorization - The department manager shall determine the most appropriate form of compensation based on available funds and workload. Compensatory time shall be specifically approved by the department manager in advance of its being earned.
4. Maximum Accrual - Employees in sworn public safety positions may accrue up to 480 hours of compensatory time. All other

employees may accrue up to 240 hours of compensatory time. Employees shall be paid for all hours in excess of the maximum allowed.

5. Deadline for Use - Compensatory time earned within the fiscal year shall be used by September 30 of the following fiscal year or the employee shall be paid for it. (Revised 10-15-90.)

G. Resolving Discrepancies

1. Discrepancies – Employees who feel that an improper deduction has been made to their salary, or overtime was worked and they were not compensated appropriately, should immediately report this to their supervisor for resolution.
2. Complaint Procedure – In the event that a supervisor does not resolve the discrepancy, the employee will report the improper salary deduction or overtime payment denial to the Human Resource Department by completing the Improper Salary Deduction or Overtime Payment Denial Complaint Form.
3. Investigating a Complaint – Upon receipt of the completed Improper Salary Deduction or Overtime Payment Denial Complaint Form the Human Resource Department will promptly research the discrepancy.
4. Determination - If it is determined that an improper salary deduction or overtime payment denial has occurred, the employee will be promptly reimbursed for any improper salary deduction made or paid for overtime worked.

Section 4.15 Holiday Pay

Any employee in a permanent or limited-term position who is eligible to earn overtime and is required by the supervisor to work on a holiday which is observed by the County, shall be compensated for that holiday at a rate of twice the regular hourly rate, or at the discretion of the department manager, authorized compensatory leave as outlined in Section 4.11(F) above.

An employee in a position which is not eligible to earn overtime (exempt) who is required to work on a holiday which is observed by the County, may take the holiday on another date mutually agreed upon with his supervisor. In cases where this would present a hardship because of work load, and where budget permits, the department manager may authorize payment for that holiday at a rate of twice the regular hourly rate for hours worked in lieu of another day off.

**IMPROPER SALARY DEDUCTION OR OVERTIME PAYMENT DENIAL
COMPLAINT FORM**

Name: _____ **Position:** _____

Department: _____ **Supervisor:** _____

Work telephone number: _____ **Work E-mail Address:** _____

Pay Period(s) of Questionable Deduction or Denial: _____

Please explain what occurred and why you believe it was improper:

Signed: _____ **Date:** _____

MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: Doug Powell, Acting Community Services Manager

SUBJECT: Appropriation to the Peninsula Health District - \$11,392

The Peninsula Health District received an unexpected increase of \$128,543 in their State allocation for local match. These additional funds will be used to pay for salary increases, including retention salary increases for Environmental Health Specialists. In addition, the funds will be used to cover increased costs of health insurance. The increase in local match for James City County is \$11,392.

Staff recommends that the Board appropriate \$11,392 from Contingency for the Peninsula Health District.



Doug Powell

DP/tlc
PHDapprop.mem

RESOLUTION

APPROPRIATION TO THE PENINSULA HEALTH DISTRICT - \$11,392

WHEREAS, the Peninsula Health District received an unexpected increase of \$128,543 in the State allocation for local match; and

WHEREAS, James City County's share of the match is \$11,392.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates \$11,392 from Contingency to the Peninsula Health District.

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 13th day of September, 2005.

PHDapprop.res

MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: Sanford B. Wanner, County Administrator

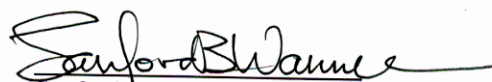
SUBJECT: 400th Anniversary Commemorative Circle, Williamsburg/James City County Courthouse

In response to a request by Judge Samuel T. Powell, III, County and City staffs are recommending the Board of Supervisors authorize the expenditure of up to \$19,775 for the design and construction documents for development of a "400th Anniversary Commemorative Circle" at the Williamsburg/James City County Courthouse in honor of the 400th Anniversary of the founding of Jamestown. Staff anticipates that once the design and construction documents are completed, there will be a second request for release of funds for the construction of the project.

In accordance with the Code of Virginia, the Board of Supervisors and City Council have instituted Courthouse Maintenance fees on civil actions, criminal, and traffic cases filed in the district and/or circuit courts. The Courthouse is in the City of Williamsburg and the City serves as financial agent for the Courthouse Maintenance Funds. The fund may be used for the construction, renovation, or maintenance of the Courthouse and court-related facilities, and can be used for this request.

Courthouse Maintenance Funds are deposited in an investment account maintained by the City. The available balance in the account as of September 1, 2005, is \$187,137.

Staff recommends the Board adopt the attached resolution authorizing the expenditure of up to \$19,775 from the Courthouse Maintenance Fund for the design and construction documents for a "400th Anniversary Commemorative Circle" at the Williamsburg/James City County Courthouse.


Sanford B. Wanner

SBW/tlc
CommCircle.mem

Attachment

RESOLUTION

400TH ANNIVERSARY COMMEMORATIVE CIRCLE

WILLIAMSBURG/JAMES CITY COUNTY COURTHOUSE

WHEREAS, the Honorable Samuel T. Powell, III, has requested James City County and the City of Williamsburg authorize the expenditure of up to \$19,775 for design and construction documents for the development of a 400th Anniversary Commemorative Circle at the Williamsburg/James City County Courthouse; and

WHEREAS, the Board of Supervisors has authorized the assessment of a courthouse maintenance fee and in partnership with the City of Williamsburg operates a joint courthouse; and

WHEREAS, the Courthouse is in the City of Williamsburg and the City of Williamsburg services as financial agent for the Courthouse Maintenance Funds; and

WHEREAS, funds are available in the City/County Courthouse Maintenance Fund to allow for enhancements to the Courthouse.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes, subject to similar approval by the City Council of Williamsburg, the following expenditure.

Revenues:

Courthouse Maintenance Fund	<u>\$19,775</u>
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Expenditure:

400th Anniversary Commemorative Circle	<u>\$19,775</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 13th day of September, 2005.

CommCircle.res

MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

SUBJECT: Resolution of Appreciation - York County

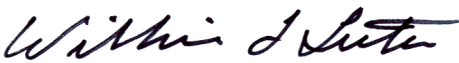
On August 6, 2005, the James City County Emergency 911 Communications Center was struck by lightning during an unexpected severe thunderstorm. The lightning rendered all electronic equipment in the Center inoperable. The damage caused the failure of the 911 telephone reception equipment, the computer aided dispatch system, and the radio communications transmit and receive equipment.

James City County and York County have a mutual assistance agreement that provides that each county will exchange 911 services in just this type of situation. The York County Emergency Communications Center (ECC) provided our county an exceptional service during this 911 outage. Saturday night their staff assisted ours in the switch over from our Center. Their dispatchers took over the dispatching of emergency calls in James City County for our citizens for almost an hour while our folks completed the shutdown of our Center and moved operations to the York ECC.

Mr. Hall, Director of the York County ECC, and his staff afforded James City County Emergency Dispatch employees every courtesy and went out of their way to make the employees feel at home. Mr. Hall responded to our Center Saturday night and stayed until about 4 a.m.; he then returned at 11 a.m. on Sunday and stayed until 5 p.m. and assisted with the recovery operations. He sent spare parts in from his Center for the Verizon repairs to facilitate the repair time.

Our staff was working in an unfamiliar setting with unfamiliar equipment; however, they were welcomed and made to feel at home. They adapted quickly, and from the perspective of the citizen, they would not be able to tell the difference in service that we were providing.

Staff recommends approval of the proposed resolution of appreciation.


William T. Luton

WTL/gb
YorkCoAppr.mem

Attachment

RESOLUTION OF APPRECIATION

YORK COUNTY

WHEREAS, on August 6, 2005, a devastating bolt of lightning struck the James City County Emergency Communications Center (ECC); and

WHEREAS, that bolt of lightning rendered all electronic systems in the ECC inoperable including the microwave radio dispatch communications system, the 911 telephone system, and the Computer Aided Dispatch System; and

WHEREAS, York County and James City County have had a long-standing operational plan for just such a situation that allows the two counties to swap emergency communication functions; and

WHEREAS, staff from the York County Communications Center took on the tasks of answering all County 911 calls and Dispatching all Emergency Calls until the arrival of James City County Emergency Telecommunicators; and

WHEREAS, York County hosted the functions and staff of the James City County Emergency Communications Center for the next five days, thus insuring the timely dispatch and response of Emergency Fire, Police, and EMS crews for the residents and visitors of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby extends its thankful appreciation to the citizens, Board of Supervisors, and the Emergency Communications Center staff of York County, 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 13th day of September, 2005.

YorkCoAppr.res

MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

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

SUBJECT: Chesapeake Bay Preservation Ordinance Violation – Civil Charge – George Amrein

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

In accordance with provisions of the Ordinance, replanting of vegetation and a civil charge are proposed to remedy the RPA violation. The property owner has entered into a Chesapeake Bay Restoration Agreement with the County, submitted landscape plans, and provided surety to guarantee the implementation of the approved landscape plan to restore the impacted areas on his property.

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owner. Staff and the property owner agreed to the recommended civil charge of \$1,000 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact has been assessed as moderate and the violation intent as minor by staff.

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

Darryl E. Cook

Leo P. Rogers

Amreinvioi.mem
DEC/LPR/gs

Attachment

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - GEORGE AMREIN

- WHEREAS, George Amrein is the owner of a certain parcel of land, commonly know as 184 The Maine, designated as Parcel No. (02-65) on James City County Real Estate Tax Map No. (45-4) herein referred to as the ("Property"); and
- WHEREAS, on or about July 8, 2005, George Amrein caused to be removed approximately 17 trees and shrubs from within the Resource Protection Area (RPA) on the Property; and
- WHEREAS, George Amrein agreed to a Restoration Plan to replant eight canopy trees, eight understory trees, and 18 shrubs on the Property in order to remedy the clearing violation under the County's Chesapeake Bay Preservation Ordinance. Mr. Amrein has posted sufficient surety guaranteeing the installation of the aforementioned improvements and the restoration of the RPA on the Property; and
- WHEREAS, George Amrein has agreed to pay \$1,000 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and
- WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,000 civil charge from George Amrein as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

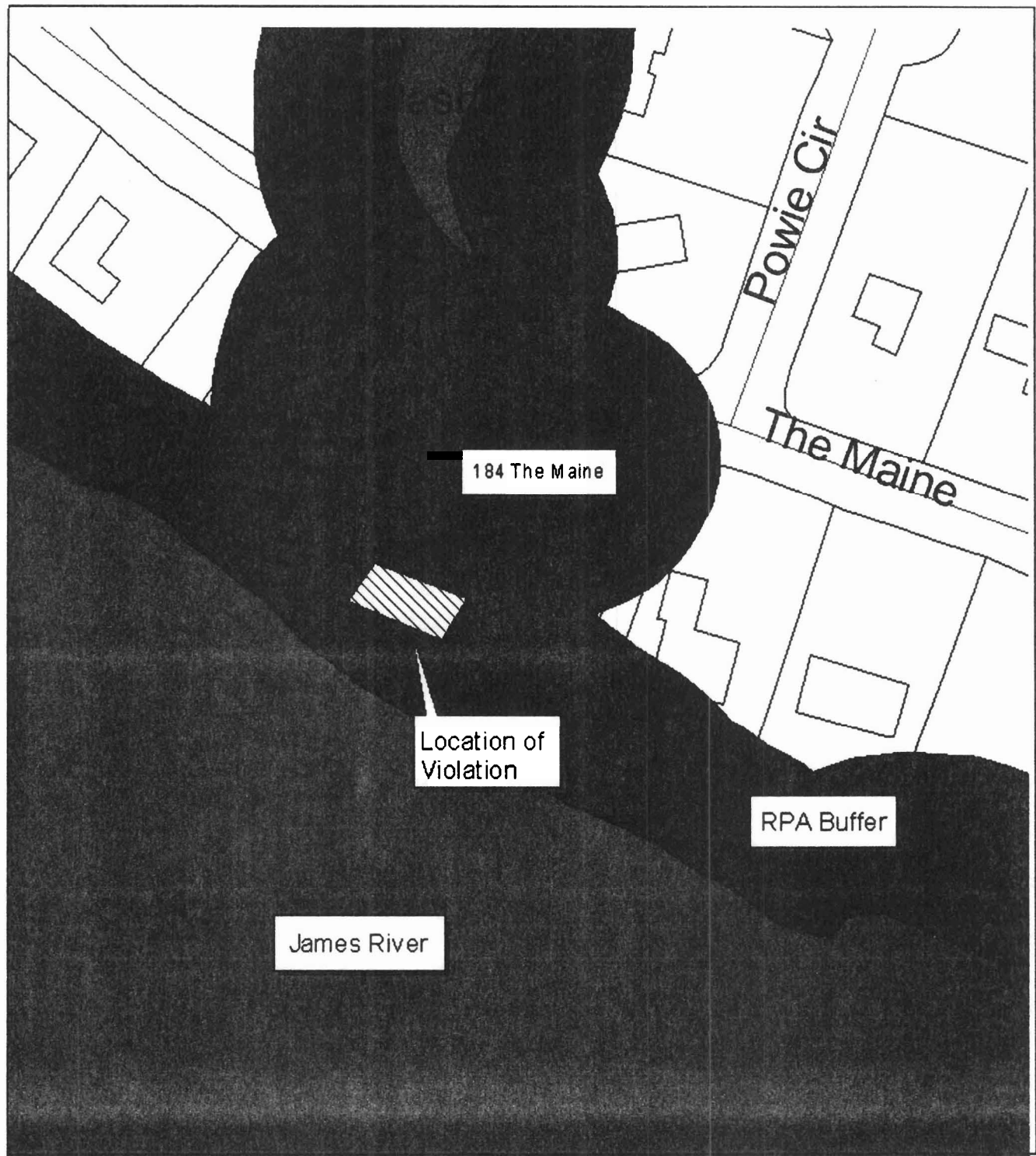
Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

amreinvviol.res



**CHESAPEAKE BAY ORDINANCE VIOLATION
184 THE MAINE - GEORGE AMREIN**

200 0 200 Feet

A horizontal scale bar with three segments. The first segment is labeled '200', the middle segment is labeled '0', and the third segment is labeled '200 Feet'.

M E M O R A N D U M

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: Leo P. Rogers, County Attorney

SUBJECT: First Amendment to Amended and Restated Cooperative Service Agreement

James City County, York County, the City of Williamsburg, and the City of Poquoson ("Member Jurisdictions") entered into an Amended and Restated Cooperative Service Agreement on August 1, 1995 ("Service Agreement") with the Virginia Peninsula Regional Jail Authority ("Jail Authority"), which provides for the financing, construction, and operation of the Jail Authority. Fiscal Year 2006 ("FY 06") was to be the start date of a new billing method for the Member Jurisdictions use of the Jail Authority. Prior to FY 06 the Member Jurisdictions were billed by multiplying the number of jail days used during a month by an established per diem ("Per Diem Charge"). Under the new billing method the Member Jurisdictions will be charged a set amount based on its historical proportion of jail days used relative to the total local revenues needed to balance the budget for a particular fiscal year ("Member Jurisdiction Charge") instead of the Per Diem Charge. The Member Jurisdiction Charge will be calculated on a monthly basis and an invoice will be sent to each locality at the end of each month.

In order for the Member Jurisdiction Charge to take place, the Service Agreement must be amended to remove the Per Diem Charge and incorporate the Member Jurisdiction Charge. The First Amendment to Amended and Restated Cooperative Service Agreement incorporates the necessary changes to the Service Agreement.

Staff recommends adoption of the attached resolution authorizing the County Administrator to execute the First Amendment to Amended and Restated Cooperative Service Agreement to incorporate the Member Jurisdiction Charge.

Leo P. Rogers

LPR/nb
servagreeamen.mem

Attachment
1. Resolution

RESOLUTION

FIRST AMENDMENT TO AMENDED AND RESTATED

COOPERATIVE SERVICE AGREEMENT

WHEREAS, James City County ("County") entered into an Amended and Restated Cooperative Service Agreement ("Service Agreement") on August 1, 1995 with the Virginia Peninsula Regional Jail Authority ("Jail Authority"), which provides for the financing, construction, and operation of the Jail Authority; and

WHEREAS, the First Amendment to Amended and Restated and Cooperative Service Agreement ("Amendment Agreement") modifies the Service Agreement by removing a Per Diem Charge for use of the Jail Authority and incorporating a monthly Member Jurisdiction Charge in its place; and

WHEREAS, the Board of Supervisors is of the opinion the County should execute the Amendment Agreement to incorporate the Member Jurisdiction Charge to the Service Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator, to execute the Amendment Agreement in order to incorporate the Member Jurisdiction Charge to the Service 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 13th day of September, 2005.

servagreeamen.res

MEMORANDUM

DATE: September 13, 2005
TO: The Board of Supervisors
FROM: Shawn A. Gordon, Capital Projects Coordinator
SUBJECT: Award of Contract – Toano Convenience Center

Bids for the construction of a new Convenience Center in Toano were received on August 17, 2005. This facility will replace the former Toano Convenience Center located on Forge Road for recycling and trash collection. Additional items this facility will collect are oil, anti-freeze, tires, batteries, and white goods.

Seven firms submitted bids and one bid was declared non-responsive. The following bids were considered for award:

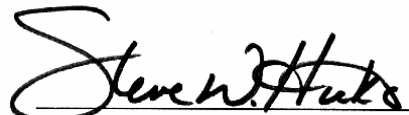
<u>Firm</u>	<u>Amount</u>
O.K. James Construction, Inc.	\$295,143.00
W.L. Padden	357,777.00
Curtis Contracting, Inc.	398,949.94
Sun Bay Contracting,	412,901.19
Toano Contractors, Inc.	439,000.00
Walter C. Via Enterprises, Inc.	569,673.34

O.K. James Construction, Inc., was the lowest responsive and responsible bidder. The bid amount of \$295,143 is consistent with the project estimate and funds are available in the Capital Improvement Program budget for this award.

Staff recommends adoption of the attached resolution authorizing the County Administrator to execute a contract in the amount of \$295,143 with O.K. James Construction, Inc., for construction of the Toano Convenience Center.


Shawn A. Gordon

CONCUR:


Steven W. Hicks

SAG/gb
Toano_CC.mem

Attachment

RESOLUTION

AWARD OF CONTRACT – TOANO CONVENIENCE CENTER

WHEREAS, bids were advertised for construction of the Toano Convenience Center at 185 Industrial Boulevard, Toano; and

WHEREAS, bids were received and O.K. James Construction, Inc., was the lowest responsive and responsible bidder with a bid of \$295,143; and

WHEREAS, funds are available in the current Capital Improvements Program (CIP) budget for this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract in the amount of \$295,143 with O.K. James Construction, Inc., for the construction of the Toano Convenience Center.

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 13th day of September.

Toano_CC.res

MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: Clara C. Christopher, General Registrar
Leo P. Rogers, County Attorney

SUBJECT: Agreement for Powhatan C Election Precinct

On May 10, 2005, the James City County Board of Supervisors approved Ordinance No. 55-A33, which established the Powhatan C Election Precinct with a polling place located at Greensprings Chapel, effective August 19, 2005. The County received clearance from the U.S. Department of Justice approving the change.

The County and the Greensprings Chapel negotiated a use agreement which authorizes the County to use Greensprings Chapel as a polling place for elections. The County is required to reimburse the Chapel for reasonable expenses, not to exceed \$150 per election.

Staff recommends approval of the attached resolution and Agreement.

Clara C. Christopher

Leo P. Rogers

powhatanCagr.mem
CCC/LPR/gs

Attachments

RESOLUTION

AGREEMENT FOR POWHATAN C ELECTION PRECINCT

WHEREAS, the James City County Electoral Board is required to conduct elections in the County of James City; and

WHEREAS, the Greensprings Chapel has offered to provide a polling place for the Powhatan C Precinct.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute a lease agreement between James City County and the Greensprings Chapel for the establishment of a polling place for the Powhatan C Precinct.

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 13th day of September, 2005.

powhatanCagr.res

Agreement

This Agreement made this ____day of _____, 2005, by and between Greensprings Chapel ("Chapel") and the County of James City ("County").

WHEREAS, the Reverend Bob Atkins is Senior Pastor of Greensprings Chapel; and

WHEREAS, the Board of Supervisors of James City County, Virginia, is desirous of utilizing a portion of the Chapel building as a polling place for the Powhatan C Election District; and

WHEREAS, that for and in consideration of the mutual covenants set forth herein and other good and valuable consideration, the parties agree as follows:

1. An area of the Chapel has been established as a polling place for the qualified voters of Powhatan C Election District in the County of James City in accordance with Section 24.2-307 of the Code of Virginia, pursuant to County Ordinance No. 55A-33, adopted by the Board of Supervisors on May 10, 2005.
2. The Chapel shall be made available for the use as a polling place for all elections conducted in Powhatan C Election District. This agreement shall be for a term of two years beginning on July 1, 2005 and ending on June 30, 2007. Thereafter, this Agreement shall automatically renew for successive one-year terms unless at least six-months notice is provided by either party.
3. Entry to the Chapel and the area to be used as a polling place shall be accessible to the physically handicapped and the elderly, and handicap parking spaces will be reserved.
4. Adequate parking spaces shall be made available for use of voters and officers of election during elections.
5. The Chapel polling place shall be clearly identified with signs provided and erected by the James City County Electoral Board.
6. Notice of prohibited activities, provided and erected by the Electoral Board, will be posted within 40 feet from any entrance to the polling place during the conduct of an election. It shall be unlawful for any person to loiter, congregate, or otherwise hinder any qualified voter.
7. Except in an emergency, no loudspeaker shall be used within 300 feet of the polling place on Election Day.
8. The Chapel shall provide local telephone access for use by officers of election throughout Election Day.

9. The Chapel will make available an adequate number of tables and chairs for the conduct of each election.
10. The kitchen area of the Chapel will be made accessible for use by officers of election.
11. The County shall reimburse the Chapel for reasonable expenses incurred due to the use of the Chapel as a polling place, not to exceed \$150 per election.

GREENSPRINGS CHAPEL

Bob Atkins, Senior Pastor

COUNTY OF JAMES CITY

Michael J. Brown, Chairman
Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

powhatanC.agr

M E M O R A N D U M

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: Bernard M. Farmer, Jr., Capital Projects Administrator

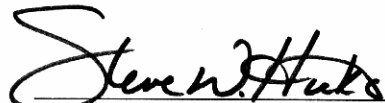
SUBJECT: Easement, Dominion Virginia Power - Emergency Communications Center

In order to install the underground electrical service for the Emergency Communications Center presently under construction adjacent to the existing Emergency Operations Center in Toano, Dominion Virginia Power has requested a 15-foot underground utility easement from the County. Attached is a sketch showing the location of the easement and the proposed easement document. Staff has reviewed the proposed easement and agrees with its location as indicated on the attached sketch. The service has been designed by Dominion Virginia Power to be from its circuit on Richmond Road, providing greater reliability to this critical communications facility.

Staff recommends adoption of the attached resolution authorizing the County Administrator to execute documents necessary for granting an easement to Dominion Virginia Power for electrical power at the Emergency Communications Center.


Bernard M. Farmer, Jr.

CONCUR:


Steven W. Hicks

BMF/gb
Easement_VDP.mem

Attachments

RESOLUTION

EASEMENT, DOMINION VIRGINIA POWER – EMERGENCY COMMUNICATIONS CENTER

WHEREAS, James City County owns 4.79± acres, commonly known as the James City County Emergency Operations Center site and Fire Station 1 designated as Parcel No. (1-27) on James City County Real Estate Tax Map No. (12-3); and

WHEREAS, Dominion Virginia Power requires a 15-foot utility easement in order to provide electrical service to the Emergency Communications Center presently under construction; and

WHEREAS, the Board of Supervisors is of the opinion that it is in the public interest to convey a utility easement to Dominion Virginia Power.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Right-of-Way Agreements and such other documents necessary to convey a utility easement to Dominion Virginia Power for the Emergency Communications Center.

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 13th day of September, 2005.

Easement_VDP.res



Right of Way Agreement

THIS RIGHT OF WAY AGREEMENT, is made and entered into as of this _____ day of _____, 2005, by and between

COUNTY OF JAMES CITY, a political subdivision
of the Commonwealth of Virginia,

("GRANTOR") and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation, doing business in Virginia as Dominion Virginia Power, with its principal office in Richmond, Virginia ("GRANTEE").

WITNESSETH:

1. That for and in consideration of the sum of One Dollar (\$1.00) cash in hand paid and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, **GRANTOR** grants and conveys unto **GRANTEE**, its successors and assigns, the perpetual right, privilege and easement over, under, through, upon and across the property described herein, for the purpose of transmitting and distributing electric power by one or more circuits; for its own internal telephone and other internal communication purposes directly related to or incidental to the generation, distribution, and transmission of electricity, including the wires and facilities of any other public service company in aid of or to effectuate such internal telephone or other internal communication purposes; and for lighting purposes; including but not limited to the right:

1.1 to lay, construct, operate and maintain one or more lines of underground conduits and cables including, without limitation, one or more lighting supports and lighting fixtures as **GRANTEE** may from time to time determine, and all wires, conduits, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith; the width of said easement shall extend fifteen (15) feet in width across the lands of **GRANTOR**; and

Initials: _____

This Document Prepared by Virginia Electric and Power Company and should be returned to:
Dominion Virginia Power, 1601 Hamilton Avenue Portsmouth VA 23707.

(Page 1 of 5 Pages)
DVPIIDNo(s). 28-05-0063
Tax Map No. 1230100027

Right of Way Agreement

2. The easement granted herein shall extend across the lands of **GRANTOR** situated in James City County, Virginia, as more fully described on Plat(s) Numbered 28-05-0063, attached to and made a part of this Right of Way Agreement; the location of the boundaries of said easement being shown in broken lines on said Plat(s), reference being made thereto for a more particular description thereof.

3. All facilities constructed hereunder shall remain the property of **GRANTEE**. **GRANTEE** shall have the right to inspect, reconstruct, remove, repair, improve, relocate on the easement, and make such changes, alterations, substitutions, additions to or extensions of its facilities as **GRANTEE** may from time to time deem advisable.

4. **GRANTEE** shall have the right to keep the easement clear of all buildings, structures, trees, roots, undergrowth and other obstructions which would interfere with its exercise of the rights granted hereunder, including, without limitation, the right to trim, top, retrim, retop, cut and keep clear any trees or brush inside and outside the boundaries of the easement that may endanger the safe and proper operation of its facilities. All trees and limbs cut by **GRANTEE** shall remain the property of **GRANTOR**.

5. For the purpose of exercising the right granted herein, **GRANTEE** shall have the right of ingress to and egress from this easement over such private roads as may now or hereafter exist on the property of **GRANTOR**. The right, however, is reserved to **GRANTOR** to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, **GRANTEE** shall have such right of ingress and egress over the lands of **GRANTOR** adjacent to the easement. **GRANTEE** shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to **GRANTOR**.

6. **GRANTEE** shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and (b) outside the boundaries of the easement and shall repair or pay **GRANTOR**, at **GRANTEE**'s option, for other damage done to **GRANTOR**'s property inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and outside the boundaries of the easement caused by **GRANTEE** in the process of the construction, inspection, and maintenance of **GRANTEE**'s facilities, or in the exercise of its right of ingress and egress; provided **GRANTOR** gives written notice thereof to **GRANTEE** within sixty (60) days after such damage occurs.

Initials: _____

(Page 2 of 3 Pages)

DVPIDNo(s). 28-05-0063

Form No. 728493A2(Dec 2004)
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Right of Way Agreement

7. **GRANTOR**, its successors and assigns, may use the easement for any reasonable purpose not inconsistent with the rights hereby granted, provided such use does not interfere with **GRANTEE's** exercise of any of its rights hereunder. **GRANTOR** shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, **GRANTOR** may construct on the easement fences, landscaping (subject, however, to **GRANTEE's** rights in Paragraph 4 of this Right of Way Agreement), paving, sidewalks, curbing, gutters, street signs, and below ground obstructions as long as said fences, landscaping, paving, sidewalks, curbing, gutters, street signs, and below ground obstructions do not interfere with **GRANTEE's** exercise of any of its rights granted hereunder. In the event such use does interfere with **GRANTEE's** exercise of any of its rights granted hereunder, **GRANTEE** may, in its reasonable discretion, relocate such of its facilities as may be practicable to a new site designated by **GRANTOR** and acceptable to **GRANTEE**. In the event any such facilities are so relocated, **GRANTOR** shall reimburse **GRANTEE** for the cost thereof and convey to **GRANTEE** an equivalent easement at the new site.

8. **GRANTEE** shall have the right to assign or transfer, without limitation, to any public service company all or any part of the perpetual right, privilege and easement granted herein.

9. If there is an Exhibit A attached hereto, then the easement granted hereby shall additionally be subject to all terms and conditions contained therein provided said Exhibit A is executed by **GRANTOR** contemporaneously herewith and is recorded with and as a part of this Right of Way Agreement.

10. Whenever the context of this Right of Way Agreement so requires, the singular number shall mean the plural and the plural the singular.

Initials: _____

(Page 3 of 5 Pages)

DVPIDNo(s). 28-05-0063

Form No. 728493A3(Dec 2004)
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Right of Way Agreement

11. **GRANTOR** covenants that it is seised of and has the right to convey this easement and the rights and privileges granted hereunder; that **GRANTEE** shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that **GRANTOR** shall execute such further assurances thereof as may be reasonably required.

12. The individual executing this Right of Way Agreement on behalf of **GRANTOR** warrants that **GRANTOR** is a corporation duly organized and existing under the laws of the state hereinabove mentioned and that he or she has been duly authorized to execute this easement on behalf of said corporation.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, **GRANTOR** has caused its corporate name to be signed hereto by its authorized officer or agent, described below, on the date first above written.

Corporate Name: County of James City

By: _____

Sanford B. Wanner

Its: County Administrator

State of Virginia

City/County of James City

The foregoing instrument was acknowledged before me this ____ day of _____, _____

by Sanford B. Wanner, County Administrator
(Name of officer or agent) (Title of officer or agent)

of County of James City, a Virginia
(Name of corporation) (State of incorporation)

corporation, on behalf of the corporation.

Notary Public (Print Name)

Notary Public (Signature)

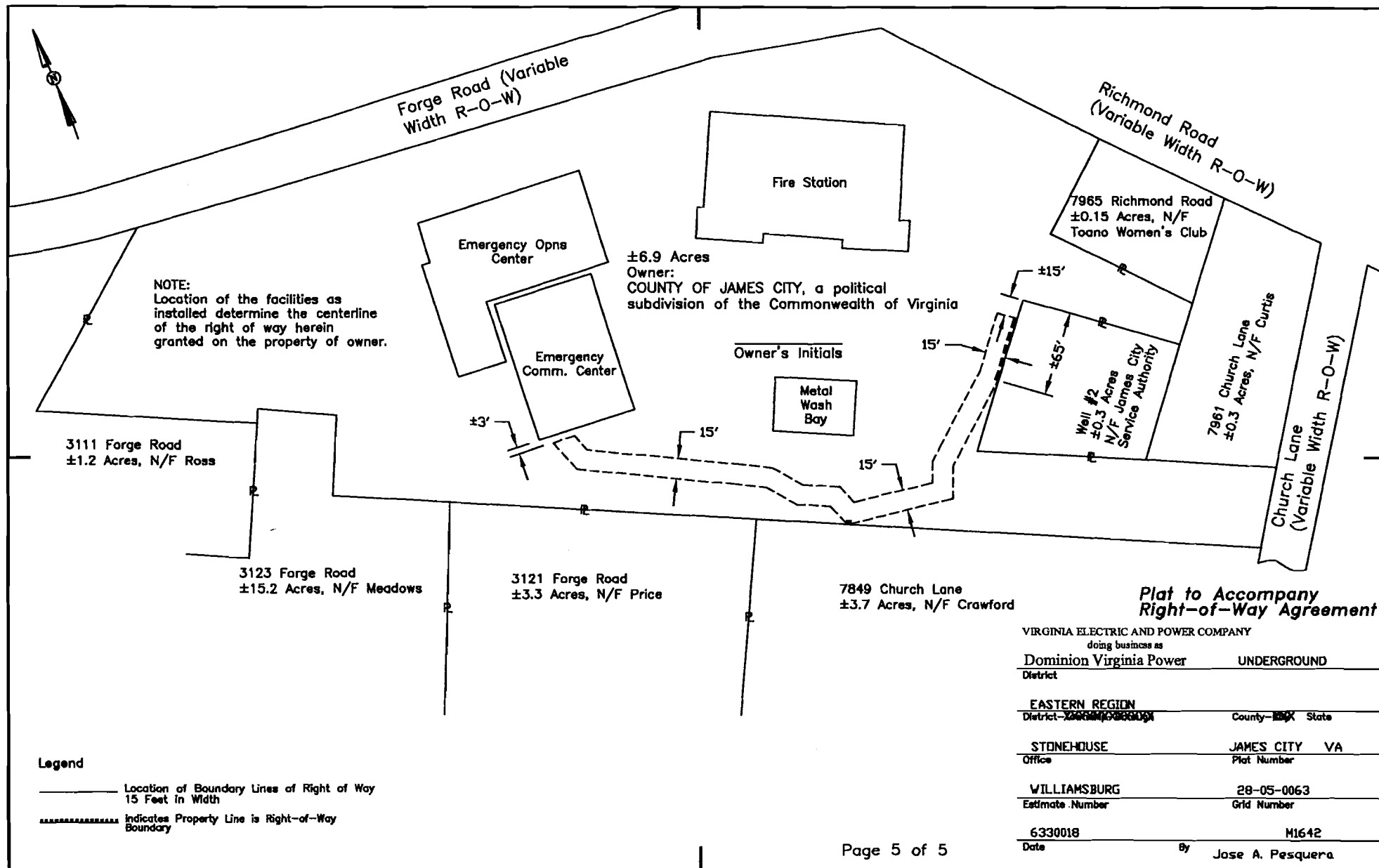
(Page 4 of 5 Pages)

My commission expires: _____.

DVPIDNo(s). 28-05-0063

Form No. 728553A(Sep 2004)

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MEMORANDUM

DATE: September 13, 2005

TO: The Board of Supervisors

FROM: John E. McDonald, Manager, Financial and Management Services

SUBJECT: Proposed Real Property Tax Rate and Budget Amendments

Tax Rate

Under § 58.1-3321 of the Code of Virginia, any general reassessment that increases property values by more than 1% shall result in a lowering of the real property tax rate to a levy that would produce the same revenue as the locality actually collected in the prior year. The County landbook, as of July 1, 2005, includes an average increase of 14.6% resulting from a general reassessment and lowering the current 82.5 cent tax rate to 72 cents would be necessary to meet the provisions of the Code. The State Code allows a governing body to increase the tax rate to above 72 cents if that action follows a public hearing that is held at a different time than the budget public hearing.

A simple illustration why the reduced tax rate would be set at 72 cents:

- July 2004 assessment of a home at \$100,000 would produce an annual tax bill of \$825 at the current tax rate of 82.5 cents.
- If that assessment is increased to \$114,600 in July 2005 (a 14.6% increase) – a tax rate of 72 cents would result in a tax bill of \$825.12 – or approximately the same dollar total as the year before.

The public hearing advertisement is also specifically set out in the State Code and titled as a Proposed Real Property Tax Rate Increase if the Board anticipates adopting a tax rate that exceeds 72 cents. The public hearing was advertised in accordance with State law.

The advertised public hearing includes a recommendation for budget amendments and a reduction in the real property tax rate of 3.5 cents (4.24%) to 79 cents per \$100 assessed. If approved, that real property tax rate would go into effect for the 2006 fiscal year beginning with next month's billing for one-half of the annual taxes due. Additional discussion of the reduced tax rate is included under the topic entitled "Budget Impact."

Results of the July 1, 2005, Land Book

The Real Estate Land book, as of July 1, 2005, has been completed and as of August 27, 2005 notices have been mailed to all property owners where a change in assessment has occurred. Approximately 27,000 of the total of 28,000 parcels in the County realized a change in assessment. The average change in assessment was a 14.6% increase, residential properties show an average increase of 15% over last year. In addition to increases provided by reassessment, over \$500 million in new property value, almost 35% of the increase, was added in newly constructed improvements. The following chart illustrates a comparison between the landbooks of July 1, 2004 and July 1, 2005:

Proposed Real Property Tax Rate and Budget Amendments

September 13, 2005

Page 2

	<u>July 2004</u>	<u>July 2005</u>	<u>Increase</u>	<u>Percent</u>
Land Book Taxable	\$6,781,199,400	\$8,299,027,700	\$1,517,828,300	22.4%
Reassessment			\$ 988,420,400	14.6%
Growth			\$ 529,407,900	7.8%
Mid-Year Supplements	110,211,486	110,000,000		
Land-Use Deferred	(86,056,500)	(96,002,300)		
Reserve – Appeal	<u> </u>	<u>(40,000,000)</u>		
Billable Taxable Property	\$6,805,354,486	\$8,273,025,400		
Tax Collections – 82.5 cents and 97% of billing	\$ 54,549,850	\$ 66,204,886		
Penny on the Tax Rate	\$ 660,119	\$ 802,483		

Budget Impact

The adopted FY 2006 budget contained conservative estimates of the growth in taxable real property – both from reassessments and from new construction. The chart below illustrates the differences between the adopted budget and the land book.

	<u>Budget</u>	<u>Land book</u>	<u>Difference</u>
Revenues at 82.5-cent real property tax rate	\$61,082,995	\$66,204,886	\$5,121,891
Increase due to Reassessments	\$ 4,254,888	\$ 7,621,138	\$3,366,250
	7.8%	14.0%	
Increase due to New Construction	\$ 2,278,257	\$ 4,003,898	\$1,755,641
	4.2%	7.3%	

State Code also requires that budget amendments exceeding \$500,000 be advertised for a public hearing and budget amendments that reflect a 79-cent real property tax rate was advertised as required by State law. With a possible reduction in the real property tax rate from \$0.825 to the advertised rate of \$0.79, the unbudgeted revenue is reduced from \$5,121,891 to \$2,313,200.

The attached resolution proposes to reduce the tax rate from \$0.825 to \$0.79 and to amend the FY 2006 budget by appropriating \$2,313,200 resulting primarily from new construction in two parts - \$1,600,000 to increase funding for the new high school, \$713,200 for debt service reserve – anticipating the issuance of debt for several school projects: a new elementary school, a new multiuse building for alternative education and student services, and an expansion to Stonehouse Elementary School.

Impact on Debt Service Reserve

Currently the budget includes a contribution of \$1,840,000 to the debt service reserve – a “shock absorber” needed to fund the annual increases in debt service resulting from the issuance of new bonds. This reserve fund allows future Boards to increase debt service payments without requiring increases in the tax rate. That \$1,840,000 was estimated to approximate 2.5 cents on the real property tax rate.

An additional \$700,000 was budgeted for the first principal payment on the Warhill/stadium debt issued in FY 2006 – but when the bonds sold, the low bidder scheduled the first principal payment in FY 2007 – allowing a reallocation of an additional \$700,000 in FY 2006 to Debt Service reserve.

The attached resolution adds \$700,000 in relocated funds within debt service and \$713,200 from the General Fund to the budgeted \$1,840,000 for debt service reserve – a total of \$3,253,200 – the equivalent of approximately 4 cents on the real property tax.

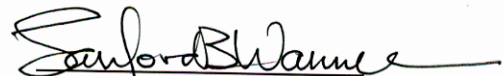
Impact on Budget for New High School

The additional \$1,600,000 resulting from previously unbudgeted real property taxes from new development is combined in the attached resolution with \$1,920,780 in a previously unappropriated original issue premium to provide an additional \$3,520,780 for the construction budget of the new high school. The Schools are negotiating reductions in the contract of the low bidder, the City is expected to increase its financial commitment, and this \$3,520,780 in new County funds is a big first step to close the gap and award a construction contract to open the third high school in August of 2007. Staff anticipates that additional funds will need to be identified and diverted to the high school construction budget in the near future.

Staff recommends approval of the attached resolution which reduces the tax rate to \$0.79 per \$100 in assessed value and amends the debt service and capital budgets to include reallocations and unbudgeted tax revenue from new construction.

John E. McDonald

CONCUR:



Sanford B. Wanner

JEM/gb
TaxRate.mem

Attachment

RESOLUTION

PROPOSED REAL PROPERTY TAX RATE AND BUDGET AMENDMENTS

WHEREAS, the James City County Board of Supervisors has received the results of the County's general reassessment of real property included in the land book of July 1, 2005; and

WHEREAS, the results of that general reassessment produces an effective 14.6% increase in real property taxes for the average James City County property owner; and

WHEREAS, additional unbudgeted real property tax proceeds are the result of a larger than anticipated growth in the value of new construction; and

WHEREAS, public hearings were advertised as required by the Code of Virginia on a proposal to reduce the real property tax rate and budget amendments that impact the FY 2006 general, capital and debt service funds of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves a real property tax rate of \$.79 per \$100 of assessed value for the fiscal year ending June 30, 2006.

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the following budget amendments for FY 2006 and appropriates these sums, as follows:

Operating Revenues

Real Property Taxes	add	\$ 2,313,200
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Operating Expenditures/Transfers

Transfer to Capital Projects	add	\$ 1,600,000
Transfer to Debt Service	add	\$ 713,200

Capital Project Revenues

Bond Proceeds	add	\$ 1,920,780
Transfer from Operating Budget	add	\$ 1,600,000

Capital Project Expenditures

Third High School	add	\$ 3,520,780
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Debt Service Revenues

Transfer from Operating Budget	add	\$ 713,200
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Debt Service Expenditures

Debt Service Reserve	add	\$ 1,413,200
Warhill/Stadium Financing	deduct	\$ (700,000)

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 13th day of
September, 2005.

TaxRate.res

**SPECIAL USE PERMIT CASE NO. SUP-22-05. Shops at Norge Crossing
Staff Report for the September 13, 2005, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 1, 2005, 7:00 p.m.
September 13, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Gregory Davis, Kaufman and Canoles

Land Owner: Shops at Norge Crossing, LLC

Proposal: To construct an eight-unit, 13,000-square-foot retail center.

Location: 7500 Richmond Road

Tax Map/Parcel No.: (23-2)(1-71E)

Parcel Size: 1.84 acres

Zoning: B-1, General Business, with proffers

Comprehensive Plan: Community Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the Special Use Permit (SUP) application with the attached conditions.

Staff Contact: Jason Purse, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On August 1, 2005, the Planning Commission voted 6-0-1, with one abstention, to approve this application.

Proposed Changes Made After Planning Commission Consideration

None.

PROJECT DESCRIPTION

Mr. Gregory Davis of Kaufman and Canoles, has applied for a commercial SUP to allow for an 8-unit, 13,000-square-foot retail center. Any commercial development in excess of 10,000 square feet requires a SUP. Potential tenants for the spaces could include retail shops, service stores, or restaurants. The eight units will range in size from 1,100 to 2,500 square feet each.

This property is located at 7500 Richmond Road and is zoned B-1, General Business, with proffers. It is designated as Community Commercial on the 2003 Comprehensive Plan Land Use Map and can be further identified as Parcel No. (1-71E) on James City County Real Estate Tax Map No. (23-2).

Surrounding Zoning and Development

- ◆ This site is an out parcel of the Norge Crossing Shopping Center. It is bordered by Richmond Road to the south and Norge Lane to the east. The properties across Norge Lane are zoned A-1, General Agriculture, and R-8, Rural Residential. It is adjacent to the existing Old Point National Bank to the west and the parking lot of the Farm Fresh to the north. These properties are zoned B-1, General Business, with proffers.
- ◆ As required in the proposed conditions, the proposed retail center would be constructed in a manner consistent with the architecture and character of the Norge community. The Zoning Ordinance requires sidewalks to be built adjacent to public rights-of-way. In addition to the required sidewalks along Richmond Road, which will tie in to an existing sidewalk and Norge Lane, a condition is included which requires a 4-foot sidewalk to be built adjacent to the parking lot access drive. This sidewalk would connect the internal sidewalk in front of the proposed stores to the required sidewalk along Norge Lane, thus preventing the need for pedestrians to walk in the drive aisle. Other conditions of the SUP call for increased landscaping along Norge Lane, an approved lighting plan, and contributions to the James City Service Authority for sewer system improvements.

PUBLIC IMPACTS

Environmental Impacts

- ◆ **Watershed:** Yarmouth Creek
- ◆ **Environmental Staff Conclusions:** The Board of Supervisors has adopted six goals and 14 priorities associated with the contents of the Yarmouth Creek watershed plan. During the site plan process, the owner, applicant, developer and plan preparer are advised to completely review the goals, priorities (tools), and entire contents of this study, including the sub-watershed map.

As required in the proposed conditions, the applicant must demonstrate, prior to final site plan approval, that the existing infiltration basin (YC023) is in sound working order and that it is performing at or above the design level of service. The applicant shall perform all necessary improvements and upgrades to bring the basin into compliance.

Public Utilities

- ◆ The site is located inside the Primary Service Area and is served by public water and sewer.
- ◆ **JSCA Staff Conclusions:** As required in the proposed conditions, the applicant will be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing those standards.

Traffic

- ◆ A traffic impact statement is not required for this project as the ITE trip generation rates are below 100 peak hour trips. In 2005, for the Croaker Road to Lightfoot Road section of Richmond Road, the Traffic Count survey indicated there were 18,770 trips daily. The 2026 projected Traffic Counts indicate an increase to 33,500 trips, along with listing this section of Richmond Road as a “watch” area. However, it is noted that the number of lanes will not need to increase.

- ◆ **VDOT Conclusions:** VDOT Traffic Engineering has reviewed the proposal and has found that the existing facilities are sufficient to accommodate the proposed development. ITE trip generation for the retail center would be 529 weekday trips and 547 Saturday trips. The intersection at Richmond Road and Norge Lane is signalized and entrances to the site are internal to the shopping center. There will be no adverse impacts on the existing roadway network with regards to level of service.
- ◆ **Staff Conclusions:** Staff agrees with VDOT's finding that no traffic improvements are required for this project.

COMPREHENSIVE PLAN

The property is designated Community Commercial on the Comprehensive Plan Land Use Map. The property is adjacent to the Richmond Road Community Character Corridor (CCC), and is a part of the Norge Community Character Area (CCA). The Community Character section of the 2003 Comprehensive Plan reads in part:

"The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of an area and feels these roads warrant a higher level of protection. Additional sections of Richmond Road (Route 60 West) have been added to the list of CCCs to include the segment from Anderson's Corner to the City of Williamsburg line to assist in regional beautification efforts."

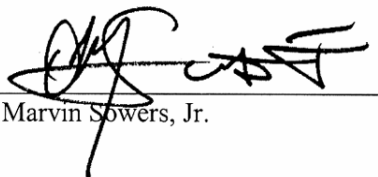
- ◆ **Staff Conclusions:** The proposed retail center is consistent with the Community Commercial designation for this area. With the attached conditions, staff finds the proposal to be appropriate for this Community Character Corridor. Special use permit conditions are included which provide for architectural controls and increased landscaping. Additionally, a condition is included which requires a 4-foot sidewalk to be built adjacent to the parking lot access drive connecting the sidewalk in front of the proposed stores to the required sidewalk along Norge Lane.

RECOMMENDATION:

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the special use permit application with the conditions listed in the attached resolution.

Jason Purse

CONCUR:



O. Marvin Sowers, Jr.

JP/nb
sup-22-05.mem

Attachments:

1. Minutes from the August 1, 2005, Planning Commission Meeting
2. Resolutions
3. Location Map
4. Architectural Elevations (under separate cover)
5. Master Plan (under separate cover)

**UNAPPROVED MINUTES OF THE AUGUST 1, 2005 MEETING
OF THE PLANNING COMMISSION**

SUP-22-05 Shops at Norge Crossing

Ms. Ellen Cook introduced Mr. Jason Purse. Mr. Purse presented the staff report. Mr. Gregory Davis of Kaufman and Canoles has applied for a special use permit to construct 8 retail shops totaling 13,000 square feet at 7500 Richmond Road. This parcel is located at the intersection of Norge Lane and Richmond Road and can be further identified as Parcel Number (1-71E) on the JCC Real Estate Tax Map (23-2). It is part of the Norge Crossing Shopping Center and is currently zoned B-1, General Business, with proffers. Staff found that with the proposed conditions the application is compatible with the Comprehensive Plan. Staff recommended approval of the application and attached conditions.

Ms. Blanton asked about the proposal's impact on the Yarmouth Creek Watershed Protection Plan.

Mr. Purse stated that one of the conditions included the goals and priorities of the plan.

Ms. Blanton asked if the developer provided funding for education or other protective measures.

Mr. Purse said SUP conditions can not request money.

Ms. Blanton wanted to know if it could be proffered.

Mr. Purse explained that proffers are generated through Rezonings rather than Special Use Permits.

Mr. Hunt asked if the existing BMP would remain.

Mr. Purse said yes.

Mr. Hunt opened the public hearing.

Mr. Greg Davis, Kaufman and Canoles, represented the applicant. Mr. Davis presented the project and showcased the developer's previous project in James City County. He asked the Commission to approve the application.

Mr. Kale asked if the applicant had any questions regarding the conditions.

Mr. Davis said no. He said the applicant was in agreement with the conditions.

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

Mr. Kennedy recused himself.

Mr. Kale stated his pleasure with the developer's previous project in the County.

Ms. Blanton echoed Mr. Kale's comments.

Mr. Kale motioned to approve the application.

Ms. Blanton seconded the motion.

In a unanimous roll call vote the application was recommended for approval (6-0). AYE: Billups, Kale, Fraley, Blanton, Jones, Hunt; NAY: (0). Kennedy abstained.

RESOLUTION

CASE NO. SUP-22-05. SHOPS AT NORGE CROSSING

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. Gregory Davis of Kaufman and Canoles has applied for a commercial special use permit to allow for an eight-unit, 13,000-square-foot retail center; and

WHEREAS, the proposed expansion is shown on the master plan prepared by LandTech Resources, Inc., dated July 25, 2005, and entitled "Norge Center, Inc., Parcel 5"; and

WHEREAS, the property is zoned B-1, General Business, with proffers, and can be further identified as Parcel No. (1-71E) on James City County Real Estate Tax Map No. (23-2); and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 1, 2004, recommended approval of this application by a vote of 6 to 0, with one abstention.

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. 22-05 as described herein with the following conditions:

1. The site plan shall be substantially consistent with the development plan prepared by LandTech Resources entitled "Norge Center, Inc. Parcel 5" and dated July 25, 2005 (the "Master Plan"). This special use permit shall allow up to a 13,000-square-foot structure for commercial use as permitted in the B-1, General Business district, including, but not limited to, retail shops, service shops, and restaurants.
2. The retail center shall contain architectural features, colors, and materials that reflect the surrounding character of the Norge Community as described in the Comprehensive Plan. The architecture of the retail center shall be generally consistent with the elevations prepared by Hopke and Associates entitled "Johnston Shopping Center" and dated July 14, 2005 (the "Elevations") as determined by the Planning Director. The architectural design, color, and materials shall be approved by the Planning Director prior to final site plan approval for consistency with the Elevations and the character of the Norge Community.
3. An enhanced landscaping plan shall be provided for the area along Norge Lane and the area in front of the parking lot adjacent to Richmond Road. Unless reduced or waived by the Planning Director, the enhanced landscaping plan shall include a quantity of planting materials that is a minimum of 125 percent of the minimum ordinance requirements. A minimum of 50 percent of all trees and 50 percent of all shrubs shall be evergreen.
4. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The

casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.

5. The dumpster pad and all heating, cooling, and electrical equipment shall be screened by fencing and landscaping in a manner approved by the Planning Director prior to final site plan approval.
6. The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The applicant shall be responsible for enforcing these standards.
7. Prior to final site plan approval, the applicant shall demonstrate to the satisfaction of the Environmental Director that the existing infiltration basin (YC023) shown on the Master Plan is in sound working order and that it is performing at or above the design level of service. Should the basin not be performing at or above the design level of service, the applicant shall perform all necessary and required improvements and upgrades to bring the basin into compliance prior to the issuance of any certificate of occupancy.
8. Prior to the issuance of any certificate of occupancy, the applicant shall install a 4-foot wide sidewalk adjacent to the internal access road as shown on the master plan. This sidewalk shall connect the internal sidewalk in front of the shops to the required sidewalk along Norge Lane.
9. If construction has not begun on the project within thirty-six months of issuance of this special use permit, this special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
10. This special use permit is not severable. Invalidity of any word, phrase, clause, sentences, or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

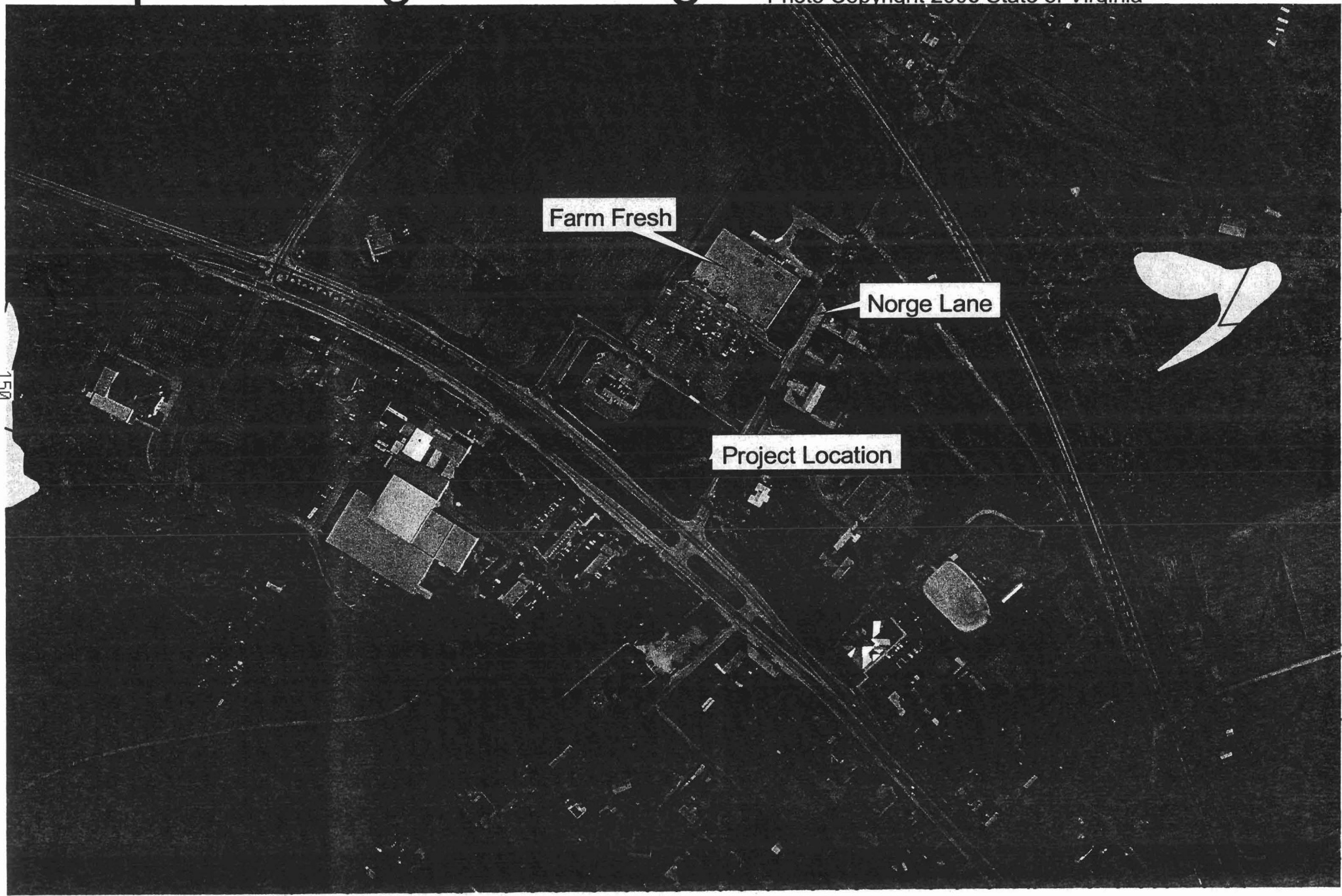
Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

Sup-22-05.res

SUP-22-05

Shops at Norge Crossing

Photo Copyright 2005 State of Virginia



SPECIAL USE PERMIT-23-05. TGI Friday's

Staff Report for the September 13, 2005, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Board of Supervisors:

Building C Board Room; County Government Complex

August 1, 2005, 7:00 p.m.

September 13, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy, III, on behalf of PBH, L.L.C.

Land Owner:

PBH, L.L.C.

Proposal:

The applicant has proposed to construct and operate a TGI Friday's restaurant

Location:

5521 Richmond Road

Tax Map/Parcel No.:

A portion of parcel (1-5A) on tax map (33-3).

Parcel Size:

1.83 acres out of 5.274 total acres

Existing Zoning:

B-1, General Business

Comprehensive Plan:

Neighborhood Commercial

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff believes the proposed restaurant is a complementary use to the surrounding businesses and believes that this use meets the intent of the Neighborhood Commercial Land Use of the Comprehensive Plan. Based on this information, staff recommends that the James City County Board of Supervisors approve this application with the attached Special Use Permit (SUP) conditions.

PLANNING COMMISSION RECOMMENDATION

On August 1, 2005, the Planning Commission voted 7-0 to approve this application.

Proposed Changes Made After Planning Commission Consideration

One additional SUP condition was added and is as follows: "Building face signage shall be in accordance with Section 24-71 of the Zoning Ordinance. Projecting signs shall be prohibited." This has been added as a response to the cone shaped sign shown on the building elevations.

Staff Contact:

Joel Almquist, Planner

Phone: 253-6685

PROJECT DESCRIPTION AND PROPOSED OPERATION

Mr. Vernon Geddy has applied on behalf of PBH, L.L.C. to construct and operate a TGI Friday's restaurant located at 5521 Richmond Road, between the intersections at Airport Road and Olde Towne Road. The property is adjacent to Bruce's Auto Body Shop and will share a right-in right-out driveway with them. The proposed restaurant will also have a right-in right-out driveway of its own at the southern end of its frontage. The proposed restaurant will be approximately 6,500 square feet, will seat 252 guests, and will be open seven days a week for lunch and dinner. Construction will commence upon approval of the SUP and site plans and is expected to be complete in six months.

PUBLIC IMPACTS

Environmental Impacts

Watershed: Powhatan Creek

Environmental Staff Comments: Impacts can be properly mitigated prior to final site plan approval.

Public Utilities

- The site is served by public water and sewer
- Water conservation measures are proposed and are reflected with the attached conditions.

JSCA Staff Comments: Impacts can be properly mitigated prior to final site plan approval.

Traffic

Proposed Traffic: A traffic impact study was prepared for Atlantic Coast Dining by The Landmark Design Group to examine the impacts of the proposed restaurant at the intersections of Olde Towne Road and Airport Road with Richmond Road. Only the peak PM hours of the roadway and restaurant were examined because TGI Friday's does not serve breakfast.

2003 Traffic Counts: Approximately 22,175 vehicles per day in this area of Richmond Road.

2026 Volume Projected: 31,000 vehicles per day on a four-lane divided road.

Road Improvements: No road improvements are warranted.

VDOT Comments: VDOT concurs with the trip generation and distribution as presented in the submitted traffic study and believes that this proposal will not adversely impact the existing roadway network.

COMPREHENSIVE PLAN

- The Comprehensive Plan designates Richmond Road as a Community Character Corridor.
- The James City County Comprehensive Plan Land Use Map designates this property as Neighborhood Commercial. *Acceptable uses will have a limited impact on adjacent residential areas especially in terms of visible parking areas, lighting, signage, traffic, odor, noise, and hours of operation. Acceptable uses should be compatible with surrounding or planned residential development in terms of scale, bulk, size, building design, materials and color, and should provide strong, safe and convenient pedestrian access to nearby residential neighborhoods and adjacent sites. Suggested uses are neighborhood scale commercial, professional, and office uses such as individual medical offices, branch banks, small service establishments, day care centers, churches, convenience stores with limited hours of operation, small restaurants, and smaller public facilities.*

Staff Comments: The parcel is zoned B-1, General Business, and the proposal is consistent with the Land Use designation of the Comprehensive Plan. This section of Richmond Road is a major commercial corridor and the proposed restaurant is adjacent to a variety of land uses. The Williamsburg Bowl bowling alley is west of the site, Bruce's Auto Body Shop is directly north of the proposed restaurant, and to the south is an undeveloped and wooded parcel. Chisel Run housing development is the closest residential area to the proposed restaurant and is located to the west of the bowling alley and staff

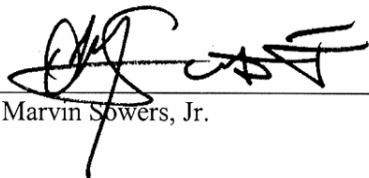
believes that the proposed restaurant will not have a negative effect on this residential area.

RECOMMENDATION:

Staff believes the proposed restaurant is a complementary use to the surrounding businesses and believes that this use meets the intent of the Neighborhood Commercial Land Use of the Comprehensive Plan. Based on this information, staff recommends that the James City County Board of Supervisors approve this application with the conditions in the attached resolution.

Joel Almquist

CONCUR:



O. Marvin Sowers, Jr.

JA/gb
SUP-23-05.doc

ATTACHMENTS:

1. Minutes from the August 1, 2005, Planning Commission Meeting
2. Location Map
3. Architectural Elevations
4. Letter from applicant dated June 20, 2005
5. Resolution

**UNAPPROVED MINUTES OF THE AUGUST 1, 2005 MEETING
OF THE PLANNING COMMISSION**

SUP-23-05 TGI Friday's

Mr. Matthew Smolnik introduced Mr. Joel Almquist. Mr. Almquist presented the staff report. Mr. Vernon Geddy III has applied for a special use permit on the parcel located at 5521 Richmond Road, which is currently zoned B-1, General Business in order to construct and operate a TGI Friday's restaurant. The property is also known as parcel (1-5A) on the JCC Real Estate Tax Map (33-3). Mr. Geddy has filed the special use permit application because the proposal is projected to generate more than 100 peak hour trips to and from the site. The site is designated as Neighborhood Commercial on the JCC Comprehensive Plan. Limited business activity areas located within the Primary Service Area, serving residents of the surrounding neighborhoods in the immediate area and having only a limited impact on nearby development, are designated Neighborhood Commercial. Staff found the proposal consistent with surrounding developments. Staff recommended approval of the application and attached conditions.

Mr. Kale, Mr. Almquist and the applicant's traffic consultant discussed access to the property.

Mr. Kennedy asked what colors would be used on the exterior of the building.

Mr. Almquist presented a color sketch showing red and white awnings. He stated that the Planning Director had final approval.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. He said he thought the location was a good fit for this use.

Mr. Kennedy asked if more neutral colors could be used.

Mr. Geddy said the color scheme was consistent with all TGI Friday's stores. He did state that the colored sketch appeared to be brighter than it will appear at the store.

Mr. Kale encouraged the Planning Director take a close look at the colors.

Mr. Geddy said the applicant was happy with the proposed conditions.

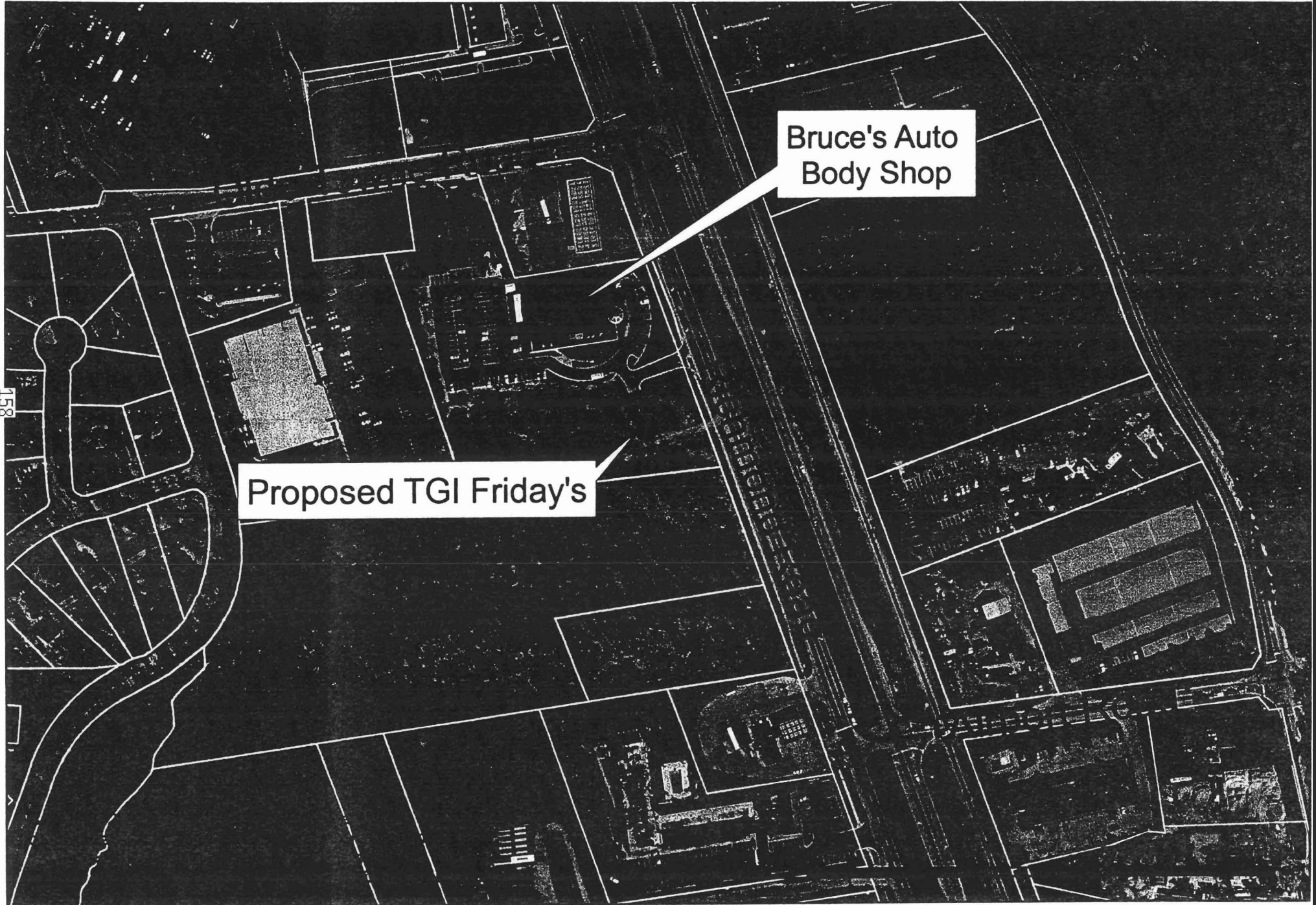
Hearing no other requests to speak, the public hearing was closed.

Mr. Kennedy motioned for approval. He did state his concern with the traffic on Route 60.

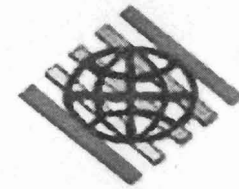
Ms. Jones seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt; NAY (0).

JCC SUP-023-05: TGI Friday's



Carlson Restaurants WorldwideSM



P6.2-PROTOTYPE

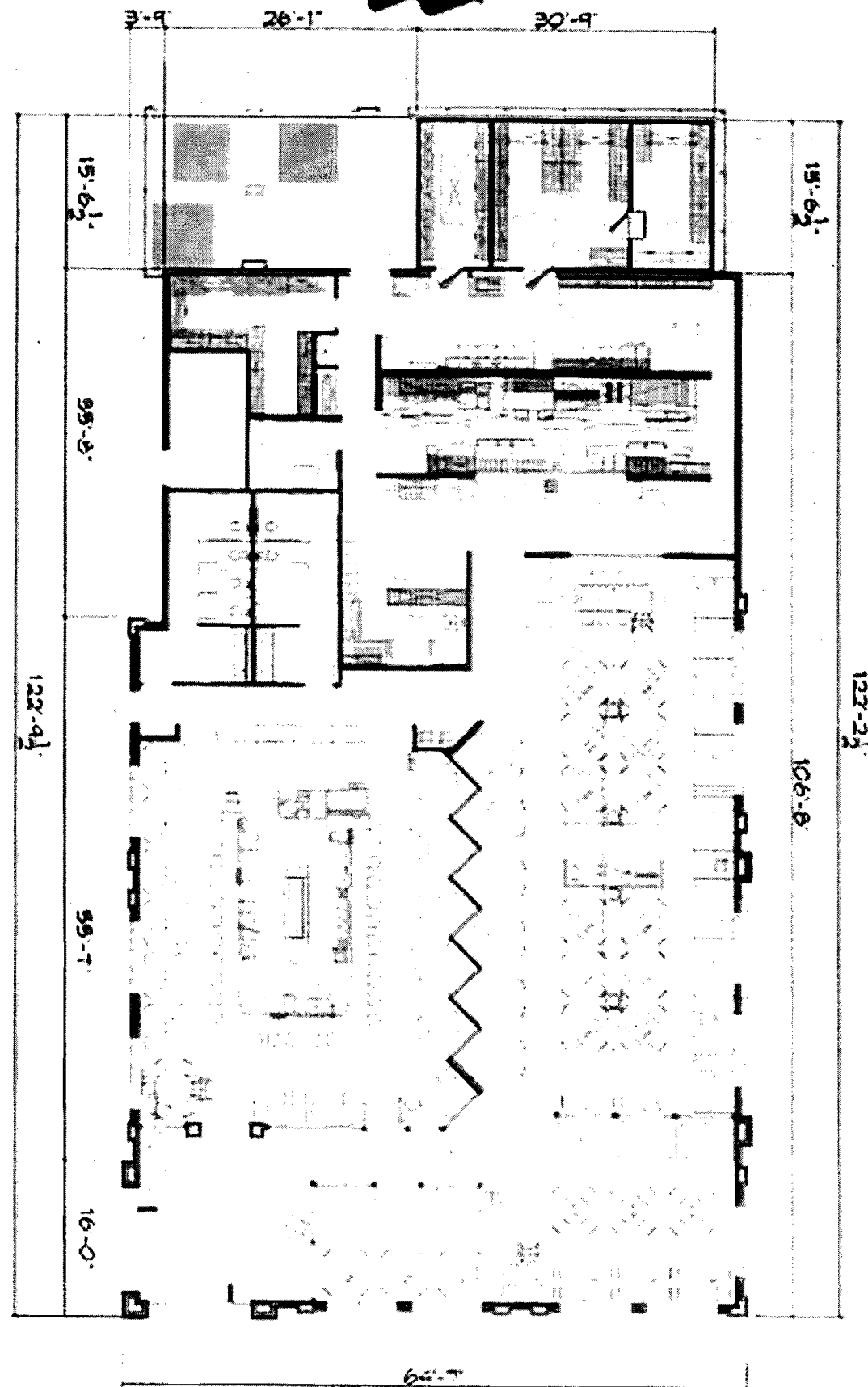
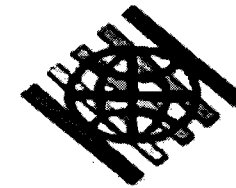
BLDG. 7,096 SQ. FT.

DATE:

● CARRELL
■ POOLE
/ & YOST
architecture



Carlson Restaurants WorldwideSM



SEATING COUNT

SQ FOOTAGE 7,096 sq. ft.

DINING

2-tops	2	•	4 seats
4-tops	31	•	124 seats
5-tops	6	•	30 seats
10-tops	1	•	10 seats

TOTAL ... 40 • 168 seats

BAR DINING

2-tops	2	•	4 seats
4-tops	11	•	44 seats
5-tops	6	•	30 seats
6-tops	1	•	6 seats

TOTAL ... 21 • 84 seats

TOTAL SEATS 252 seats

BAR SEATING -	28
BAR STANDING -	30
EMPLOYEES -	31
OCCUPANCY LOAD -	350

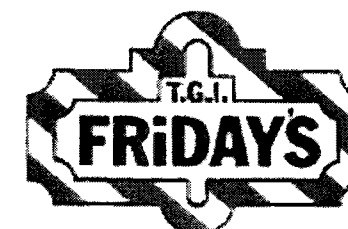
P6.2-PROTOTYPE FLOOR PLAN

BLDG. 7,096 SQ. FT.

DATE:

PLAN SCALE: 1"=20'-0"

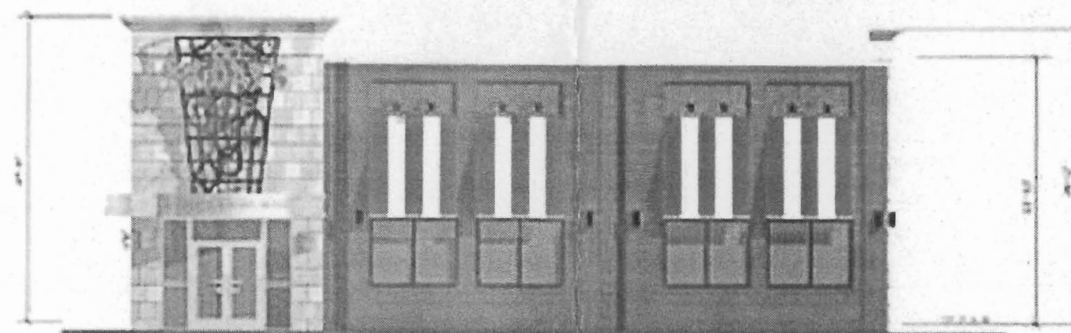
● CARRELL
■ POOLE
▽ & YOST
architecture



Carlson Restaurants WorldwideSM



MATERIALS LEGEND	
BRICK	
SLATE	
STONE	
CEMENT BOARD	
WOOD	
CLEAR ANODIZED ALUMINUM	



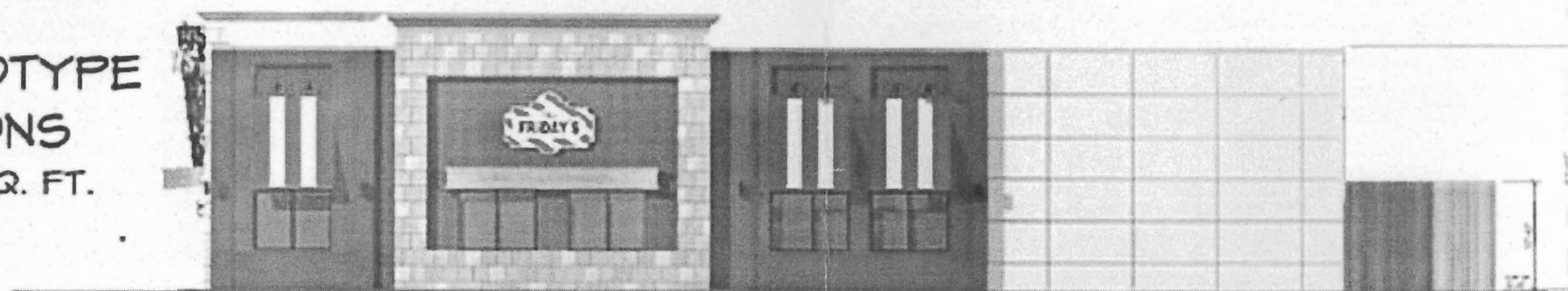
FRONT ELEVATION

SIGNAGE AREA (VARIABLE PER LOCAL REQ.)	
STOP SIGN	+ 44.0 SQ. FT.
TUMBLER SIGN	+ 26.2 SQ. FT.
THREE STOP SIGNS	+ 132.0 SQ. FT.
ONE TUMBLER SIGN	+ 26.2 SQ. FT.
TOTAL SIGNAGE AREA	+ 507.1 SQ. FT.

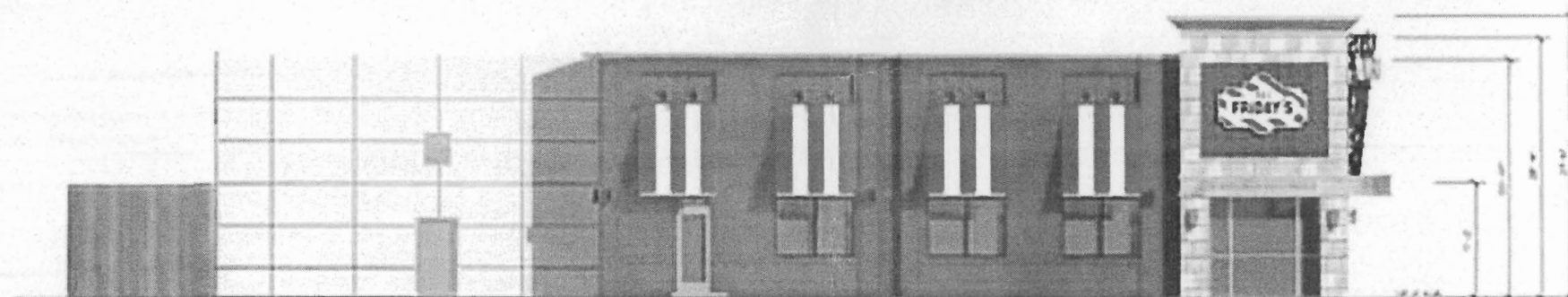
P6.2-PROTOTYPE ELEVATIONS

BLDG. 7,096 SQ. FT.

DATE:



RIGHT ELEVATION



LEFT ELEVATION



REAR ELEVATION

● CARRELL
■ POOLE
/ & YOST
architecture



GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

**VERNON M. GEDDY, JR.
STEPHEN D. HARRIS
SHELDON M. FRANCK
VERNON M. GEDDY, III
SUSANNA B. HICKMAN**

**ANDREW M. FRANCK
RICHARD H. RIZK**

**MAILING ADDRESS:
POST OFFICE BOX 379
WILLIAMSBURG, VIRGINIA 23187-0379**

email: vgeddy@widomaker.com

June 20, 2005

**Mr. O. Marvin Sowers
Director of Planning
James City County
101-A Mounts Bay Road
Williamsburg, Virginia 23185**

Re: TGI Friday's/Special Use Permit



Dear Marvin:

On behalf of the applicant, I enclose an application for a special use permit for the construction and operation of a TGI Friday's restaurant on 1.83 acres of land adjacent to Bruce's Body Shop on Richmond Road, together with 11 copies of a traffic impact study and architectural elevations for the proposed restaurant, and a check for \$1,260 for the filing fee. A full site plan for this restaurant (SP-064-05) has previously been submitted to the Planning department.

Please let me know if you need anything further.

Sincerely,

A handwritten signature in cursive script that reads "Vernon M. Geddy, III".

Vernon M. Geddy, III

cc: Mr. William H. Vaughn
Mr. Ian Fay

RESOLUTION

CASE NO. SUP-23-05. TGI FRIDAY'S

WHEREAS, the Board of Supervisors of James City County has adopted ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Vernon Geddy has applied for a commercial special use permit for the construction of a TGI Friday's restaurant; and

WHEREAS, the land is located on a parcel zoned B-1, General Business, and can be further identified as Parcel No. (1-5A) 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 August 1, 2005, recommended approval of Case No. Special Use Permit 23-05 by a 7-0 vote.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-23-05 as described herein with the following conditions:

1. This SUP shall be valid for a restaurant no larger than 6,600 square feet and accessory uses thereto. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the Planning Director, with architectural elevations titled "Carlson Restaurants Worldwide, P6.2 Prototype" submitted with this special use permit and drawn by Carrell, Poole, and Yost Architecture and date-stamped "Received - Planning Department June 20, 2005.
2. If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings, and foundation has passed required inspections.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.
4. Freestanding signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a freestanding sign with a completely enclosed base not to exceed 32 square feet in size and not to exceed eight feet in height from grade.
5. Building face signage shall be in accordance with Section 24-71 of the Zoning

Ordinance. Projecting signs shall be prohibited.

6. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the 50-foot Community Character Corridor buffer along Richmond Road (Route 60 West) so that the required number of plants and trees equals, at a minimum, 125 percent of the landscaping otherwise required in Chapter 24, Article II, Division 4 of the James City County Code. A minimum of 50 percent of the plantings within the Community Character Corridor buffer shall be evergreen.
7. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate and the use of water-conserving fixtures to promote water conservation and minimize the use of public water resources.
8. All dumpsters and heating and cooling units, whether on the ground or affixed on the rooftop, shall be screened by landscaping, fencing, or other alternative that provides similarly adequate screening, as determined and approved by the Planning Director prior to final site plan approval.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

SUP-23-05.res

**SPECIAL USE PERMIT-24-05. Williamsburg Winery – Gabriel Archer Tavern SUP Renewal
Staff Report for September 13, 2005, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Building F Board Room; County Government Center
Planning Commission: August 1, 2005, 7:00 p.m.
Board of Supervisors: September 13, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III

Land Owner: Patrick Duffeler

Proposed Use: Renew SUP-19-04 to continue operation of the Gabriel Archer Tavern at the Williamsburg Winery

Location: 5800 Wessex Hundred Road, Roberts District

Tax Map/Parcel Nos.: (48-4)(1-10B)

Parcel Size: 35.08 acres

Existing Zoning: R-8, Rural Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

RECOMMENDATION

Staff finds that the applicant has addressed the previous Special Use Permit (SUP) conditions. The proposal is also acceptable from a land use perspective. Staff recommends approval of this SUP with the attached conditions.

Staff Contact: Matthew Arcieri Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On August 1, 2005, the Planning Commission recommended approval by a vote of 7-0.

Proposed Changes Made Since Planning Commission Meeting

None

PROJECT DESCRIPTION

Mr. Vernon Geddy, III, has applied to renew the SUP on behalf of Williamsburg Farms, Inc., to permit the continued operation of a restaurant, Gabriel Archer Tavern, at the Williamsburg Winery. The restaurant is a specially permitted use in the R-8, Rural Residential, district in which the property is located. The restaurant operated from 1996 through January 13, 2004, without an SUP. The SUP approved by the Board of Supervisors on January 13, 2004, expired on April 30, 2004. A new SUP was approved by the Board of Supervisors on August 10, 2004. That SUP required the tavern to connect to public water and pass all necessary building inspections by December 31, 2004. The applicant did not complete those requirements within the designated time and that SUP expired on December 31, 2004. Following the expiration of the most recent SUP, the applicant has worked, as detailed below, to resolve all outstanding issues before filing for a new SUP.

Gabriel Archer Tavern is located in a building that was originally a garage with an apartment; the garage area was converted into a restaurant in 1996. It is open Sunday to Wednesday 10 a.m. to 4 p.m. and Thursday to Saturday 11 a.m. to 9 p.m. The existing restaurant has one bathroom, one kitchen, and indoor and outdoor seating with 72 seats. A small expansion, which has been partially constructed, will add a bathroom and increased kitchen space. The square footage of the indoor restaurant (not including the expansion) is approximately 1,456 square feet with 1,024 square feet of outdoor dining under the covered back porch. A parking lot used by visitors to the Winery operation is shared with the Tavern. The entrance to the property is on Lake Powell Road; the Tavern is located approximately three-fourths of a mile down a private road.

Condition No. 1 of the previously approved special use permit (SUP-19-04, approved by the Board of Supervisors on August 10, 2004) set three requirements to be completed by December 31, 2004. As of the writing of this report, the status of these conditions is as follows:

- a. The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code with all final inspections completed and approved.

Staff Comment: The tavern has passed all necessary inspections and been issued a temporary certificate of occupancy. A final certificate of occupancy will be issued upon approval of the new SUP by the Board of Supervisors.

- b. The Tavern shall have connected to the James City Service Authority (JCSA) public water system, paid all connection fees for water service and a plat with easements dedicated to the JCSA must be submitted and recorded prior to waterlines being accepted by the JCSA

Staff Comment: All JCSA issues have been resolved. The tavern is connected to public water.

- c. The Tavern shall have all sewer service bills paid up to date.

Staff Comment: All sewer billing is up to date.

COMPREHENSIVE PLAN

The parcel on which the Winery and Tavern are located is inside the Primary Service Area (PSA) and is designated Low-Density Residential on the 2003 Comprehensive Plan Land Use Map. Nonresidential uses should not alter, but rather complement, the residential character of the Low-Density Residential area in which they are located. Such uses should be located on collector or arterial roads at intersections. Traffic, noise, lighting, and other impacts should be similar to surrounding or planned residential uses.

Very limited commercial establishments should be located where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.

The land to the south across a creek and marsh area is designated Rural Lands and is outside the PSA. The land to the east is a mixture of Low-Density Residential and Park, Public or Semi-Public Open Space. To the west and north, adjacent developments are also designated Low-Density Residential.

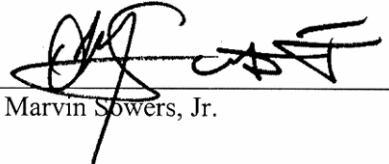
Staff Comments: Staff believes that the Tavern is not a “very limited commercial establishment.” However, the site is well buffered, access is directly off a collector road and, with the recommended condition, noise impacts will be similar to surrounding residential areas.

RECCOMENDATION

Staff finds that the applicant has addressed the previous SUP conditions. The proposal is also acceptable from a land use perspective. There is one proposed change from the previously approved SUP: an update of Condition No. 1 to reflect the remaining issue to be resolved. Staff recommends approval of this SUP with the conditions listed in the attached resolution. On August 1, 2005, the Planning Commission recommended approval by a vote of 7-0.

Matthew D. Arcieri

CONCUR:



O. Marvin Sowers, Jr.

MDA/gb
SUP-24-05

ATTACHMENTS:

1. Planning Commission Minutes
2. Location Map
3. Copy of SUP-19-04
4. Resolution

**UNAPPROVED MINUTES OF THE AUGUST 1, 2005 MEETING
OF THE PLANNING COMMISSION**

SUP-24-05 Williamsburg Winery – Gabriel Archer Tavern

Mr. Matthew Arcieri presented the staff report. Mr. Vernon Geddy has applied for a special use permit on behalf of Williamsburg Farms, Inc., to permit the continued operation of the Gabriel Archer Tavern restaurant which is operated by and in conjunction with the Williamsburg Winery. The existing special use permit for the tavern expired. A restaurant is a specially permitted use in the R-8, Rural Residential district in which the property is located. The property is at 5800 Wessex Hundred and can be further identified as parcel (1-10B) on the JCC Real Estate Tax Map (48-4). Staff recommended approval of the application and attached conditions.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. He stated that all issues had been resolved. Mr. Geddy asked the Commission to recommend approval and made himself available for questions.

Mr. Kale stated that the applicant resolved the outstanding issues eight months later than expected.

Mr. Geddy said he had advised his client not to come back until everything was resolved. He said he recommended his client not ask for more time.

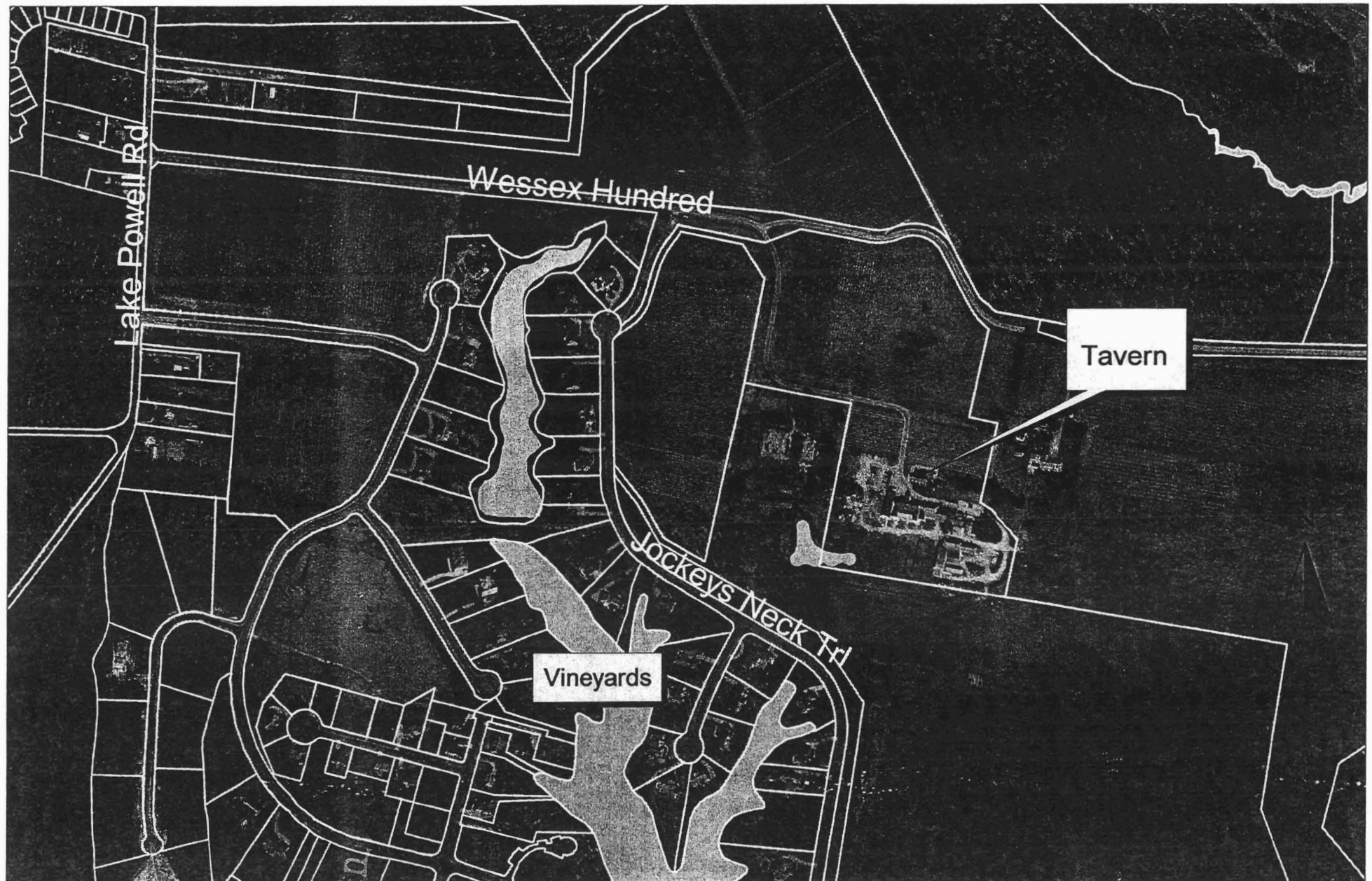
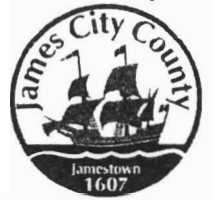
Hearing no other requests to speak, the public hearing was closed.

Mr. Fraley motioned to approve the application.

Mr. Kennedy seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: (7) Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt; NAY: (0)

SUP-24-05, Williamsburg Winery, Gabriel Archer Tavern



RESOLUTION

CASE NO. SUP-19-04. WILLIAMSBURG WINERY -

GABRIEL ARCHER TAVERN SUP RENEWAL

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

WHEREAS, the Planning Commission of James City County, following its public hearing on July 12, 2004, recommended approval of Case No. SUP-19-04 by a 5-1 vote to permit the continued operation of the Gabriel Archer Tavern, consisting of approximately 2,500 square feet, including indoor and outdoor dining areas located on the first floor of a two-story structure near the Williamsburg Winery; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 19-04 as described herein with the following conditions:

1. Prior to December 31, 2004, all of the following conditions shall be met for Gabriel Archer's Tavern, ("the Tavern"):
 - a. The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code, with all final inspections completed and approved;
 - b. The Tavern shall have connected to the James City Service Authority (JCSA) public water system, paid all connection fees for water service, and a plat with easements dedicated to the JCSA must be submitted and recorded prior to waterlines being accepted by the JCSA;
 - c. The Tavern shall have all sewer service bills paid up to date.
2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require an amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers in connection with the operation of the Tavern shall be audible outside the boundaries of the property.
4. The Tavern shall only operate between 10 a.m. and 9 p.m.

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



Bruce C. Goodson

Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner

Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

sup19-04wnc.res

RESOLUTION

CASE NO. SUP-24-05. WILLIAMSBURG WINERY - GABRIEL ARCHER TAVERN

SUP RENEWAL

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

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

WHEREAS, the Planning Commission of James City County, following its Public Hearing on August 1, 2004, recommended approval of Case No. SUP-24-05 by a 7-0 vote to permit the continued operation of the Gabriel Archer Tavern consisting of approximately 2,500 square feet, including indoor and outdoor dining areas located on the first floor of a two-story structure near the Williamsburg Winery.

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 24-05 as described herein with the following conditions:

1. Prior to October 13, 2005, the Gabriel Archer's Tavern, ("the Tavern") shall have acquired a permanent Certificate of Occupancy.
- an 2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers in connection with the operation of the Tavern shall be audible outside the boundaries of the property.
4. The Tavern shall only operate between 10 a.m. and 9 p.m.
5. The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

SUP-24-05.res

AGENDA ITEM NO. G-7

**AGRICULTURAL & FORESTAL DISTRICT-7-86. Mill Creek – Findlay Addition
Staff Report for the September 13, 2005, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 1, 2005, 7:00 p.m.
September 13, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant:	John Findlay
Land Owner:	Same
Proposal:	Addition of 73.25 acres to the existing Mill Creek AFD
Location:	3406 North Riverside Drive
Tax Map/Parcel No.:	(9-4)(1-8H)
Parcel Size:	73.25 acres
Zoning:	A-1, General Agricultural
Comprehensive Plan:	Rural Lands
Primary Service Area:	Outside

STAFF RECOMMENDATION

The proposed addition meets the minimum area and proximity requirements for inclusion into an Agricultural & Forestal District (AFD) and is consistent with surrounding zoning and development and the 2003 Comprehensive Plan. Staff recommends approval of the Findlay addition to the Mill Creek AFD subject to the conditions of the existing district. On July 18, 2005, the AFD Advisory Committee recommended approval of this application by a vote of 9-0.

Staff Contact: Matthew Arcieri

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On August 1, 2005, the Planning Commission recommended approval by a vote of 7-0.

Proposed Changes Made Since Planning Commission Meeting

None

PROJECT DESCRIPTION

In August of 2002, the Board of Supervisors renewed the Mill Creek AFD for a period of four years. The Findlay property is proposed to be added to the Mill Creek AFD. It is comprised of one parcel totaling 73.25 acres and further identified as James City County Real Estate Tax Map No. (9-4)(1-8H). The parcel is located off North Riverside Drive. The existing Mill Creek AFD contains 3,290.28 acres. If the 73.25-acre addition is approved, the district will have 3,363.53 acres.

PUBLIC IMPACTS

Surrounding Zoning and Development

The property is entirely surrounded by land zoned A-1, General Agricultural. While the property is adjacent to the Eagle Tree Farms subdivision, a majority of the adjacent properties are wooded and undeveloped. The proposal is consistent with surrounding zoning and development.

Environmental

The parcel is a mix of woods and cultivated fields, and includes one structure.

Public Utilities

Public water and sewer are unavailable.

COMPREHENSIVE PLAN

Land Use Map Designation

The 2003 Comprehensive Plan designates this parcel as Rural Lands.

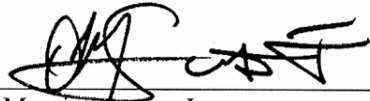
Staff Comments: The majority of parcels within the Mill Creek AFD are also designated Rural Lands. The first Comprehensive Plan rural land use standard calls for preserving the County's natural, wooded, and rural character of the County. The Agricultural and Forestal District program supports this objective.

RECOMMENDATION

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD and is consistent with surrounding zoning and development and the 2003 Comprehensive Plan. On July 18, 2005, the AFD Advisory Committee recommended approval of this application by a vote of 9-0. On August 1, 2005, the Planning Commission recommended approval by a vote of 7-0. Staff recommends approval of the Findlay addition to the Mill Creek AFD subject to the conditions listed in the attached ordinance.

Matthew D. Arcieri

CONCUR:



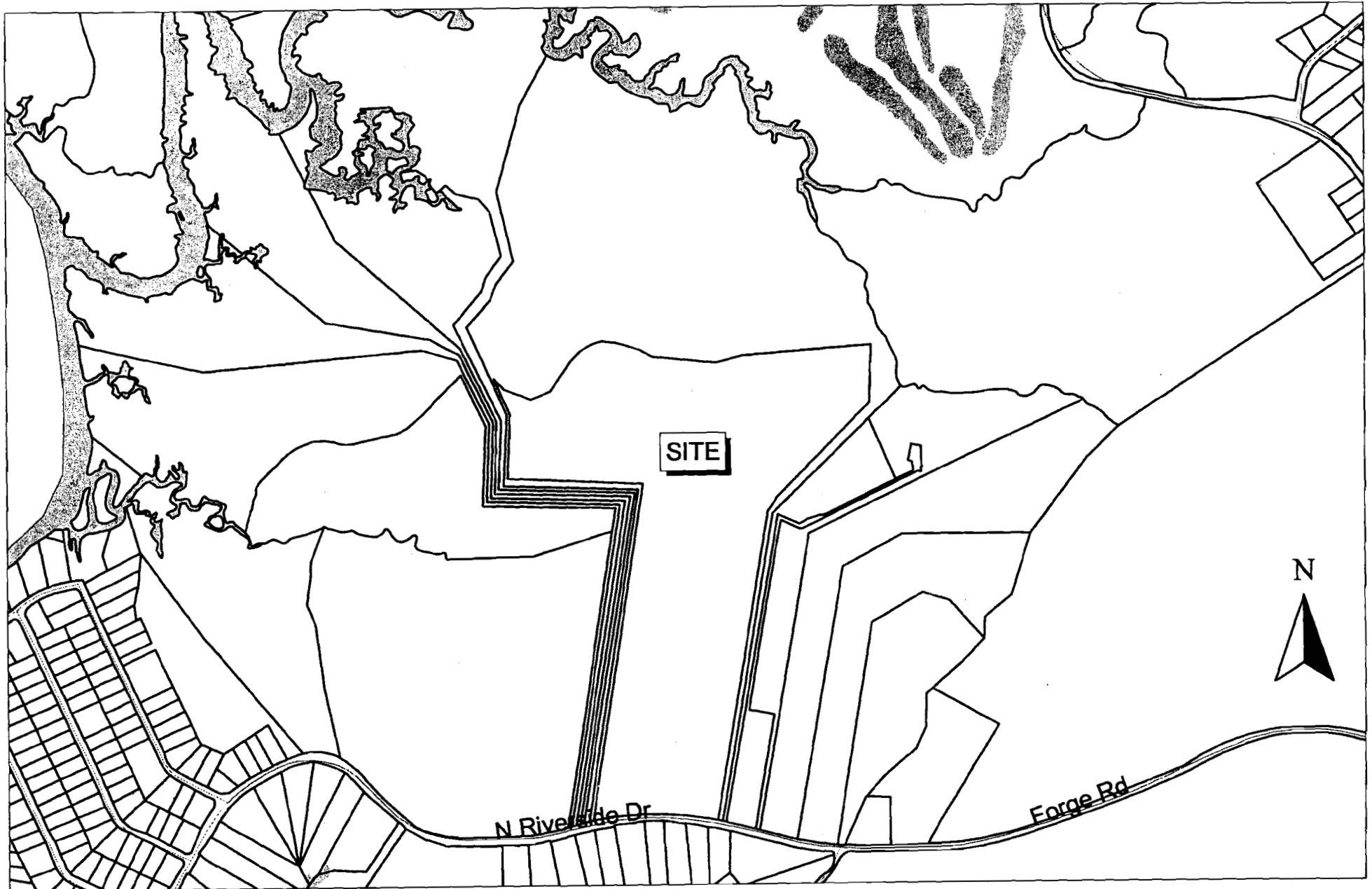
O. Marvin Sowers, Jr.

AFD-7-86.doc
MDA/gb

ATTACHMENTS:

1. Location Map
2. Minutes of the August 1, 2005, Planning Commission Meeting
3. Minutes of the July 18, 2005, AFD Advisory Committee Meeting
4. Ordinance

AFD-7-86; Mill Creek: Findlay Addition



**UNAPPROVED MINUTES OF THE AUGUST 1, 2005 MEETING
OF THE PLANNING COMMISSION**

AFD-7-86 Mill Creek Agricultural and Forestal District (AFD) – Findley
Addition

Mr. Matthew Arcieri presented the staff report. Mr. John Findlay has applied to add 73.25 acres to the existing Mill Creek AFD. The property is located at 3406 North Riverside Drive and is identified as parcel (1-8H) on the JCC Real Estate Tax Map (9-4). The parcel is zoned A-1, General Agricultural and is located in the Stonehouse District. On July 18th the AFD Advisory Committee recommended approval by a vote of 9-0.

Mr. Hunt opened the public hearing.

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

Mr. Kale motioned approval.

Mr. Kennedy seconded the motion.

In a unanimous roll call vote approval was recommended (7-0). AYE: (7) Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt; NAY: (0)

**UNAPPROVED MINUTES OF THE JULY 18 MEETING OF THE
AGRICULTURAL AND FORESTAL DISTRICT ADVISORY COMMITTEE**

AFD-5-86-3 Mill Creek Agricultural and Forestal District- Findlay Addition

Mr. Arcieri gave the staff report and staff's recommendation of approval. After clarification of the approximate location, Mr. Ford moved for approval. Mr. Gilley seconded the motion and with no further discussion, the motion passed unanimously. Ms. Garrett asked for clarification that minutes approved were from the last meeting. Mr. Arcieri confirmed.

ORDINANCE NO. _____

MILL CREEK AGRICULTURAL AND FORESTAL DISTRICT -

FINDLAY ADDITION (AFD-7-86)

WHEREAS, an Agricultural and Forestal District (AFD) has been established in the Mill Creek area; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Mill Creek AFD; and

WHEREAS, the AFD Advisory Committee at its meeting of July 18, 2005, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission following its Public Hearing on August 1, 2005, unanimously recommended approval of the application.

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

1. The Mill Creek AFD is hereby amended by the addition of the following parcel:

John Gregory and
Marie Antoinette Findlay (9-4)(1-8H) 73.25 acres

provided, however, that all land within 25 feet of the road right-of-way of North Riverside Drive (Route 715) shall be excluded from the district.

2. Pursuant to the Virginia Code, Sections 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Mill Creek AFD be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.

- b. No land outside the PSA and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
- c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties, which are in accordance with the County's policies and ordinances regulating such facilities.

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 13th day of September, 2005.

AFD-7-86.res

**SPECIAL USE PERMIT-25-05/Master Plan-10-05 Prime Outlets Master Plan Amendment
Staff Report for the September 13, 2005 Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 1, 2005, 7:00 p.m.
September 13, 2005, 7:00 PM

SUMMARY FACTS

Applicant: Mr. Alvin Anderson, Kaufman and Canoles

Land Owner: Williamsburg Outlets, LLC

Proposal: Amendment existing SUP 23-99, to allow a 5,600 square foot retail expansion

Location: 5715 Richmond Road, 5731 Richmond Road, 5699 Richmond Road, 5711 Richmond Road, 5707 Richmond Road.

Tax Map/Parcel Nos.: (33-1) (1-28), (33-1) (1-29), (33-1) (1-33C), (33-1) (1-33D), (33-1) (1-33E)

Parcel Size: 38.683 acres

Zoning: B-1, General Business District, with proffers

Comprehensive Plan: Community Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be compatible with surrounding land uses, and the Comprehensive Plan. Staff recommends that the James City County Board of Supervisors approve the special use permit (SUP) application with the attached conditions.

Staff Contact: Jose Ribeiro

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On August 1, 2005, the Planning Commission recommended approval by a vote of 7-0.

Proposed Changes Made Since Planning Commission Meeting

The Planning Commission recommended three changes to the proposed SUP conditions. Condition No. 4 now requires parking lot lighting in the new rear parking area. Condition No. 5 adds new landscaping elements for the Phase 5 expansion* and Condition No. 8 requires the submittal of a signage plan for the rear parking lots and service drive to help employees and customers better utilize these facilities.

* (The northern side of Prime Outlets where new stores such as GAP and J. Crew are located.)

PROJECT DESCRIPTION

Mr. Alvin Anderson of Kaufman and Canoles, has applied on behalf of Prime Outlets at Williamsburg, LLC, to amend the existing special use permit and master plan to allow for a 5,600±-square -foot expansion of Prime Outlets. Section 24-11(b) of the Zoning Ordinance requires a commercial special use permit for any new buildings, additions, or expansions which exceeds 5,000 square feet or more of floor area. The applicant also proposes adding 43 new parking spaces in place of a proposed bus parking area. With that addition, the Prime Outlets will have 1,573 parking spaces.

PUBLIC IMPACTS

Environmental Impacts:

- ◆ **Watershed:** Powhatan Creek

Fiscal

According to the applicant the additional square footage, based upon current average per square foot revenues for Prime Outlets as a whole, will provide an additional \$30,000 per year in approximate sales tax revenue to the County, additional jobs, and increased property tax revenue to the County.

Public Utilities

The site is located inside the Primary Service Area and is served by public water and sewer.

According to JCSA records, there is an 8-inch waterline and a 4-inch force main which pass between the existing buildings. JCSA will not permit these utilities to remain under the proposed expansion. Therefore, JCSA will require the applicant to submit a water and sanitary sewer master plan and hydraulic analyses for review and approval prior to submission of development plans for the commercial expansion. This requirement has been added as a SUP condition.

Transportation

According to the applicant the proposed expansion has the potential to generate approximately 23 weekday trips and 36 Saturday trips. Prime Outlets currently has three access points onto Richmond Road. Entrance improvements, including traffic signals at the north and south entrance have been completed. Per the existing proffers, the middle entrance is scheduled to be closed in December 2008. Additional parking will be added in place of this entrance as shown on the proposed master plan. As part of this special use permit staff has included a condition requiring the applicant to install permanent entrance lighting in place of the temporary lights on generators that are used during the holiday season. Staff believes that permanent lighting is necessary as this expansion, due to increased traffic, contributes to existing night safety concerns.

- ◆ **2005 Traffic Counts:** Richmond Road -18,106 vehicles per day
- ◆ **2026 Volume Projected:** Richmond Road shows 31,000 vehicles per day on a four-lane road and is listed in the “watch” category in the 2003 Comprehensive Plan.

The Virginia Department of Transportation (VDOT) finds that the master plan amendment will not adversely impact the existing roadway network. At staff’s request, VDOT examined measures to discourage customers from parking along the Richmond Road right-of-way during the holiday season, which poses a safety issue to traffic on Richmond Road. If this situation occurs this holiday season, VDOT will post no-parking signs along Richmond Road.

COMPREHENSIVE PLAN

According to the 2003 Comprehensive Plan, the Prime Outlets property is designated as Community Commercial. Lands designated Community Commercial are intended to allow general business activity in areas located within the Primary Service Area while usually having a moderate impact on nearby development. Additionally, the Community Commercial designation of this area is not intended in any way to promote or accommodate an extension of a strip commercial development beyond these boundaries.

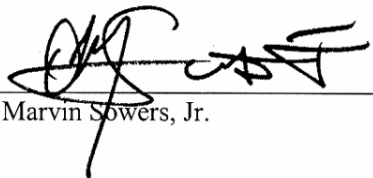
Staff finds this proposal consistent with the Comprehensive Plan.

RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be compatible with surrounding land uses and the Comprehensive Plan. Three new SUP conditions, Nos. 4, 5, and 8 have been added to the previous SUP-23-99 conditions. On August 1, 2005, the Planning Commission recommended approval by a vote of 7-0. Staff recommends that the James City County Board of Supervisors approve the special use permit application with the conditions listed in the attached resolution.

Jose Ribeiro

CONCUR:



O. Marvin Sowers, Jr.

JR/nb
sup_25_05

ATTACHMENTS:

1. Minutes from August 1, 2005, Planning Commission Meeting
2. Location Map
3. Elevations
4. Master Plan
5. Resolution

**UNAPPROVED MINUTES OF THE AUGUST 1, 2005 MEETING
OF THE PLANNING COMMISSION**

SUP-25-05/MP-10-05 Prime Outlets Master Plan Amendment

Mr. Matthew Arcieri introduced Mr. Jose Riberio. Mr. Riberio presented the staff report. Mr. Alvin Anderson and Mr. Dustin Devore have applied on behalf of Williamsburg Outlets, LLC, to amend the existing master plan and special use permit to allow for a 5,600± square foot expansion of Prime Outlets. The properties can be identified as parcels (1-33C), (1-33D), (1-33E) and (1-28) on the JCC Real Estate Tax Map (33-1). The property is zoned B-1, General Business, with proffers and is designated Community Commercial on the Comprehensive Plan Land Use Map. Lands designated Community Commercial are intended to allow general business activity in areas located within the Primary Service Area while usually having a moderate impact on nearby development. Staff recommended approval of the application and attached conditions.

Mr. Fraley asked the purpose of the additional parking.

Mr. Riberio said the purpose was to accommodate overflow parking.

Mr. Fraley wanted to know how the parking lot would be accessed.

Mr. Riberio indicated an access route on the location map.

Mr. Fraley confirmed with Mr. Riberio that no signage exists directing traffic to the lot.

Mr. Kale said he would hold his questions regarding traffic for the applicant.

Mr. Kennedy said that several times of the year there is a severe shortage of parking. He asked how this would be addressed.

Mr. Riberio referred the question to the applicant.

Mr. Hunt opened the public hearing.

Mr. Dustin DeVore, Kaufman and Canoles, represented the applicant. Mr. Devore gave a presentation outlining the proposal.

Mr. Kale asked if the leases required employees to park in the rear parking lot.

Mr. DeVore said it was required.

Mr. Kennedy asked how close this expansion would be to the residential development behind the center.

Mr. DeVore answered 400 feet.

Mr. Kennedy was concerned about the effect of lighting, dumpsters and deliveries on the surrounding residents.

Mr. DeVore said they would use down cast lighting and that dumpsters and delivery services would be done the same as it always has.

Mr. Kale asked about the construction taking place near the Joseph Banks store.

Mr. Paul Reid, the applicant, said the dumpster pads that were approved with the previous expansion are being installed.

Mr. Fraley confirmed that they would house the dumpsters currently sitting in the roadway.

Mr. Kale asked if an encroachment was approved to allow cutting into the buffer.

Mr. DeVore said it was approved with the previous expansion request.

Mr. Kale said this should not be allowed in the future because it cuts into the buffer between this project and the adjacent property.

Ms. Jones clarified that there was no access to the back parking lot from the outlet mall without going back out to Route 60.

Mr. DeVore explained that to provide such access would cause signaling issues on Route 60.

Mr. Kale asked if there was any way to connect the main parking area with the overflow lot.

Mr. DeVore said the applicant would look for ways to improve parking.

Mr. Kale wanted to know how shoppers would access the front of the mall from the rear parking lot.

Mr. Reid said the current expansion includes a breezeway from that parking lot and that signage would be installed. He also said they would provide a one-way access road if the Virginia Department of Transportation (VDOT) would approve it.

Mr. Kale said he thought this addition would make the parking problem worse. He asked if something could be done to help businesses like Ewell Station and the motel that become overflow parking lots for the mall.

Mr. DeVore said they have been in discussions with Ewell Station in the past and would be willing to resume those discussions.

Mr. Kennedy said that in November and December shoppers park at his restaurant that is located in the area. He also voiced some of the parking and traffic concerns voiced by mall employees and other area merchants, including security lighting and access to employee parking areas.

Ms. Jones asked if the current lighting meets code.

Mr. DeVore said it was up to code for what is there now.

Mr. Fraley asked if the applicant would be agreeable to conditions for improved lighting, directional signage to parking areas, and movable planters near the Polo store.

Mr. DeVore said yes.

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

Mr. Kennedy motioned to approve the application with the amended conditions recommended by Mr. Fraley. He also urged the applicant to consider parking solutions improving access to the rear parking areas.

Mr. Kale seconded the motion. He also asked the applicant to act in good faith to deal with the parking issues.

Mr. Fraley clarified the amended conditions and agreed with Mr. Kale's request for parking improvements.

Ms. Blanton agreed with the previous comments and amended conditions.

Ms. Jones agreed that satellite parking might be something that should be considered.

In a unanimous roll call vote the application and amended conditions were recommended for approval (7-0).

SUP-25-05 Prime Outlets



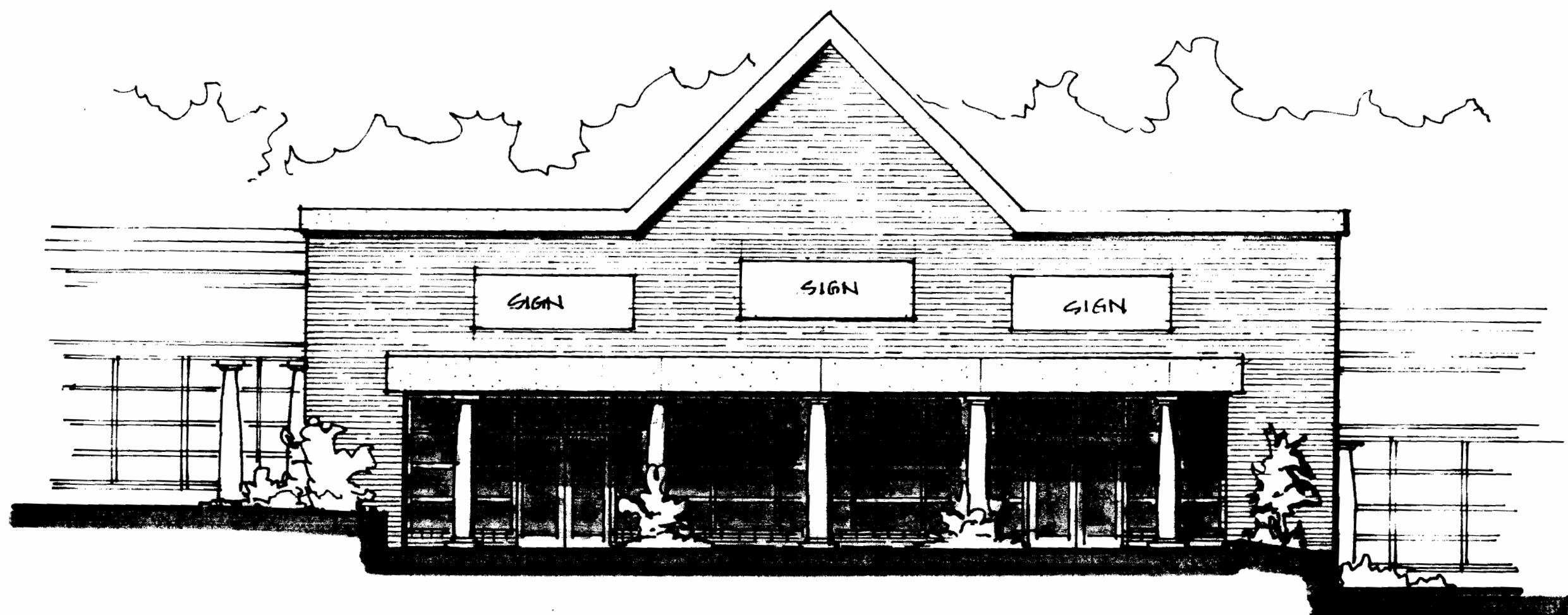
Photo Copyright 2002 State of Virginia

43 New Spaces

New Building Addition 5600 SF

187



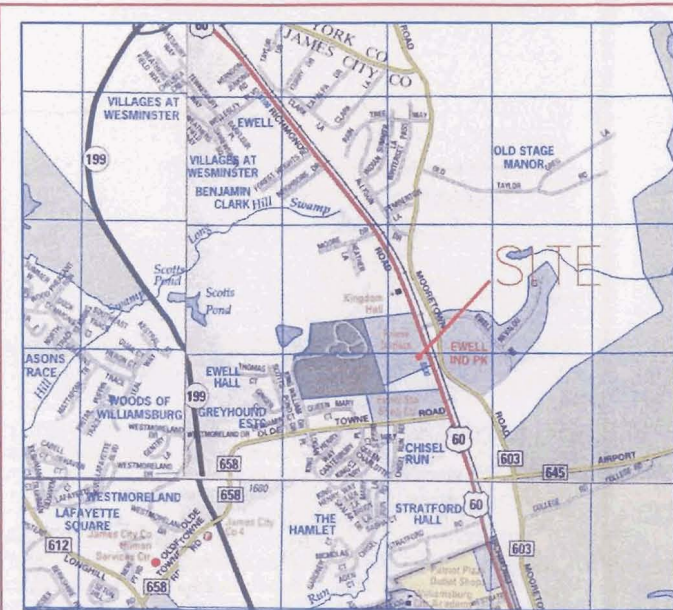


CONCEPT ELEVATION
1/8"=1'-0"

Guernsey
Tingle
Architects
WILLIAMSBURG VIRGINIA
703 200-0300

Prime Outlets, Williamsburg
PHASE VI EXPANSION
James City County, Virginia

Date	7-6-05
Drawn	GGB
Checked	GGB
Project	205048



COPYRIGHT ADC THE MAP PEOPLE - PERMITTED USE NO. 20202125

VICINITY MAP
MP-10-05/SUP-25-05



SUMMARY DATA

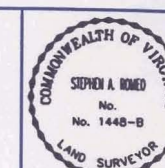
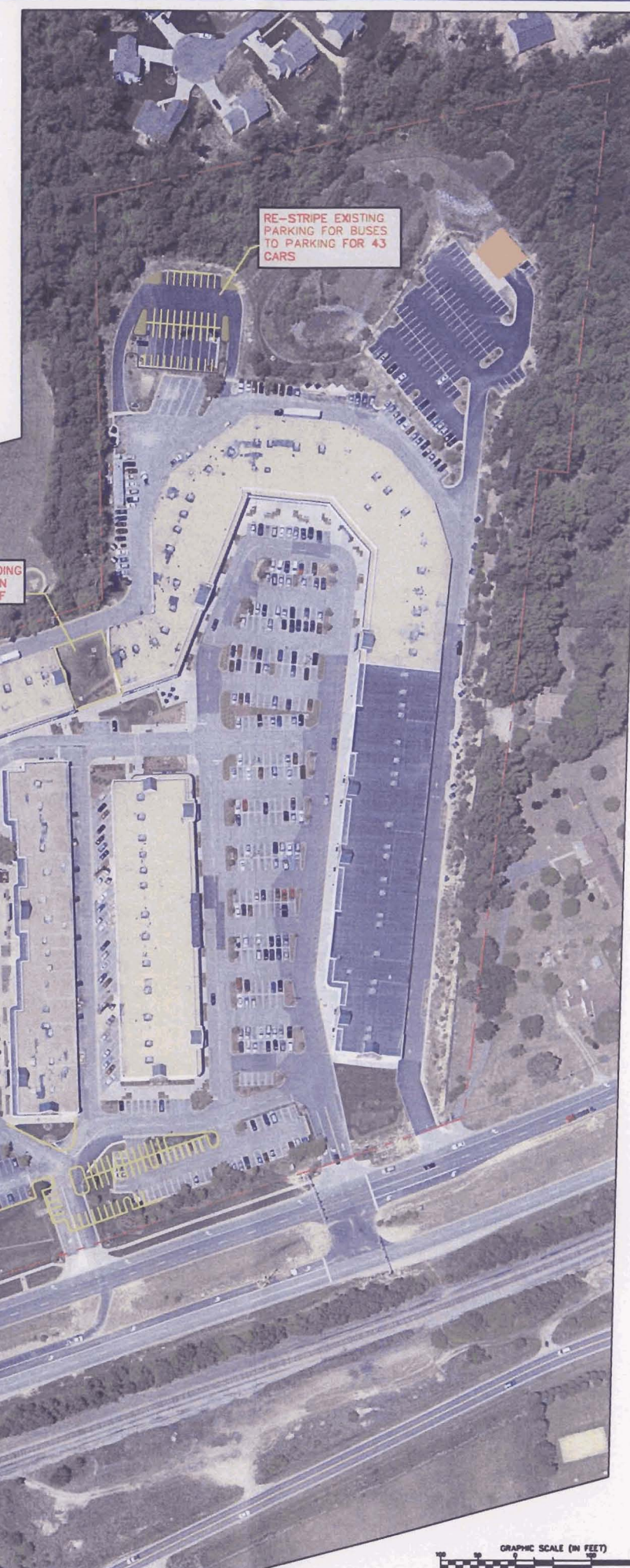
MASTER PLAN AREA DESIGNATION: E (COMMERCIAL USE)

PARKING CALCULATIONS

TOTAL SITE AREA =	37.5 AC (1,633,500 SF)	EXISTING PARKING RATIO	● 1 PER 223 SF GROSS
EXISTING GROSS BUILDING AREA =	361,502.5 SF (ENTIRE CENTER)		● 1 PER 178 SF NET
ADDITIONAL GROSS BUILDING AREA =	+ 5,600 SF	PROPOSED PARKING RATIO	● 1 PER 249 SF GROSS
TOTAL GROSS BUILDING AREA =	367,102.5 SF		● 1 PER 199 SF NET
GROSS/NET ADJUSTMENT FACTOR =	X 0.8		
TOTAL NET BUILDING AREA =	293,682 SF		
PARKING FACTOR	÷ 200		
REQUIRED PARKING SPACES	1468		
EXISTING PARKING SPACES	1530 (AUTO) 7 (BUS)		
ADDITIONAL PARKING SPACES (NET)	43 (AUTO)		
PROVIDED PARKING SPACES	1573 (AUTO) 7 (BUS)		

FLOOR AREA RATIO:

TOTAL BUILDING AREA (367,102.5 SF) / TOTAL SITE AREA (37.5 AC) = 0.22



4009 Lockwood Road
Suite 100
Williamsburg, VA 23188
Tel: (757) 233-2075
Fax: (757) 233-2076
Email: info@landmarkdesigngroup.com

1544 Commack Road
Suite 200
Virginia Beach, VA 23462
Tel: (757) 493-2000
Fax: (757) 493-2001
Email: info@landmarkdesigngroup.com

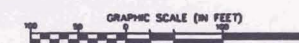
LANDMARK
DESIGN GROUP
Engineers • Planners • Surveyors
Landscape Architects • Environmental Consultants

REVISIONS:		No.	Date	By	Comment
1		07/28/05	05/24/05	UTV	400 BLDG ADDITION, REV. CALCULATIONS
2		07/28/05	07/28/05	UTV	REVISED ADDRESS
DRAWING STATUS:		No.	Date	By	Comment
1		07/28/05	07/28/05	UTV	INTERIM REVIEW
2		07/28/05	07/28/05	UTV	CLIENT FOR REVIEW
3		07/28/05	07/28/05	UTV	PRE-APPROVAL BUILDING
4		07/28/05	07/28/05	UTV	NOTE
COUNTY APPROVAL:					
1st Submittal					
2nd Submittal					
3rd Submittal					
Approved					

AMENDED MASTER PLAN
PRIME RETAIL OUTLET EXPANSION
BERKELEY DISTRICT
JAMES CITY COUNTY, VIRGINIA

Designed: TRC
Checked: SAR
Drawn: TRC
Project Number: 1870040-302.99
Drawing Number: C-1

Date: 07/28/99
Scale: 1"=200'
CADD File name: MPLAN.DWG
Dep. File No.: 10502W



RESOLUTION

CASE NO. SUP-25-05/ MP 10-05. PRIME OUTLETS MASTER PLAN AMENDMENT

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

WHEREAS, Mr. Alvin Anderson has applied on behalf of Prime Outlets at Williamsburg, LLC, for a special use permit to allow for a 5,700±-square-foot expansion of Prime Outlets; and

WHEREAS, Mr. Alvin Anderson has also applied to amend the existing conditions of approval of James City County Case Nos. SUP-23-99 and MP-3-99; and

WHEREAS, the conditions listed below replace the conditions of approval of James City County Case No. SUP-23-99; and

WHEREAS, the proposed expansion is shown on the master plan prepared by LandMark Design Group, dated July 28, 1999, revised on August 24, 2005, and entitled "Amended Master Plan Prime Retail Outlet Expansion" the "Master Plan"; and

WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as Parcel Nos. (1-28), (1-29), (1-33C), (1-33D) and (1-33E) on James City County Real Estate Tax Map No. (33-1); and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 1, 2004, recommended approval of this application by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 25-05 as described herein with the following conditions:

1. This special use permit shall be valid for the approximately 5,700-square-foot expansion of Prime Outlets and accessory uses thereto. The total Gross Building Area shall not exceed 367,202 square feet. Development of the site shall be generally in accordance with the above-referenced master plan, as determined by the Development Review Committee of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development. This special use permit and these conditions shall supersede the existing conditions of approval of James City County Case No. SUP-23-99 and prior SUP conditions affecting the Prime Outlets development.
2. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher,

- shall extend outside the property lines.
3. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the above-referenced expansion. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, Prime Outlets Phase VI-expansion, submitted with this special use permit application dated, July 6, 2005, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
 4. Prior to the issuance of any final Certificate of Occupancy for any new commercial construction on the site, adequate lighting shall be installed for all three entrances from the property onto Richmond Road as shown on the Master Plan. In addition, adequate parking lot lighting shall be installed in the new 43-space parking lot as shown on the Master Plan and titled "Re-stripe existing parking for buses to parking for 43 cars". The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
 5. A landscaping plan for the 5,700-square-foot expansion referenced herein, including foundation landscaping in accordance with James City County Code Section 24-95 shall be approved by the Planning Director or his designee prior to final site plan approval. Planters (the type and size of planters to be specified by the landscaping plan) along the entire store frontage of the Phase 5A Expansion, shall be approved by the Planning Director or his designee prior to final site plan approval.
 6. Prior to submission of any commercial development plan for the 5,700-square-foot expansion referenced herein, the applicant shall submit a water and sanitary sewer master plan and hydraulic analyses for the expansion space for review and approval by the James City Service Authority.
 7. Prior to the issuance of any final Certificate of Occupancy for any building addition, or new building, located on Tax Map Parcel Nos. (33-1)(1-28) or (33-1) (1-29), there shall be a 35-foot-wide transitional buffer planted along the northern most property line. This area shall be planted at 133 percent of standards found in Section 24-94 of the James City County landscape ordinance (in terms of the numbers of trees and shrubs, not size), in a manner acceptable to the Director of Planning and with an emphasis on evergreen shade and understory trees. The fence already installed in this area shall be a maximum of eight feet high and shall be vinyl coated and either black or green in color. Furthermore, the fence shall be setback from the property line at least three feet.
 8. Prior to issuance of any final Certificate of Occupancy, the applicant shall complete the following: (1) internal driveways shall be designated as "One Way" traffic only, as shown on the Master Plan; and (2) the applicant shall install signage for the rear parking lots and service drives clearly indicating the existence of additional parking spaces for customers and employees. Prior to installation of any new signage, the applicant shall prepare and submit a comprehensive signage plan for review and approval by the Director of Planning.
 9. No dumpsters shall be allowed on any portion of the service road located behind the buildings along the northern property line where the service road is 20 feet in width or less.

10. If construction has not commenced on this project within thirty-six months from the issuance of this special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

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MEMORANDUM

DATE: September 13, 2005

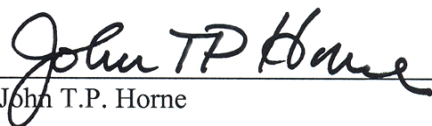
TO: The Board of Supervisors

FROM: John T. P. Horne, Development Manager
Leo P. Rogers, County Attorney
John E. McDonald, Director of Financial and Management Services

SUBJECT: Cash Proffer Policy for Schools

At its July 26, 2005, Work Session meeting, the Board of Supervisors was presented the final report of the James City County Cash Proffer Steering Committee. At that meeting the Board directed staff to prepare a resolution adopting a cash proffer policy for schools for Board consideration. Attached is a resolution that staff believes reflects the direction of the Board, as expressed at the Work Session.

Staff recommends adoption of the attached resolution.



John T.P. Horne

Leo P. Rogers

John E. McDonald

JTPH/LPR/JEM/gb
Proffer_Sch.mem

Attachment

RESOLUTION

CASH PROFFER POLICY FOR SCHOOLS

WHEREAS, the Virginia Commission on Local Government defines “cash proffer” as “any money voluntarily proffered in writing signed by the owner of the property subject to rezoning, submitted as a part of the rezoning application and accepted by the locality” pursuant to the authority granted in Section 15.2-2298 of the Code of Virginia, 1950 as amended; and

WHEREAS, beginning November 13, 2005, staff will use the procedures and calculation described in this Resolution to guide its recommendation to the Board of Supervisors in all residential rezoning cases. The Board of Supervisors (the “Board”) will use this Resolution to guide its decision whether to accept cash proffered by applicants for a rezoning. Proffers of land or other in-kind contributions, accepted by the County, the value of which exceeds the recommended cash proffer amount for schools, may be credited against the cash proffer amount for schools and may be credited against other cash proffers and in-kind contributions; and

WHEREAS, any acceptance of cash proffered by an applicant shall meet a “reasonableness” or “rough proportionality” test, which requires the Board to determine in each zoning case whether the amount proffered is related both in nature and extent to the projected impact of the proposed development on public schools. State and County laws permit the Board to accept cash proffers to fund the public school needs generated by any new residential development; and

WHEREAS, a development proposal’s impact on public schools will be evaluated based on the gross number of proposed dwelling units. When calculating the gross number of dwelling units, staff will not give credit for those dwelling units permitted under existing zoning and will not consider the transferring of allowable units from other properties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the James City County, Virginia, adopts the following methodology and policy to be used to consider impact on public schools and proffered mitigation of proposed rezoning applications:

1. The five components to be used in calculating what a new dwelling unit will cost the County in terms of providing for new or expanded public school facilities are as follows:
 - a. Demand generators - Pupil generation rates determined by identifying the actual number of public school students residing in housing units built in the last five years in the County.
 - b. Service levels - The County’s estimated costs of constructing new high, middle, and elementary schools, calculated on a per-student basis, become the service levels in the calculation of the cash proffer.

- c. Gross Cost of school facilities --The product of the expected number of students calculated as a demand generator multiplied by the per-student cost of school facilities identified as the service level.
- d. Credits - the gross cost of school facilities is reduced by a credit, representing the portion of real property taxes paid by new residents that would be used to retire debt incurred by the County for schools.
- e. Net cost - this represents the net cost per new residential unit or the maximum cash proffer for schools. This is the Gross Cost minus the Credit.

*The detailed methodology is contained in the Final Report of the James City County Cash Proffer Steering Committee dated July 7, 2005.

- 2. There must be a relationship between the rezoning itself and the need for a public facility. Since public school buildings serve the entire County and new or expanded public school buildings may result in County-wide adjustments to attendance zones, rezoning requests will be analyzed on a County-wide basis to determine the impact on public school buildings.
- 3. The County will continue to consider any unique circumstances about a proposed development that may change the way that staff and the Board view the need for cash proffers for schools. Unique circumstances may include, but not be limited to, a demonstrable effort to meet the objectives of the County's Comprehensive Plan related to affordable housing.
- 4. Timing for the dedication of property or in-kind improvements should be specified in the proffer. Cash proffers, property dedications, and in-kind improvements must be used for projects identified in the County's Capital Improvement Program. Payments shall be expended in accordance with State law.
- 5. Adjustments in the cash proffer amount may be considered in August of odd-number years, beginning in 2007. Staff will recompute net costs based on the current methodology and recommend adjustments. Any adjustments would be effective upon adoption, but no sooner than July 1 of the fiscal year following adoption.
- 6. The cash proffer amount for school construction that the Board will use to guide its decisions in residential zoning applications received after November 13, 2005, are:

Single-Family Detached	\$4,011
Single-Family Attached	\$ 0
Multi-Family	\$4,275

If payment is rendered on or after July 1, 2006, then payments will consist of the adopted cash proffer payment per unit plus any adjustment as included in the Marshall Swift Building Cost Index.

7. The amounts identified in this Resolution are general guides for rezoning applications. Determination of whether an amount proffered by an applicant for rezoning is sufficient to offset the impacts of the proposed development shall be made on a case-by-case basis. Proffering a set amount is in no way a requirement to obtaining a positive decision on a residential rezoning application. In addition, the acceptability of a proffered school cash proffer under this Resolution, by itself, will not result in the approval of a residential rezoning application.

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 13th day of September, 2005.

Proffer_Sch.res

James City County Cash Proffers - Schools

There are five components involved in calculating what a new dwelling will cost the County to provide new schools.

(1) **Demand generators** - the weighted average current public school enrollment of single family and multi-family homes, based on the Sept 30 official school enrollment and the number of developed units in the two categories as determined in the latest land book.

Schools - previous September 30th official enrollment:

	Elementary	Middle	High	Total
Total City/County	4,171	2,246	2,988	9,405
	44.3%	23.9%	31.8%	
County only	3,812	2,050	2,752	8,614
	44.3%	23.8%	31.9%	

Source: Official Sept 30, 2004 enrollment report, WJCC Schools

COUNTY ONLY - Developed housing units - previous land book and actual enrollment count

	Units	Elementary	Middle	High	Total
Single Family - Detached	16,907	3,159	1,704	2,292	7,155
Single Fam - Attached	2,796	198	101	156	455
Multi Family	2,477	260	155	183	598
Mobile Homes	1,254	195	90	121	406
	23,434	3,812	2,050	2,752	8,614

Source: Units and numbers of units are those reported by category in the James City County land book, published as of July 1, 2004 and the number of mobile homes taken from the personal property book, Jan 1, 2004, as maintained by the Commissioner of Revenue.

EXCLUDED - the count of residential units above does not include any residential units or beds in six senior housing facilities - Williamsburg Landing, Chambrel, Patriots Colony, Tandem, Dominion or Manorhouse, also excluded are seven homes in Colonial Heritage, the only age-restricted single-family development in the County

Student enrollment comes from the list of County public age school students captured in the Sept 30, 2004 enrollment, sorted by address and then assigned to one of the four housing categories by address. All addresses are confirmed as legitimate County addresses to create the funding split in the School contract between the City and County.

STUDENTS PER UNIT	Elementary	Middle	High	Total
Single Family - Detached	0.20	0.10	0.15	0.45
Single Fam - Attached	0.07	0.04	0.06	0.16
Multi Family	0.10	0.06	0.07	0.24
Mobile Homes	0.16	0.07	0.10	0.32
	0.17	0.09	0.13	0.39

Source - calculated using landbook totals and WJCC School enrollment

ASSUMPTION: Used the actual student addresses against only those SF - detached units that were built in the last five years - there were 3,261 units, 1,467 students - 0.45 kids per unit. That is higher than the overall average of 0.42 - but the housing values are higher as well. Actual counts of students in multi-family housing built in the last five years mirror those found in that group in total, but the actual count for single-family attached built over the past five years is only eight students per hundred units.

James City County Cash Proffers - Schools

- (2) **Service levels** - existing service levels for each type of school for which a cash proffer will be accepted - based on estimates provided by Moseley Architects in its February, 2005 study of school capital facility needs. Design, SF and acreage standards adopted by the WJCC School Board as part of the CIP adopted on February 15, 2005.

	Elementary	Middle	High	
Design Capacity	600	800	1,250	WJCC CIP
Core Design	700	900	1,450	WJCC CIP
County Capacity	645	830	1,336	

ASSUMPTION: "County capacity" becomes the core capacity multiplied by the current split between County and City students (92.17%).

Acres	25	35	50	Comp Plan
Land Cost Per Acre	\$25,000	\$25,000	\$25,000	Estimated
Land Cost	\$ 625,000	\$ 875,000	\$ 1,250,000	Calculated
Construction Cost	\$ 12,717,390	\$ 13,695,652	\$ 44,244,444	WJCC CIP
Engineering / Planning	\$ 1,017,390	\$ 1,095,652	included	WJCC CIP
Other project Costs	\$ 1,891,922	\$ 2,020,145	included	WJCC CIP
Site Work	\$ 1,925,000	\$ 2,054,348	included	M Rinaldi
Off-site work	\$ 153,000	\$ 153,000	included	M Rinaldi
Gross Cost	\$ 16,534,312	\$ 17,770,145	\$ 45,494,444	WJCC CIP
County Funding Share	90.37%	90.37%	90.37%	FY2006 Contract
County Cost	\$ 14,942,058	\$ 16,058,880	\$ 41,113,329	Calculated
County Capacity (above)	645	830	1,336	
County Cost Per Student	\$ 23,159	\$ 19,359	\$ 30,763	

ASSUMPTIONS: "County cost" becomes the total cost multiplied by the funding split between City and County. The current split has the County paying 90.37%. "Other project costs" taken directly from the WJCC School Capital Improvement Program - and are less than the 17.1% that was tentatively agreed to by the Committee.

- (3) **Gross cost** of public facilities is then calculated per dwelling unit. The term "gross cost" is used because a credit is calculated for each dwelling unit based on future operating revenues.

	Elementary	Middle	High	
County Cost Per Student	\$ 23,159	\$ 19,359	\$ 30,763	Calculated above

Students by grade by housing unit as was previously calculated above

	Elementary	Middle	High
Single Family - Detached	0.20	0.10	0.15
Single Fam - Attached	0.07	0.04	0.06
Multi Family	0.10	0.06	0.07
Mobile Homes	0.16	0.07	0.10

Costs per:	Elementary	Middle	High	TOTAL
Single Family - Detached	\$ 4,632	\$ 1,936	\$ 4,614	\$ 11,182
Single Fam - Attached	\$ 1,640	\$ 699	\$ 1,716	\$ 4,056
Multi Family	\$ 2,431	\$ 1,211	\$ 2,273	\$ 5,915
Mobile Homes	\$ 3,601	\$ 1,389	\$ 2,968	\$ 7,959

James City County Cash Proffers - Schools

- (4) **Credits** - a credit will apply against the cost for each public school. The County has issued, and plans to issue, general obligation bonds for school construction. Residents of new developments will pay property taxes and a portion of these taxes will go to debt service. The credit is needed to avoid paying twice - through both a cash proffer and by real property taxes, for the same new schools.

SINGLE FAMILY DETACHED

Average Value - Built Last 5 Years \$ 330,627

Annual Tax Payments \$0.825/\$100 Tax Rate Tax Payment		Real Estate Tax Revenue	School Debt Service	Percent to Credit
	FY2006	\$ 61,082,995	\$ 10,497,594	17.2%

Avg Value times tax rate	Tax Payment	\$ 2,728	
	Credit	\$ 469	(portion of real property tax for school debt service)
Net Present Value of Credit		\$ 7,171	
Discount Rate of 4.2% for 25 years			

May 24, 2005 sale of \$39,820,000 in County bonds had, as a low bid, an interest rate of 4.2%

- (5) **Calculate a proposed proffer** - the cost per household minus the credit per household

SINGLE FAMILY DETACHED

Avg Value

Cost for each Single family detached unit	\$ 11,182
CREDIT - calculated above	(7,171)
Proposed Proffer - single family detached	<u>\$ 4,011</u>

REPEAT FOR SINGLE FAMILY ATTACHED AND MULTIFAMILY

	SF Attached	Multi Family
Average Value - Built Last 5 Years	\$ 280,392	\$ 75,543

Avg Value times tax rate	Tax Payment	\$ 2,313	\$ 623
	Credit	\$ 398	\$ 107
Net Present Value of Credit		\$ 6,086	\$ 1,640
Discount Rate of 4.2% for 25 years			

PROFFERS

	Average SF Attached	Average Multi Family
Cost for each unit	\$ 4,056	\$ 5,915
CREDIT - calculated above	(6,086)	(1,640)
Proposed Proffer - single family detached	<u>\$ -</u>	<u>\$ 4,275</u>

REZONING 10-05/MASTER PLAN-07-05/SPECIAL USE PERMIT-17-05. Villages at White Hall (La Grange)

REZONING 11-05/MASTER PLAN-08-05/SPECIAL USE PERMIT-18-05. Villages at White Hall (“Three Villages”: Taskinas, Hickory Neck, and Rochambeau)

Staff Report for the September 13, 2005, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Building F Board Room; County Government Complex

Planning Commission: July 11, 2005, 7 p.m. (deferred)

August 1, 2005, 7 p.m.

Board of Supervisors: September 13, 2005, 7 p.m.

SUMMARY FACTS - Z-10-05/MP-07-05/SUP-17-05 (La Grange)

Applicant: Mr. Vernon Geddy on behalf of Rauch Development Company LLC
Land Owners: Robert W. Cowan and Judy G. Cowan
Proposed Use: 20 three- and four-family housing units with a total of 79 residential units
Location: 8716, 8724, and 8720 Barhamsville Road; 3225 Old Stage Road
Tax Map/Parcel Nos.: (12-1)(03-02), (12-1)(03-01), (12-1)(01-21), (12-2)(01-21)
Parcel Size: 22.81 acres
Proposed Zoning: R-2, General Residential District, Cluster Overlay, with Proffers
Existing Zoning: A-1
Comprehensive Plan: Low-Density Residential
Primary Service Area: Inside

SUMMARY FACTS - Z-11-05/MP-08-05/SUP-18-05 (Taskinas, Hickory Neck, Rochambeau)

Applicant: Mr. Vernon Geddy on behalf of Rauch Development Company LLC
Land Owners: Hazelwood-Waverly LLC, R. M. Hazelwood, Jr., David and Cindy Johnson
Proposed Use: 271 single-family dwelling units, 56 two-family dwelling units, and 88 multi-family housing units (townhouses); 8,000 square foot non-residential building
Location: 3400, 3610, 3611, and 3505 Rochambeau Drive; 8350 Richmond Road
Tax Map/Parcel Nos.: (12-2)(01-14), (12-2)(01-24), (12-2)(01-22), (12-2)(01-19), (12-2)(01-18)
Parcel Size: 138.54 acres
Proposed Zoning: R-2, General Residential District, Cluster Overlay, with Proffers; R-5 Multi-family Residential District, Cluster Overlay, with Proffers; and B-1, General Business District, with Proffers
Existing Zoning: A-1 General Agricultural District and B-1 General Business District
Comprehensive Plan: Low-Density Residential
Primary Service Area: Inside

STAFF RECOMMENDATION:

Staff recommends the James City County Board of Supervisors approve the rezoning, special use permit (SUP), and master plan application for LaGrange Village, accepting the attached voluntary proffers and applying the SUP conditions listed in the staff report. Public benefits including the preservation of scenic views and resource protection areas (RPAs) are incorporated into the LaGrange Village master plan in such a manner that earns the residential cluster density bonus to support the proposed 3.46 dwelling units per acre and sufficiently meet the requirements found in the Comprehensive Plan.

Staff recommends that the James City County Board of Supervisors approve the rezoning, SUP, and master plan application for the Taskinas, Rochambeau, and Hickory Neck Villages. The unique historic features located within and adjacent to these Three Villages can be adequately protected through the revised proffers over time. Staff further believes that this rezoning application provides an adequate design that over time can allow the vision for Anderson's Corner to be achieved by providing a screened, transitional development. Based on this information, staff recommends that the James City County Board of Supervisors approve the rezoning, SUP, and master plan application for the Taskinas, Rochambeau, and Hickory Neck Villages with the acceptance of the voluntary proffers and approval of the SUP conditions listed in the staff report.

Staff Contact:

Matthew J. Smolnik

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On August 1, 2005, the Planning Commission voted 6-1 to approve the applications for LaGrange, Taskinas, Hickory Neck, and Rochambeau Villages.

Proposed Changes Made After Planning Commission Consideration

The applicant has revised Proffer No. 21. Phasing is now based upon the approval of subdivision plats rather than the issuance of building permits.

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

Cash Proffer Summary – La Grange	
(See staff report narrative and attached proffers for further details)	
Use	Amount
Water	\$796 per single-family attached DU
Sewer	\$67.50 per residential DU
CIP projects – Schools	\$1,750 per single-family attached DU
CIP projects – All other uses	\$750 per single-family attached DU
Total Amount (2005 dollars)	\$265,716.50
Total Per Lot	\$3,365.44 per unit, 79 units

Cash Proffer Summary – Three Villages (Taskinas, Hickory Neck, and Rochambeau)	
(See staff report narrative and attached proffers for further details)	
Use	Amount
Water	\$1,061 per single-family detached DU and \$796 per single-family attached DU

Sewer	\$36 per single-family detached DU and \$30 per single-family attached DU served by JCSA Lift Station 9-5. \$81.00 per single-family detached DU and \$67.50 per single-family detached DU served by JCSA Lift Station 9-7.
CIP projects – Schools	\$3,750 per single-family detached DU and \$1,875 per single-family attached DU
CIP projects – All other uses	\$1,275 per single-family detached DU and \$775 per single-family attached DU
Total Amount (2005 dollars)	\$2,173,848.50
Total Per Lot	\$6,122.00 per detached DU served by 9-5 \$6,167.00 per detached DU served by 9-7 \$3,467.00 per attached DU served by 9-5 \$3,513.50 per attached DU served by 9-7

PROJECT DESCRIPTION

Mr. Vernon Geddy has submitted an application on behalf of Gayle Rauch of Rauch Development Company LLC to rezone 161.35 acres from A-1, General Agricultural District and B-1, General Business District, to: R-2, General Residential District, Cluster Overlay, with proffers; R-5, Multifamily Residential District, Cluster Overlay, with proffers; and B-1, General Business District, with proffers. These projects have been presented in two separate rezoning applications (one for La Grange Village and one for Taskinas, Rochambeau, and Hickory Neck Villages (The Three Villages)) but the applicant views them as parts of one development. As a result, staff will review the two applications separately on their individual merits in a combined staff report.

If approved, the applicant would develop within the next ten years four related neighborhoods collectively called “The Villages at White Hall” proposing a total of 494 new homes. The four neighborhoods would be La Grange Village, Taskinas Village, Rochambeau Village, and Hickory Neck Village which are comprised of the following dwelling unit types.

1. La Grange Village: 20 three- and four-family building units with a total of 79 dwelling units.
2. Taskinas Village: 39 townhome style multi-family units and 14 single-family detached units.
3. Rochambeau Village: 31 single-family detached homes, 49 townhome style multi-family units and 14 duplex two-family units for a total of 94 units.
4. Hickory Neck Village: the largest of the neighborhoods with 268 dwelling units, comprised of 226 single-family detached homes and 42 duplex-style two-family units, tennis courts, clubhouse, and swimming pool.

An 8,000-square-foot commercial building is proposed on an approximately 5.91-acre parcel located at the intersection of Rochambeau Road and Old Stage Road. This parcel is currently zoned B-1, General Business, and is proposed to be rezoned to B-1, General Business, with proffers, prohibiting the following permitted by-right uses:

1. Automobile Service Stations;
2. Hotels, Motels, Tourist Homes, and Convention Centers;
3. Indoor Sports Facilities;

4. Indoor Theaters;
5. Radio and Television Stations and Accessory Antennas;
6. Fast Food Restaurants; and
7. Wholesale and Warehousing.

Residential Cluster Density Bonuses

The Residential Cluster Overlay District is intended “to achieve innovative and quality designs of residential developments above one dwelling unit per acre that provide avenues for affordable housing, minimize environmental impacts, provide for usable and meaningful open space, and provide recreation amenities within a more practical and efficient development.” Further, to achieve densities greater than three units per acre, it is expected that the development will provide community benefits such as “mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design.”

For La Grange, the developer proposes a gross density of 3.46 dwelling units per acre. For the remaining Three Villages, the developer now proposes a gross density of 3.0 units per acre. In accordance with Section 24-549(a) of the Zoning Ordinance, the Board of Supervisors may grant a SUP for residential cluster developments of more than two units per acre, but no more than three units per acre if the developer provides the following ***with staff comments in bold italics***:

1. Implementation of the County’s Streetscape Guidelines, ***which have been proffered for all Villages.***
2. Implementation of the County’s Archaeological Policy, ***which has been proffered for all Villages.***
3. Provision of sidewalks along one side of all internal streets, ***which have been proffered for all Villages.***
4. Provision of recreation facilities in accordance with the County’s Parks and Recreation Guidelines, ***which have been proffered for all Villages.***
5. Implementation of the County’s Natural Resources Policy. ***Information has been submitted with the rezoning applications that have been reviewed and approved by the Department of Conservation and Recreation in accordance with the County’s policy.***
6. Provision of pedestrian and/or bicycle trails; ***which have been proffered for all Villages.***
7. Construction of curb and gutter design on all streets within the development; ***which have been proffered for all Villages.***

Further, the Board of Supervisors may award density bonuses for more than three units per acre but not more than four units per acre for developments that meet one or more of the following criteria ***with staff comments following in bold italics***:

The applicant does not require density bonuses for the Three Villages’ rezoning. The overall density of the Three Villages according to the master plan is 3.0 units per acre. The density within the individual Villages varies, depending on the final mixture of housing types. Proposed densities within the individual Villages potentially ranges from 2.2 to 3.45 units per acre for Rochambeau Village, 3.5 to 4.9 units per acre for Taskinas Village and 2.75 to 3.25 units per acre for Hickory Neck. For LaGrange Village, the following density bonus analysis is offered.

1. An additional 0.5 units per acre may be awarded for every 10 percent of the total number of dwelling units dedicated to affordable housing.

Only 26 townhouse units in LaGrange are proffered to be sold at or below \$185,000. This figure does not meet the County’s definition of affordable housing; therefore, no credit should be given for this density bonus for La Grange Village.

2. An additional 0.5 units per acre for superior layout and quality design that incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas, protection of wildlife habitat corridors, the creation of buffer areas around RMA wetlands, and sustainable building practices, as referenced in *The Sustainable Building Sourcebook* from the City of Austin's Green Building Program or the *Sustainable Building Technical Manual* by the United States Department of Energy.

For LaGrange Village, credit is given for a density bonus for superior design that provides buffers around RPAs and preservation of scenic vistas through the use of proffered landscaping to screen the viewshed of the historic Whitehall Tavern located on adjacent property. Sustainable building practices have been proffered as referenced in the Sustainable Building Sourcebook from the City of Austin.

No density bonus is allowed for improvements, designs, or actions that are otherwise required by County, State, or federal law.

PUBLIC IMPACTS

Archaeology

La Grange and Taskinas, Rochambeau, Hickory Neck:

The County archaeological policy is proffered in both applications, however, architectural resources are not required to be researched and protected by the County policy.

- **Staff Comment:** An initial Phase IA Cultural Resource Assessment of the total 165 acres has been completed and forwarded to the Virginia Department of Historic Resources (DHR).

Regarding architectural resources, DHR recommends a qualified historian evaluate the Waverly Farm at the Phase II level to determine its eligibility and the potential for the project to affect its integrity. DHR also recommends the Hickory Neck Church and Geddy Farm House/White Hall Tavern be investigated at the Phase I level by a qualified architectural historian, as there may be indirect effects to these properties as a result of planned construction.

Architectural protection and viewshed protection of the Waverly House is now proffered by the applicant. The increased buffer along Route 60 and hedgerow proffers now add protection for the Hickory Neck Church.

Environmental Impacts

La Grange and Taskinas, Rochambeau, Hickory Neck:

- **Watershed:** Ware Creek
- **Environmental Proffers/Conditions:**
 - ♦ Master Stormwater Management Plan: Development of a master stormwater management plan is proffered for both applications with the use of low-impact design techniques utilized where applicable.
 - ♦ Shared Stormwater Management Facilities: The applicant proffers to design the stormwater Best Management Practices (BMPs) in Taskinas Village and Hickory Neck Village to serve the proposed expansion of Hickory Neck Church and to serve Stonehouse Elementary School and the Christian Fellowship Church.

- ♦ **Turf Management Plan:** The applicant has proffered a Turf Management Program to be implemented in the proposed development. The Homeowners Association (HOA) will be authorized to develop, implement, and enforce the program, which will apply to both private lawns and common areas under HOA control and may be enforced by either the County or the HOA.
- **Environmental Staff Comments:** To construct both projects, the RPA buffer on-site will be impacted and mitigation for these impacts will be required. Staff strongly suggests the eradication of all kudzu, *Pueraria thunbergiana*, be undertaken; however, the exact details will be formalized during development plan review by Environmental staff.

Per the letter dated April 22, 2005, from the Corps of Engineers, the current environmental violation located within LaGrange Village located on Tax Parcel Nos. (12-2)(1-21) must be resolved by either complete removal of the dam structure or complete reconstruction. Environmental staff notes that a corrective land disturbing permit, with surety, is required from the Division prior to approval of any development plans along with an approved plan that addresses the existing erosion problems. A permit has not been issued to date; thus the proposed SUP conditions listed at the end of the staff report.

Public Utilities

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

Public Utility Proffers

La Grange:

- **Cash Contribution:** A cash contribution of \$796 is proffered for each single-family attached dwelling unit for improvements to the water system. A cash contribution of \$67.50 is proffered for each residential dwelling unit for improvements to the sewer system.
- **Water Conservation:** Water conservation measures will be developed and submitted to the JCSA for review and approval prior to any site plan approval.

Taskinas, Rochambeau, and Hickory Neck:

- **Cash Contribution:** A cash contribution of \$1,061 for each single-family detached dwelling unit and \$796 for each single-family attached dwelling unit is proffered for improvements to the water system. A cash contribution of \$36 per single-family detached dwelling unit and \$30 per single-family attached dwelling unit served by JCSA Lift Station 9-5, and \$81.00 per single-family detached dwelling unit and \$67.50 per single-family detached dwelling unit served by JCSA Lift Station 9-7 is proffered for improvements to the sewer system.
- **Stonehouse Elementary/Williamsburg Christian Academy/Christian Fellowship Church:** The applicant proffers to extend gravity sewers to the development that are sized to accommodate Stonehouse Elementary School, Williamsburg Christian Academy, and the Christian Fellowship Church.
- **JCSA Comments:** Cash contributions for water impacts are acceptable.

The JCSA has requested that a master water and sewer plan be submitted to JCSA for review prior to the initial site plan submittal for this development. JCSA is concerned about how the entire Villages at White Hall project will be engineered into the current public water and sewer system. No proffer has been

offered regarding the timeline of submitting a master water and sewer plan, therefore, SUP conditions have been proposed.

Parks and Recreation/Greenway

La Grange: The project proposes 3.97 acres of recreation and conservation land. The Master Plan indicates development of a recreation area and trail system within the Village and access to recreation facilities located within Hickory Neck Village.

Taskinas, Rochambeau, Hickory Neck: The project proposes 37.12 acres of recreation and conservation land. The developer proffers to preserve the Waverly Farm farmhouse for use as a clubhouse/community facility, while reserving the right to relocate it to a different location on the property. Further, the developer proffers 8.03 acres of parkland, two play areas with playground equipment, two to four tennis and/or multiuse courts, approximately 2.03 miles of soft surface walking trails, and a swimming pool with pool house. All proffered facilities will be available to residents of all four sections of this project. The developer also proffers to provide other recreational facilities or cash contributions if necessary to meet the County's Recreation Master Plan. All proffered facilities are subject to approval by the Development Review Committee.

- **Staff Comment:** Staff finds the proffered recreation amenities acceptable, and the cash proffer of No. 4(c) may be utilized by the County for off-site sidewalk improvements.

Fiscal Impact

La Grange:

The applicant has provided a fiscal impact statement that is included as an attachment to this report. In summary, at buildout this project is expected to have a negative annual fiscal impact of approximately \$33,000.

- **Proffers**

- ♦ **Cash Contribution:** A cash contribution for CIP projects (Library and Fire/EMS facilities) of \$750 per single-family attached dwelling unit is proffered.

Taskinas, Rochambeau, Hickory Neck:

The applicant has provided a fiscal impact statement that is included as an attachment to this report. In summary, at buildout this project is expected to have a negative annual fiscal impact of approximately \$411,000.

- **Proffers:**

- ♦ **Cash Contribution:** A cash contribution for CIP projects (Library and Fire/EMS facilities) of \$1,275 per single-family detached dwelling unit and \$775 per single-family attached dwelling unit is proffered.
- **Staff Comment:** The Department of Financial and Management Services questions some of the assumptions in the submitted fiscal impact statements as to whether the projected negative annual fiscal impact on the County will be greater than the estimated \$411,000. The proposed 8,000 square feet of commercial space should not materially reduce the annual fiscal deficits at build out. FMS adds that this type of development will accelerate the need for new elementary schools, thus accelerating the County's \$18 million capital investment.

Schools

La Grange:

The applicant has proffered \$1,750 per single-family attached dwelling unit.

Taskinas, Rochambeau, Hickory Neck:

The applicant has proffered \$3,750 per single-family detached dwelling unit and \$1,875 per single-family attached dwelling unit.

Adequate Public School Facilities Test

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 2005 Enrollment</i>	<i>Projected Students Generated by Proposal</i>	<i>Current 2005 Enrollment and Projected Student Total</i>
Stonehouse Elementary	588	516	505	84	589
Toano Middle	775	782	888	43	931
Lafayette High	1,250	1,296	1,535	52	1587
<i>Total</i>	<i>2,613</i>	<i>2,594</i>	<i>2,928</i>	<i>179</i>	<i>3,107</i>

- **Staff Comments:** The adequate public schools facility test is based on design capacity. The proposal fails at the middle school level.

Although the capacity of Lafayette High School is clearly exceeded and the elementary school capacity exceeded by one student, 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. A new elementary school is included in the County's current CIP budget and the staff believes that this proposal passes at the elementary school level. 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.

Traffic**2005 Traffic:**

- Counts: Route 60 (from Barhamsville Road to Forge Road): 9,966 vehicles per day.

2026 Volume:

- Projected: The section of Route 60 from Barhamsville Road to Croaker Road is projected to carry 24,000 vehicles per day in the 2003 Comprehensive Plan.

La Grange:

This proposal would be accessed from Barhamsville Road and Old Stage Road. Note that future road connections are proposed from La Grange Village to adjacent property for future developments with or without rezonings.

- **Road Improvements:** The Barhamsville Road entrance (right-turn in/out only) will require construction of a right turn taper and should contain a channelized island.

- **Traffic Proffers:**

Road Improvements: The proffers provide for construction of a 150-foot right-turn taper at the Barhamsville Road entrance and a channelized island.

An updated traffic impact study shall be submitted to the Planning Director and the Virginia Department of Transportation (VDOT) for their review and approval prior to the time of issuances of building permits for 75 percent of the total number of dwelling units permitted on the property. If the updated traffic study results in a warranted turn lane, the applicant is so obligated to construct.

Taskinas, Rochambeau, Hickory Neck:

These Villages have several access points from multiple roads in the area. Taskinas Village will be accessed from a single entry/exit located on School House Road. Rochambeau Village will have a single access point on the westbound side of Rochambeau Drive. This access point will share a proposed crossover with Hickory Neck Village. Hickory Neck Village will have three entry/exit points: two along the eastbound side of Rochambeau Drive and one on the westbound side of Route 60. Each of the entry/exit points for Hickory Neck Village will be at a crossover on either Rochambeau Drive or Route 60. Note that future road connections are proposed from Hickory Neck Village to adjacent property for future development as it occurs.

- **Road Improvements:** Left-turn lanes with 200-foot lanes and 200-foot tapers are required at each entrance point that uses a crossover at a four-lane divided highway. At the Hickory Neck entrance on Route 60, a minimum of a 150-foot right-turn taper is required. This right-turn taper is also required for the entrances to Hickory Neck from Rochambeau Village. The entrance to Rochambeau Village requires a minimum 150-foot right-turn taper. The proposal also now includes proposed changes to the intersection of Rochambeau Drive and Old Stage Road. These changes include blocking the left-turn motion currently available to vehicles exiting Sand Hill Road onto Rochambeau Drive resulting in all traffic being channeled to the existing Rochambeau/School Lane intersection. This change will compel drivers turning off Rochambeau onto Old Stage to decrease speed.

- **Traffic Proffers:**

Road Improvements: The applicant has proffered the construction of the above improvements. Additionally, the applicant has proffered to install landscaping in the Route 60 median along the Hickory Neck Village Route 60 frontage. Further, the applicant has proffered the installation of buffers to provide visual screening that enhances the look of a forested edge along the Rochambeau Drive frontage of Taskinas Village, Rochambeau Village, and Hickory Neck Village.

Traffic Impact Study: An updated traffic impact study shall be submitted to the Planning Director and VDOT for their review and approval prior to the time of issuances of building permits for 75 percent of the total number of dwelling units permitted on the property. If the updated traffic study results in a warranted turn lane or other entrance improvements, the applicant is so obligated to construct. Additionally, private streets located within these Three Villages will be constructed to VDOT standards and a private street maintenance fund established for the property owners association.

Rochambeau Road and Old Stage Road Intersection: As noted above, the applicant has proffered to reconfigure the intersection of Rochambeau Road and Old Stage Road prior to the issuance of building permits for buildings in Taskinas or Rochambeau Villages, as shown on the Master Plan.

- **VDOT Comment:** VDOT concurs with the trip generation rates, distribution patterns, and background growth rates stated in the study for both applications. For La Grange, VDOT staff recommends construction of a channelized island at the Barhamsville Road entrance. For Taskinas, Rochambeau and Hickory Neck, VDOT staff emphasizes that there must be 800 feet of separation between existing crossovers and that this must be noted on future submissions. The entrance medians for these areas are

excessively wide and will create unnecessary turning movement conflict. The streets in Rochambeau Village and Hickory Neck Village will be subject to additional special design considerations since they are designated to be public streets on the Master Plan. For both applications, approval of the access locations will not be granted until design plans have been reviewed and found to be satisfactory based on sight distances, minimum entrance standards, etc. Additional analysis will be required at such time as the future connections as shown on the Master Plan are developed. Future connections may warrant additional roadway improvements. The traffic study for this project should be updated as the development approaches buildout. VDOT staff is aware of the proposed changes to the Rochambeau/Old Stage Intersection but has not to date made a determination as to whether they are acceptable.

COMPREHENSIVE PLAN

The James City County Comprehensive Plan Land Use Map designates this property for Low-Density Residential Development and the property is in close proximity to the Anderson's Corner Mixed-Use area. 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 a 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 including mixed-use cost housing, affordable housing, unusual environmental protection, or adherence to open space design properties. The Comprehensive Plan states that 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.

Adjacent Mixed-Use areas are centers within the PSA where higher-density development, redevelopment, and/or a broader spectrum of land uses are generally encouraged. However, the Plan identifies the Anderson's Corner Mixed-Use area as one of the few remaining areas within the PSA with significant rural agricultural vistas and rural historic sites. Development within the Anderson's Corner Mixed-Use area should be principally office and commercial with supporting residential to create a traditional rural village and should maintain the appropriate historic setting for the Whitehall Tavern and preserve the rural, historic character of the area. Views from Route 60 and Route 30 should receive especially high protection. The Plan states that "significant amounts of open land and farm fields should be preserved along with agricultural and rural structures in a manner that creates a traditional rural village surrounded by permanently protected farm fields."

- **Staff Comments:** The La Grange portion of this proposal is directly adjacent to the Anderson's Corner Mixed-Use area while the other three sections are within close proximity, which significantly impacts the viewshed and the ability to achieve the Comprehensive Plan's vision for the Anderson's Corner Mixed-Use Area. While Section 24-549(a) of the Zoning Ordinance specifies what particular benefits must be offered in order to achieve a density of greater than three dwelling units per acre, the vision and objective of the Comprehensive Plan should also be considered. Staff believes that the vision for Anderson's Corner Mixed-Use Area and the Low-Density Residential objectives should also be strongly considered. The Low-Density residential designation states that the character and density of surrounding development and buffers among other items should be considered when awarding gross densities up to one dwelling unit per acre. As noted above, certain public benefits should be provided to go beyond one dwelling unit per acre and up to four dwelling units per acre.

Under the revised proffers staff believes that LaGrange Village is in keeping with the Low-Density residential land use designation and offers public benefits as discussed earlier in the staff report including preservation of scenic vistas in a manner consistent with nearby historical structures and the Anderson's Corner Mixed Use Area.

With the submitted proffers and Master Plan, staff believes that the Three Villages will over time sufficiently protect these structures and vistas due to the enhanced and expanded buffers. Staff's concern with the preservation of the Waverly Farmhouse has been mitigated with a preservation plan and viewshed protection. The viewshed of Hickory Neck Church can also be protected over time through the proffered hedgerow. Staff prefers additional open space along Route 60 to better achieve the Anderson's Corner vision. However, the proposed amount of open space coupled with the expanded buffers will, in staff's opinion, not preclude the vision of Anderson's Corner from being achieved. Therefore, staff finds the proposal generally consistent with the Comprehensive Plan. Further discussion regarding the buffer follows in the next section of the staff report.

Community Character Corridors

The Comprehensive Plan designates certain sections of the County as Community Character Corridors (CCC). These Corridors "promote the rural, natural, or historic character of the County. The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of an area and feels these roads warrant a high level of protection." Some of the CCC components that the Plan seeks to preserve are: "the natural topography; large wooded areas of tall deciduous forests; open vistas across ravines, wetlands, and water bodies; . . . and small scale, low intensity development."

Toward this end, the Plan's stated goals relating to CCCs are to: "1) improve the overall appearance of the County's urban and rural environment; and 2) enhance and preserve the County's scenic, cultural, rural, farm, forestal, natural, and historic resources as being essential to the County's rural and historic character, economic vitality, and overall quality of life." To achieve these goals, the Plan seeks to "ensure that development is compatible in scale, size, and location to surrounding existing and planned development" and "ensure that development along Community Character Corridors and Areas protect the natural views of the area, promotes the historic, rural or unique character of the area." The Plan also seeks to "ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery, and scenic views." Finally, the Plan instructs the County to "identify vistas and other scenic resources that should be protected and encourage building, site, and road designs that enhance the natural landscape and preserve valued vistas.

These projects affect two sections of road designated as CCCs. La Grange Village has an entrance on Barhamsville Road in the Route 30 Corridor. Hickory Neck Village fronts on the Richmond Road Corridor.

- **Staff Comments:** Staff finds that the proposal for La Grange Village is substantially in keeping with the CCC.

Staff finds that portions of the Hickory Neck Village are generally compatible with requirements set forth by the Comprehensive Plan for protection of scenic views and compatibility with surrounding existing development and the Route 60 CCC. Staff believes that the proposed landscape buffer along Richmond Road, 150 feet more than is required by the Zoning Ordinance, is sufficient in depth to eventually screen residences. While in staff's opinion it is not sufficient to maintain the current viewshed characterized by open fields and to maintain a sense of open space, it does create a transition for a future rural Village at Anderson's Corner. However, the proposed Rochambeau buffers for the Three Villages are not sufficient to support the goals of the Anderson's Corner mixed-use area at least in the short term and should not be viewed as a precedent for adjoining parcels.

Per Section 24-543 of the Zoning Ordinance, Buffer Requirements for Residential Cluster Developments, wetponds, dry detention basins, and other structural BMP's shall not generally be permitted in the buffers except that the Planning Commission may approve them under the following circumstances ***with staff comments in bold italics:***

1. The need is necessitated by site conditions rather than economic factors.
Staff recommends that the Board of Supervisors approve the location of the stormwater management ponds located in Rochambeau Village and Hickory Neck Village that slightly impact the buffer along Rochambeau Drive due to the natural drainage patterns on-site.

However, staff still has concerns regarding the revised design of the stormwater management pond located on Richmond Road within Hickory Neck Village is not necessitated by site conditions and is discussed further below.

2. The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.
The applicant has proffered a variable width buffer along Route 60 that shall be a minimum of 300-feet deep. The buffers shall have a gentle slope from Route 60 to a low-landscaped berm adjacent to the first row of lots. The BMP is proffered to be designed and landscaped to retain a sense of open farmland or pasture while screening the Village from Richmond Road. The Development Review Committee will review the landscape plan. While staff believes that a minimum 30-foot-wide buffer is an adequate width to screen the development, staff is concerned that there might not be sufficient area to provide effective screening.

Comprehensive Plan-Zoning Map Inconsistencies

The Comprehensive Plan recognizes that there are inconsistencies between the Plan's land-use designations and existing zoning. Of relevance for these proposals, the Plan acknowledges that there are inconsistencies in the land-use designations in the Anderson's Corner area and the existing zoning in that area. These inconsistencies stem from the Low-Density Residential designation for the area surrounding Anderson's Corner and the approximately 120 acres in this area that are currently zoned B-1, General Business. Approximately 111 acres of the 138 acres that comprises the Three Villages is zoned B-1 and proposed to be rezoned residential, supporting the goals of the Comprehensive Plan. The Plan sets out criteria for evaluating proposed development involving land that is zoned B-1. Proposed development in the area is as follows ***with staff comments in italic bold:***

1. Protect adjacent residential areas.
Adjacent low-density residential areas are protected from commercial development but not from high-density residential areas.
2. Limit curb cuts and minimize negative traffic impacts.
Curb cuts are limited and traffic impacts of this project are mitigated. However, when this project is reviewed cumulatively with other developments in the area, staff is not completely convinced that traffic impacts are mitigated.
3. Discourage "strip" development.
Strip commercial development has been mitigated.

4. Promote a coordinated and comprehensive development plan for the entire area, and encourage pedestrian travel.
Coordinated and comprehensive plans are viable within each Village and pedestrian travel between Villages may be mitigated by the sidewalk proffer.
5. Further, preference is to be given to office and limited industrial uses.
While preference has not been given to office and limited industrial use, the Economic Development Authority has made no comment on this particular proposal due to the existing large tracts of undeveloped property commercially zoned in the upper part of the county.

CONCLUSIONS & CONDITIONS

Staff believes that the two cases sufficiently address the technical issues covered in this report. In essence, staff's recommendation primarily hinges on some qualitative but key findings called for in the Comprehensive Plan. These include whether the proposal:

- Adequately helps achieve the Anderson's Corner vision of creating a traditional rural village with significant amounts of open land and farm fields.
- Adequately protects historic structures and scenic vistas.
- Provides adequate public benefits such as mixed cost housing or adherence to open space design principles to merit the proposed density.
- Seeks an appropriate density given the surrounding development and adequacy of proposed buffers.

Staff recommends the James City County Board of Supervisors approve the rezoning, SUP, and master plan application for LaGrange Village, accepting the attached voluntary proffers, and applying the SUP conditions listed below. Public benefits including the preservation of scenic views and RPAs are incorporated into the LaGrange Village master plan in such a manner that earns the residential cluster density bonus to support the proposed 3.46-dwelling units per acre and sufficiently meet the requirements found in the Comprehensive Plan. The Plan also adequately protects the Whitehall Tavern.

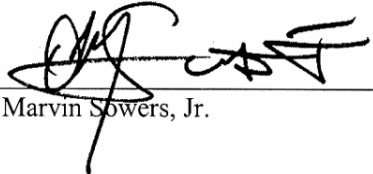
Staff recommends the James City County Board of Supervisors approve the rezoning, SUP, and master plan application for the Taskinas, Rochambeau, and Hickory Neck Villages. The unique historic features located within and adjacent to these Three Villages can be adequately protected through the proffers over time. Staff further believes that this rezoning application provides an adequate design that over time can allow the vision for Anderson's Corner to be achieved by providing a screened, transitional, development. Based on this information, staff recommends that the James City County Board of Supervisors approve this rezoning, SUP, and master plan application for the Taskinas, Rochambeau, and Hickory Neck Villages, with the acceptance of the voluntary proffers and approval of the SUP conditions listed below:

1. A master water and sewer plan for all Villages shall be submitted for review by JCSA prior to the submittal of any development plans for any portion of property.
2. Prior to the submittal of any development plans for any portion of the Villages of White Hall project, a land-disturbing permit with surety will be issued by the Environmental Division after review and approval of an erosion control plan to mitigate impacts from the current environmental violation located within LaGrange Village located on Tax Parcel Nos. (12-2)(1-21).

3. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Matthew J. Smolnik

CONCUR:



O. Marvin Sowers, Jr.

MJS/gs

Z10-05_MP07-05_SUP18-05

ATTACHMENTS:

1. Approved Minutes from the July 11, 2005, Planning Commission Meeting
2. Minutes from the August 1, 2005, Planning Commission Meeting
3. Location Map
4. Master Plan for LaGrange Village (under separate cover)
5. Master Plan for Rochambeau, Taskinas, and Hickory Neck Villages (under separate cover)
6. Proffers
7. Illustrative Plan
8. Open Space Diagram
9. Viewshed diagram for the Waverly Farm
10. Conceptual Sketch of Anderson's Corner
11. Resolutions

**APPROVED MINUTES OF THE JULY 11, 2005 MEETING
OF THE PLANNING COMMISSION**

Z-10-05/SUP-17-05/MP-7-05 -The Villages at Whitehall (LaGrange)
Z-1105/SUP-1605/MP-8-05 – The Villages at Whitehall
(Task, Neck, Rochambeau)

Mr. Fraley discussed with the Commission to hear the two cases jointly.

Mr. Kale and Mr. Fraley congratulated and thanked Ms. Karen Drake for her work and service to the County and wished her well in her new endeavors.

Ms. Karen Drake presented the staff report. Mr. Vernon Geddy has submitted an application on behalf of Rauch Development to rezone approximately 160 acres from A-1, General Agricultural and B-1, General Business, to R-2, General Residential District, Cluster Overlay, with proffers; R-5 Multifamily Residential District, Cluster Overlay, with proffers; and B-1, General Business District, with proffers.

If approved, the applicant would develop within the next ten years four related neighborhoods collectively called “The Villages at White Hall” proposing a total of 522 new homes.

1. La Grange Village: 20 three- and four-family building units with a total of 79 dwelling units.
2. Taskinas Village: 70 town home style multi-family units.
3. Rochambeau Village: 31 single family detached homes, 49 town home style multi-family units and 14 duplex two-family units for a total of 94 units.
4. Hickory Neck Village: The largest of the neighborhoods with 279 dwelling units, comprised of 237 single family detached homes and 42 duplex-style two-family units, tennis courts, clubhouse and swimming pool.

An 8,000 square foot commercial building is also proposed. This parcel is currently zoned B-1, General Business and is proposed to be rezoned to B-1, General Business with proffers prohibiting certain permitted by-right uses.

Staff recommends the Planning Commission approve the rezoning, special use permit and master plan application for LaGrange Village with the special use permit conditions listed in the staff report and acceptance of the voluntary proffers.

Staff recommends the Planning Commission deny the rezoning, special use permit and master plan application for the Taskinas, Rochambeau and Hickory Neck Village. However, if the Planning Commission should choose to approve this application, staff recommends acceptance of the voluntary proffers and approval of the special use permit conditions listed in the staff report.

Mr. Kale asked about the existing two ponds on the property and whether one feeds from the school property and the other one to the west feeds from the natural topography and if they were capable of sustaining the use as a BMP.

Ms. Drake deferred the question to Mr. Darryl Cook of the Environmental Division.

Mr. Cook stated the second pond is receiving drainage from the natural topography.

Mr. Kale asked if it receives drainage from the area that is being considered for development.

Mr. Cook stated that this part of the plan had not been examined yet by staff, but the applicant's engineer could possibly answer the question. It will need to be studied and the lakes reconstructed.

Mr. Kale asked Mr. Cook's opinion about what needed to be done to the ponds to make them capable to serve the proposed use.

Mr. Cook stated that they are going to need significant reconstruction. They have been there for some time and the one further west has significant leakage problems. The other will also need some upgrading.

Mr. Kennedy stated that he thought that the County needs to move in a direction where we require an active Turf Management Program especially with fertilizers and herbicides. The proposed Storm Water Management program comes up annually and the County keeps pushing it to the back burner until the point where it is really going to become problematic. He asked if Mr. Cook would recommend a Turf Management Program for this proposal.

Mr. Cook stated that he did believe that a Nutrient Management Program would be an important component of the overall storm water management for this site. The management plan should be structured such that the common areas would have criteria set for them and the privately owned properties would have more of an education and goal setting oriented program.

Mr. Kennedy and Mr. Cook discussed drainage concerns affecting the creeks and waterways and ways to educate the public about environmental friendly fertilizers.

Mr. Kennedy stated that he had received some concerns about the desal facility and the James City County water supply.

Mr. Kennedy and Mr. Foster discussed issues concerning annual daily demands, future water demand projections and development, the second desal facility, Newport News waterworks, Chikahominy Piney Point Aquifer, current population projections, etc.

Mr. Kennedy discussed with Ms. Drake the 10 year development plan and if there had been any discussion concerning development phasing caps.

Mr. Sowers stated that caps had not been addressed by staff or with the applicant but suggested that he could raise the issue with the applicant during his presentation.

Mr. Kennedy stated he was concerned with traffic on Old Stage Road and asked if staff had any concerns.

Ms. Drake stated that staff was relying on VDOT's comments and they had found the traffic study acceptable. The applicant is proffering all of the recommended traffic improvements.

Ms. Blanton asked how far the main entry on Richmond Road was from Anderson's Corner.

Ms. Drake estimated 1200 feet.

Ms. Blanton asked about the vision for Anderson's Corner and how this development fits into that vision.

Ms. Drake stated that Anderson's Corner is designated as a Mixed Use area on the Comprehensive Plan Land Use Designation map. Staff does not have any development plans in for the Anderson's Corner area, however because of the proximity of these three villages to LaGrange, the entrances, building set backs and types of buildings will establish where and how Anderson's Corner can be developed.

Mr. Kale asked if the corner where the commercial building is proposed will remain zoned B-1.

Ms. Drake replied yes.

Mr. Kennedy stated concerns about the lack of the commercial development and this project would send tax dollars from James City County to Wal-Mart, Lowes, and Home Depot in York County. He asked if there was any discussion about any commercial development in this area from the applicant to offset some of this residential development.

Ms. Drake stated there had not been.

Mr. Sowers suggested asking that question to the applicant and reminded the Commission that this area has a tremendous amount of existing commercially zoned

property. The commercial zoning on this site and the surrounding area were specifically identified in the 2003 Comprehensive Plan as deliberate inconsistencies with the Land Use Plan map and given a Low Density Residential designation in recognition of this large amount of commercially zoned land.

Mr. Fraley opened the public hearing.

Mr. Vernon Geddy, representing the applicant, gave a presentation outlining the application's key features, design guidelines, preservation of open space and farm house and the benefits of Villages at Whitehall. He stated that the applicant has decided to increase the Route 60 buffer to 300 feet and reduce the density to 3.0 dwelling units per acre. Mr. Geddy asked the Planning Commission that if they did not want to vote on the project tonight, to please provide feedback on the project.

Mr. Kennedy discussed with Mr. Geddy his concerns of increased traffic with this development.

Mr. Kennedy asked where the build out number of ten years came from.

Mr. Geddy stated they used a conservative number and model.

Mr. Kale discussed with Mr. Geddy issues concerning a Turf Management Plan and recreation facilities.

Mr. Kennedy and Mr. Geddy discussed whether or not they were actively pursuing acquiring the surrounding properties.

Ms. Blanton asked why the commercial in the earlier was removed.

Mr. Geddy stated that staff told us that this was low density residential land.

Ms. Jones and Mr. Geddy discussed the fiscal impacts of the development.

Ms. Terry Hudgins, 111 Knollwood Drive, stated she was the President of the Stonehouse District Citizens Association which opposes the Villages at Whitehall rezoning. She discussed concerns with proffers, associations, private roads, traffic along Rochambeau, right turn lanes, sidewalks, housing costs, reassessments, pedestrian connections to adjacent properties, etc. She stated that overall this is not an appropriate place for the project with respect to traffic concerns, infrastructure, water, police, fire, and the other needs the County would have to provide.

Ms. Linda Rice with the Friends of Forge Road gave a presentation discussing the concerns of the Whitehall project. She asked the Commission to think hard about the cumulative impacts of this size of development in upper James City County and to think about our friends in New Kent County and how the development is going to collide with

the types of development there. They asked that the Commission not approve the rezoning as it is currently presented and discussed the following concerns: (1) financial impacts; (2) increase in property taxes; (3) more revenue or more debt; (4) education; (5) open space; (6) pedestrian connections; (7) buffers; (8) development pressure; (9) bike lanes; (10) conservation easements; (11) water ; (12) traffic; (13) energy efficiency; (14) type of water efficient landscaping; and (15) proffers for the PDR program. She suggested that Toano have some sort of guiding principles for development in this area, because the Village of Toano is under tremendous pressure similar to Five Forks and suggested a moratorium on development in non-PSA areas until the Rural Lands Use Study is complete.

Mr. Michael Delk, 205 Castle Lane, stated he was the rector of Hickory Neck Episcopal Church which is located at 8300 Richmond Rd. Mr. Delk stated that the vast majority of the people he had spoken with are not opposed to this project and as senior pastor and chief executive of Hickory Neck it is his responsibility to speak publicly on issues that impact the future of the congregation. He also stated he supported the Village at Whitehall for three main reasons: (1) a large swath of the property under consideration is zoned B-1 which could be developed by-right and a neighborhood of homes is preferable to the alternative of an office park or a cluster of retail stores; (2) no studies have shown an increase of traffic from this development will result in unacceptable levels of congestion; and (3) people need a place to live. If we prevent the development of a neighborhood that includes some relatively affordable housing, we will deprive the community of a needed asset. Teachers, police officers, clergy, firefighters and nurses generally cannot afford three acre lots and James City County cannot afford to do without basic service providers.

Mr. Rich Krapf, 2404 Forge Road, stated that this particular residential development is not the issue but how to guide growth in upper James City County is. Toano has rural vistas and a countryside which attracts people, but as more and more developments come in, that countryside changes and it becomes a different community. Mr. Krapf quoted from the Comprehensive Plan that "Anderson's Corner is one of the few remaining areas in the PSA with significant rural agriculture vistas and contains one of the few remaining rural historic structures in the County" and from the Vision Statement from the Primary Principles for the Five Forks Area of JCC which was adopted in September 2004. He discussed the unique heritage and invaluable natural resources in danger of being lost and urged the Planning Commission and Board of Supervisors to defer all rezoning requests until the following actions are done: (1) commission a rural lands study for upper JCC; and (2) either expand the charter for the rural lands study or commission a second group to develop primary principles similar to those used by Five Forks to guide growth in the Anderson's Corner and Toano Area.

Dr. James Stam, 104 Woodmont Place, stated that in 2004 1,465 Certificate of Occupancies were issued in James City County. Through April, there were 366 Certificate of Occupancies issued and 1,975 active building residential building permits remain which adds up to 3,806 new homes. There are 13,790 building sites currently available without any rezoning. He discussed concerns with schools over capacity, traffic

on Richmond Road, wells running dry, and police and fire services being over taxed. The developer wants to build 522 additional homes which is ten times the amount that would be allowable under the A-1 zoning. Mr. Stam urged that the Planning Commission recommend denial of the rezoning application.

Mr. Burt Getty, 8297 Richmond Road, stated he supported the development and would prefer to have residential housing rather than the many uses permitted under the B-1 zoning. He also discussed Anderson's Corner being prime real estate over the next five to ten years. He agreed with the other residents of Stonehouse that we want to keep the rural flavor and the open space but this particular corridor is going to be developed.

Mr. Williard Delara, 92 Sandhill Road, discussed concerns of the use about the commercial property and whether that property would be sold or leased and concerns of traffic and speeding along Old Stage Road. He stated that he is not necessarily opposed to the entire project but is concerned about the commercial site being developed into a place where people hang out.

Kevin Kelley, 48 Shirley Road in Newport News, spoke on behalf of the applicant. He stated that he has known the applicant for about 10 years and he is someone who will perform as he says. He is tenacious in his details, has a long professional civic association in our area and has charitable involvement. He believes the project is strong. Mr. Kelley also stated that affordable housing these days is anything under \$300,000 and urged the Planning Commission to support the application.

Mr. Walker Ware, 5004 River Drive discussed that his mother owns property at Anderson's Corner and has not been able cut a deal with Mr. Rauch for commercial development. He also commented on his right to have absolute ownership of his land and that we need to build fewer schools along entrance corridors to prevent traffic slow downs.

Mr. Charlie Crawford, 7849 Church Lane, stated he would just like to echo what Mr. Burt Getty stated earlier and it was a good development.

Mr. Hal Lindsay, 3472 Old Stage Road, stated that Anderson's Corner is probably one of the nicest places around to be developed and was not opposed to development but is opposed to this proposal. He discussed the following concerns: (1) watershed and environmental issues; (2) traffic; (3) development of the Croaker and Rochambeau corner; and (4) parks and recreation. He stated that Anderson's Corner has the potential for a lot of development, but this plan looks like it was put together by somebody who does not actually live in this area.

Seeing no further speakers, Mr. Fraley closed public hearing.

Mr. Fraley asked the Commission for discussion.

Mr. Kennedy stated that this is a quality development but would like to say that Anderson's Corner is one of the last if not the last jewel in James City County for many reasons. Anderson's corner has some beautiful vistas, but thinks that this plan could be tweaked. Mr. Kennedy discussed developing a true environmental impact statement, caps on development and traffic studies. The proposal is very strong but it needs to be embraced by the developer, citizens and County staff, so he would be inclined to say no tonight.

Ms. Blanton stated she agreed with a great deal of what Mr. Kennedy had said and thinks that the location next to Anderson's Corner does present a significant challenge. She continued by stating that we should hold it to a considerably higher threshold and, while the proposed use comes much closer to what is appropriate for Anderson's Corner, she agreed with Mr. Kennedy that it is not quite there and would unfortunately also have to deny approval, but hoped that we can come back and look at a different project for that area.

Ms. Jones stated she liked the density changing to three as well as the 300 foot buffer which is setting a good precedent. Ms. Jones continued by stating that this could be a good project.

Mr. Kale stated that he has seen some very commendable things about this development but the timing was wrong. He stated concerns about the need for a stronger internal artery system between the townhouses to the east. He suggested that the developer go back and take a look at what has been proposed and see what could be done to respond to some of the concerns brought here tonight and to give the community more benefits. He is not prepared to vote against it, but would vote for a deferment.

Mr. Geddy asked the Planning Commission to defer the case so that they may consider what they have heard until the August 1, 2005 meeting.

**UNAPPROVED MINUTES OF THE AUGUST 1, 2005 MEETING
OF THE PLANNING COMMISSION**

Z-10-05/SUP-17-05/MP-7-05 The Villages at Whitehall (LaGrange)
Z-11-05/SUP-18-05/MP-8-05 The Villages at Whitehall (Task, Neck,
Rochambeau)

Mr. Matthew Smolnik presented the staff report. Mr. Vernon Geddy has applied on behalf of Rauch Development to rezone approximately 22.81 acres of land currently zoned A-1, General Agriculture to R-2 Cluster, General Residential with special use permit for a residential cluster overlay to construct a maximum of 79 residential dwelling units with an overall density cap of 3.46 dwelling units per acre. The Comprehensive Plan Land Use Map designates these properties as Low Density Residential with one dwelling unit per acre. This property is located east of Anderson's Corner at 8716, 8720 and 8724 Barhamsville Road, and 3225 Old Stage Road, The property is more specifically identified as parcels (3-1), (3-2), (1-21) on the JCC Real Estate Tax Map No. (12-1) and parcel (1-21) on the JCC Real Estate Tax Map No. (12-2).

Mr. Geddy has also applied on behalf of Rauch Development to rezone approximately 138.54 acres of land currently zoned A-1, General Agriculture and B-1, General Business to R-2 General Residential Cluster and R-5 Multi-Family Residential Cluster, with a special use permit for a residential cluster overlay to construct a maximum of 443 residential dwelling units with an overall density cap of 3.2 dwelling units per acre. 4.59 acres of B-1, General Business zoned property will be rezoned to B-1, with Proffers for an approximate 8,000 square foot building. The Comprehensive Plan Land Use Map designates these properties as Low Density Residential with one dwelling unit per acre. This property is located east of Anderson's Corner at 3400, 3505, 3610, and 3611 Rochambeau Drive and 8350 Richmond Road. The property is more specifically identified as Parcels (1-14) (1-24) (1-22) (1-19) and (1-18) on the JCC Real Estate Tax Map No. (12-2).

Both proposals were deferred at the Planning Commission's July 11th meeting. At that time staff felt Taskinas, Rochambeau, and Hickory Neck Villages were not consistent with a low density residential Comprehensive Land Use designation. Mr. Smolnik said staff further believed the three villages did not adequately protect historical structures or scenic vistas nor sufficiently help to achieve the Anderson's Corner Mixed Use area vision.

The applicant has revised the proposals and staff found that they sufficiently addressed the technical issues raised at the previous Planning Commission meeting. Staff recommended approval of the applications with the attached conditions.

Mr. Kennedy asked if changes were made to the location of the recreational facilities.

Mr. James Peters, AES Consulting Engineers, said one small interior recreation open space was removed and replaced with a combined larger open space in another location. Mr. Peters pointed to them on the location map.

Mr. Kennedy and Mr. Peters discussed the locations of the shared facilities.

Mr. Sowers added that each of the two applications has proffered to meet the recreational standards recommended in the County's Recreational Master Plan.

Mr. Fraley questioned the appropriateness of rezoning commercial parcels to residential when the Comprehensive Plan for Anderson's Corner suggests business and commercial as primary uses with residential being a supporting use.

Mr. Smolnik stated that the parcel adjacent to this proposal has thirty-nine acres and is currently zoned B-1 with the potential for 300,000 – 400,000 square feet of commercial space.

Mr. Fraley asked why the applicant did not propose more commercial.

Mr. Sowers offered that these particular sites are not part of the adjacent Mixed Use area. He said they are designated low-density residential on the Comprehensive Plan. Mr. Sowers stated that previous reviews of the Comprehensive Plan identified the B-1 zoning as inconsistent and recognized that there is a tremendous amount of commercial zoning already designated in this area.

Mr. Kale asked if down-zoning has been considered.

Mr. Sowers answered no. He also outlined the process to down-zone.

Mr. Kennedy stated his apprehension about allowing this project without a study of the entire area. He asked if staff had considered the impact of having a commercial development so close to a residential area.

Mr. Sowers said that under the current guidelines of the Comprehensive Plan staff felt this application met enough of its tenets that a recommendation of denial was not warranted.

Mr. Kennedy said that he supported a recommendation of denial based on the fact that he would like to see a study of this area.

Mr. Fraley noted that the Planning Commission at its last meeting recommended that the Board of Supervisors commission a study of this area to establish a vision.

Mr. Sowers confirmed that the Board decided to not move forward with a study at this time.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. He gave a presentation outlining the revision of the proposal since the last meeting. Mr. Geddy asked for a recommendation of approval.

Ms. Jones asked about the James City Service Authority's (JCSA) concerns about how the project will be integrated into the public water and sewage system.

Mr. Geddy stated that a master water and sewer plan will be required prior to site plan submission.

Mr. Sowers confirmed that such a condition is attached to the application.

Ms. Blanton suggested that development start away from the road and come forward so that the vegetation will have time to mature and provide a screen to those homes near the road.

Ms. Terri Hudgins, 111 Knollwood Drive, represented the Stonehouse District Citizens Association. The association opposed the rezoning as proposed by the applicant.

Mr. Jerry Jutras, 102 Plains View Road, expressed his support of the application.

Ms. Mary Magoon Delara, 92 Sand Hill Road, stated her opposition to blocking the left hand turn land from Sand Hill Road onto Old Stage Road and Rochambeau.

Mr. Rich Krapf, 2404 Forge Road, said he did not believe this proposal represented the best possible use of this land. He recommended deferral of the application until a comprehensive study of the area can be completed.

Ms. Linda Rice, 2394 Forge Road, represented the Friends of Forge Road. She commended the applicant on the improvements to the plan but requested denial of the application until an area study could be completed.

Mr. Charlie Crawford, 7849 Church Lane, said the project represented a good opportunity to the County. He also stated that future proposals would still be subject to approval.

Mr. Willard Delara, 92 Sand Hill Road, requested that convenience stores be added to the list of excluded uses for the 8,000 square foot commercial/retail building that will be located near the junction of Rochambeau, Old Stage Road and School House Lane.

Mr. Geddy said that the list of excluded uses included uses permitted by right in the B-1 Zoning District and convenience stores would require a request for a Special Use

Permit. He also said that if VDOT does not approve blocking the left hand turn land from Sand Hill Road then the road would be left as it is.

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

Mr. Kennedy stated that he felt the applicant had gone the extra mile. He also said that the County has not gone the extra mile and urged a study of Anderson's Corner before acting on this case.

Ms. Jones said the Board of Supervisors had the opportunity to commission a study and chose not to. She said she was not thrilled about rezoning what is currently B-1 to R-2 but felt it was supported by the Comprehensive Plan. She stated her support for the proposal.

Ms. Blanton agreed with Ms. Jones. She stated her disappointment that a study was not commissioned. Ms. Blanton stated that she felt this project represented a good direction for the area.

Mr. Kale said that if the Board had chosen to conduct a study he would have asked the developer to wait. He also said he thought this was a good project and does not run counter to what was intended in Anderson's Corner.

Mr. Billups stated that the developer had made a good faith effort and that he would support the application.

Mr. Hunt stated his main concern was that the forthcoming residents may not be supportive of future commercial proposals for the parcels at Anderson's Corner that are designated commercial.

Mr. Fraley stated his support for an area study and his concerns about rezoning from commercial to residential. He also stated his feeling that this was a project that would set standards and wished it had more commercial, but it had his support.

Mr. Fraley motioned for approval of the application and attached conditions.

Ms. Blanton seconded the motion.

In a roll call vote the application was recommended for approval (6-1) AYE: Billups, Kale, Fraley, Blanton, Jones, Hunt (6); NAY: Kennedy (1).

Z-10-05, Z-11-05, SUP-17-05, SUP-18-05, MP-7-05 & MP-05.

The Villages at Whitehall: LaGrange, Taskinas, Hickory Neck and Rochambeau



THE VILLAGES AT WHITEHALL

HICKORY NECK, ROCHAMBEAU AND TASKINAS VILLAGES

PROFFERS

THESE PROFFERS are made this 1st day of September, 2005 by HAZELWOOD-WAVERLY, L.L.C., a Virginia limited liability company ("HW"); R. M. HAZELWOOD, JR., TRUSTEE OF THE NETTIE A. HAZELWOOD REVOCABLE TRUST DATED MAY 4, 2003 ("Hazelwood"); DAVID JOHNSON and CINDY JOHNSON, husband and wife ("Johnsons") (together with their successors in title and assigns, the "Owners"); and RAUCH DEVELOPMENT COMPANY, LLC, a Virginia limited liability company ("Buyer").

RECITALS

A. HW is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 3400 Rochambeau Drive, Toano, Virginia, and being Tax Parcel 1220100014, containing approximately 83.07 acres, being more particularly described on Schedule A hereto (the "HW Property").

B. Hazelwood is the owner of two tracts or parcels of land located in James City County, Virginia, with addresses of 3610 Rochambeau Drive and 3611 Rochambeau Drive, Toano, Virginia, respectively, and being Tax Parcels 1220100022 and 1220100024, respectively, containing a total of approximately 19.99 acres,

being more particularly described on Schedule A hereto (the "Hazelwood Property").

C. Johnsons are the owners of two tracts or parcels of land located in James City County, Virginia, with an address of 3850 Richmond Road, Toano, Virginia, and being Tax Parcel 1220100018, containing approximately 4.69 acres, and with an address of 3505 Rochambeau Drive, Toano, Virginia, and being Tax Parcel 1220100019, containing approximately 23.20 acres, both being more particularly described on Schedule A hereto (the "Johnson Property").

D. The HW Property, the Hazelwood Property, and the Johnson Property are sometimes herein collectively referred to as the "Property."

E. Buyer has contracted to purchase the Property.

F. The Johnson Property is now zoned A-1. The HW Property and the Hazelwood Property is now zoned B-1. All of the Property is designated Low Density Residential on the County's Comprehensive Plan Land Use Map.

G. Buyer, with the consent of the Owners, has applied to rezone a portion of the Property from A-1 and B-1 to R-2, with proffers, and a portion of the Property from A-1 and B-1 to R-5, with proffers, a portion of the Property from B-1 and to B-1,

with proffers, and for a special use permit for a residential cluster with a density in excess of three units an acre.

H. Buyer has submitted to the County a master plan entitled "Master Plan, The Villages at Whitehall for Rauch Development, LLC" prepared by AES Consulting Engineers dated February 22, 2005, last revised June 24, 2005 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

I. Buyer and Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2 and R-5.

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, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Master Plan.** The Property shall be 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 415 single family attached and detached dwelling units on the Property. The Property shall be developed in conjunction with The Villages at Whitehall, LaGrange Village, development with a single master property owners association for all villages as provided in Condition 2.

2. **Owners Association.** There shall be organized a master owner's association for the Villages at Whitehall development (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. In addition, there may be organized separate owner's associations for individual Villages or neighborhoods within Villages in which all owners in the Village or neighborhood, by virtue of their property ownership, also 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, private roads and parking areas, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association 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. The Governing Documents shall authorize the Association to develop, implement and enforce a turf management plan as provided herein.

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.

(b) If the Owner desires to have outdoor watering of common areas on the Property it shall provide water for irrigation utilizing surface water collection from the two surface water ponds that are shown on the Master Plan and shall not use James City Service Authority ("JCSA") water or well water for irrigation purposes, except as provided below. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundments.

4. Cash Contributions for Community Impacts. (a) A contribution of \$1,061.00 for each detached dwelling unit on the Property and of \$796.00 for each attached 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,

the need for which is generated in whole or in part by the physical development and operation of the Property.

(b) A contribution of \$36.00 for each single family detached dwelling unit and a contribution of \$30.00 for each single family attached dwelling unit on the Property served by JCSA Lift Station 9-5 shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. A contribution of \$81.00 for each single family detached dwelling unit and a contribution of \$67.50 for each single family attached dwelling unit on the Property served by JCSA Lift Station 9-7 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 to defray the costs of JCSA Lift Stations 9-7 and 9-5 or any project related to improvements to the JCSA sewer system, the need for which is generated in whole or in part by the physical development and operation of the Property.

(c) A contribution of \$1,275.00 for each detached dwelling unit on the Property and of \$775.00 for each attached 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 sidewalk and road improvements, library uses, and public use sites.

(d) A contribution of \$3,750.00 for each detached dwelling unit on the Property and of \$1,875.00 for each attached 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.

(e) A contribution of \$100.00 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 the County's purchase of development rights program.

(f) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat or site plan approval for such unit unless the County adopts a written policy or ordinance calling for payment of cash proffers at a later date in the development process.

(f) 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 (e) 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. **Entrances; Traffic Improvements.** (a) At the entrance from Route 60 into Area 3 of the Property as shown on the Master Plan, a north bound 150 foot right turn taper and a south bound 200 foot left turn lane and 200 foot left turn taper shall be constructed.

(b) At the western entrance from Rochambeau Road into Area 3 and Area 1 of the Property as shown on the Master Plan, an east bound 150 foot right turn taper a west bound 200 foot left turn lane and 200 foot left turn taper, a west bound 150 foot right turn taper and an east bound 200 foot left turn lane and 200 foot left turn taper shall be constructed.

(c) At the eastern entrance from Rochambeau Road into Area 3 of the Property as shown on the Master Plan, a east bound 150 foot right turn taper and a west bound 200 foot left turn lane and 200 foot left turn taper shall be constructed.

(d) At the entrance from Rochambeau Road into the B-1 parcel of the Property as shown on the Master Plan, a west bound 150 foot right turn taper shall be constructed.

(e) The turn lanes and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall be completed or their completion bonded in form satisfactory to the County Attorney prior to the issuance of any building permits for the Master Plan Area served thereby.

(f) Prior to the issuance of building permits for buildings in Taskinas or Rochambeau Villages and subject to the approval thereof by VDOT, Owner shall reconfigure the intersection of Rochambeau Road and Old Stage Road to the configuration shown on the Master Plan or bond, in form satisfactory to the County Attorney, such reconfiguration.

(g) The Owner shall submit an updated traffic impact study to the Director of Planning and VDOT for their review and approval prior to the time of the issuance of building permits for more than 75% of the total number of dwelling units permitted on the Property under the Master Plan, unless the Director of Planning and VDOT waive such requirement. The updated traffic study shall include actual traffic counts from the developed portions of the Property and utilize ITE trip

generation figures for undeveloped portions of the Property and shall account for all other traffic utilizing the entrance roads into the Property and shall determine whether full right turn lanes at the entrances to the Property are warranted. If the approved updated study determines such turn lanes are warranted, the County shall not be obligated to issue any further building permits for further development on the Property until such turn lanes have been installed or surety for their completion in form acceptable to the County Attorney have been posted with the County.

(g) Owner shall submit with each preliminary development plan which includes collector roads planned to potentially serve off-site properties to the Director of Planning and VDOT for their review and approval, a study confirming that the road as designed meets VDOT design and construction standards and guidelines for the projected traffic using the road. Such roads shall be constructed in accordance with the approved study.

6. Route 60 Community Character Buffer. (a) There shall be a variable width buffer along the Route 60 frontage of the Property to provide screening between the Village of Hickory Neck and Route 60 and an appropriate foreground to historic Hickory Neck Church. Owner shall submit a plan for this buffer for review and approval by the Development Review Committee.

This landscape plan may include a landscaped farm pond also serving as a stormwater BMP as shown on the Master Plan and shall contain trees, shrubs, groundcovers and/or grasses, provide for the planting and harvesting of agricultural crops or other agricultural operations, fencing and berming to retain and/or create a sense of open farmland or pasture while screening the Village from the direct view of vehicles traveling on Route 60. The buffer shall be graded to create a gentle slope from Route 60 to a low landscaped berm located behind the lots adjacent to the buffer. The combination of the berm and landscaping shall, when the landscaping has reached maturity, screen the adjacent houses from the direct view of vehicles traveling on Route 60. The buffer provided shall measure a minimum of 300 feet deep. The buffer shall be exclusive of any lots or units. Agricultural activities such as planting and harvesting crops and grazing livestock shall be permitted in the buffer. The entrances, turn lanes/tapers and stormwater management facilities as shown generally on the Master Plan, the trails, sidewalks and bike lanes as shown generally on the Master Plan, utilities, lighting, entrance features and signs may be located in the buffer with the approval of the Development Review Committee. Dead, diseased and dying trees or shrubbery, and invasive or poisonous plants may be removed from

the buffer area. If a stormwater BMP pond is located within the buffer area, it shall be designed and constructed in accordance with a plan submitted to and approved by the Director of Planning to resemble a farm pond, using techniques such as less steep slopes, landscaping typical to a farm pond and berms. The buffer shall be planted in accordance with the approved buffer landscape plan or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Hickory Neck Village.

(b) All billboards now located within the buffer shall be removed before the County is obligated to issue certificates of occupancy for dwelling units on the Property.

7. **Route 60 Median Landscaping.** Owner, subject to the approval of VDOT, shall install landscaping in the Route 60 median along the Route 60 frontage to Hickory Neck Village. This landscaping shall be designed to compliment the Hickory Neck Village Community Character Corridor buffer landscaping and shall include trees, shrubs and groundcovers in accordance with a plan submitted to and approved by the Director of Planning. The median shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Hickory Neck Village.

8. **Rochambeau Road Buffers.** (a) Along the Rochambeau Road frontage of Rochambeau Village, the 75 foot buffer shall be planted as set forth herein to provide a visual screen between the road and the Village through a reforestation plan. This plan may include some earth moving and berming and shall include a seeding and planting plan as recommended by the State of Virginia's Department of Forestry and approved by the Director of Planning. The planting mix shall include at least two types of evergreen trees and a variety of deciduous trees including Oak, Maple and Gum as well as native understory trees including Redbud and Dogwood. The buffer shall achieve an effective visual screen (6'-8' height of plantings and berming) within six years from time of installation. The buffer shall be left undisturbed to reforest with the exception of a more groomed landscape at the Village entrances. The buffer shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Rochambeau Village.

(b) Along the Rochambeau Drive frontage to Hickory Neck Village, landscaping shall be provided within the 75' buffer to enhance the look of a forested edge to that Village in accordance with a landscaping plan approved by the Director of Planning. The buffer shall be planted or the planting bonded

prior to the County being obligated to issue certificates of occupancy for dwelling units located within 500 feet of Rochambeau Drive in Hickory Neck Village.

(c) Along the Rochambeau Drive and School Lane frontages to Taskinas Village, landscaping shall be provided within the 75' buffer to enhance the look of a forested edge to that Village in accordance with a landscaping plan approved by the Director of Planning. In any areas where the backs of dwelling units face Rochambeau Road or School Lane a combination of berms and/or landscaping shall, when the landscaping has reached maturity, screen the adjacent units from the direct view of vehicles traveling on Rochambeau Road or School Lane. The buffer shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units located in Taskinas Village.

9. Pedestrian Connections to Adjacent Properties. Owner shall provide pedestrian connections between the Property and the adjacent properties generally as shown on the Master Plan, with the plans, location and materials for such connections subject to review and approval by the Director of Planning and with such connections to be shown on the development plans for the Property. The connections shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to

the issuance of any certificates of occupancy for any buildings in the Village containing such connections.

10. 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 site plan approval process. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential units in adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential units in adjacent structures.

11. Recreation. (a) Owner shall preserve the Waverly Farm farmhouse pursuant to a preservation plan approved by the Director of Planning and may utilize it as a clubhouse/community facility. Owner reserves the right to relocate the farmhouse to a different location on the Property with the prior approval of the Development Review Committee.

(b) The following recreational facilities shall be provided: (i) approximately 12.48 acres of parkland, including 8.03 acres shown as recreation area on the Master Plan; (ii) two

play areas (tot lots) with playground equipment for four to six activities; (iii) two to four tennis and/or multi-use courts; (iv) approximately 2.03 miles of trails/paths; (v) a 25 meter swimming pool with pool house. 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. All recreational facilities shall be open to owners in LaGrange Village.

(c) 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 as determined by the Director of Planning or in lieu of such additional facilities Owner shall make cash contributions to the County in an 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 18 shall be used by the County for recreation capital improvements. 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.

12. **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.

13. Design Guidelines and Review. Owner shall prepare and submit design review guidelines to the Development Review Committee setting forth design and architectural standards for the development of the Property attempting to capture the architectural character of the Toano area and generally consistent with the architectural styles embodied in "Villages at Whitehall, Supplemental Community Information" prepared by AES Consulting Engineers submitted as a part of the rezoning application and incorporating appropriate and suitable sustainable building practices as recommended in the Sustainable Building Sourcebook of the City of Austin for the approval of the Development Review Committee prior to the County being obligated to grant final approval to any development plans for the Property (the "Guidelines"). The Guidelines shall

specifically address appropriate architectural treatments for the rear elevation of any dwelling units facing Rochambeau Road or School Lane in Taskinas Village. Once approved, the Guidelines may not be amended without the approval of the Development Review Committee. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans.

14. Hickory Neck Church. Owner shall design the stormwater BMPs and system on the Property to serve the proposed expansion of Hickory Neck Church and shall grant the Church the necessary easements to drain into such system. Owner shall preserve and enhance the existing hedgerow located along the common property line between the Property and Hickory Neck Church in the vicinity of the road connection to the Hickory Neck Church site as shown on the Master Plan and/or plant a hedgerow extending along the property line generally as shown on the Master Plan, all in accordance with a plan approved by the Development Review Committee. The hedgerow shall be planted in accordance with the approved landscape plan or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units in Hickory Neck Village.

15. Stonehouse Elementary School/Williamsburg Christian Academy/Faith Fellowship Assembly of God. Owner shall design the stormwater BMPs and system on the Property to serve the Stonehouse Elementary School and any potential expansion thereof and Faith Fellowship Assembly of God and shall grant the School and the Church the necessary easements to drain into such system. Owner shall extend gravity sewer to the Property from Lift Station 9-5 with a size approved by JCSA to serve Stonehouse Elementary School, Williamsburg Christian Academy and Faith Fellowship Assembly of God and shall grant the School and the Church the necessary easements to utilize such sewer line. Owner shall extend the pedestrian access from the pedestrian system on the Property to the Faith Fellowship Assembly of God.

16. Sidewalks. There shall be sidewalks installed on both sides of each of the public streets on the Property, which sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of certificates of occupancy for adjacent dwelling units. Owner shall either (i) install sidewalks along the Route 60 and Rochambeau Road frontage of the Property or (ii) in lieu thereof, construct a hard surface multi-use trail with a design approved by the Director of Planning along such road frontages with connections to the internal trail system on the Property or

(iii) 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 sidewalks.

17. Commercial Uses. In the portion of the Property rezoned to B-1, with proffers, the following uses, otherwise permitted by right, shall not be permitted:

- automobile service stations;
- hotels, motels, tourist homes and convention centers;
- indoor sports facilities
- indoor theaters
- radio and television stations and accessory antenna or towers or tower mounted wireless communication facilities, which are 60 feet or less in height;
- fast food restaurants; and
- wholesale and warehousing.

18. Curb and Gutter. Streets (but not the private alleys) within the Property shall be constructed with curb and gutter provided, however, that this requirement may be waived or modified along those segments of street, including entrance roads, where structures are not planned.

19. Master Stormwater Management Plan. Owner shall submit to the County a master stormwater management plan as a part of the initial site or development plan submittal for the Property, including the stormwater management BMP ponds, and where appropriate and feasible, low impact design techniques for

review and approval by the Environmental Division. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior approval of the Environmental Division. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

20. **Turf Management Plan.** The Association shall be responsible for developing and implementing a turf management plan ("Turf Management Plan") for the maintenance of lawns and landscaping on the Property in an effort to limit nutrient runoff into Ware Creek and its tributaries from the Property. The Turf Management Plan shall include measures necessary to manage yearly nutrient application rates to turf such that the application of nitrogen does not exceed 75 pounds per year per acre. The Turf Management Plan shall be prepared by a landscape architect licensed to practice in Virginia and submitted for review to the County Environmental Division for conformity with this proffer. The Nutrient Management Plan shall include terms permitting enforcement by either the Owners Association or the County. The Turf Management Plan shall be

approved by the Environmental Division prior to final subdivision or site plan approval.

21. **Development Phasing.** The County shall not be obligated to grant final subdivision plat or site plan approval for more than the number of lots/units on a cumulative basis set forth beside each anniversary of the date of the final approval of the applied for rezoning by the Board of Supervisors:

<u>Anniversary of Rezoning</u>	<u>Maximum Number of Lots/Units</u>
1	63
2	126
3	189
4	252
5	315
6	378
7 and thereafter	415

22. **Private Streets.** All private streets on the Property shall conform to VDOT construction standards. Private streets shall be maintained by the Association or a neighborhood association. The party responsible for construction of a private street shall deposit into a maintenance reserve fund to be managed by the association responsible for maintenance of that private street an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee at the time of

final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

23. **Reserved Right of Way.** Owner shall reserve the area 50 feet in width shown on the Master Plan as "Future Connections to Adjacent Property" for a possible future road connections to the adjacent parcels to the south and west of the Property. Owner shall have no responsibility to construct a connecting road in this area and shall not be obligated to permit the owners of the adjacent parcels to construct a road in such area unless and until Owner and the owner of the adjacent parcels have entered into an agreement providing for the equitable sharing of the cost of maintenance of such road and the main entrance road into the Property, agreed upon a restriction limiting the use by the adjacent parcel of such roads to cars and light duty trucks and obligating the owner of the adjacent parcel to pay for any required road or traffic signal improvements warranted by the additional traffic from the adjacent parcels.

WITNESS the following signatures.

Hazelwood-Waverly, L.L.C.

By:

R. M. Hazelwood, Jr.
Manager
R. M. Hazelwood, Jr. Trustee
R. M. Hazelwood, Jr., Trustee

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 2nd
day of September, 2005, by R. M. Hazelwood, Jr., as Manager
of Hazelwood-Waverly, L.L.C. on behalf of the company.

John M. Sedberry III
NOTARY PUBLIC

My commission expires:

12/31/09

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

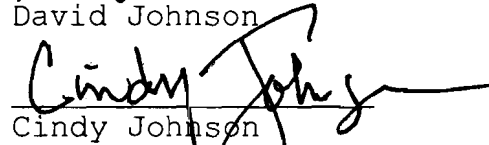
The foregoing instrument was acknowledged this 2nd
day of September, 2005, by R. M. Hazelwood, Jr., as
Trustee of the Nettie A. Hazelwood Revocable Trust dated May 4,
2003.

John M. Sedberry III
NOTARY PUBLIC

My commission expires:

12/31/09


David Johnson


Cindy Johnson

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

The foregoing instrument was acknowledged this 6
day of September, 2005, by David Johnson.


NOTARY PUBLIC

My commission expires: 1/31/07.

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

The foregoing instrument was acknowledged this 6
day of September, 2005, by Cindy Johnson.


NOTARY PUBLIC

My commission expires: 1/31/07.

LLC

Rauch Development Company,



By: Gayle M. Rauch
Title: Manager

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 2nd
day of September, 2005, by Gayle M. Rauch, as Manager
of Rauch Development Company, LLC on behalf of the company.

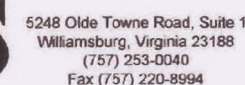


NOTARY PUBLIC

My commission expires: 12/31/09.

Exhibit A
Property Description

A circular red ink stamp is centered on the page. The outer ring of the stamp features numbers 1 through 24, arranged in a clockwise direction starting from the top. In the center of the stamp, the text "SEP 2005" is printed above the word "RECEIVED" in a bold, sans-serif font. Below "RECEIVED", the words "PLANNING DEPARTMENT" are printed in a smaller, similar font. A small red arrow points upwards from the center towards the number 12. The stamp is slightly faded and overlaps with the text of the letter.



Designed JSP	Drawn KSU
Scale 1"=100'	Date 4/25/
Project No. 9048-00	
Drawing No. 4 OF 4	



ROCHAMBEAU, AND HICKORY NECK

revised 7-22-05

B-1 PARCEL

RECREATION AND CONSERVATION - 1.10 ACRES

PERIMETER BUFFER - 1.41 ACRES

**ADDITIONAL RESOURCE PROTECTION
WITHIN NET DEVELOPABLE - .66 ACRES**

CLUSTER OVERLAY

PERIMETER BUFFER - 17.47 ACRES

RECREATION AND CONSERVATION - 37.12 ACRES

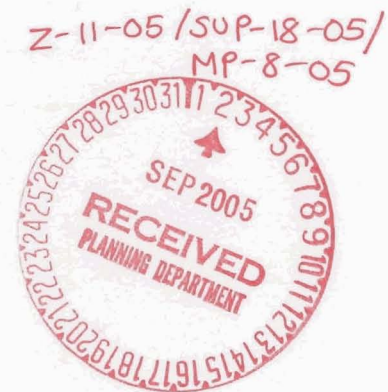
5' LANDSCAPE EASEMENTS - 2.75 ACRES

TOTAL DEVELOPABLE OPEN SPACE - 57.34 ACRES

**ADDITIONAL RESOURCE PROTECTION WITHIN NET
DEVELOPABLE OPEN SPACE - 10.04 ACRES**

PER CLUSTER OVERLAY

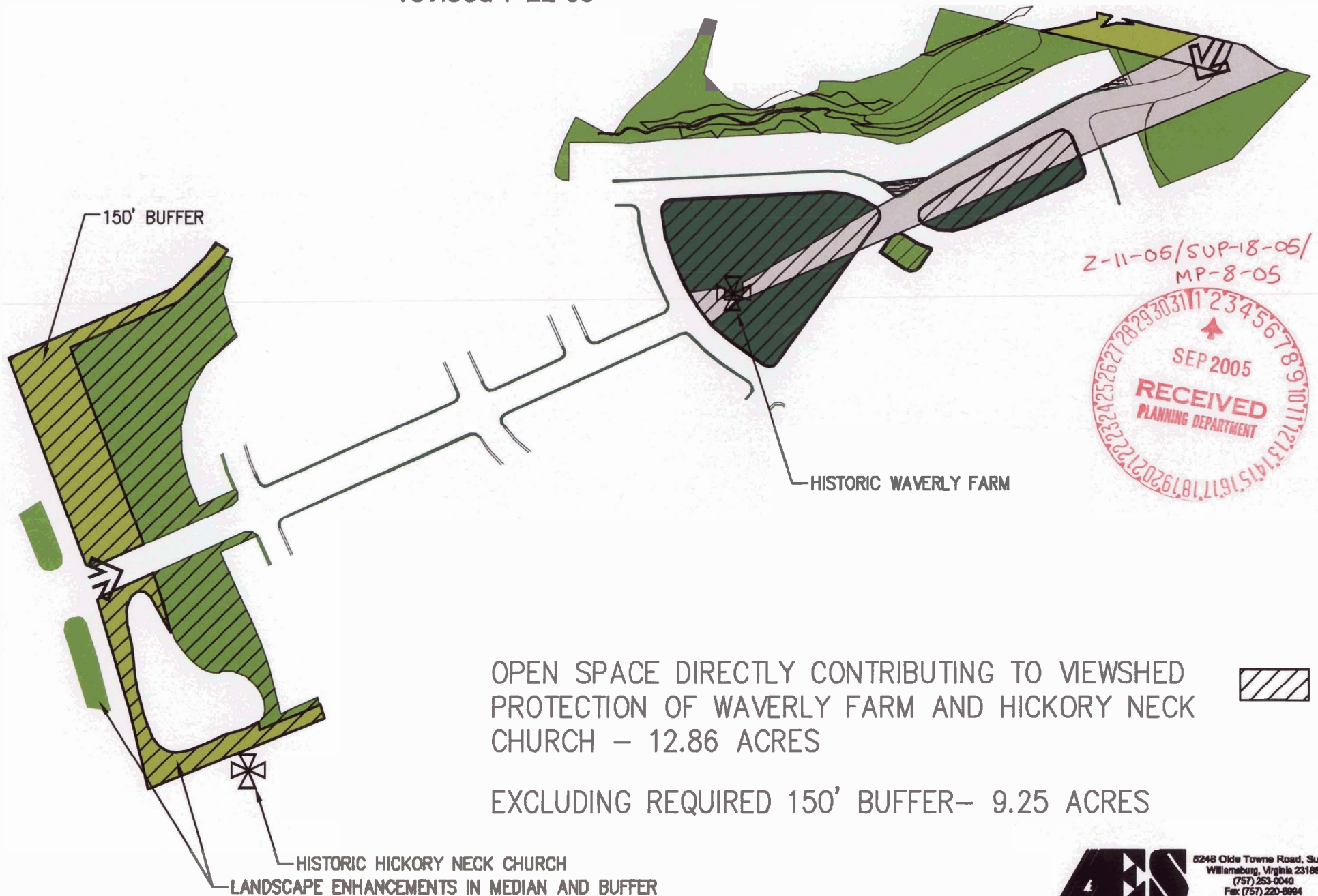
NET DEVELOPABLE LAND	OPEN SPACE REQUIRED	%	PROVIDED	%	EXCESS	%
129.69 AC	51.88 AC	40	57.34 AC	44.2	5.46 AC	4.2



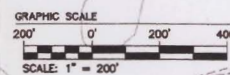
5248 Old Towne Road, Suite 1
Williamsburg, Virginia 23185
(757) 253-0040
Fax (757) 220-8864

VIEWSHED DIAGRAM FOR THE WAVERLY FARM

revised 7-22-05



2-10-05 / sup-17-05 / mp-7-05
2-11-05 / sup-18-05 / mp-8-05



NAD27
N=390,000

No.	DATE	REVISION / COMMENT / NOTE	BY
3	07/18/05	REVISED PER JCC STAFF & P.C. COMMENTS	KSU
2	06/24/05	REVISED PER JCC MEETING AND COMMENTS	KSU
1	06/10/05	REVISED PER JCC COMMENTS	KSU



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

THE VILLAGES AT WHITE HALL
ANDERSON'S CORNER CONCEPT PLAN

Designed	Drawn
JSP	GRR
Scale	Date
1"=200'	4/25/05
Project No.	
9048-00	
Drawing No.	
1 OF 1	

ACTIVE RECREATION AREAS



5348 Clon Towne Road, Suite 1
 Williamsburg, Virginia 23168
 (757) 253-0040
 Fax (757) 253-8994

RESOLUTION

CASE NO. SUP-17-05. VILLAGES OF WHITE HALL (LAGRANGE)

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

WHEREAS, the applicant has requested to develop the following parcels at a density of 3.46 dwelling units per acre; and

WHEREAS, the property is currently zoned A-1, General Agriculture, designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property can be identified as Parcel Nos. (03-01), (03-02), and (01-21) on the James City County Real Estate Tax Map No. (12-1) and Parcel No. (01-21) on the James City County Real Estate Tax Map No. (12-2); and

WHEREAS, the applicant has submitted an application to rezone the above mentioned properties; and

WHEREAS, on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-17-05 as described herein with the following conditions:

1. A master water and sewer plan for all Villages shall be submitted for review and approval by the JCSA prior to the submittal of any development plans for any portion of property.
2. Prior to the submittal of any development plans for any portion of the Villages of White Hall project, a land disturbing permit with surety will be issued by the Environmental Division after review and approval of an erosion control plan, to mitigate impacts from the current environmental violation located within LaGrange Village located on Tax Parcel (12-2)(1-21).
3. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of
September, 2005.

sup-17-05.res

RESOLUTION

CASE NO. SUP-18-05. VILLAGES OF WHITE HALL

(TASKINAS, HICKORY NECK, AND ROCHAMBEAU)

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

WHEREAS, the applicant has requested to develop the following parcels at a density of 3.0 dwelling units per acre; and

WHEREAS, the property is currently zoned A-1, General Agriculture, and B-1, General Business, designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property can be identified as Parcel Nos. (01-14), (01-18), (01-19), (01-22), and (01-24) on the James City County Real Estate Tax Map No. (12-2); and

WHEREAS, the applicant has submitted an application to rezone the above mentioned properties; and

WHEREAS, on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-18-05 as described herein with the following conditions:

1. A master water and sewer plan for all Villages shall be submitted for review and approval by the JCSA prior to the submittal of any development plans for any portion of property.
2. Prior to the submittal of any development plans for any portion of the Villages of White Hall project, a land disturbing permit with surety will be issued by the Environmental Division after review and approval of an erosion control plan, to mitigate impacts from the current environmental violation located within LaGrange Village located on Tax Parcel (12-2)(1-21).
3. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of
September, 2005.

sup-18-05.res

AGENDA ITEM NO. G-9 & 10

SPECIAL USE PERMIT-19-05. Branscome, Inc. Borrow Pit Renewal (Amendment to SUP-009-00)
SPECIAL USE PERMIT -20-05. USA Waste of Virginia Landfills, Inc. Renewal (Amendment to SUP-08-00)

Staff Report for the September 13, 2005, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

July 11, 2005, 7 p.m. (Deferred)

August 1, 2005, 7 p.m.

Board of Supervisors:

September 13, 2005, 7 p.m.

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy, III

Land Owners:

Branscome, Inc. (SUP-019-05) and USA Waste of Virginia Landfills, Inc.
(SUP-020-05)

Proposal:

Continued operation of a borrow pit (i.e. a surface mine for sand and clay)

Location:

Approximately 1.2 miles southeast of the terminus Blow Flats Road

Tax Map/Parcel Nos.:

(60-3) (1-2) Branscome, Inc. owned property
(60-3) (1-3) USA Waste of Virginia, Inc. property

Parcel Size:

The two parcels together are approximately 420 acres in size

Existing Zoning:

M-2, General Industrial

Comprehensive Plan:

General Industrial

Primary Service Area:

Yes

STAFF RECOMMENDATION

Staff finds the proposal consistent with the Comprehensive Plan Land Use Designation and compatible with surrounding properties and zoning. For these reasons, staff recommends approval of the request, subject to the proposed conditions.

Staff Contact:

Matthew J. Smolnik

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On August 1, 2005, the Planning Commission voted 7-0 to approve this application.

Proposed Changes Made After Planning Commission Consideration:

None

PROJECT HISTORY

For over 30 years, Henry S. Branscome has operated a borrow pit in the southern-most portion of the County. Branscome utilizes the borrow pit as an area where sand and clay are mined for use as fill material in off-site building and roadway construction. USA Waste of Virginia Landfills, Inc. uses the borrow pit to mine clay material for use at a local landfill. Two special use permits (SUPs) (one for each property) were approved by the Board of Supervisors in 1992 to allow for the continued operation of these facilities. At that time, in order to give staff the opportunity to reevaluate the impacts of the operation, a five-year time limit was placed on the permits as a condition of approval. In 1997, the SUPs were reevaluated and renewed for a subsequent three years. In 2000, the SUPs were once again renewed with a five-year time limit as a condition of the approval. The two existing SUPs will expire on October 10, 2005. As part of the current renewal process, the applicant has requested that the Board of Supervisors reapprove the two SUPs without any time limit.

PROJECT DESCRIPTION

The facility currently operates up to six days a week, typically during daylight hours. Within these time frames, activity at the pits ranges from no activity to full activity approximately 160 days a year. The total size of the parcels is approximately 420 acres; however, previous SUP conditions limit the amount of area that can be disturbed at any given time to 40 acres per parcel. The most current information staff has indicates the following:

- 420 total acres on site
- 203.4 acres are covered by the State Mining Permit
- 102.2 acres have been mined, reclaimed, and released from further activity by the State
- 73.5 acres have been, or will be, utilized in recent or future mining activities:
 - approximately 13.5 acres have been mined and reclaimed in the recent permit cycle;
 - approximately 18 acres are actively being mined; and
 - approximately 47.1 acres will be mined in the near future
- 138.1 acres are set aside for future mining to accommodate long-term demand
- In total, there are approximately 200 acres that have the potential for future mining

The applicant has proposed to create tidal wetlands on the three western peninsulas on the USA Waste of Virginia Landfills property. The process of creating tidal wetlands would involve mining to an elevation of -15 feet to mean sea level on portions of the peninsulas that would become inundated by water during high tide. The Environmental Division has met with the applicant to discuss this proposal and is receptive to the idea and will oversee and provide guidance set forth by conditions of the SUP. The largest peninsula to the south has not been previously mined and is set aside for future mining operations. The two other peninsulas have been previously mined and were both reclaimed and were released of their bonds by the State in 2001. In order to re-mine the two smallest peninsulas, the mine operators would have to apply for and be approved for an amendment to their current State Mining Permit. The Office of Economic Development will aid the Environmental Division in delineating the limits of the tidal wetlands to ensure that there will be viable land for future economic development. The limits of the tidal wetlands will be delineated over time to meet the demands of the market and possible changing environmental regulations.

Access

The old access road has been abandoned and access to the site is provided by a new private road to the southwest of the Wal-Mart Distribution Center addition. The road is currently in use and is passable; however, the final grading of the road will be completed when Wal-Mart completes its additional distribution center. This road, which is approximately 5,300 feet in length, will have a 30-foot easement and a travel surface of 21B stone built to Virginia Department of Transportation (VDOT) specifications. Once the road is

100 percent complete, a metes and bounds survey will be undertaken and recorded at the Courthouse, which is anticipated to occur in late 2005. Trucks access this gravel road from an existing commercial entrance located at the end of Blow Flats Road. The applicant estimates that the site generates 70 truck trips on an average day and approximately 120 truck trips on a peak day. Historical data from the company has shown the busiest month generated approximately 4,000 total trips and an average 160 daily trips. The north side of Blow Flats Road contains approximately 20 residences and is characterized by front yards with shallow setbacks. The south side of the road is primarily vacant and is part of the GreenMount tract.

During the 1992 public hearing process, homeowners along Blow Flats Road were very concerned over the amount of truck traffic that uses the road. As a result of those concerns, the Board requested the applicant look at different access alternatives. These included using the adjacent BASF property and GreenMount property as additional means of ingress and egress to the site. Those property owners, however, did not agree to such a proposal. At the request of the neighborhood, alternatives such as constructing a separate pedestrian trail and bike path and making roadway and intersection improvements were also analyzed. However, according to the VDOT, Blow Flats Road is substandard in that there is insufficient right-of-way and pavement width to accommodate such improvements (the right-of-way is currently 30 feet while VDOT standards now require 50 feet and the pavement width is 20 feet while VDOT requires a minimum of 22 feet). Consequently, access was not substantially improved. The one improvement that did result from the 1992 public hearing process was that VDOT established a 25 mph speed limit on Blow Flats Road. The speed limit for the road was previously not posted and therefore had a default limit of 55 mph. No further public interest has been expressed to staff since the original public notification of the current request for renewal. As part of the notification process, letters were sent to all property owners along Blow Flats Road.

Surrounding Development and Zoning

The site is bordered on the east and south by Skiffe's Creek while Wood Creek is located to the west of the site. Property to the north of the site is zoned M-2, General Industrial, and is being developed for the Wal-Mart Distribution Center. There are several residences along Blow Flats Road as previously described; however, these homes are on property zoned M-2 as well. During the 1992 public hearings, the homeowners were very concerned over the potential negative effects the truck traffic would have on the area. As stated above, these concerns involved pedestrian safety, noise, and dust. Examples of currently permitted uses in the M-2 district include breweries, drop-forge industries, industries that manufacture metals, glass, automobiles, machinery, electronic devices, etc. Any of these proposed uses, including a borrow pit, have the potential to generate various levels of noise, truck traffic, dust, and noxious emissions. Since the last SUPs were issued, Wal-Mart has started and nearly completed construction on an additional one-million-square-foot bulk distribution facility. Given the industrial nature of this use, the heavy truck traffic generation and the distance from the borrow pits, staff believes the two uses are compatible. Staff feels that with a feasible land reclamation plan, a borrow pit has no more of a negative impact on adjacent land than other permitted M-2 uses. Therefore, staff feels that the proposal, with the proposed conditions, is compatible with the surrounding zoning.

PUBLIC IMPACTS

Environmental Impacts:

- ◆ **Watershed:** Skiffe's Creek
- ◆ **Environmental Staff Comment:** The Environmental Division prefers to include the five-year time limit on the SUP. The regulations regarding environmental protection change constantly and having an opportunity every five years to review the conditions of the operation allows the County to address these changes. The Environmental Division supports the idea of creating tidal wetlands on the USA Waste of Virginia Landfills property in accordance with SUP Conditions Nos. 7 and 9.

Public Utilities:

- ◆ The site is served by public water and sewer.
- ◆ Water Conservations measures are proposed.
- ◆ **JCSA Staff Comment:** The JCSA has reviewed the proposals and has no comments.

Traffic:

- ◆ **Staff Comment:** VDOT will require that a CE-7 Land Use Permit be obtained by the pit operators for continued use of the access onto State right-of-way for hauling operations. Current hauling operations on Blow Flats Road have caused significant damage to the shoulders and pavement. The horizontal geometry of the roadway does not allow hauling vehicles to pass without driving on the shoulder. Staff believes that the damage to Blow Flats Road has been caused by several businesses that utilize this road for hauling purposes including Wal-Mart during its expansion, aggregate suppliers to Commercial Ready Mix, and other construction companies. A meeting was held on July 11, 2005, with County staff, VDOT officials, and representatives from Branscome and USA Waste of Virginia Landfills to discuss the condition of Blow Flats Road with respect to the SUP renewals. Branscome and VDOT officials then met in the field to inspect the condition of Blow Flats Road and determined what repairs would be completed to satisfy VDOT with regards to its comments. It was agreed upon by both Branscome and VDOT that VDOT will mark three sections of the roadway that are breaking up, which were of the greatest concern. Branscome will then undercut these areas approximately one foot and backfill them with full-depth asphalt. Blow Flats Road will then be overlaid with two inches of asphalt as part of the James City County paving schedule. In addition, as part of VDOT's maintenance schedule, VDOT will use a grader to clip the shoulders along Blow Flats Road. Staff has received confirmation letters from VDOT and Branscome that the above-mentioned work will be completed and accepts the terms of the letters.

COMPREHENSIVE PLAN

- ◆ The 2003 Comprehensive Plan Land Use Map designates this area General Industry and the property is located within the Primary Service Area. This designation is intended to accommodate industrial uses that create, or have the potential to create, adverse impacts such as noise, dust, odor, and other environmental impacts.
- ◆ **Staff Comment:** A borrow pit can create noise and dust and, if not properly regulated, can prove to be an environmental hazard. A borrow pit also generates substantial heavy truck traffic. Staff believes that this property is well suited to accommodate this type of use because it is located in a relatively undeveloped portion of the County which is planned for industrial uses that would generate similar types of traffic. The residential properties on Blow Flats Road are also designated for Mixed Use and General Industrial. Additionally, proximity to an arterial road, which is also a primary highway, should minimize adverse traffic impacts. Staff has drafted proposed SUP conditions that are designed to keep the property above the floodplain level except in specific areas where tidal wetlands are to be created, prevent erosion and sedimentation damage, keep the property screened and wooded, protect sensitive environmental areas, and prohibit unusable fill. Staff believes that for these reasons, use of this site as a borrow pit, with the proposed conditions, would not prohibit the future use for conventional industrial development. That portion of the site that borders Wood Creek and Skiffe's Creek is designated as a Conservation Area by the Comprehensive Plan. These are critical areas where ordinary development practices would cause significant environmental damage. Staff has proposed additional conditions designed to protect sensitive areas. It is important to note that a good portion of the Skiffe's Creek area is designated for industrial use. The Comprehensive Plan designations along Blow Flats Road and Pocahontas Trail include General Industrial and Mixed Use. The nearest residentially designated area is the Skiffe's Creek Terrace subdivision that is located on Route 60. Pocahontas Trail currently serves other industrial developments which generate heavy truck traffic, and is planned to serve future industrial uses as well. As noted above, this transition to actual industrial use began with the Wal-Mart Distribution Center. Under the Comprehensive Plan, this section of the County and its major roads are intended for industrial uses. Staff

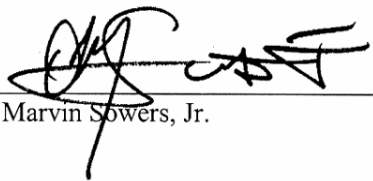
feels that the proposal, with the proposed conditions, is consistent with the Comprehensive Plan designation.

RECOMMENDATION

Staff finds the proposal consistent with the Comprehensive Plan Land Use Designation and compatible with surrounding properties and zoning. For these reasons, staff recommends that the James City County Board of Supervisors approve the SUP renewals for both parcels, subject to the attached proposed conditions.

Matthew J. Smolnik

CONCUR:



O. Marvin Sowers, Jr.

MJS/gs
sup19-05_sup-20-05renewal.doc

ATTACHMENTS:

1. Minutes from the August 1, 2005, Planning Commission Meeting
2. Location Map
3. Resolution for SUP-19-05
4. Resolution for SUP-20-05
5. Letter from Branscome to VDOT
6. Letter from VDOT to County Staff
7. Map of both parcels delineating mining areas dated April 2005. (Under separate cover provided by the applicant)

**UNAPPROVED MINUTES OF THE AUGUST 1, 2005 MEETING
OF THE PLANNING COMMISSION**

SUP-20-05 USA Waste of Va. Landfills, Inc. Renewal

SUP-19-05 Branscome Burrow Pit Renewal

Mr. Matthew Smolnik presented the staff report. Mr. Vernon Geddy III has applied to renew SUP-008-00 and SUP-009-00 at 700 Blow Flats Road and the parcel directly adjacent to it, currently zoned M-2, General Industrial, in order to continue the operation of borrow pits. The properties are also known as parcels (1-3) and (1-2) on the James City County Real Estate Tax Map (60-3). Mr. Geddy is requesting slight changes to the existing special use permits, which are primarily intended to reflect the completion of environmental remediation and timbering activities on the sites. The applicant is also requesting to eliminate the five year time limit on the special use permits. The sites are designated General Industrial by the James City County Comprehensive Plan. Staff recommended approval subject to proposed conditions including retention of the five year renewal requirement.

Mr. Sowers added that VDOT also recommended retention of a five year expiration date.

Ms. Blanton asked about the negative impacts mining will have on the neighboring tidal wetlands.

Mr. Smolnik stated that there will be enough distance that no negative impacts are anticipated.

Mr. Hunt opened the public hearing.

Mr. Vernon Geddy represented the applicant. The applicant has mined at this location for over 35 years. He recited some of the advantages of this proposal. Mr. Geddy asked for renewal of the applications and elimination of the five year time limit.

Mr. Kennedy recalled that the company was sold shortly after the previous renewal.

Mr. Geddy noted that there have been no changes in the way the company or the borrow pits have been operated locally.

Mr. Greg Davis, Kaufman and Canoles, represented adjacent property owner, Greenmount Associates. Mr. Davis stated that his client did not oppose the application. He urged retention of the five year renewal required.

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

Mr. Kennedy motioned to approve the applications with a five year expiration.

Ms. Jones seconded the motion.

Mr. Billups stated his concerns about the safety and health conditions that currently exist. He said there were no steps being taken to correct or lessen the impact of dust, debris, etc. to residents.

Mr. Sowers said that public notice was given and that no residents came forward. He also said there were conversations with neighbors during the previous renewal request.

Mr. Billups said there was an obligation to ensure the health and safety of residents even if they do not appear.

Ms. Jones stated that the staff report indicated that those conditions will be properly regulated.

Mr. Billups said marine life is another concern.

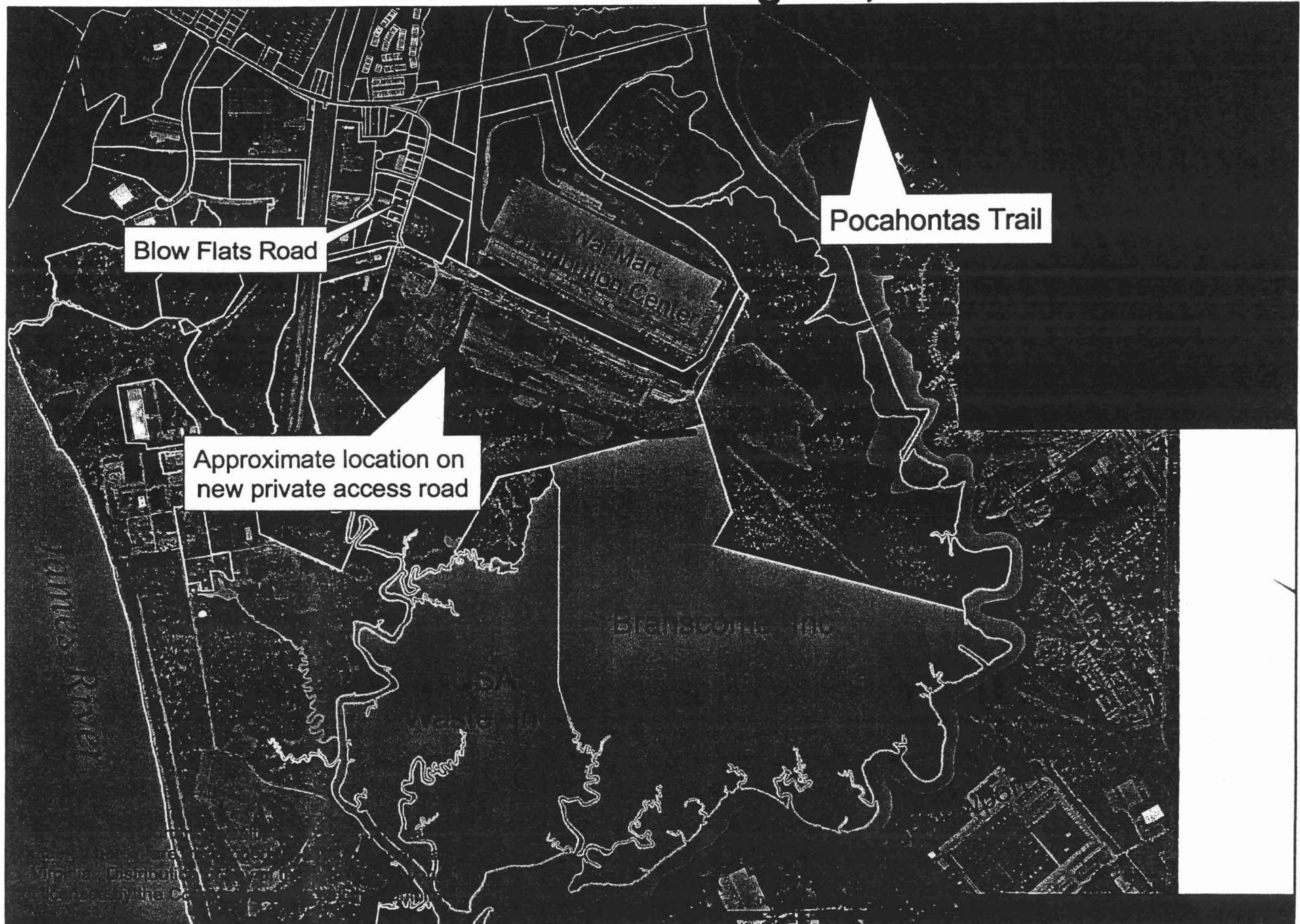
Mr. Geddy stated that creation of the tidal wetlands is a proposed benefit and will require exhaustive permitting.

Mr. Kale confirmed that proper experts will be consulted such as the Virginia Marine Resources Commission. He also stated his concern that the road be kept free of debris.

The Commission and the applicant discussed the improvements to Blow Flats Road.

In unanimous roll call votes both applications were recommended for approval (7-0). AYE: Billups, Kale, Fraley, Blanton, Jones, Kennedy, Hunt; NAY: (0).

SUP-019-05: Branscome, Inc. Renewal SUP-020-05: USA Waste of Virginia, Inc. Renewal



Blow Flats Road

Pocahontas Trail

Approximate location on
new private access road

BRANSCOME, INC.

RESOLUTION

CASE NO. SUP-19-05. BRANSCOME, INC. BORROW PIT RENEWAL

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

WHEREAS, the applicant has requested to amend existing Special Use Permit 9-00 to allow for the continued operation of a borrow pit; and

WHEREAS, the property is currently zoned M-2, General Industrial, designated General Industry on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located approximately 1.2 miles southeast of the terminus Blow Flats Road on property more specifically identified as Parcel No. (1-2) on James City County Real Estate Tax Map No. (60-3); and

WHEREAS, on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 7-0 with a five-year time limit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-19-05 as described herein with the following conditions:

1. An erosion and sediment control plan shall be submitted to, and approved by, the Director of the Environmental Division prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98(a) *Transitional Screening* of the James City County Code.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The special use permit shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the special use permit request and titled "Progress Renewal Map-Lee/Bickford Borrow Pit Permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" and dated April 2005.

7. No mining shall occur below an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only “inert material” shall be used as fill during the reclamation of the property. For the purposes of the special use permit, “inert material” shall be defined as “clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe.” Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. Within 90 days after the date of issuance of this permit a perennial stream study (“the Study”) shall be conducted and submitted to the Environmental Division. The Study shall identify any Resource Protection Area(s) (“RPA”) located on the subject property. The limits of the RPAs located on the subject property, if any, shall be shown on a revised version of the map submitted with the special use permit request and titled “Progress Renewal Map-Lee/Bickford Borrow Pit Permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia” dated April 2005 and shall be submitted to the Environmental Division. Encroachment into the RPA will be allowed only after obtaining expressed written consent by the Environmental Director and only for the sole purpose of creating tidal wetlands.
10. For as long as the special use permit is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor, documenting Items A-H below. One such report shall be submitted between January 1 and January 31 of each year:
 - a. The extent and depth of the area mined over the previous calendar year.
 - b. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - c. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - d. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - e. A certification as to the amount of disturbed acreage on site.
 - f. A certification that all fill used after the date of issuance of this permit is “inert material,” as defined above.
 - g. A delineation of all areas that have been restored but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - h. A delineation of the extent of the areas covered by the State Mining Permit.
11. A CE-7 Land Use Permit shall be obtained from The Virginia Department of Transportation within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
12. This special use permit is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
13. This special use permit shall be valid for a period of five years from the date of approval by the James City County Board of Supervisors.

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 13th day of
September, 2005.

sup19-05.res

RESOLUTION

CASE NO. SUP-20-05 USA WASTE OF VIRGINIA LANDFILLS, INC.

BORROW PIT RENEWAL

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

WHEREAS, the applicant has requested to amend existing Special Use Permit 8-00 to allow for the continued operation of a borrow pit; and

WHEREAS, the property is currently zoned M-2, General Industrial, designated General Industry on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located approximately 1.2 miles southeast of the terminus Blow Flats Road on property more specifically identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (60-3); and

WHEREAS, on August 1, 2005, the Planning Commission recommended approval of the application by a vote of 7-0 with a five-year time limit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-20-05 as described herein with the following conditions:

1. An erosion and sediment control plan shall be submitted to, and approved by, the Director of the Environmental Division prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98(a) *Transitional Screening* of the James City County Code.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The special use permit shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the special use permit request and

titled "Progress Renewal Map-Lee/Bickford Borrow Pit Permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" and dated April 2005.

7. Areas on the USA Waste of Virginia Landfills, Inc. property may be mined to an elevation of -15 feet to mean sea level, once delineated by the Environmental Division Director with the aid of the Office of Economic Development for the purpose of creating tidal wetlands. Soil side slopes between the elevations of +2 to -2 feet to mean sea level shall be no steeper than 4:1. All other areas on the USA Waste of Virginia Landfills, Inc. property shall be mined to an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only "inert material" shall be used as fill during the reclamation of the property. For the purposes of the special use permit, "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. Within 90 days after the date of issuance of this permit, a perennial stream study ("the Study") shall be conducted and submitted to the Environmental Division. The Study shall identify any Resource Protection Area(s) ("RPA") located on the subject property. The limits of the RPA(s) located on the subject property, if any, shall be shown on a revised version of the map submitted with the special use permit request and titled "Progress Renewal Map-Lee/Bickford Borrow Pit Permit No. 10445AB U.S.G.S. Quadrangle: Hog Island James City County, Virginia" dated April 2005 and shall be submitted to the Environmental Division. Encroachment into the RPA will be allowed only after obtaining expressed written consent by the Environmental Director and only for the sole purpose of creating tidal wetlands.
10. For as long as the special use permit is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.
 - a. The extent and depth of the area mined over the previous calendar year.
 - b. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - c. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - d. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - e. A certification as to the amount of disturbed acreage on site.
 - f. A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
 - g. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - h. A delineation of the extent of the areas covered by the State Mining Permit.

11. A CE-7 Land Use permit shall be obtained from The Virginia Department of Transportation within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
13. This special use permit shall be valid for a period of five years from the date of approval by the James City County Board of Supervisors.

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 13th day of September, 2005.

sup20-05.res

BRANSCOME INC.

Post Office Drawer 260
Williamsburg, Virginia 23187

WILLIAMSBURG: (757) 229-2504
NORFOLK: (757) 822-4200
FAX: (757) 220-0390

July 20, 2005

Virginia Department of Transportation
Mike Cade, Transportation Operations Manager
4451 Ironbound Road
Williamsburg, Virginia 23188

RE: Special Use Permit Applications
SUP 019-05 & SUP 020-05

Dear Mike:

This letter is a follow up to our joint meeting with James City County planning staff on July 11, 2005. During our meeting, VDOT's objection to our Special Use Permit applications was discussed. The primary concerns being the condition of the pavement and shoulders and the affects of truck traffic on Blow Flats Road.

Everyone agreed at that meeting that Branscome Inc. is not the sole commercial user of Blow Flats Road and that the condition of the roadway can not be put solely on Branscome. The construction of the Wal*Mart Distribution Center and their on site ready-mixed concrete plant and the other commercial enterprises located off Blow Flats Road have all contributed to the present condition of the roadway.

At the conclusion of this meeting, we met at Blow Flats Road to observe the condition and determine a solution to address VDOT's concerns. You and I agreed that you will mark three sections of the roadway that are breaking up and are your primary concerns. Branscome Inc. will then undercut these areas approximately one foot and backfill them with full depth asphalt. Blow Flats Road will then be overlaid with two (2) inches of asphalt as part of the James City County paving schedule. As part of VDOT's maintenance schedule, you will have the shoulders clipped with a grader.

I believe that this is an equitable solution to repairing Blow Flats Road. As a result of our cooperation, VDOT will rescind their objections to our Special Use Permit applications and will forward a letter to Mr. Matthew J. Smolnik of the county's planning staff stating such. This will then result in us obtaining staff's recommendation for approval of our applications.



Page 2
Mike Cade
July 20, 2005

There are no concerns pertaining to Blow Flats Road that we can not cooperatively resolve. Should you have any questions, or I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Kevin R. Jones, Vice President
for
W. Stuart Patterson, President

cc: Vernon M. Geddy, III
James L. Loveland, P.E.
Matthew J. Smolnik

BRANSCOME INC.

Post Office Drawer 260
Williamsburg, Virginia 23187

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Everyone agreed at that meeting that Branscome Inc. is not the sole commercial user of Blow Flats Road and that the condition of the roadway can not be put solely on Branscome. The construction of the Wal*Mart Distribution Center and their on site ready-mixed concrete plant and the other commercial enterprises located off Blow Flats Road have all contributed to the present condition of the roadway.

At the conclusion of this meeting, we met at Blow Flats Road to observe the condition and determine a solution to address VDOT's concerns. You and I agreed that you will mark three sections of the roadway that are breaking up and are your primary concerns. Branscome Inc. will then undercut these areas approximately one foot and backfill them with full depth asphalt. Blow Flats Road will then be overlaid with two (2) inches of asphalt as part of the James City County paving schedule. As part of VDOT's maintenance schedule, you will have the shoulders clipped with a grader.

I believe that this is an equitable solution to repairing Blow Flats Road. As a result of our cooperation, VDOT will rescind their objections to our Special Use Permit applications and will forward a letter to Mr. Matthew J. Smolnik of the county's planning staff stating such. This will then result in us obtaining staff's recommendation for approval of our applications.



Page 2
Mike Cade
July 20, 2005

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Sincerely,



Kevin R. Jones, Vice President
for
W. Stuart Patterson, President

cc: Vernon M. Geddy, III
James L. Loveland, P.E.
Matthew J. Smolnik



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1700 NORTH MAIN STREET
SUFFOLK, VA 23434

GREGORY A. WHIRLEY
ACTING COMMISSIONER

July 29, 2005

Matthew Smolnik
James City County Planning
Post Office Box 8784
Williamsburg, Virginia 23187

Ref: Branscome Inc. Borrow Pit Renewal; SUP-019-05
USA Waste of Virginia Landfills, Inc. Renewal; SUP-020-05
Blow Flats Road (Route 1305), James City County

Dear Mr. Smolnik:

This letter is a follow up to our June 23, 2005 comment letters regarding the subject special use applications. As you are aware, a meeting was held on July 11, 2005 between VDOT, County Staff, and the applicant and their representatives. The meeting was held to address our concerns previously expressed over the deteriorated condition of Blow Flats Road, and to determine what improvements we would find equitable and adequate. An onsite meeting was later held to identify specific problem areas and solutions. We concur with the summary of actions presented in the July 20, 2005 letter from Branscome Inc., and find these improvements both equitable and adequate.

Given the events and dialogue that have occurred since our previous letter, we would like to rescind our June 23, 2005 comments, and offer our approval of these applications with the following conditions:

- ◆ We will require that a CE-7 Land Use Permit is obtained for continued use of the access onto state right of way for hauling operations.
- ◆ Remedial measures will be required on Blow Flats Road. VDOT has identified three areas that are breaking up and are of greatest concern; these areas have been marked in the field. Branscome Inc. will undercut these areas approximately one foot and backfill them with full-depth asphalt. VDOT will then overlay Blow Flats Road as part of the James City County paving schedule, as well as schedule other minor shoulder repairs.

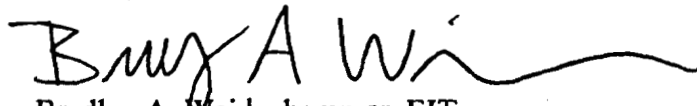


Branscome Inc. Borrow Pit Renewal; SUP-019-05
USA Waste of Virginia Landfills, Inc. Renewal; SUP-020-05
July 29, 2005
Page Two

- ◆ We do not support any requests to eliminate a time limit from these special use requests at this time.

Should you have any questions please contact me at 253-4832.

Sincerely,


Bradley A. Weidenhammer, EIT
Transportation Engineer

RESOLUTION

CASE NO. SUP-25-05/ MP 10-05. PRIME OUTLETS MASTER PLAN AMENDMENT

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

WHEREAS, Mr. Alvin Anderson has applied on behalf of Prime Outlets at Williamsburg, LLC, for a special use permit to allow for a 5,700±-square-foot expansion of Prime Outlets; and

WHEREAS, Mr. Alvin Anderson has also applied to amend the existing conditions of approval of James City County Case Nos. SUP-23-99 and MP-3-99; and

WHEREAS, the conditions listed below replace the conditions of approval of James City County Case No. SUP-23-99; and

WHEREAS, the proposed expansion is shown on the master plan prepared by LandMark Design Group, dated July 28, 1999, revised on August 24, 2005, and entitled “Amended Master Plan Prime Retail Outlet Expansion” the “Master Plan”; and

WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as Parcel Nos. (1-28), (1-29), (1-33C), (1-33D) and (1-33E) on James City County Real Estate Tax Map No. (33-1); and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 1, 2004, recommended approval of this application by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 25-05 as described herein with the following conditions:

1. This special use permit shall be valid for the approximately 5,700-square-foot expansion of Prime Outlets and accessory uses thereto. The total Gross Building Area shall not exceed 367,202 square feet. Development of the site shall be generally in accordance with the above-referenced master plan, as determined by the Development Review Committee of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development. This special use permit and these conditions shall supersede the existing conditions of approval of James City County Case No. SUP-23-99 and prior SUP conditions affecting the Prime Outlets development.
2. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher,

- shall extend outside the property lines.
3. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the above-referenced expansion. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, Prime Outlets Phase VI-expansion, submitted with this special use permit application dated, July 6, 2005, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
 4. Prior to the issuance of any final Certificate of Occupancy for any new commercial construction on the site, adequate lighting shall be installed for all three entrances from the property onto Richmond Road as shown on the Master Plan. In addition, adequate parking lot lighting shall be installed in the new 43-space parking lot as shown on the Master Plan and titled "Re-stripe existing parking for buses to parking for 43 cars". The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
 5. A landscaping plan for the 5,700-square-foot expansion referenced herein, including foundation landscaping in accordance with James City County Code Section 24-95 shall be approved by the Planning Director or his designee prior to final site plan approval. Planters (the type and size of planters to be specified by the landscaping plan) along the entire store frontage of the Phase 5A Expansion, shall be approved by the Planning Director or his designee prior to final site plan approval.
 6. Prior to submission of any commercial development plan for the 5,700-square-foot expansion referenced herein, the applicant shall submit a water and sanitary sewer master plan and hydraulic analyses for the expansion space for review and approval by the James City Service Authority.
 7. Prior to the issuance of any final Certificate of Occupancy for any building addition, or new building, located on Tax Map Parcel Nos. (33-1)(1-28) or (33-1) (1-29), there shall be a 35-foot-wide transitional buffer planted along the northern most property line. This area shall be planted at 133 percent of standards found in Section 24-94 of the James City County landscape ordinance (in terms of the numbers of trees and shrubs, not size), in a manner acceptable to the Director of Planning and with an emphasis on evergreen shade and understory trees. The fence already installed in this area shall be a maximum of eight feet high and shall be vinyl coated and either black or green in color. Furthermore, the fence shall be setback from the property line at least three feet.
 8. Prior to issuance of any final Certificate of Occupancy, the applicant shall complete the following: (1) internal driveways shall be designated as "One Way" traffic only, as shown on the Master Plan; and (2) the applicant shall install signage for the rear parking lots and service drives clearly indicating the existence of additional parking spaces for customers and employees. Prior to installation of any new signage, the applicant shall prepare and submit a comprehensive signage plan for review and approval by the Director of Planning.
 9. No dumpsters shall be allowed on any portion of the service road located behind the buildings along the northern property line where the service road is 20 feet in width or less.

10. If construction has not commenced on this project within thirty-six months from the issuance of this special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

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