

**A G E N D A**

**JAMES CITY COUNTY BOARD OF SUPERVISORS**

**County Government Center Board Room**

**April 11, 2006**

**7:00 P.M.**

Page

**A. ROLL CALL**

**B. MOMENT OF SILENCE**

**C. PLEDGE OF ALLEGIANCE** - Lizzie Madison, an eighth-grade student at Toano Middle School

**D. PRESENTATION**

1. James City County Volunteer Recognition Week - April 23-29, 2006

**E. PUBLIC COMMENT**

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**I. PUBLIC COMMENT**

**J. REPORTS OF THE COUNTY ADMINISTRATOR**

**K. BOARD REQUESTS AND DIRECTIVES**

**L. 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. Business Climate Task Force	
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	

**M. ADJOURNMENT**

**AT A JOINT WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, AND THE PLANNING COMMISSION, HELD ON THE 28TH DAY OF MARCH 2006, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Bruce C. Goodson, Chairman, Roberts District,  
John J. McGlennon, Vice Chairman, Jamestown District  
Jay T. Harrison, Sr., Berkeley District  
M. Anderson Bradshaw, Stonehouse District  
James O. Icenhour, Jr., Powhatan District

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

**B. DISCUSSIONS**

Mr. Goodson welcomed the members of the Planning Commission.

Mr. Fraley provided an overview of the topics to be discussed and requested a clear understanding and consensus from the Board on the items of discussion.

1. Streamlining the Development Process - Establishment of Development Standards & Reducing Deferrals

Mr. Fraley stated that based upon constituents proposals to streamline the process for proposal reviews, he has worked with staff and the Planning Commission members to identify specific procedural steps which has been presented to the Board for consideration and feedback.

Discussion was held regarding the Comprehensive Plan's role in guiding the development vision for the County, regarding the need to line-up the interpretations by members of staff, Planning Commission, and Board of Supervisors' on the standards with which the proposals are considered, and the number and nature of deferrals of proposals.

Discussion was held regarding residential, recreational, and traffic impact standards and the need to review them from a community standpoint not just a site-specific standpoint.

Discussion was held regarding the role of the staff, the Board of Supervisors, and the Planning Commission.

The Board directed staff and the Planning Commission to review the Residential Zoning Ordinances and identify possible amendments to strengthen the Ordinance.

2. Role of Adequate Public Facilities Policy and Fiscal Impact Studies in Planning Commission Decisions

Discussion was held on what happens with the Adequate Public Facility Policy number when developed, difficulty in accurately identifying public school population numbers prior to the build out, and projection consideration of turn-over in ownerships in out-years.

The Board directed staff to look at the data used for the Adequate Public Facilities, to consider the movement away from utilizing the Adequate Public Facilities numbers from a school district specific consideration to a school system-wide consideration of the impacts; look at possible future development numbers including by-rights; and consider a range for the Adequate Public Facilities standard rather than a specific number.

Staff cautioned about the possible added confusion in interpretation of a range.

3. Transportation Impact Studies - Process and Content Changes

Discussion was held on traffic study results, times that traffic studies are performed and how traffic flow in the County seems to be different than the Level of Service reported in the traffic studies. The Board directed staff to review the transportation impact studies that are incorporated into the process and if that item should be revised.

4. Other Matters of the Planning Commission and Board of Supervisors Interest

Discussion was held regarding direction from the Board regarding assessment of fiscal impacts of an application, benefits to the community in relation to fiscal impact, and fiscal impact not as a reason to approve an application but just another aspect for the Planning Commission to examine.

The Board directed the Planning Commission to provide further reasoning behind decisions to allow the Board to consider future applications fully.

Mr. Goodson thanked the Planning Commission for the discussions.

**C. RECESS**

At 6:10 p.m., the Board took a break until 7 p.m.

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Sanford B. Wanner  
Clerk to the Board

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF MARCH 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Bruce C. Goodson, Chairman, Roberts District  
John J. McGlennon, Vice Chairman, Jamestown District  
Jay T. Harrison, Sr., Berkeley District  
James O. Icenhour, Jr., Powhatan District  
M. Anderson Bradshaw, Stonehouse District

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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

Michael Favret, an eighth-grade student at Williamsburg Christian Academy, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATION**

1. Volunteer Recognition - Third Quarter - FY 06

Mr. Goodson and Ms. Carol A. Schenk, Human Resource Specialist, recognized John T. P. Horne as the volunteer of the third quarter for his leadership and service to Housing Partnerships and housing assistance to needy members of the community.

**E. HIGHWAY MATTERS**

Mr. Jim Brewer, Williamsburg Residency, Virginia Department of Transportation (VDOT), gave an overview of work on Greensprings Trail and Capital Trail. Mr. Brewer stated bids were received for the Ironbound Road and Monticello Avenue project for roughly \$1.9 million. He stated the Department of Transportation was continuing to patch potholes as well. He stated he would report back when he received information regarding Mr. Icenhour's speed limit request. Mr. Brewer also said stonework in Chickahominy Haven should be completed in the next week, per Mr. Bradshaw's request.

Mr. McGlennon asked about road repairs on Lake Powell Road. Mr. McGlennon also mentioned debris and trash deposited near 4-H Club Road toward Jamestown Road and asked that it be cleaned. He thanked Mr. Brewer for work at Granite Circle.

Mr. McGlennon mentioned blue directional signs to commercial establishments on Jamestown Road and Route 199. He inquired if VDOT allowed for protection of historic areas to remove these signs. Mr. McGlennon stated they counteract the previous efforts to remove unsightly billboards.

Mr. Brewer stated that he was unable to find any regulation that would disallow the signs.

Mr. McGlennon stated that he did not believe the funds received from placement of these signs would justify the negative impacts.

Mr. Bradshaw asked about the status of Merry Oaks and speeding near the Library.

Mr. Goodson stated concern about traffic signal work and land disturbance at Routes 60 E and 199. Mr. Goodson inquired about the time frame to complete the project.

Mr. Brewer stated he would look into the matter and report back to the Board.

## **F. PUBLIC COMMENT**

1. Mr. William Ferguson, 310 The Maine West, stated concern about the rate of development in the County. Mr. Ferguson stated residents objected to new development due to traffic impacts, increased taxes, and increased crime, yet the County is looking at where to locate a fourth high school when the third high school was not complete.

2. Mr. Richard Bradshaw, Commissioner of the Revenue, clarified the criteria for real estate exemption: at least one owner/resident had to be 65 years or older and/or permanently totally disabled, total income needed to be less than \$35,000 a year, and total assets less than \$200,000, excluding the value of the home. Mr. Bradshaw stated the benefits include the exemption of the first \$100,000 of the value of the home. He stated a resident of the City of Williamsburg would not qualify because the City had a real estate deferral system. He urged anyone who may qualify to contact him by phone or come by Building B in the Government Complex to file for an exemption.

3. Mr. Ed Oyer, 139 Indian Circle, stated financial advisors have no stake in James City County's future; the assessment is fluid, not static, and advisors offer the best guess on any situation involving money; the County should decide how much to spend before the land value is determined, then put away extra money or put toward capital projects; ordinances are needed for off-street parking and removal of idle vehicles; he toured the new location for fire administration and training, and though it looked like a functional building and a good investment, he would suggest building a joint police and fire administration building.

## **G. CONSENT CALENDAR**

Mr. Bradshaw asked to pull Item No. 2, Homeless Intervention Program Application, from the Consent Calendar. Mr. McGlennon made a motion to adopt the remaining items on the Consent Calendar including the amended minutes of March 14, 2006.

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

1. Minutes - March 14, 2006, Regular Meeting - as amended

3. Appropriation of Grant Funds - NIMS Training

**RESOLUTION**

**APPROPRIATION OF GRANT FUNDS - NIMS TRAINING**

WHEREAS, James City County applied for and received a grant in the amount of \$5,000 for the purpose of reimbursing expenses related to the County government training costs related to the National Incident Management System (NIMS); and

WHEREAS, the grant requires no local matching funds.

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

Revenue:

HRPDC NIMS Training \$5,000

Expenditure:

HRPDC NIMS Training \$5,000

4. Ironbound Elderly Housing Project - Community Development Block Grant Appropriation of Additional Grant Funds

**RESOLUTION**

**IRONBOUND ELDERLY HOUSING PROJECT - COMMUNITY DEVELOPMENT BLOCK**

**GRANT APPROPRIATION OF ADDITIONAL GRANT FUNDS**

WHEREAS, James City County has been notified by the Virginia Department of Housing and Community Development (VDHCD) of award of an additional \$84,000 of Community Development Block Grant (CDBG) funds for the Ironbound Elderly Housing Project and has completed all actions required by VDHCD prior to entering into an agreement to receive the CDBG funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Budget, as adopted for the fiscal year ending June 30, 2006, as follows:

Revenue:

Ironbound Elderly Housing Community  
Development Block Grant \$84,000

Expenditure:

Ironbound Elderly Housing Project \$84,000

BE IT FURTHER RESOLVED that the appropriation of funds for the CDBG Project be designated a continuing appropriation to carry beyond FY 2006 until the Ironbound Elderly Housing Project is completed.

5. Appropriation - Williamsburg Area Transport

**RESOLUTION**

**APPROPRIATION - WILLIAMSBURG AREA TRANSPORT**

WHEREAS, Williamsburg Area Transport (WAT) is facing a projected deficit of \$179,500 for FY 06; and

WHEREAS, WAT has requested that the three localities approve a supplemental appropriation to WAT based upon the current funding allocation to maintain the existing level of service; and

WHEREAS, James City County's share is equal to \$86,160.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves an appropriation \$86,160 from Contingency to Williamsburg Area Transport in the FY 06 budget.

6. Declaration of a Local Emergency - as amended

**RESOLUTION**

**DECLARATION OF A LOCAL EMERGENCY**

WHEREAS, the Board of Supervisors of James City County, Virginia, does hereby find that due to the recent lack of rain, coupled with windy conditions, the County faces dangerous conditions of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship, or suffering threatened or caused thereby, including an immediate prohibition on open burning; and

WHEREAS, a condition of extreme peril of life and property necessitated the declaration of the existence of an emergency; and

WHEREAS, due to exigent circumstances, the Board of Supervisors was unable to convene to consent to the declaration of a local emergency.

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that, pursuant to Section 44-146.21 of the *Code of Virginia*, 1950, as amended, the Declaration of a Local Emergency dated March 15, 2006, by Sanford B. Wanner, Director of Emergency Management for James City County, be, and the same hereby is, confirmed.

BE IT FURTHER RESOLVED that the Director of Emergency Management and the Emergency Operations

Division of the James City County Fire Department shall exercise those powers, functions, and duties as prescribed by state law and the ordinances, resolutions, and approved plans of James City County in order to mitigate the effects of said emergency.

2. Homeless Intervention Program Application

Mr. Rick Hanson, Housing and Community Development Administrator, gave an overview of the Homeless Intervention Program (HIP) application. Mr. Hanson stated that the HIP program assists individuals or families who are homeless or are in temporary housing to find affordable permanent housing.

Mr. Bradshaw asked if the need is greater than the allocation.

Mr. Hanson responded that initially the program ran out of funds, but in recent years the funds have been sufficient. He also stated that the criteria of the program is fairly precise in the individuals and families it assists.

Mr. Bradshaw stated the importance of this program in assisting the homeless.

Mr. Bradshaw made a motion to approve the resolution

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

**RESOLUTION**

**HOMELESS INTERVENTION PROGRAM APPLICATION**

WHEREAS, the Commonwealth of Virginia Department of Housing and Community Development, has issued a competitive application and requested applications under the Homeless Intervention Program (HIP); and

WHEREAS, assistance is needed to effectively and adequately address the housing needs of low-income and homeless persons served by James City County in our service areas of James City County, Williamsburg, and Upper York County with a Williamsburg address; and

WHEREAS, HIP application for a grant under this Program has been prepared; and

WHEREAS, the County Administrator can act on behalf of James City County and will sign all necessary documents required to complete the grant transaction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to apply for and accept the grant and enter into a grant agreement with the Department of Housing and Community Development and to perform any and all actions and responsibilities in relation to such Agreement.

## **H. PUBLIC HEARING**

Mr. Goodson recognized Mr. Jack Fraley, Chairman of the Planning Commission, in attendance.

1. Case No. Z-17-05/MP-14-05. Greensprings Master Plan Amendment (continued from March 14, 2006)

Ms. Kathryn Sipes, Planner, stated that Mr. Christopher Basic, AES Consulting Engineer, has applied on behalf of Jamestown LLC to amend the Greensprings Master Plan and Proffer Agreement for property located at 4200 Longview Landing, further identified as Parcel No. (1-24) on James City County Real Estate Tax Map No. (36-3). The property is currently zoned R-4, Residential Planned Community, with proffers, and would be rezoned to R-4, Residential Planned Community, with amended proffers.

The amendments include increasing the number of single-family detached dwelling units in the proposed Phase VII of the Greensprings West subdivision. The applicant is proposing an additional 30 units, making Phase VII 47 lots and bringing the total in Land Bay S-1 to 398. The total dwelling units in the Master Plan area would increase from 1,505 to 1,535, taking gross residential density from 1.07 dwelling units/acre to 1.10 dwelling units/acre.

At its meeting on February 6, 2006, the Planning Commission recommended approval of the amended proffers by a vote of 4-3.

Staff found the proposal generally consistent in character with the previously approved master plan and has determined that the additional units proposed will not have an appreciable impact.

Staff recommended the Board approve the application.

Mr. Bradshaw asked staff if the land use was rezoned as low-density residential.

Ms. Sipes stated that was correct.

Mr. Bradshaw asked when the land-use designation was made rural land.

Ms. Sipes responded that in 1989 the boundary was not necessarily the dividing line between rural lands and low-density residential land.

Mr. Sowers stated that the Primary Service Area (PSA) line was hardened, but during the original rezoning the property was outside of the line. He also stated that recently it had become a parcel-specific assessment, but this particular property was outside of the PSA designated as rural lands.

Mr. Bradshaw inquired that staff verify this property was outside the PSA and designated as rural lands.

Mr. Sowers confirmed the rural lands designation and stated that a small corner of the property was recognized as outside the PSA.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, Jamestown LLC, stated that the proposed increase density was 0.03 dwelling units per acre. Mr. Geddy presented a map of the area and outlined the proposed development. Mr. Geddy stated that this would not open up a new area to development because it was an area that will be developed. Mr. Geddy outlined cash proffers for water, sewer, schools, off-site schools, off-site environmental, etc., turf management proffer, recreation, and generators for grinder

pumps. He stated that the amendments meet with the requirements of the County's Master Plan and Comprehensive Plan, offer public benefits and the PSA includes Greensprings West. Mr. Geddy urged the Board to approve the Master Plan amendments. He stated the developer has addressed every possible issue, and to counteract the increase of only 0.03 dwelling units per acre, there are significant cash proffers.

Mr. McGlennon inquired about the possibility of incorporating low-impact design (LID) and asked why that was not possible.

Mr. Geddy stated that this was not possible because in order for low-impact design to work, there needed to be a certain soil type; rather than put LID here, the applicant opted to contribute more value for the dollar with cash proffers off-site.

Mr. Icenhour asked if Mr. Geddy would verify that once the rezoning was redone, it would be approved with a 1,505 cap limit.

Mr. Icenhour and Mr. Geddy discussed the use and quantity of grinder pumps in the land bay.

Mr. Icenhour inquired if the number of grinder pumps decreased because subsequent lots were fit into the area to connect the developments.

Mr. Geddy stated Mr. Icenhour was correct, and with this Master Plan, the original lot cap was essentially a best guess.

Mr. Icenhour stated that essentially the best guess fluctuates when lots are worked into a development plan.

Mr. Geddy stated that when they got to a certain area, the number of lots that were available to be developed changed.

Mr. Icenhour stated that near the lake the land drops off, the developer cannot use sewer, and remarked that they planned to have over 21 grinder pumps in this area.

Mr. Geddy stated that it would be to the depth that the existing sewer line was built.

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

The Board discussed the merits of the proposed development and the concerns regarding the negative impacts to the community and public services.

Mr. Geddy requested the Board defer the case before a vote.

Mr. Goodson asked if any member would like a deferral.

Mr. Bradshaw stated he did not object to a deferral, but changing the plan would not address the problem of his concern.

Mr. Harrison asked if the number of units would be the issue that would be changed during the deferral.

Mr. Goodson stated that he did not feel comfortable with deferring this application.

Mr. McGlennon made a motion to deny the resolution.

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

## **I. BOARD CONSIDERATIONS**

### **1. Board of Supervisors Code of Ethics**

Mr. Sanford B. Wanner, Clerk to the Board, provided a brief overview of the proposed Code of Ethics.

Mr. Goodson stated that this did not originate from any need or issue, it was initiated by a member of the Board.

Mr. Icenhour stated that the issue of a Code of Ethics arose during his campaign. An individual came to him and stated that the Board did not have one. Mr. Icenhour looked at information available and stated that this is a tool that would be utilized. This was not brought forward by any necessity. County staff provided six Virginia County codes which were utilized in the creation of this Code. Mr. Icenhour stated the Code of Ethics was to be used to enhance the way the government serves the community. He also extended his appreciation for the work of staff and his fellow Supervisors.

Mr. Icenhour made a motion to adopt the resolution.

Members of the Board thanked Mr. Icenhour for this initiative, noted that Board members have been conducting themselves in accordance with the proposed Code of Ethics, and stated support for the standard for conduct.

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

### **2. Personal Property Tax Relief Act - Setting the Reimbursement Percentage**

Ms. Ann Davis, Treasurer, stated that last November the Board passed an ordinance to comply with the Code of Virginia regarding personal property tax relief. Ms. Davis stated that based on the amount of reimbursement, personal use vehicles valued at \$1,000 dollars or less would receive 100 percent relief. She said vehicles valued at \$1,001 to \$20,000 would be eligible for 61 percent, and vehicles valued at \$20,001 or more would receive 61 percent on first \$20,000 dollars of value.

Mr. Bradshaw clarified that the Board is not reducing the relief, but distributing it among the citizens.

Ms. Davis confirmed the clarification and stated that the State has frozen the relief, and the appropriate allocation would set the percentage at 61 percent.

Mr. McGlennon inquired if the personal property tax rate remains the same.

Ms. Davis stated that the tax rate could remain the same. Ms. Davis emphasized that the only change was the percentage, which was 70 percent last year, being reduced to 61 percent this year.

Mr. Goodson stated the Board could have assessed taxes on a vehicle less than \$1,000, but chose to give 100 percent relief on vehicles under \$1,000 dollars.

Ms. Davis presented a tax bill to be sent to citizens, which included a highlighted paragraph that stated the tax bill has been reduced by 61 percent for the first \$20,000 dollars of value. If qualifying vehicle

was less than \$1,000 in value, the Board of Supervisors had eliminated the tax.

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

## **RESOLUTION**

### **PERSONAL PROPERTY TAX RELIEF ACT -**

#### **SETTING THE REIMBURSEMENT PERCENTAGE**

WHEREAS, the Personal Property Tax Relief Act of 1998, Va. Code §§58.1-3523 et seq. (“PPTRA”), has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005) and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly, being the 2005 revisions to the 2004-2006 Appropriations Act (“the 2005 Appropriations Act”); and

WHEREAS, these legislative enactments require the County to take affirmative steps to provide for the computation and allocation of relief provided pursuant to the PPTRA as revised; and

WHEREAS, these legislative enactments provide for the appropriation to the County of a fixed sum to be used exclusively for the provision of tax relief to owners of qualifying personal use vehicles that are subject to local personal property tax on such vehicles.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, in accordance with the requirements set forth in Va. Code §58.1-3524(C)(2) and §58.1-3912(E), as amended by Chapter 1 of the Acts of Assembly (2004 Special Session 1) and as set forth in Item 503 of the 2005 Appropriations Act, that any qualifying vehicle having situs within the County during the tax year which begins on January 1, 2006, shall receive personal property tax relief in the following manner:

1. Personal use vehicles valued at \$1,000 or less will be eligible for 100% tax relief.
2. Personal use vehicles valued at \$1,001 to \$20,000 will be eligible for 61% tax relief.
3. Personal use vehicles valued at \$20,001 or more shall receive 61% tax relief only on the first \$20,000 of value.
4. All other vehicles which do not meet the definition of “qualifying” (business use vehicles, farm use vehicles, motor homes, etc.) will not be eligible for personal tax relief under PPTRA.

**J. PUBLIC COMMENT - None**

#### **K. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that this was the last night for Ms. Jody Puckett as Acting County Administrator. He stated that she had been an excellent assistant.

Mr. Wanner recommended the Board adjourn to 7 p.m. on April 11, 2006, following Williamsburg Area Transport and James City Service Authority Board of Directors meetings, and a Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia consideration of personnel matters, the appointment of individuals to County boards and/or commissions in reference to the Business Climate Task Force, and

Section 2.2-3711(A)(7) of the Code of Virginia, to consult with legal counsel and staff members (or consultants) pertaining to probably litigation.

**L. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon requested staff draft a resolution regarding the Board's opposition to privatization of Eastern State Hospital for next meeting.

Mr. McGlennon stated he wanted to communicate that while the Board would entertain propositions for particular proffers for private organizations in land use cases, the proffers should be directed to the County for allocation rather than private entities.

Mr. Bradshaw stated his appreciation for landscaping projects on Route 199 and Richmond Road.

Mr. McGlennon asked if the County would report back addressing an earlier comment regarding off-street parking.

At 8:24 p.m. Mr. Goodson recessed the Board of Supervisors for a Williamsburg Area Transport Board of Directors meeting and a James City Service Authority Board of Directors meeting.

Mr. Goodson reconvened the Board of Supervisors at 8:31 p.m.

**M. CLOSED SESSION**

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, consideration of personnel matters, the appointment of individuals to County boards and/or commissions in reference to the Business Climate Task Force and Section 2.2-3711(A)(7) of the Code of Virginia, to consult with legal counsel and staff members (or consultants) pertaining to probable litigation.

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

At 8:32 p.m. Mr. Goodson convened the Board into Closed Session.

At 8:35 p.m. Mr. Goodson reconvened the Board to Open Session.

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

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

**RESOLUTION**

**CERTIFICATION OF CLOSED MEETING**

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(7), to consult with legal counsel and staff members (or consultants) pertaining to probable litigation.

**N. ADJOURNMENT**

Mr. Harrison made a motion to adjourn until 7 p.m. on April 11, 2006.

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

At 8:50 p.m. Mr. Goodson adjourned the Board until 7 p.m. on April 11, 2006.

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Sanford B. Wanner  
Clerk to the Board

MEMORANDUM

DATE: April 11, 2006  
TO: The Board of Supervisors  
FROM: Carol A. Schenk, Human Resource Specialist I  
SUBJECT: James City County Volunteer Appreciation Week – April 23–29, 2006

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As we approach the 33rd annual National Volunteer Week, to be held April 23-29, 2006, we ask you to honor James City County's volunteers who tirelessly share their time and talent with those in need, including the elderly, at-risk youth, and the disabled members of the community. Your support can challenge and encourage the people you represent to commit to sustained and future volunteer service.

National Volunteer Week is about thanking one of America's most valuable assets - our volunteers - and calling the public's attention to all that they do to improve our communities.

During 2005, over 200 people volunteered their time and talents to the County. Together they contributed more than 78,238 hours of service, which represents a value of \$1,373,077.

Staff recommends adoption of the attached resolution designating April 23–29, 2006 as Volunteer Appreciation Week.

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Carol A. Schenk

CONCUR:

  
Carol M/Luckam

CAS/nb  
VolAppWk06.mem

Attachment

**RESOLUTION**

**JAMES CITY COUNTY VOLUNTEER APPRECIATION WEEK –**

**APRIL 23–29, 2006**

WHEREAS, April 23–29, 2006, has been designated as National Volunteer week; and

WHEREAS, volunteers enhance our quality of life, promote community involvement, generate civic pride, preserve our environment, and support our families; and

WHEREAS, volunteers work in partnership with James City County staff and in 2005 contributed 78,238 hours, valued at \$1,373,077; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby designates the week of April 23–29, 2006, as Volunteer Week and calls its significance to all of our citizens.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

VolAppretnWk06.res

**MEMORANDUM**

DATE: April 11,2006  
TO: The Board of Supervisors  
FROM: Darryl E. Cook, Environmental Director  
SUBJECT: Dedication of a Street in Villages at Westminster, Phase 1

---

Attached is a resolution requesting acceptance of a certain street in Villages at Westminster, Phase 1 into the State Secondary Highway System. This street has 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/nb  
VillatWstmnr\_Ph1.mem

Attachments

**RESOLUTION**

**DEDICATION OF A STREET IN VILLAGES AT WESTMINSTER,**

**PHASE 1**

WHEREAS, the street described on the attached Additions Form AM-4.3, fully incorporated herein by reference, is shown on a plat recorded in the Clerk's Office of the Circuit Court of James City County; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the street described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

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

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

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Bruce C. Goodson  
Chairman, Board of Supervisors

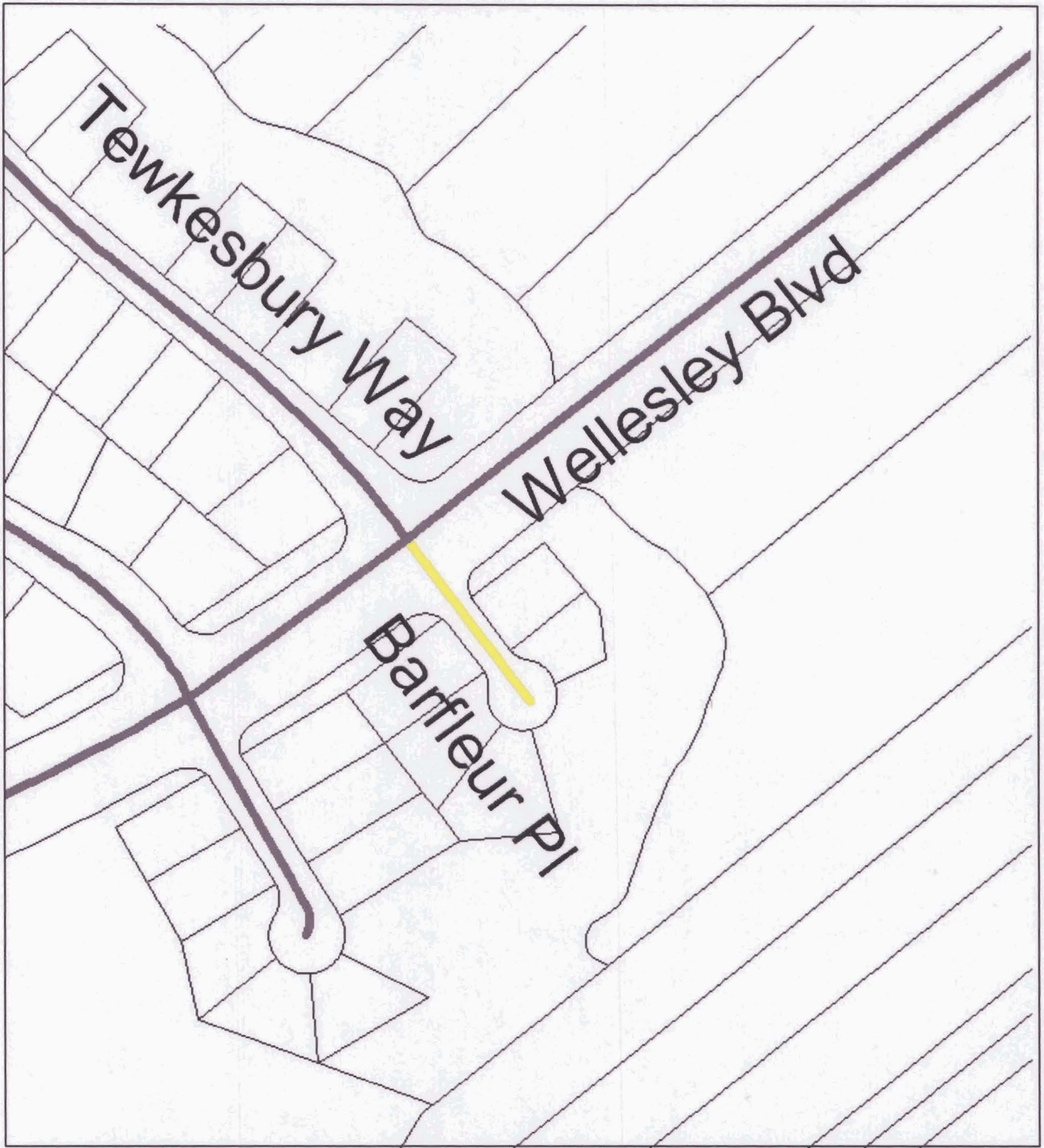
ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

VillOfWstmnr\_Ph1.res



**DEDICATION OF A STREET IN  
VILLAGES AT WESTMINSTER, PHASE 1**

 Street Being Dedicated



# In the County of James City

By resolution of the governing body adopted April 11, 2006

*The following VDOT Form AM-4.3 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):* \_\_\_\_\_

Form AM-4.3 (11/28/2005)  
Asset Management Division

## Report of Changes in the Secondary System of State Highways

Project/Subdivision

**Villages At Westminster, Phase 1**

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

■ **Barfleur Place, State Route Number 1061**

■ *Description:* **From:** Wellesley Boulevard (Route 1050)

**To:** Cul De Sac

A distance of: 0.04 miles.

*Right of Way Record:* Filed with the Land Records Office on 8/20/1997, York Co., Section 1 Plat Bk. No 67, Pgs. 23 - 26, with a width of 40 feet.


**MEMORANDUM**

DATE: April 11, 2006  
TO: The Board of Supervisors  
FROM: Darryl E. Cook, Environmental Director  
SUBJECT: Dedication of Streets in Powhatan Secondary, Phases 1A and 4B

---

Attached is a resolution requesting acceptance of certain streets in Powhatan Secondary, Phases 1A and 4B 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/nb  
PowhtnSecPh1A\_4B.mem

Attachments

**RESOLUTION**

**DEDICATION OF STREETS IN POWHATAN SECONDARY,**

**PHASES 1A AND 4B**

WHEREAS, the streets described on the attached Additions Form AM-4.3, 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 AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

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

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

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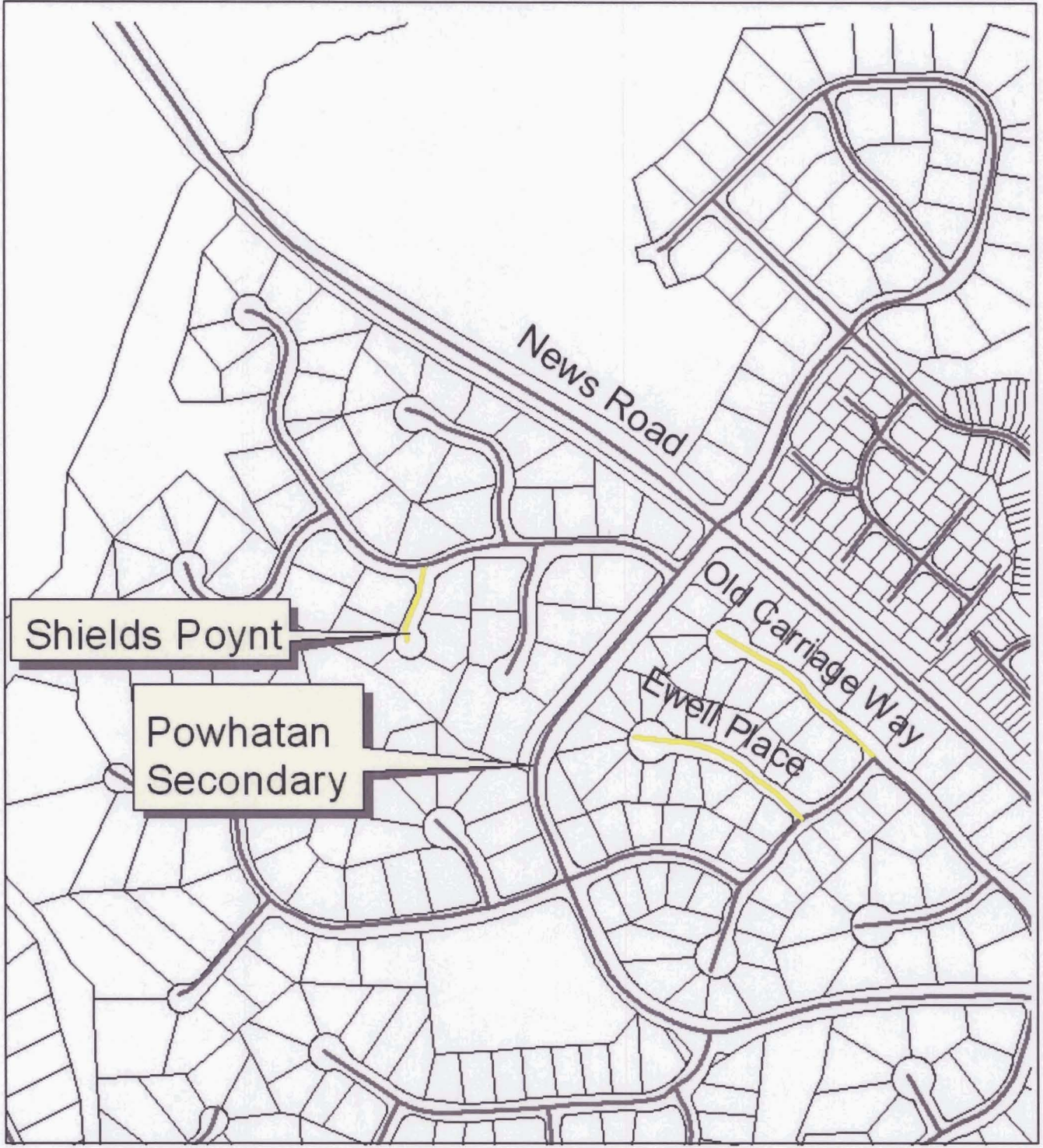
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of  
April, 2006.



Shields Poynt


Powhatan  
Secondary

News Road

Old Carriage Way

Ewell Place

## DEDICATION OF STREETS IN POWHATAN SECONDARY, PHASES 1A AND 4B

 Streets Being  
Dedicated



# In the County of James City

By resolution of the governing body adopted April 11, 2006

The following VDOT Form AM-4.3 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): \_\_\_\_\_

Form AM-4.3 ( 11/28/2005)  
Asset Management Division

## Report of Changes in the Secondary System of State Highways

Project/Subdivision

**Powhatan Secondary, Phases 1a And 4b**

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

#### ■ **Sheild's Poynt, State Route Number 1760**

■ *Description:* **From:** Route 1481(Old Cart Road)

**To:** Cul De Sac

A distance of: 0.04 miles.

*Right of Way Record:* Filed with the Land Records Office on 12/5/1995, Plat Book 63, Pg. 33, with a width of 50 feet.

#### ■ **Ewell Place, State Route Number 1761**

■ *Description:* **From:** Jones' Mill Road (1486)

**To:** Cul De Sac

A distance of: 0.09 miles.

*Right of Way Record:* Filed with the Land Records Office on 12/5/1995, Plat Book 63, Pg. 32, with a width of 50 feet.

#### ■ **Old Carriage Way, State Route Number 1487**

■ *Description:* **From:** Jones' Mill Road (Route 1486)

**To:** Cul De Sac

A distance of: 0.10 miles.

*Right of Way Record:* Filed with the Land Records Office on 12/5/1995, Plat Book 63, Pg. 32, with a width of 50 feet.

MEMORANDUM

DATE: April 11, 2006  
TO: The Board of Supervisors  
FROM: Doug Powell, Manager of Community Services  
SUBJECT: Budget Transfer – Hybrid Vehicle

---

In an effort to reduce the use of petroleum, the County is purchasing hybrid vehicles where practical. The FY 06 budget includes \$17,000 in the Housing Development Fund for a replacement vehicle in the Office of Housing and Community Development (OHCD). Since the adoption of the budget, a vehicle in Parks and Recreation was involved in an accident and damaged beyond repair. Since the Parks and Recreation vehicle is used daily and travels more miles than the OHCD vehicle, staff believes that a hybrid vehicle would be a more appropriate use for the Parks and Recreation vehicle.

Staff recommends that the Board of Supervisors transfer \$17,000 from the Housing Development Fund to Parks and Recreation for the purchase of a hybrid vehicle. Approximately \$5,000 in additional funds is needed to purchase the hybrid vehicle, but those funds are available in the Parks and Recreation budget. OHCD will receive a used vehicle currently in the County fleet for its use.

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

DP/nb  
HybridTrnsfr.mem

Attachment

**RESOLUTION**

**BUDGET TRANSFER – HYBRID VEHICLE**

WHEREAS, James City County has established a goal to reduce the use of petroleum; and

WHEREAS, funds for a new vehicle are included in the FY 06 Budget in the Housing Development Fund; and

WHEREAS, a new vehicle is needed in Parks and Recreation that provides an opportunity for a more effective use of a hybrid vehicle.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves a budget transfer in the amount of \$17,000 in the FY 06 budget from the Housing Development Fund to Parks and Recreation.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

HybridTrnsfr.res

MEMORANDUM

DATE: April 11, 2006  
TO: The Board of Supervisors  
FROM: John T. P. Horne, Development Manager  
SUBJECT: Contract Modifications – Stormwater Funding and Operating Program

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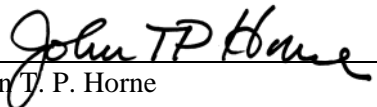
As a result of a Request for Proposal issued in 2001, James City County awarded Contract No. 01-1102 in the amount of \$90,900 to AMEC Earth & Environmental, Inc. for development of a Stormwater Funding and Operating Program to be conducted in three phases. The three phases were evaluation of the existing stormwater management program, evaluation of funding alternatives and program action plan, and program implementation. Contract No. 01-1102 included only the first and second phases because the third phase, program implementation, was optional. The cost of the third and final program implementation phase was unknown when the contract was executed.

In accordance with the Board's guidance, staff recently met with AMEC representatives to develop a scope of services and cost proposal for the third phase of the project, program implementation. Staff representatives from Development Management, Information Resources Management, Mapping, Financial and Management Services, and Purchasing met with AMEC staff and negotiated a cost proposal of \$249,900 for program implementation services. The third phase work will be a change order to Contract No. 01-1102.

The County's Purchasing Policy requires Board approval when a change order exceeds either 25 percent of the original contract amount or \$50,000, whichever is greater.

Sufficient funds exist in the FY 2006 operating budget to accommodate these services.

Staff recommends adoption of the attached resolution authorizing the County Administrator to execute a contract change order in the amount of \$249,900 to Contract No. 01-1102 with AMEC Earth & Environmental, Inc. for Phase 3 Stormwater Funding and Operating Program Implementation.

  
John T. P. Horne

JTPH/tlc  
StrmwtrFund.mem

Attachment

**RESOLUTION**

**CONTRACT MODIFICATIONS -**

**STORMWATER FUNDING AND OPERATING PROGRAM**

WHEREAS, a contract in the amount of \$90,900 was established with AMEC Earth & Environmental, Inc. in 2001 for development of a Stormwater Funding and Operating Program to be conducted in three phases and only the cost for the first and second phases was known at the time of contract execution; and

WHEREAS, in accordance with Board guidance, staff met with AMEC to develop a scope of services and cost proposal for the third phase of program implementation services; and

WHEREAS, AMEC submitted a cost proposal of \$249,900 for these services and County Purchasing Policy requires Board approval when a change order exceeds either 25 percent of the original contract or \$50,000 whichever is greater; and

WHEREAS, sufficient funds exist in the FY 2006 operating budget to accommodate these services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract change order in the amount of \$249,900 to Contract No. 01-1102 with AMEC Earth & Environmental, Inc. for Phase 3 Stormwater Funding and Operating Program Implementation.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

StrmwtrFund.res

**M E M O R A N D U M**

DATE: April 11, 2006  
TO: The Board of Supervisors  
FROM: Sanford B. Wanner, County Administrator  
SUBJECT: Opposition to the Privatization of Eastern State Hospital

---

Eastern State Hospital has served the Commonwealth of Virginia and James City County as the first psychiatric hospital in the United States for over two hundred years.

The Hospital has been continuously operated through funding support from the State, Federal government, and other partners. This funding has provided for the necessary care to those in need at a cost far below the private sector. If privatization were to occur, public funds would subsidize a for-profit entity.

The Hospital has also been allowed to operate within the safest and least restrictive parameters possible to ensure care to our most vulnerable members of society. Privatization would jeopardize the affordability and quality of care that would be provided to individuals who need this hospital the most.

Staff recommends approval of the attached resolution opposing the privatization of Eastern State Hospital.

---

Sanford B. Wanner

SBW/gs  
ESHpriv.mem

Attachment

## RESOLUTION

### OPPOSITION TO THE PRIVATIZATION OF EASTERN STATE HOSPITAL

WHEREAS, Eastern State Hospital located in Williamsburg, Virginia, was established on October 12, 1773, as the first psychiatric hospital in the United States and has been continuously operated for 233 years; and

WHEREAS, the care being provided to the Commonwealth's most vulnerable population should not be left up to the forces of the marketplace, where corporate profits represent the primary motivation for the provision of services; and

WHEREAS, privatizing any portion of the Virginia public mental health system would be a speculative and experimental venture and, therefore, not appropriate because of the profound potential to adversely affect human lives; and

WHEREAS, a solid partnership exists between Eastern State Hospital, local governments, and Community Services Boards and privatization would change the balance as public funds would subsidize a for-profit corporation; and

WHEREAS, Eastern State Hospital is widely known to provide a high quality of inpatient psychiatric care for adult and geriatric citizens of HPR-V at billing rates far below those of the private sector; and

WHEREAS, Eastern State Hospital has continuously maintained Medicare and Medicaid Certification since this benefit's inception in 1967, and has maintained Accreditation from the Joint Commission on Accreditation of Healthcare Organizations, the nationally recognized agency that measures the quality of care in healthcare providers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, supports the current efforts of the Governor and General Assembly to redesign and transform the current public mental health system from both the institutional and community perspective, always insuring that care is provided in a safe and least restrictive environment.

THEREFORE BE IT FURTHER RESOLVED that the County of James City strongly opposes any efforts to transfer the operation of Eastern State Hospital located in Williamsburg, Virginia, to the private sector.

---

Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

---

Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of  
April, 2006.

ESH.res

MEMORANDUM

DATE: April 11, 2006  
TO: The Board of Supervisors  
FROM: Leo P. Rogers, County Attorney  
SUBJECT: Second 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. On September 13, 2005, the Board of Supervisors approved a resolution to, along with the other Member Jurisdictions and the Jail Authority, amend the First Amendment to the Amended and Restated Cooperative Services Agreement (“First Amendment”). The First Amendment approved a new billing method for the Member Jurisdictions.

Under the new billing method the Member Jurisdictions are 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 Jail Authority has determined that there should be a Per Diem Charge to Member Jurisdictions, which have adopted local criminal ordinances which mirror State Code offenses where the locality collects fines and court costs if there is a conviction. This is because the State will not pay the Jail Authority for individuals committed to jail on a local warrant for such ordinance violations.

The Second Amendment to the Amended and Restated Cooperative Service Agreement is required in order to impose a Per Diem Charge for inmates convicted under such local ordinances. Since James City County amended its ordinances in April 2004, the charges for such inmates total \$640.

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

---

Leo P. Rogers

LPR/tlc  
servagr.mem

Attachment:  
1. Resolution

**RESOLUTION**

**SECOND 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, on September 13, 2005, the Board of Supervisors approved the First Amendment to Amended and Restated and Cooperative Service Agreement (“Amendment Agreement”), which modified the Service Agreement by removing a Per Diem Charge for use of the Jail Authority and incorporated a monthly Member Jurisdiction Charge in its place; and

WHEREAS, a Per Diem Charge should be paid to the Jail Authority for violations of local ordinances which mirror State Code criminal offenses where the locality collects fines and court costs if there is a conviction; and

WHEREAS, the Board of Supervisors is of the opinion the County should execute a second amendment to the Service Agreement to incorporate the Per Diem Charge.

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 Second Amendment to Amend and Restate Cooperative Services Agreement in order to incorporate the Per Diem Charge to the Service Agreement.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

**REZONING-07-05/MASTER PLAN-05-05/HEIGHT WAIVER-03-05. Jamestown Retreat Staff Report for the April 11, 2006, Board of Supervisors Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:

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

May 2, 2005, 7:00 p.m. (Applicant deferral)

June 6, 2005, 7:00 p.m. (Applicant deferral)

July 11, 2005, 7:00 p.m. (Applicant deferral)

August 1, 2005, 7:00 p.m. (Applicant deferral)

September 12, 2005, 7:00 p.m. (Applicant deferral)

October 3, 2005, 7:00 p.m. (Applicant deferral)

November 7, 2005, 7:00 p.m. (Denied 7-0)

January 9, 2006, 7:00 p.m. (Applicant deferral)

February 6, 2006, 7:00 p.m. (Applicant deferral)

March 6, 2006, 7:00 p.m. (Denied 4-3)

Board of Supervisors:

December 13, 2005, 7:00 p.m. (Remanded to Planning Commission)

April 11, 2006, 7:00 p.m.

**SUMMARY FACTS**

Applicant:

Mr. Vernon Geddy, III, on behalf of Michael C. Brown, Ltd.

Land Owner:

Edward T. and Mamie Nixon, and Hazel Richardson

Proposal:

The applicant has proposed to rezone three parcels of land to R-5, Multifamily Residential and to construct two 3-story buildings and three 2-story buildings containing a total of 48 condominium units at a density of 2.9 dwelling units per acre.

Location:

1676 & 1678 Jamestown Road and 180 Red Oak Landing

Tax Map/Parcel Nos.:

(47-3) (1-36), (47-3) (1-37), and (47-3) (1-39)

Parcel Size:

16.5 acres

Existing Zoning:

LB, Limited Business (4.7 acres), and R-2, General Residential (11.8 acres)

Proposed Zoning:

R-5, Multifamily Residential

Comprehensive Plan:

Low-Density Residential and Conservation Area

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

Staff believes this proposal will not negatively impact the surrounding properties based on the material submitted by the applicant. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.9 dwelling units per acre. In staff's opinion, the public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along

Jamestown Road, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archaeology Policy, and implementation of the County's Streetscape Guidelines. Based on this information, staff recommends Board approval of this project with the acceptance of the voluntary proffers.

Staff Contact: Matthew J. Smolnik Phone: 253-6685

**PREVIOUS PLANNING COMMISSION RECOMMENDATION**

On November 7, 2005, the Planning Commission voted 7-0 to deny this application.

**PREVIOUS BOARD OF SUPERVISORS RECOMMENDATION**

On December 13, 2005, the Board of Supervisors voted 5-0 to remand this case back to the Planning Commission due to changes made to the Master Plan and proffers after the November 7, 2005, Planning Commission public hearing. Most of the changes to the proposal were made in response to Planning Commission and staff concerns.

**PLANNING COMMISSION RECOMMENDATION**

On March 6, 2006, the Planning Commission voted 4-3 to deny this application.

**Proposed Changes Made After Planning Commission Consideration on March 6, 2006**

None

**Proposed Changes Made After the November 7, 2005, Planning Commission Public Hearing**

1. The total number of units currently proposed is 48, compared to 60 proposed units with the previous master plan. The current master plan has a gross density of 2.9 dwelling units per acre and the previous master plan had a gross density of 4.0 dwelling units per acre.
2. The proffered buffer along Jamestown Road has been increased from 100 feet to 150 feet.
3. The two buildings on the northern end of the property have been relocated closer to the entrance road to increase the distance between the buildings and the wetlands on the west side of the property. The distance between the wetlands and the closest building is now 25 feet compared to 21 feet under the previous master plan.
4. One additional potential Low-Impact Development (LID) location has been identified on the Master Plan.
5. The 3-story building on the western end of the property directly adjacent to the wetlands has been removed. With the previous master plan this building was located approximately 17 feet from the wetlands. The current master plan now includes five buildings while the previous master plan included six buildings.
6. The parking lot has been reconfigured to increase the distance between the wetlands along the west side of the property and the parking lot. The current distance between the parking lot and the wetlands is 23 feet compared to 10 feet with the previous master plan, providing less likelihood that construction will impact the wetlands.
7. The 3-story building on the eastern end of the property has been changed to a 2-story building, which now places the nearest 3-story building approximately 480 feet from Jamestown Road providing a building scale along Jamestown Road more consistent with existing development. The previous master plan indicated that the distance from Jamestown Road to the nearest 3-story building was approximately

- 330 feet.
8. The proposal is no longer age-restricted.
  9. The current master plan includes 2.3 acres of recreational area while the previous master plan had 2.0 acres of recreational area.

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

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
Water	\$ 820 per residential unit
County CIP	\$1,000 per residential unit
<b>Total Amount (2006 dollars)</b>	<b>\$87,360</b>

**PROJECT DESCRIPTION**

Mr. Vernon Geddy, III, has applied on behalf of Mr. Michael C. Brown Ltd., to rezone approximately 16.5 acres located at 1676 & 1678 Jamestown Road and 180 Red Oak Landing from LB, Limited Business, and R-2, General Residential, to R-5, Multifamily Residential, with proffers. If approved, the developer will redevelop the property with two 3-story buildings and three 2-story buildings containing a total of 48 condominium units for sale. There are three properties being consolidated for the proposed rezoning. The two parcels nearest Jamestown Road are currently zoned LB, Limited Business, and on these parcels there are currently several occupied mobile homes, a vacant retail store, and a frame house (circa 1933) with several outbuildings. The parcel farthest from Jamestown Road is currently zoned R-2, General Residential, and is currently undeveloped. If approved the developer would remove all structures from the property and construct the above-mentioned multifamily dwelling units. The Comprehensive Plan defines gross density as the number of units divided by the total number of acres, which equates to 2.9 units per acre. This figure of 2.9 is used to compare the density of this development against the low-density residential standards of the Comprehensive Plan. If the five buildings associated with this proposal contain a floor area that exceeds 30,000 square feet, the site plan will require Development Review Committee review.

In the Community Impact Statement there is also a brief comparative analysis between the current plans and the Cluster Overlay standards to illustrate how the applicant believes the proposed density has been earned. The applicant is proposing to rezone to R-5, Multifamily Residential without the Cluster Overlay, so the comparison to the Cluster Overlay District is for informational purposes only. A comparison of this proposal to the Cluster Overlay district is provided later in the staff report.

**PUBLIC IMPACTS**

**Archaeology**

The County archaeological policy is proffered.

**Environmental**

- ◆ **Watershed:** Powhatan Creek
- ◆ **Proffers:**
  - 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 any private lawns and common areas under HOA control and may be enforced by either the County or the HOA.

- Development of a master stormwater management plan is proffered with the use of low-impact development techniques utilized where feasible, in accordance with the Powhatan Creek Watershed Management (PCWM) Plan.
- The applicant has proffered to remove the existing underground storage tanks on the property in accordance with applicable laws, regulations, and ordinances prior to the issuance of the first certificate of occupancy.
- ◆ **Environmental Staff Comments:** Since the initial submittal, the applicant and plan preparer have coordinated with Environmental Division staff to attempt to address, resolve, and provide clarification on many of the major issues, such as the Community Impact Statement, demonstration of commitment to goals and priorities of the approved Powhatan Creek Watershed Management Plan and the preliminary environmental inventory as initially presented for the concept plan. Proposed revisions as indicated in the current Community Impact Statement (dated February 9, 2006), the revised proffers, and revised master plan/concept drawings collectively have resulted in the Environmental Division having no further comment on the rezoning application in its current format. Staff believes that the applicant has met the intention of the Powhatan Creek Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations, and adequately protects perennial and intermittent streams on the property. To the satisfaction of Environmental staff, the building on the west side of the property adjacent to the intermittent stream has been removed and the distance between the parking lot and wetlands on the west side of the property has been increased from 10 feet to 23 feet reducing the likelihood of construction impacts. Staff has noted minor changes that can be addressed during the site plan development stage. The project will need to demonstrate compliance with the County's 10-point system for stormwater compliance (through use of a master stormwater plan in advance or concurrently with submittal of the plan of development for the project), show proper evidence of wetland permits through the Virginia DEQ and US Army Corp of Engineers and submit a Water Quality Impact Assessment (WQIA).

### Fiscal

The developer anticipates that the 48 condominiums will be built over a two-year period and fully occupied in year three. The applicant states that once fully developed and occupied, the development will incur costs for County services of approximately \$161,600 per year. The total annual County revenues at buildout will be approximately \$179,600 leading to an annual net positive fiscal impact at buildout of approximately \$18,000.

#### ◆ **Proffers:**

- A cash contribution of \$820 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- A cash contribution of \$1,000 for each dwelling unit on the property shall be made to James City County to be used for non-school CIP projects.

- ◆ **Staff Comments:** Financial and Management Services has reviewed the Fiscal Impact Statement and agrees with the results. It should be noted that this proposal is no longer age-restricted, so the actual fiscal impact may vary.

### Public Facilities

- ◆ **Proffers:** Total contributions of \$1,820 per residential unit are proffered to the County for each residential unit developed on the property (\$0 per residential unit for schools). The adopted school proffer policy does not call for proffers for the type of units proposed.
- ◆ **Staff Comments:** According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through the rezoning, special use permit, or other development processes: 1) Evaluation of the adequacy of facility space and needed services when considering increasing development intensities; and 2) Encouraging the equitable participation by the developer in the provision of needed services. With respect to Item No. 1, the Board of Supervisors has adopted the adequate public school facilities policy.

With respect to Item No. 2, the County has identified methods for calculating cash proffer amounts for schools, recreation, and water supply facilities. The applicant has proffered cash contributions to the County to be used for non-school CIP projects and water supply facilities. Please note that while significant, the proffers do not address the full range of County facilities and services.

Jamestown Retreat is located within the Clara Byrd Baker Elementary School, Berkeley Middle School, and Lafayette High School districts. Per the Adequate Public School Facilities Policy adopted by the Board of Supervisors, all special use permit or rezoning applications should meet the policy for adequate public school facilities. The Policy adopted by the Board uses the design capacity of a school, while the Williamsburg-James City County Schools recognize the effective capacity as the means of determining student capacities. With respect to the Policy, the following information is offered by the applicant:

<i>School</i>	<i>Design Capacity</i>	<i>Effective Capacity</i>	<i>Current 2005 Enrollment</i>	<i>Projected Students Generated by Proposal</i>	<i>Current 2005 Enrollment and Projected Student Total</i>
Clara Byrd Baker	804	660	752	4.4	756.4
Berkeley Middle	725	816	876	2.4	878.4
Lafayette High	1,250	1,230	1,624	3.2	1,627.2
Total	2,779	2,706	3,252	10.0	3,262.0

There is design capacity for this development at Clara Byrd Baker; therefore, this development meets the Policy guidelines at the elementary school level. Both design and effective capacities are exceeded at Berkeley Middle School and Lafayette High School. Although the design capacity of Lafayette High School is clearly exceeded, the Policy states that if physical improvements have been programmed through the County CIP, then the application will meet the Policy guidelines. 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 meets the Policy guidelines for the high school level. The proposal does not meet the Policy guidelines at the middle school level.

**Housing**

- ◆ **Staff Comments:** The applicant has indicated the following market values for the condominium units: 2-bedroom condos at \$218,000; 3-bedroom condos at \$235,500; and 4-bedroom condos at \$258,500. Affordable housing has not been proffered with the proposal. No provisions are offered to mitigate the impacts of the occupants of the mobile homes on the site.

**Public Utilities**

◆ **Proffers:**

- A cash contribution of \$820 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- Appropriate water conservation measures will be developed and submitted to the JCSA for review and approval prior to any site plan approval.

- ◆ **Staff Comments:** This site is served by public water and sewer. A preliminary water model will be completed and submitted to JCSA prior to or with the site plan for its approval. This proposal will impact existing wetlands on the northwest corner of the property for utility connections. If any encroachment required for the construction of the utility connections requires a Chesapeake Bay Ordinance waiver, such waiver will be identified and included in the proffered Stormwater Management Plan and considered at the development plan stage.

## Parks and Recreation

### ◆ **Proffers:**

The applicant has proffered to provide the recreational area shown on the Master Plan along with other recreational facilities on the property that meet the standards in the County's Recreational Master Plan. In lieu of such recreational facilities, the applicant has proffered to make cash contributions to the County in an amount determined pursuant to the County's Recreational Master Plan. All cash contributions for this proffer shall be used by the County for recreational capital improvements.

- ◆ **Staff Comments:** The master plan indicates a recreational area totaling 2.3 acres. The applicant has not proffered specific recreational facilities at this time. The County's Recreational Master Plan will determine what facilities shall be constructed on a pro rata basis if the developer chooses to do so in lieu of a cash contribution to the County. The recreational facilities included in the County's Recreational Master Plan are a neighborhood park, a trail system, playgrounds, courts, and fields. The actual facilities will be determined at the development plan stage.

## Transportation

A traffic impact study was not required because the proposed project would not generate more than 100 peak hour trips. However, a trip comparison was prepared by DRW Consultants. According to the trip generation rates, the proposed condominiums will generate approximately 21 AM peak hour vehicle trips, approximately 25 PM peak hour vehicle trips and approximately 281 daily trips. Projected peak hour and daily vehicle trips for by-right and special use permit developments are provided as an attachment for traffic comparisons for this property. Comparison to other possible development scenarios is purely speculative as no such developments have been proposed. If they are, they may be subject to special use permit or rezoning review. The proposed use would create less daily traffic than the alternative developments for this property including by-right developments.

- ◆ **2005 Traffic Counts:** Approximately 9,297 vehicles per day in this area of Jamestown Road.
- ◆ **2026 Volume Projected:** 10,000 vehicles per day on a two-lane road.
- ◆ **Road Improvements:** A left-turn lane and right-turn taper will likely be required on Route 31 based on existing volumes and anticipated site trip generation.
- ◆ **Proffers:**

There will be one entrance into the property to and from Jamestown Road with a westbound 200-foot left-turn lane with a 200-foot taper and 600-foot transition and an eastbound 200-foot right-turn taper on Jamestown Road. The turn lanes will be constructed in accordance with VDOT standards and shall be completed prior to the issuance of the first certificate of occupancy.
- ◆ **VDOT Comments:** VDOT agreed on the technical merits of the study and the general conclusions after reviewing the Master Plan and the traffic impact analysis. Turn-lane warrant analyses will be required during the initial site plan review to verify the appropriate turn-lane treatments that are justified for access to the proposed site. Through a preliminary field inspection, it was determined that the widening of Route 31 for a left-turn lane and appropriate transitions will result in only minor earthwork, little to no clearing, and the possible relocation of the existing sidewalk.
- ◆ **Staff Comments:** Jamestown Road currently has sufficient capacity to accommodate the development west of Neck O'Land Road, with volumes ranging from 7,072 to 10,100 vehicles per day. However, the section east of Neck O'Land Road is in the "watch" category due to projected volumes above the road's capacity. The Comprehensive Plan states that "Residential or commercial developments that add significant traffic along this corridor beyond that currently planned is strongly discouraged" in recognition that more intensive development will negatively impact all of Jamestown Road. Despite the site's LB and R-2 zoning, it was deliberately designated for low-density residential use in the Comprehensive Plan due to traffic concerns on Jamestown Road. Staff believes that the intent of the Comprehensive Plan is to encourage developments that have less of a traffic impact than those uses permitted by existing zoning and more akin to the uses supported by the Low-Density Residential land use description. Staff believes that one of the public benefits of this proposal will be the lessened volume of traffic created on Jamestown Road compared to the volume of traffic that may be generated by other potential uses on the property. Jamestown Retreat is predicted to produce 281 daily trips on Jamestown Road. By comparison, a by-right

development consisting of 20,000 square feet of office space and seven single-family dwelling units is predicted to produce up to 476 daily trips on Jamestown Road. If the property was designed to accommodate the maximum Comprehensive Plan density of four dwelling units per acre, the site could generate up to 640 trips per day.

When this proposal was first presented to the Planning Commission in November 2005, the applicant included a proffer for all residential units to be age-restricted. Under the age-restricted scenario, there were 60 units proposed which would generate approximately 230 daily trips according to the previous traffic information submitted by the applicant. The current proposal will generate approximately 50 additional daily trips when compared to the age-restricted proposal. This increase of 50 daily trips takes into account the decreased density of the project from November 2005 and the fact that the units are no longer age-restricted. In summary, the current proposal will likely produce less traffic than a by-right development. Staff believes the current proposal generally meets the intent of the Comprehensive Plan.

## **COMPREHENSIVE PLAN**

### **Land Use Map Designation**

The James City County Comprehensive Plan Land Use Map designates these properties for Low-Density Residential development and Conservation Area. Examples of acceptable land uses within the Low-Density Residential designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments. Examples of preferred land uses within the Conservation Area designation include fish and game preserves, parks, and other open space that complement the natural environment.

The Comprehensive Plan identifies the land across from the Grace Covenant Baptist Church as an area which has inconsistencies between their Zoning and Land Use Map designations. These parcels include the site (partially zoned LB, Limited Business) and TK Oriental (zoned LB, Limited Business). The zoning was determined prior to or without recognition of the County's Land Use Map. Unlike the zoning for these parcels, the Comprehensive Plan designation for these parcels was deliberate. It recognizes adjacent land uses, traffic conditions, zoning, and a variety of other considerations. Given the traffic concerns and the fact that this area is predominantly residential in character, the low-density residential designation is appropriate for this area and should remain unchanged.

### **Other Considerations**

- ◆ **Community Character:** The Comprehensive Plan designates Jamestown Road as a Community Character Corridor, which are roads that 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 the area and believes these roads warrant a high level of protection. This section of Jamestown Road is considered a Suburban Community Character Corridor. The objective of this type of Community Character Corridor is to ensure that the County retains a unique character and does not become simply another example of standard development. The predominant visual character of the Suburban Community Character Corridor should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. Development in Suburban Community Character Corridors should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general, and an emphasis on innovative design solutions. The scale and placement of buildings in relation to each other, the street, and parking areas should be compatible. In these areas the Community Character Corridor designation suggests enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements which complement and enhance the visual quality of the corridor.

- ◆ **Staff Comments:** According to the 2003 Comprehensive Plan, low-density areas 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 dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. The Comprehensive Plan states, “In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community... Depending on the extent of the benefits, developments up to four units per acre will be considered for a special use permit”. The R-1, Limited Residential, R-2, General Residential, and the Residential Cluster Development Overlay districts of the Zoning Ordinance specially permit developments with densities greater than one dwelling unit per acre. They are also the only zoning districts that specifically mention the benefits that must be provided in order to achieve densities up to four units per acre. Staff believes that the proposed master plan with an overall 2.9 dwelling units per acre offers sufficient public benefits, such as lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County’s Archaeology Policy, and implementation of the County’s Streetscape Guidelines to warrant a density greater than one unit per acre. The project will also address some of the current appearance issues and potential environmental issues with the site such as, billboards, vacant structures, and underground storage tanks.

Although this is not a cluster development the following information is provided for comparative analysis. For Jamestown Retreat, the developer proposes a gross density of 2.9 dwelling 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 has been proffered for Jamestown Retreat.*
2. Implementation of the County’s Archaeological Policy; *which has been proffered for Jamestown Retreat.*
3. Provision of sidewalks along one side of all internal streets; *which has been proffered for Jamestown Retreat.*
4. Provision of recreation facilities in accordance with the County’s Parks and Recreation Guidelines; *which has been proffered for Jamestown Retreat.*
5. Provision of pedestrian and/or bicycle trails; *which has been proffered for Jamestown Retreat.*
6. Construction of curb and gutter design on all streets within the development; *which has been proffered for Jamestown Retreat.*

In summary, staff believes Jamestown Retreat meets the criteria of the Cluster Overlay District to achieve the requested densities.

A portion of this property is also designated as Conservation Area by the Comprehensive Plan because the property is directly adjacent to the main tidal segment of Powhatan Creek. Conservation areas are critical environmental areas where ordinary development practices would likely cause significant environmental damage. Lands surrounding or adjacent to conservation areas can also be sensitive, and development of these lands should consider negative impacts and methods to mitigate or eliminate these impacts. The master plan for the Jamestown Retreat proposal provides a natural vegetative buffer around the Conservation Area as required by ordinance. In summary, staff believes Jamestown Retreat meets the intent of the Comprehensive Plan to protect areas designated as Conservation Areas.

## **HEIGHT WAIVER**

Section 24-314 (j) of the James City County Zoning Ordinance states that structures in excess of 35 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors and upon finding that:

1. Such structure will not obstruct light from adjacent property;

*Staff comment:* Given the distance to the property line, staff finds that the proposed residential units will not obstruct light from adjacent properties.

2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

*Staff comment:* There are no immediate nearby historic sites or structures. To reduce impact on Jamestown Road, an entryway to historic Jamestown, the 3-story structures would be located behind 2-story structures along Jamestown Road.

3. Such structure will not impair property values in the surrounding area;

*Staff comment:* According to Real Estate Assessments, there is no prior indication that the construction of the residential units on this site will have a detrimental effect on surrounding properties.

4. Such structure is adequately designed and served from the standpoint of safety and that the County fire chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

*Staff comment:* The project is subject to full County review processes. Staff feels confident this will ensure the structure is adequately designed from a safety standpoint. Basic fire and rescue services will be provided from Fire Station #3 with backup from the other James City County fire stations.

5. Such structure will not be contrary to the public health, safety, and general welfare.

*Staff comment:* Based on the current proposal and information submitted by the applicant staff believes the development will not adversely effect the public health, safety or general welfare.

With the submitted material, staff believes that the height of the proposed structures will not negatively affect the surrounding property and recommends approval of the height waiver application should the rezoning application be approved.

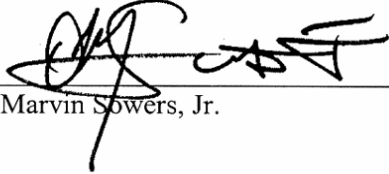
## **STAFF RECOMMENDATION**

Staff believes this proposal will not negatively impact the surrounding properties based on the material submitted by the applicant. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.9 dwelling units per acre. The public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archaeology Policy, and implementation of the County's Streetscape Guidelines. Based on this information, staff recommends Board approval of this project with the acceptance of the voluntary proffers.

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Matthew J. Smolnik

CONCUR:



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O. Marvin Sowers, Jr.

MJS/gb  
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ATTACHMENTS:

1. Approved Planning Commission Meeting minutes from November 7, 2005
2. Unapproved Planning Commission Meeting minutes from March 6, 2006
3. Location map
4. Master Plan (provided under separate cover by the applicant)
5. Jamestown Retreat Portfolio of Photographs
6. Addendum to Fiscal Impact Study (dated February 24, 2006)
7. Trip Generation Comparison from DRW Consultants
8. Conceptual Landscape Plan (provided in December 13, 2005, Agenda Packet)
9. Conceptual Utility Plan (provided in December 13, 2005, Agenda Packet)
10. Open Space Exhibit
11. Proffers
12. Resolution

**APPROVED MINUTES OF THE NOVEMBER 7, 2005 MEETING  
OF THE PLANNING COMMISSION**

Z-7-05/MP-5-05/HW-3-05 Jamestown Retreat

Mr. Matthew Smolnik presented the staff report. Mr. Vernon M. Geddy, III has applied to rezone 16.5 acres at 1676 & 1678 Jamestown Road and 180 Red Oak Landing Road currently zoned LB, Limited Business, LB, Limited Business and R-2 General Residential respectively to R-5 Multi-Family Residential. The property is also known as parcels (1-36), (1-37), and (1-39) on the James City County Real Estate Tax Map (47-3). The applicant is proposing to consolidate three properties into one and proposes to redevelop the single property with four - three story buildings containing a total of 66 age-restricted condominium units at a density of 4.0 dwelling units per acre. The site is designated for Low Density Residential and Conservation Area by the James City County Comprehensive Plan. Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre with up to four units per acre with certain benefits. Conservation Areas are land suitable for fish and game preserves, parks and other open space that compliment the natural environment.

Staff believed that the proposal will negatively impact the surrounding properties. Staff found the proposal inconsistent with the Comprehensive Plan Land Use Map designation and recommended the Planning Commission recommend denial of this application to the Board of Supervisors.

Mr. Hunt opened the public hearing.

Mr. Vernon M. Geddy, III represented the applicant. Mr. Geddy showed photos of the property and the abandoned retail store currently on the property. He said the proposal will enhance the Jamestown Corridor before Jamestown 2007 and meet a need for active adult housing in the community. Mr. Geddy also showed proposed elevation plans.

Mr. Kale said the building shown on the elevation plans appeared to be four stories. He asked for a guarantee that nothing would be stored in the attic space.

Mr. Geddy said yes.

Mr. Kale asked why the applicant and staff had not reached an agreement that would have allowed staff to support the application.

Mr. Geddy said the applicant was not aware of the remaining small issues until Friday.

Mr. Kale asked if the applicant would consider a one month deferral to resolve those issues. He also expressed his concern with encroachment into the wetlands.

Mr. James Peters, AES Consulting Engineers, said they have had discussions with the Environmental Division about the possibility of being close to the wetlands during construction but that they will try to avoid that.

Mr. Kale asked Staff if the proposal will require DRC consideration.

Mr. Sowers confirmed that it would.

Mr. Peters talked about the proffer for rare and endangered species and the applicant's efforts to minimize impacts to wetlands.

Ms. Kathleen Hornung, 108 Wood Pond Circle, represented the Settlers Mill Homeowners' Association. Ms. Hornung referenced a letter from the Association Board of Directors included in the Commissioners' packets. She said the group felt the 150' foot buffer along Jamestown Road should be maintained. Ms. Hornung said they were also concerned about the environmental issues.

Mr. Dan Caprio, 132 Exmoor Court, represented Grace Covenant Presbyterian Church. Mr. Caprio stated their support because of its benefit to the blighted area.

Mr. Reed Weir, 29179 The Hall Road, Branchville, VA., said his property is adjacent to the East of the parcel. Mr. Weir recommended denial of the proposal. He also requested similar density for his property should the proposal receive approval.

Mr. Kale asked to see Mr. Weir's property on the location map.

Mr. John Schmerfeld, 128 Jordan's Journey, represented The Friends of Powhatan Creek Watershed. Mr. Schmerfeld stated that the organization was concerned with wetlands and steep slopes. He also referenced a letter from the group included in the Commissioner's packets. Mr. Schmerfeld outlined the potential changes in hydrology on the site.

Mr. Kale asked Mr. Schmerfeld his opinion on how the church as the street has denigrated wetlands on the site and how this proposal would further impact them.

Mr. Schmerfeld said that he did not know how old the wetlands were but felt that it should be reviewed by a hydrologist.

Mr. Kale asked Mr. Schmerfeld if he was concerned that a typical BMP would not function at the site.

Mr. Schmerfeld said alternatives might have to be considered.

Ms. Ann Hewitt, 147 Raleigh, said that the four buildings being considered for a height waiver could be seen from the Parkway Bridge at Jamestown Settlement. Ms.

Hewitt read page 134 of the Comprehensive Plan site and asked Commissioners those guidelines.

Ms. Kensett Teller, TK Oriental Antiques, said that the proposal was not consistent with the surrounding uses and was out of scale and balance. She also stated concerns about wetlands, traffic, height, and large amounts of hard surfaces.

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

Ms. Jones commended the applicant for meeting with neighbors. Ms. Jones said she did not think the proposal was a good fit for the parcel. She also stated that the project was not an overall enhancement to Jamestown Road.

Mr. Fraley thanked the applicant for addressing input from neighbors and creating a better design. Mr. Fraley said the area was in dire need of redevelopment. He also stated that the current zoning was more consistent with the surround area.

Ms. Hughes concurred with Ms. Jones and Mr. Fraley. She said that A-type hydrologic soils exist on the site where the LID basins will be placed. Ms. Hughes stated concerns with any disturbance of wetlands.

Mr. Kennedy praised the quality of the applicant's work and his attention of detail. Mr. Kennedy also stated his contentment with the current zoning and hoped the applicant had other options.

Mr. Kale asked how many units could be constructed by-right on the residential portion of the site.

Mr. Geddy answered approximately 18.

Mr. Kale noted several letters from citizens referencing a report from the Wessex Group indicating a negative impact to the County of \$110,000 annually. Mr. Kale said he had not seen the report.

Mr. Geddy said the letters were based on an earlier version of the proposal that included rental units with greater density. Mr. Geddy said the current proposal at build out would provide an annual positive for the County.

Mr. Kale stated his concern that staff did not support the proposal. He also said he agreed that something should be done with the site but he was not sure this was the right project.

Mr. Billups stated that he felt the 150 foot setback could be maintained with commercial on the front and residential on the rear. He said he did not think rezoning was necessary.

Mr. Geddy pointed out that with a commercial development only a 50 foot buffer would be required.

Mr. Fraley motioned to deny the application.

Mr. Kale seconded the motion.

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

**UNAPPROVED MINUTES OF THE MARCH 6, 2006 MEETING  
OF THE PLANNING COMMISSION**

Z-7-05/MP-5-05 Jamestown Retreat

Mr. Matthew Smolnik presented the staff report stating that Mr. Vernon M. Geddy III has applied to rezone 16.5 acres at 1676 & 1678 Jamestown Road and 180 Red Oak Landing Road currently zoned LB, Limited Business and R-2 General Residential to R-5 Multi-Family Residential. The property is also known as parcels (1-36), (1-37), and (1-39) on the JCC Tax Map (47-3). The applicant is proposing to consolidate three properties into one and proposes to redevelop the single property with six buildings containing a total of 66 condominium for sale units at a density of 4.0 dwelling units per acre. The site is designated for Low Density Residential development and Conservation Area by the James City County Comprehensive Plan. Recommended uses for Low Density Residential land include very limited commercial establishments, churches, single family homes, duplexes, and cluster housing with a recommended gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits. Examples of preferred land uses for Conservation Areas include fish and game preserves and parks. This application was first heard by the Planning Commission on November 7, 2005 at which time the Commission recommended denial by a vote of 7-0. Following that meeting the applicant made significant changes to the master plan and proffers and was therefore remanded back to the Planning Commission by the Board of Supervisors on December 13, 2005 by a vote of 5-0. Staff recommended a recommendation for approval.

Mr. Fraley asked about the availability of Limited Business (LB) zoning along the Jamestown Corridor.

Mr. Smolnik indicated the parcels that are currently zoned LB.

Mr. Fraley asked if the traffic generation report considered commercial developments that might allow people to walk.

Mr. Smolnik stated that the report did not indicate whether such developments were considered.

Mr. Fraley wanted to know the rational used in the calculations that were provided.

Mr. Smolnik stated that the calculations were provided by the applicant.

Mr. Fraley asked if the County's traffic consultant had reviewed the report.

Mr. Smolnik stated that the County did not hire a traffic consultant for the case. He stated that the Virginia Department of Transportation (VDOT) reviewed the report.

Mr. Fraley confirmed with Mr. Smolnik that VDOT did not provide the basis for their assumptions.

Ms. Jones asked how many of the LB zoned properties have not been developed.

Mr. Smolnik said he did not know.

Mr. Obadal stated that the method used for perennial stream analysis was amended by the Board of Supervisors in July 2004. He stated that according to the previous method the stream on the site that was classified as intermittent would be considered perennial under the current method.

Mr. Smolnik agreed with Mr. Obadal's statement.

Mr. Obadal asked if Bay Environmental made the determination field that the stream was intermittent.

Mr. Scott Thomas stated that he believed Mr. Obadal was correct. He also stated the procedure used by the Environmental Division for confirming the groups' findings.

Mr. Obadal stated his disapproval with relying on information supplied by an organization that is a member of the applicant's team.

Mr. Thomas said the applicant's report was a starting point and that there was extensive field and office review before the perennial stream determination was confirmed.

Mr. Obadal asked about the run-off from the church across the street from the site. He asked if the proposal would add to the increasing levels of pollutants in the Powhatan Watershed.

Mr. Thomas stated that storm water management plans are meant to key in on certain pollutants.

Mr. Obadal asked if the development would increase the amount of run-off of fecal matter.

Mr. Thomas stated that any development could increase run-off. He also stated that the Best Management Practices (BMP) that are applied are the best the Division knows of to offset those impacts.

Mr. Obadal stated that Ms. Hughes had some concerns on whether or not the proposed BMP could be moved to preserve more of the watershed area. Mr. Obadal also commended the Environmental Division for the fine work they do.

Ms. Hughes asked if the proposed Low Impact Design (LID) techniques would be considered unusual environmental protection or necessary and part of the protection strategy of the Powhatan Creek Watershed Management Plan.

Mr. Thomas said that compared to traditional designs, they are unusual. He also stated that the LID and open space design aspects were meant to show intent to comply with the Powhatan Creek Watershed Management Plan.

Ms. Hughes asked if the proposed techniques would be considered as meeting the minimum requirements for the Powhatan Plan or if they go above and beyond the requirements especially considering the condition of the Powhatan Creek.

Mr. Thomas stated the requirement is exceptional environmental protection. He stated that approval was given because the Division felt they are above and beyond.

Mr. Fraley stated that he felt LID techniques were not extraordinary. He said they were the minimum requirement.

Mr. Thomas enumerated the goals of the Powhatan Creek Watershed Plan for the sub-watershed area that the site is a part of. Mr. Thomas also stated that LID and treatment plans were just one aspect of protection. He also stated that protections are also included in the proffers, master plan, and community impact statement.

Mr. Obadal stated that the applicant would be requesting a height increase from 35 ft. to 40 ft. for two of the buildings by reasoning that the buildings would not be visible from Jamestown Road. Mr. Obadal asked if Mr. Smolnik knew if they would be visible from Powhatan Creek.

Mr. Smolnik said he did not know.

Mr. Obadal stated that he felt the buildings would be visible from Powhatan Creek. He also asked if they would be visible from the adjoining properties.

Mr. Smolnik stated that given the tree line he believed they would.

Mr. Fraley added that they would probably be visible from Jamestown Road in the winter. He also said that he did not think there was any LB zoned property along the Jamestown Road Corridor that had not been developed.

Mr. Billups asked how rezoning the parcel benefited the public's interest.

Mr. Smolnik stated some of the public benefits that were included in the staff report.

Mr. Billups stated that in exchange for those benefits the ability to have a commercial use on the front of the property would be lost.

Mr. Smolnik said that was correct.

Mr. Billups stated his concern about the proximity of the parking lots to the wetlands.

Mr. Smolnik stated that the revised plan increased the distance over six feet from the original proposal to twenty-three feet. He stated that staff felt that was a step in the right direction and that the parking lots could be constructed without impacting the wetlands.

Mr. Billups asked about the possibility of a young child straying off twenty-three feet and venturing into quicksand.

Mr. Smolnik said that might be possible.

Mr. Fraley stated that the Planning Commission was looking for particular extraordinary public benefits. He said that a lot of the benefits cited were minimum requirements. He also stated that it would be nice to have the property redeveloped but questioned how it would be developed.

Mr. Fraley opened the public hearing.

Mr. Vernon M. Geddy III represented the applicant stating that the property owners had decided to sell the property for some type of development. Mr. Geddy presented a PowerPoint outlining the benefits of the proposal. He also highlighted some of the changes in the proposal since it was considered by the Planning Commission in November.

Mr. Obadal asked if removing the underground storage tank located on the property would be considered a benefit since it was not leaking.

Ms. Hughes stated that due to the shallow groundwater system removing the tank would be an environmental plus. She also stated that she would like to see the storm water basin relocated to preserve the wooded area.

Mr. Geddy asked what other environmental changes Ms. Hughes would like to see.

Ms. Hughes said that relocating the BMP would be significant.

Mr. Kennedy asked if the applicant expected to complete the project prior to the 2007 Celebration.

Mr. Geddy said that it was still possible to achieve significant site clean up by that time.

Mr. Kennedy asked Ms. Hughes if relocation of the BMP would be enough for her to give support to the project. Mr. Kennedy also stated that the Commission must be careful to apply requirements across the board in making requests for extraordinary protections.

Mr. Obadal stated that his minimum would entail relocation of the BMP.

Mr. Michael Brown, the applicant, stated that environmental protections were his foremost concern. He also stated his willingness to meet expectations if he knew what those expectations were.

Mr. Fraley reminded the audience of some of the public benefits required for a rezoning according to the Comprehensive Plan.

Ms. Sarah Kadec, 3504 Hunter's Ridge, stated her support of the letters submitted by the Friends of Powhatan Creek that expressed concerns about the project. She also stated her concerns about environmental impacts and decrease in quality of life.

Ms. Betty Morie, 115 Lake Drive, stated that the Lakewood homeowners' were opposed to rezoning the parcel due to traffic and school impacts.

Ms. Kensett Teller, 1654 Jamestown Road, stated that the changes in the proposal since the Planning Commission's recommendation for denial in November 2005 were not sufficient to change the recommendation. Ms. Teller also stated her concerns regarding traffic and environmental impacts and inconsistency with surrounding buildings.

Mr. John Schmerfeld, 128 Jordan's Journey, represented the Friends of Powhatan Creek stating that the group was not in favor of the rezoning. He stated concerns about hydrology, water quality and other environmental impacts.

Mr. Gerald Johnson, 4513 Wimbledon Way, represented the Historic Route 5 Association stating that there has been further degradation of the Powhatan Creek since the Powhatan Creek Watershed study was completed. He also stated that the environmental standards were not high enough.

Ms. Kensett Teller stated that although the front of the property was ugly the back of it is beautiful with streams and hills. Ms. Teller suggested preserving it as a teaching tool or using it as park.

Mr. Geddy stated that the applicant was willing to move the BMP.

Mr. Brown asked Commissioners to consider the consequences of a by-right development on the property.

Mr. Kennedy asked if moving the BMP would preserve the tree line that was in question.

Mr. Geddy stated that he thought it would.

Mr. Kennedy asked County Attorney Leo Rogers for the procedure to make the change relocating the BMP.

Mr. Rogers explained the process.

Mr. Kennedy asked if previous speakers had additional thoughts on the proposed BMP relocation.

Mr. Schmerfeld stated that the relocation would not address his concerns.

Mr. Obadal asked Mr. Schmerfeld to repeat his earlier comments about run-off.

Mr. Schmerfeld explained the erosion issues he had talked about earlier.

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

Mr. Billups stated his concerns about health, safety and environmental impacts and the lack of public benefits and affordable housing.

Ms. Jones stated her concerns for environmental impacts, inadequate public benefits, increased density, and rezoning from a business use. She also stated that the LB zoning includes uses that comply with the Comprehensive Plan designation. Ms. Jones said she would not support the project.

Mr. Kennedy stated that he was concerned with the Powhatan Creek and the LB zoning and recommended conservation activities that all citizens could participate in. He also stated that with the moving of the BMP and preservation of the tree line he could support the project.

Mr. Obadal said that some of his questions had not been answered. He said that he was inclined to reject the project.

Mr. Hunt stated his support. He asked if every environmentally sensitive property should be turned into a park. Mr. Hunt also stated that half of the parcel would still remain undeveloped with the proposal.

Ms. Hughes said she was pleased with the changes made to the plan. She asked if the Environmental and Planning Divisions needed to review the changes.

Mr. Thomas stated that the changes represented a minor shift and were interior to the site. He said that he would not need to review them. Mr. Thomas also asked if the LID feature would still be included.

Mr. Hunt asked if Cypress trees could be planted in a BMP.

Mr. Thomas said Cypress trees could be used as a buffer and landscaped around the BMP.

Mr. Fraley stated that the current zoning is appropriate. He also stated that the buildings did not conform to surrounding uses.

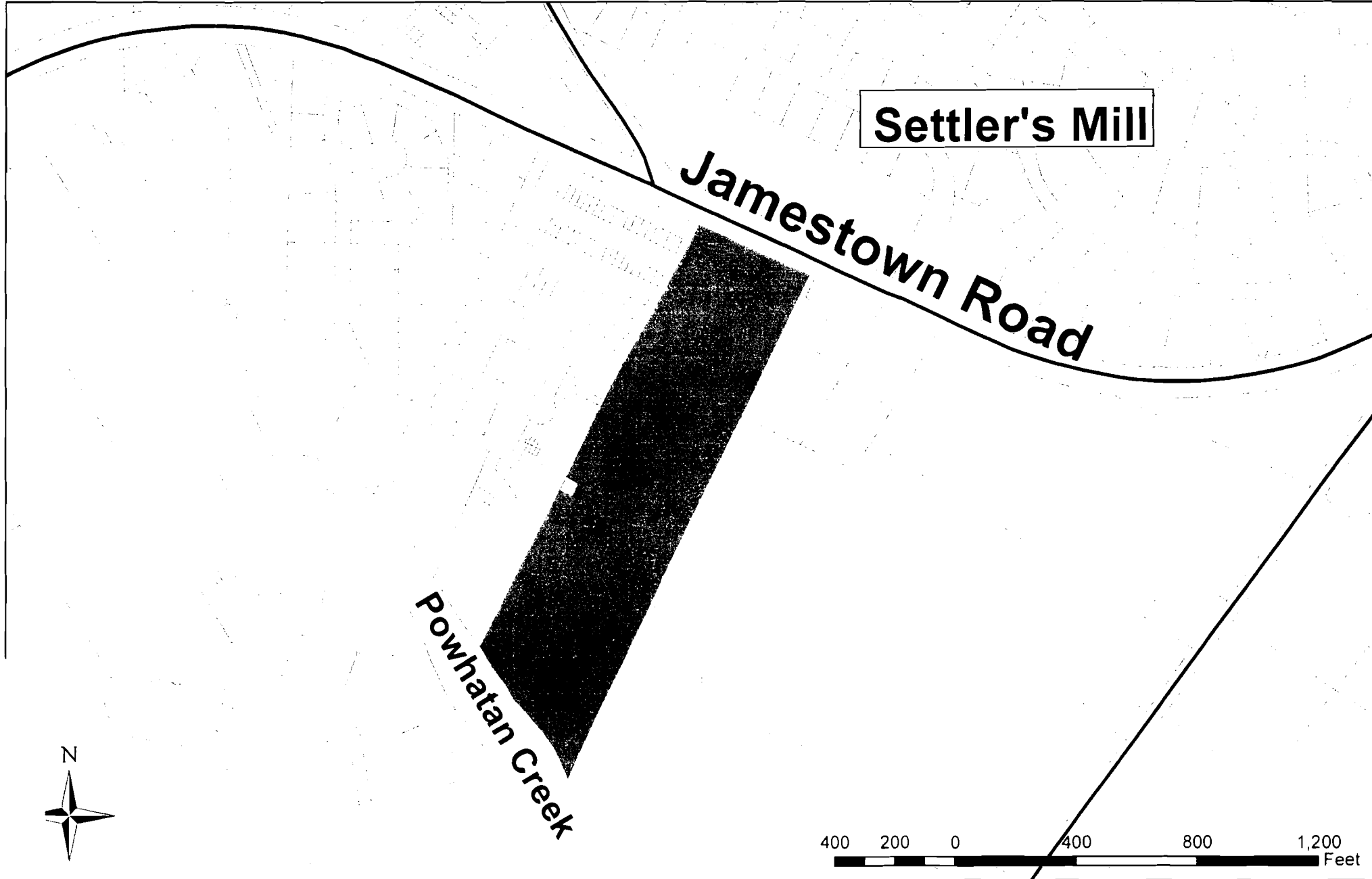
Mr. Hunt motioned to recommend approval of the application as amended.

Mr. Kennedy seconded the motion.

In a roll call vote the motion failed (4-3). AYE: Hunt, Hughes, Kennedy (3); NAY: Jones, Billups, Obadal, Fraley (4).

# JCC-Z-07-05 / MP-05-05 / HW-03-05

## Jamestown Retreat



Settler's Mill

Jamestown Road

Powhatan Creek

400 200 0 400 800 1,200 Feet





JAMESTOWN RETREAT  
PORTFOLIO OF PHOTOGRAPHS  
ARCHITECTURAL STYLES

January 28, 2006









01.28.2006



01-28-2006



01.28.2006



01.28.2006



**The Wessex Group, Ltd.**

479 McLaws Circle, Suite 1

Williamsburg, VA 23185

Tel: 757-253-5606

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E-mail: [stephanie@wessexgroup.com](mailto:stephanie@wessexgroup.com)

Web site: [www.wessexgroup.com](http://www.wessexgroup.com)

# Memo

**To:** Matt Smolnik, Planner

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

**CC:** Michael Brown, Michael Brown, Ltd.; James Peters, AES Consulting Engineers

**Date:** February 24, 2006

**Re:** Correction to Jamestown Retreat, REVISION: Fiscal Impact in James City County, Virginia February 2006

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*The Wessex Group, Ltd.* (TWG) submitted a memo that presented the fiscal results of the development **Jamestown Retreat** on James City County on February 1, 2006 titled *Jamestown Retreat, REVISION; Fiscal Impact in James City County, Virginia February 2006*. The proposed development plans consisted of 48 condominium units to be sold at market value.

In the analysis, a cash proffer in the amount of \$4,275 per unit for construction costs for new schools in the county was included totaling \$205,200. This proffer was not required by the county since these units are single-family attached, not single-family detached or multi-family as stated in the *Resolution: Cash Proffer Policy for Schools*. However, the developer is currently proffering two proffers including \$820 per unit for water system improvements and \$1,000 for other capital improvement plans other than for new schools in the county. Using these estimates, total cash proffers received by the county will total \$87,360.

Table A presents the revised annual revenues, the expenditures and the net fiscal impact to the county for Jamestown Retreat. Cumulative revenues decreased from \$624,400 to \$506,600 after applying the revised proffer amounts to the fiscal impact model. At buildout, the net fiscal impact of \$18,000 remained the same since cash proffers would be given during the first two years of development.

**Table 2**  
**Net Fiscal Impact**

Cash Inflow and Outflow	Year 1	Year 2	Buildout
Annual Revenues	\$115,900	\$211,100	\$179,600
Annual Expenditures	7,400	88,300	161,600
Net Fiscal Impact	\$108,500	\$122,800	\$18,000
Net Present Value			\$224,300

To illustrate the cumulative net fiscal benefit of this development, *The Wessex Group* has calculated the net present value (NPV) based only on the ongoing revenues and expenditures starting at buildout. Beginning this calculation at buildout excludes the short term revenues and expenditures incurred by the construction activity of Jamestown Retreat such as building permit fees and BPOL taxes collected from developers based on the value of the construction. Using this approach, the NPV of Jamestown Retreat carried over a twenty-year period is approximately \$224,000 when discounted at 5%.



MEMORANDUM

TO: James Peters  
FROM: Dexter R. Williams  
SUBJECT: Jamestown Retreat-Existing Zoning Alternative Trip Generation  
DATE: February 5, 2006

Enclosed Exhibit 1 shows the trip generation comparison that you requested.

For the two existing zoning (LB, R-2) alternatives that you defined, I have provided low side and high side trip generation values. Low side values are typically produced by average rates for small scale development such as these two alternatives.

Trip generation for existing zoning Alternative 1 (20,000 sq. ft. office and 7 single family detached housing units) is shown on Table 1A (low side values) on Exhibit 1 and on Table 1B (high side values).

Trip generation for existing zoning Alternative 2 (4,499 sq. ft. office, 5,000 sq. ft. retail and 30 single family attached housing units) is shown on Table 2A (low side values) on Exhibit 1 and on Table 2B (high side values).

Trip generation for the proposed use for Jamestown Retreat (48 condominium units, no age restriction) is shown in Table 3 on Exhibit 1.

Various trip generation categories can apply to a non-specific retail use. Table 4 on Exhibit 1 shows equation and average rate values for shopping centers and specialty retail centers. Specialty retail centers have the lower values (there is no AM value listed) and specialty retail center trip generation is used for Alternative 2 trip generation.

In summary, low side trip generation for Alternative 1 or 2 is higher than trip generation for the proposed use for PM peak hour traffic as well as daily traffic. In the AM peak hour Alternative 2 low side trip generation is one trip per hour higher than the proposed use.

rate/eq.	LAND USE	LAND USE CODE	SQ.FT., OTHER UNITS	WEEKDAY TRIP GENERATION						DAILY
				AM PEAK HOUR			PM PEAK HOUR			
				Enter	Exit	Total	Enter	Exit	Total	

**TABLE 1A - Existing Zoning (LB, R-2) Alternative 1 - LOW Side Trip Generation**

avg. rate	Gen. Office Building	710	20,000 sq. ft.	27	4	31	5	25	30	220
avg. rate	Single-Family	210	7 units	1	4	5	4	3	7	67
TOTAL:				28	8	36	9	28	37	287

**TABLE 1B - Existing Zoning (LB, R-2) Alternative 1 - HIGH Side Trip Generation**

equation	Gen. Office Building	710	20,000 sq. ft.	46	6	52	17	84	101	386
equation	Single-Family	210	7 units	4	10	14	6	4	10	90
TOTAL:				50	16	66	23	88	111	476

**TABLE 2A - Existing Zoning (LB, R-2) Alternative 2 - LOW Side Trip Generation**

avg. rate	Gen. Office Building	710	4,499 sq. ft.	6	1	7	1	6	7	50
avg. rate	Spec. Retail Center	814	5,500 sq. ft.				7	8	15	244
avg. rate	Condo/Townhouse	230	30 units	2	11	13	11	5	16	176
TOTAL:				8	12	20	19	19	38	470

**TABLE 2B - Existing Zoning (LB, R-2) Alternative 2 - HIGH Side Trip Generation**

equation	Gen. Office Building	710	4,499 sq. ft.	14	2	16	14	70	84	122
equation	Spec. Retail Center	814	5,500 sq. ft.				15	20	35	273
equation	Condo/Townhouse	230	30 units	3	17	20	15	7	22	231
TOTAL:				17	19	36	44	97	141	626

**TABLE 3 - Proposed Use**

avg. rate-adj. st.	Condo/Townhouse	230	48 units	4	17	21	17	8	25	281
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**TABLE 4 - Trip Generation Various Values**

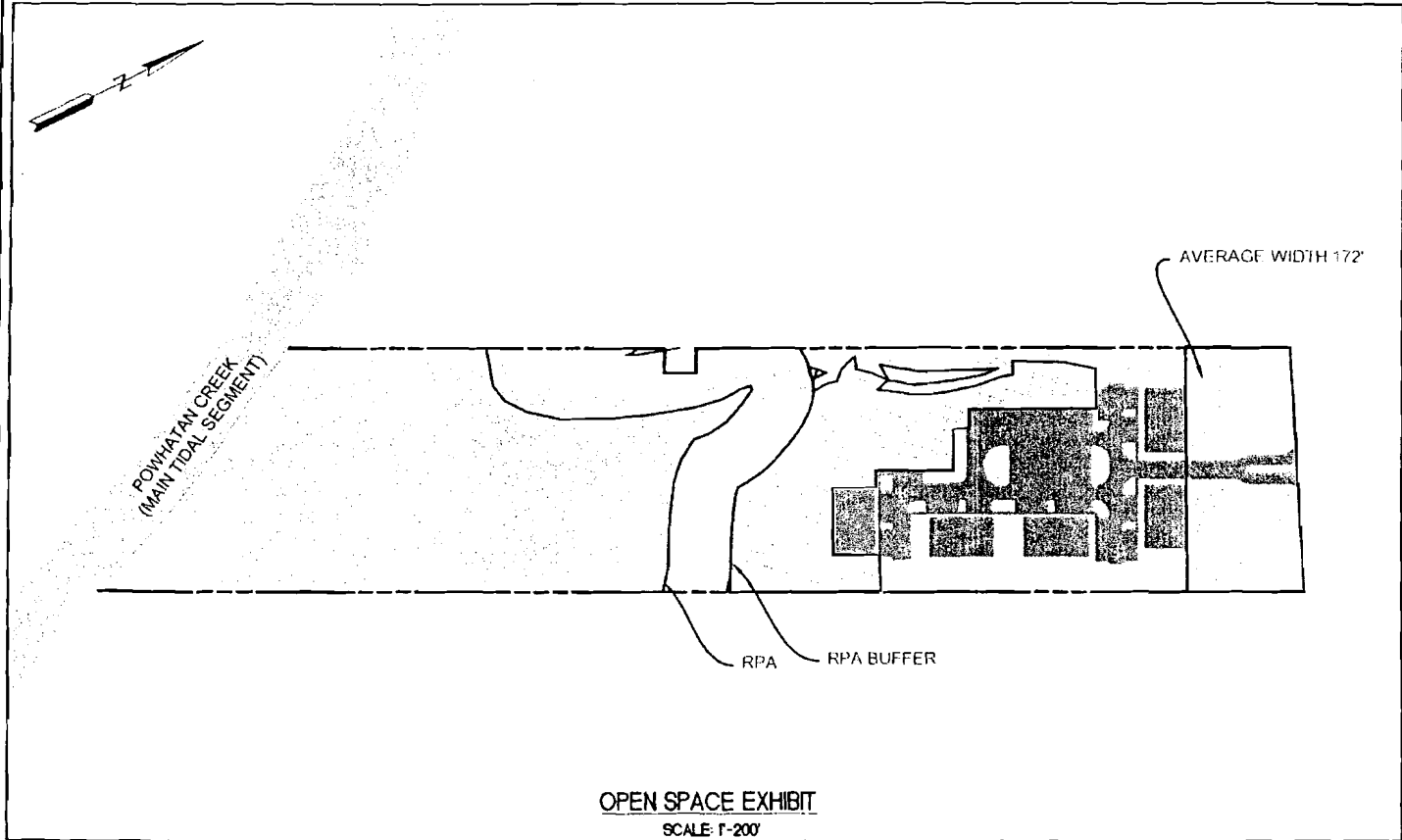
equation	Spec. Retail Center	814	5,500 sq. ft.				15	20	35	273
avg. rate	Spec. Retail Center	814	5,500 sq. ft.				7	8	15	244
equation	Shopping Center	820	5,500 sq. ft.	16	11	27	44	48	92	1031
avg. rate	Shopping Center	820	5,500 sq. ft.	4	2	6	10	11	21	236

Trip generation rates from Trip Generation, 7th Edition (TG7) by the Institute of Transportation Engineers (ITE)






JAMESTOWN RETREAT PROPERTY  
TRIP GENERATION COMPARISON  
FEBRUARY 5, 2006

DRW Consultants, LLC  
804-794-7312

Exhibit 1




**LEGEND**

-  IMPERVIOUS AREA (2.3± AC)
  -  PERVIOUS AREA DEVELOPABLE (6.8± AC)
  -  NON-DEVELOPABLE (7.4± AC)
- 
-  O.S. ADJACENT TO 100' BUFFER AND RESOURCE PROTECTION AREA (2.2± AC)
  -  R.O.W. BUFFER (1.6± AC)
- TOTAL SITE AREA 16.5 AC.



MP-5-05/7 7-05

<p>OPEN SPACE EXHIBIT NIXON PROPERTY JAMESTOWN RETREAT</p>	
<p>JAMESTOWN DISTRICT JAMES CITY COUNTY</p>	<p>JAMESTOWN DISTRICT JAMES CITY COUNTY</p>
<p>Scale: 1"=200'</p>	<p>Date: 2/23/06</p>
<p>Project No: 0462-00</p>	<p>Drawn By: JSP</p>
<p>Checked By: JSP</p>	<p>Designated By: JSP</p>



**ES**  
CONSULTING ENGINEERS  
WILLIAMSBURG • RICHMOND • GLOUCESTER

5248 Old Towne Road, Suite 1  
Williamsburg, Virginia 23185  
(757) 253-0055  
Fax (757) 229-5994

No.	DATE	REVISION / COMMENT / NOTE	DESIGNED BY	CHECKED BY
02	3/24/06	PER CLIENT REVISIONS AND COUNTY COMMENTS	JRR	JSP
01	2/23/06	PER CLIENT REVISIONS	JRR	JSP

## PROFFERS

THESE PROFFERS are made this 21st day of March, 2006 by HAZEL RICHARDSON, EDWARD T. NIXON AND MAMIE NIXON (together with their successors and assigns, the "Owner") and MICHAEL C. BROWN, LTD., a Virginia corporation ("Buyer").

## RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 1676 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100036, the second with an address of 1678 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100037, and the third with an address of 180 Red Oak Landing Road, Williamsburg, Virginia and being Tax Parcel 4730100039, being more particularly described on Exhibit A attached hereto (together, the "Property"). A portion of the Property is now zoned L-B and a portion is now zoned R-2.

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

C. Owner and Buyer have applied to rezone the Property from L-B and R-2 to R-5, Multi-Family Residential District, with proffers.

D. Buyer has submitted to the County a master plan entitled "Master Plan for Rezoning of Jamestown Retreat"

prepared by AES Consulting Engineers dated February 9, 2005 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

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

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 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.

CONDITION

1. **Master Plan.** The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 48 residential dwelling units on the Property. All residential dwelling units on the Property shall be offered for sale by the developer thereof.

2. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with

Virginia law in which all unit owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, shall require each initial purchaser of a unit to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the unit (but no less than \$100.00) and shall require that the association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

**3. Water Conservation.** (a) Water conservation standards shall be submitted to the James City Service Authority ("JCSA") as a part of the site plan or subdivision submittal for

development on the Property and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by JCSA prior to final subdivision or site plan approval.

(b) If the Owner desires to have outdoor watering it shall provide water for irrigation utilizing surface water collection from the surface water pond that is shown on the Master Plan and shall not use JCSA water for irrigation purposes. 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.** For each dwelling unit on the Property the one time cash contributions set forth in this Section 4 shall be made.

(a) A contribution of \$820.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated by the physical development and operation of the Property.

(b) A contribution of \$1,000.00 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 by the physical development and operation of the Property, including, without limitation, for emergency services equipment replacement and supply, off-site road improvements, library uses, and public use sites.

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

(c) The per unit contribution(s) paid pursuant to this Section shall be adjusted annually beginning January 1, 2007 to

reflect any increase or decrease for the preceding year in the Marshall and Swift Building Costs Index (the "Index"). In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) and (b) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the Index, 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 the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (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. **Jamestown Road Buffer**. There shall be a minimum 150 foot buffer along the Jamestown Road frontage of the Property generally as shown on the Master Plan. The buffer shall be

exclusive of any lots or units. The entrance as shown generally on the Master Plan, landscaping and berms, the trails, sidewalks and bike lanes as shown generally on the Master Plan, and with the approval of the Development Review Committee, utilities, lighting, entrance features and signs shall be permitted in the buffer. Dead, diseased and dying trees or shrubbery, and invasive or poisonous plants may be removed from the buffer area. A combination of preservation of existing trees, enhanced landscaping (defined as 125% of ordinance requirements) and berms shall be provided within the buffer in accordance with a landscaping plan approved by the Director of Planning which shall, when the landscaping has reached maturity, screen the adjacent units from the direct view of vehicles traveling on Jamestown Road. The perimeter buffers between the sides/backs of buildings and the adjacent properties shall contain enhanced landscaping (defined as 125% of ordinance requirements) in accordance with a landscaping plan approved by the Director of Planning. The buffers shall be planted or the planting bonded prior to the County being obligated to issue building permits for dwelling units located on the Property.

6. **Entrances/Turn Lanes**. There shall be one entrance into the Property to and from Jamestown Road as generally shown on the Master Plan. A westbound left turn lane with a taper and

transition and an eastbound right turn taper on Jamestown Road shall be constructed at the entrance to the Property. The turn lanes proffered hereby shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards and shall be completed prior to the issuance of the first certificate of occupancy.

7. **Recreation.** Owner shall provide the recreational area shown on the Master Plan before the County is obligated to grant certificates of occupancy for more than 30 dwelling units on the Property. 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(d)) or some combination thereof. All cash contributions proffered by this Proffer 7 shall be used by the County for recreation capital improvements. Owner shall install mulch trails

connecting the recreation area to the sidewalks in the project with the design and exact location of the mulch trails subject to the approval of the Director of Planning. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee.

**8. Private Drives.** All entrance roads, interior roads, driveways, lanes or drive aisles connecting the parking areas on the Property shall be private and shall be constructed in accordance with applicable County private street standards. Private roads shall be maintained by the Association. Owner shall deposit into a maintenance reserve fund to be managed by the Association an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a public street of the same length 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.

**9. Environmental Protections.** (a) Owner shall submit to the County a master stormwater management plan as a part of the site plan submittal for the Property, including the

stormwater management facility generally as shown on the Master Plan and low impact design measures generally as shown on the Master Plan if feasible and appropriate, in accordance with the Powhatan Creek Watershed Management Plan, 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 written approval of the Environmental Director. 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.

(b) The owner of the Property shall cause a survey to be conducted of the Property for rare, threatened and endangered species. The location of any rare, threatened and endangered species located on the Property shall be shown on all subdivision or other development plans of the Property. Before any land disturbing activity is allowed in the vicinity of any rare, threatened and endangered species identified, if any on the Property, a conservation plan shall be prepared by the owner of the Property in accordance with state and federal laws applicable to the Property at the time of development of the

conservation plan and said conservation plan shall be submitted for information purposes to the Director of Planning.

10. **Archaeology.** A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for

Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

11. **Architectural Review.** Prior to the County being obligated to grant final development plan approval for any of the buildings shown on any development plan for any portion of the Property, there shall be prepared and submitted to the Director of Planning for approval architectural and landscaping plans, including architectural elevations, for the Director of Planning to review and approve for general consistency with the architectural styles depicted in the portfolio of photographs dated January 28, 2006 submitted with the rezoning application. The Director of Planning shall review and either approve or provide written comments settings forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. Final plans and completed buildings shall be consistent with the approved conceptual plans.

12. **Preservation of Specimen Trees.** Owner shall submit a tree survey of the Property with the site plan for development of the Property and shall use its best efforts to preserve trees identified on the survey as specimen trees to be preserved.

13. **Removal of Existing Structures.** Within 90 days of the approval of the rezoning, Owner shall remove all existing structures from the Property, including billboards, trailers, houses and other buildings. Owner shall be entitled to reasonable extensions of the 90 day deadline from the Director of Planning if any existing tenant on the Property fails and refuses to vacate the Property in a timely and orderly manner so long as Owner is diligently pursuing its remedies for such refusal.

14. **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.

**15. 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 Powhatan Creek and its tributaries. 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.

**9. Sidewalks.** There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan. Owner shall either (i) install a sidewalk along the Jamestown Road frontage of the Property or (ii) in lieu thereof, make a payment to the County

for sidewalk improvements included in the County's capital improvements plan in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalk.

10. **Underground Storage Tanks**. The existing underground storage tanks on the Property shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.

11. **Curb and Gutter**. Streets 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.

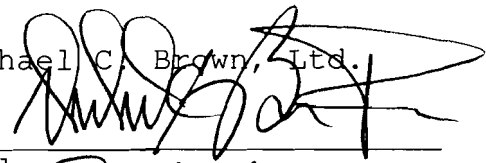
WITNESS the following signature.

\_\_\_\_\_  
Edward T. Nixon

\_\_\_\_\_  
Mamie Nixon

  
\_\_\_\_\_  
Hazel Richardson

\_\_\_\_\_  
Michael C. Brown, Ltd.

By:   
Title: President

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

The foregoing instrument was acknowledged this 21<sup>st</sup>  
day of MARCH, 2006, by ~~MARGARET A. SEYMOUR~~ Hazel Richardson.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: Feb. 29, 2008.

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

The foregoing instrument was acknowledged this \_\_\_\_\_  
day of \_\_\_\_\_, 2005, by \_\_\_\_\_.

WITNESS the following signature.

Edward T. Nixon  
Edward T. Nixon

Mamie Nixon  
Mamie Nixon

\_\_\_\_\_  
Hazel Richardson

Michael C. Brown, Ltd.

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

Title: \_\_\_\_\_

SOUTH CAROLINA  
STATE OF ~~VIRGINIA~~ AT LARGE  
CITY/COUNTY OF GREENWOOD, to-wit:

The foregoing instrument was acknowledged this 29<sup>th</sup>  
day of March, 2006, by PAT FREEMAN  
Edward T. Nixon and Mamie Nixon.

Pat Freeman  
NOTARY PUBLIC

My commission expires: January 12, 2010.

My Commission Expires January 12, 2010

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

The foregoing instrument was acknowledged this \_\_\_\_\_  
day of \_\_\_\_\_, 2005, by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_.

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

The foregoing instrument was acknowledged this \_\_\_\_\_  
day of \_\_\_\_\_, 2006, by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_.

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

The foregoing instrument was acknowledged this 21st  
day of March, 2006, by Michael C Brown, as President  
of Michael C. Brown, Ltd. on behalf of the corporation.

Walter M Seddy III  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 12/31/09.

## EXHIBIT A

### Property Description

Those certain pieces or parcels of land containing 16.5± acres located in James City County, Virginia, shown and set out as "TAX PARCEL (47-3)(1-36), Now or Formerly Norman, Helen Nixon Estate, Zoned LB", "TAX PARCEL (47-3)(1-37), Now or Formerly Nixon, Edward T. and Mamie, Zoned LB", and "TAX PARCEL (47-3)(1-39), Now or Formerly Norman, Helen Nixon Estate, Zoned "R-2" on the sheet entitled "ENVIRONMENTAL INVENTORY", sheet 2 of 3, on the "MASTER PLAN FOR REZONING FOR JAMESTOWN RETREAT" made by AES Consulting Engineers and originally dated February 22, 2005, last revised 3/24/06, a copy of which is on file in the James City County Planning Department.

**RESOLUTION**

**CASE NO. Z-7-05/MP-5-05/HW-3-05. JAMESTOWN RETREAT**

- 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 public hearing scheduled on Case No. Z-7-05/MP-5-05/HW-3-05, with Master Plan; and
- WHEREAS, Edward T. Nixon, Mamie Nixon and Hazel Richardson own several parcels of property identified as Parcel Nos. (1-36), (1-37), and (1-39) on James City County Real Estate Tax Map No. (47-3) (collectively, the “Property”); and
- WHEREAS, the Property is currently zoned LB, Limited Business, and R-2, General Residential, designated Low-Density Residential and Conservation Area on the 2003 Comprehensive Plan Land Use Map; and
- WHEREAS, on behalf of Edward T. Nixon, Mamie Nixon, and Hazel Richardson, Michael C. Brown has applied to rezone the Property to R-5, Multifamily Residential, so that he may develop the Property at a density of 2.9 dwelling units per acre; and
- WHEREAS, on March 6, 2006, the Planning Commission recommended denial of the application by a vote of 4-3.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-7-05/MP-5-05/HW-3-05 as described herein and accepts the voluntary proffers.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

z-7-05\_mp-5-05\_hw-3-05.res

**REZONING CASE NOS. Z-19-05/SUP-32-05/MP-16-05. Jennings Way  
Staff Report for the April 11, 2006, Board of Supervisors Meeting**

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

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**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

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

March 6, 2006, 7 p.m.  
April 11, 2006, 7 p.m.

**SUMMARY FACTS**

Applicant: Jay Epstein

Land Owners: Myrtle Jennings and Sandra Kelley

Proposal: 75 single-family detached units, 10 townhouse units, 1 commercial building

Locations: 7345 and 7375 Richmond Road

Tax Map/Parcel Nos.: (23-2)(1-30) and (23-2)(1-30A)

Parcel Size: 29.81 acres

Existing Zoning: R-2, General Residential (28.61 acres) and B-1, General Business (1.20 acres)

Proposed Zoning: R-2, General Residential with Cluster Overlay and Proffers;  
B-1, General Business with Proffers

Comprehensive Plan: Low-Density Residential

Primary Service Area: Inside

**STAFF RECOMMENDATION**

Staff finds that the Master Plan and proffers are consistent with surrounding development and zoning, and the 2003 Comprehensive Plan. The proposal will have certain public benefits such as affordable and mixed-cost housing, unusual environmental protections, and provisions for maintaining the character of the Norge community along Richmond Road. Staff finds that the Zoning Ordinance criteria for granting of a SUP with regard to additional density has been satisfactorily met, and that the requirements for a buffer reduction waiver have been sufficiently supported by proffers. Therefore, staff recommends approval of the rezoning and acceptance of the voluntary proffers. Staff further recommends acceptance of SUP-32-05 with the conditions listed in this staff report.

Staff Contact: Joel Almquist Phone: 253-6783

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission recommended approval by a vote of 7-0 with a recommendation for additional landscaping in the perimeter buffer.

**Proposed Changes Made Since Planning Commission Meeting**

Upon recommendation by the Planning Commission, staff has increased the number of evergreen trees in the Buffer Enhancement SUP condition from 33 percent to 50 percent and increased the required bush diameter from 18 inches to 24 inches along the Kristiansan buffer. This will create a dense vegetative screening of the development from adjacent properties.

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

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
Water (CIP contribution)	\$1,093 per unit
CIP projects (including schools)	\$1,275/restricted unit (schools)
	\$4,011/unit (schools)
	\$425/restricted unit (CIP)
	\$1,000/unit (CIP)
Sewer Improvements	\$34,425
Stream Restoration	\$129,000
<b>Total Amount</b>	<b>\$595,300</b>
<b>Total Per Lot</b>	<b>\$6,104/unit</b> <b>\$1,700/restricted unit</b>

**PROJECT DESCRIPTION**

Jay Epstein of Health-E Community Enterprises, has submitted an application to rezone 29.81 acres located on Richmond Road (Route.60) adjacent to Norge Elementary School from R-2, General Residential, and B-1, General Business, to R-2 and B-1 with proffers, and a Cluster Overlay. If approved, the applicant would use the parcel to create 75 mixed-cost single-family homes, five affordable townhouse units, and five income restricted units (to be referred to as “Restricted”) with an overall density of 2.85 units per acre. The applicant will also relocate and renovate the Anderson-Hughes House on the B-1 parcel to create a building unit for commercial use that will be restored and located to reflect the existing character of the Norge community.

According to the Cluster provisions of the Zoning Ordinance, residential cluster developments of one unit per acre or less may be permitted in areas designated low-density residential on the comprehensive land use map.

However, the Ordinance permits additional density up to four units per acre upon the issuance of an SUP and implementation of various policies or other measures. In accordance with Section 24-549 of the Zoning Ordinance, the applicant has provided for the following:

For Density greater than 1 DU/Acre up to 2 DU/Acre:

- Implementation of the County’s Streetscape Guidelines;
- Implementation of the County’s Archaeological Policy;
- Provision of sidewalks on one side of all internal streets;
- Provision of Recreation Facilities as recommended in the County’s Comprehensive Parks and Recreation Master Plan; and
- Implementation of the County’s Natural Resources Policy.

For Density from 2 DU/Acre up to 3 DU/Acre:

- Provision of pedestrian trails connecting cul-de-sacs and recreation facilities; and
- Construction of curb and gutter streets.

For Density from 3 DU/Acre up to 4 DU/Acre:

- Dedicated affordable housing; and
- Superior layout and design which incorporates environmentally sensitive design features.

In addition to the requirements of the Zoning Ordinance to allow for increased density above one unit per acre but not to exceed four units per acre, the 2003 Comprehensive Plan has suggested public benefits that would need to be provided in areas designated Low-Density Residential to go above one dwelling unit per acre. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. Staff believes that this development proposal meets these criteria as outlined in the Comprehensive Plan and as further described below.

## **PUBLIC IMPACTS**

### **Archaeology**

**Proffers:**

- Archaeology. A Phase I Archeological Study for the property shall be submitted to the Planning Director for his review and approval prior to land disturbance.

**Staff Comment:** This is a requirement in the Cluster Overlay District as a condition to increase density within a development from one-unit per acre up to two-units per acre.

### **Environmental**

**Watershed:** This parcel lies within the Yarmouth Creek Watershed and is subject to the Yarmouth Creek Watershed Management Plan.

**Proffers:**

- Turf Management. The Home Owners Association shall be responsible for developing and implementing a turf management plan for the maintenance of lawns and landscaping on the property in an effort to limit nutrient runoff.
- Stream Restoration. A contribution of \$129,000 shall be made to the County in order to mitigate the impacts on the County from the physical development and operation of the property to be paid at the time of final subdivision plat approval.

**Staff Comments:** Environmental concerns with this proposal include an impaired stream that flows into the Yarmouth Creek Watershed, stormwater runoff that currently channels off-site onto adjacent property owners, and Resource Protection Areas/Buffers along the rear of the parcel. To mitigate the impact of this development, the applicant has proffered to repair the impaired portion of the stream along his parcel and will use a stormwater retention area (BMP) to prevent off-site stormwater runoff. In addition to these measures, the applicant is proposing to use Low Impact Design, LID, and sustainable building practices to help mitigate the impact of the development; these design features exceed the minimum ordinance requirement.

Staff views the stream restoration cash proffer of \$129,000 to be an offer that is above and beyond what would be required of the developer to restore his/her portion of the impaired stream. This stream is negatively impacted from a failing/leaking off-site septic tank and from stream bank destabilization along the parcel that is across from the stream and adjacent to the Jennings Way property.

## **Fiscal**

Based on the fiscal impact analysis submitted by the applicant, the proposed development would result in a negative net fiscal impact. The analysis indicated that the County would be required to spend an additional \$103,800 per year once this development is built out and occupied.

**Proffers:** Cash Contributions for Community Impacts. The applicant is proffering \$6,104 per single-family unit and \$1,700 per restricted unit for use in the County's Capital Improvement Plan to mitigate impacts on County emergency, school, library, and other services.

**Staff Comment:** James City County Financial Management Services has reviewed the Fiscal Impact Statement submitted with these applications and concurs that this development would result in a negative fiscal impact. This impact would be partially off-set by the proffered contributions.

## **Housing**

### **Proffers:**

- Affordable Housing. A minimum of five of the lots with townhouse dwelling units shall be reserved and offered for sale at a net sales price to the buyer at or below \$135,000. A minimum of five of the lots with townhouse dwelling ("restricted") units shall be reserved and offered for sale at a price at or below \$160,000.
- Energy Efficient Homes. All the townhomes and single-family homes will be certified by a HERS rater to meet or exceed the Energy Star Certification. A HERS rating is an evaluation of the energy efficiency of a home.

**Staff Comment:** The applicant has volunteered to provide affordable, income restricted, and mixed-cost housing as a condition of his development proposal. The affordable and income-restricted units will be sold and given priority to citizens in conjunction with James City County Housing and Community Development.

## **Public Utilities**

All units will have public water and sewer connections.

### **Proffers:**

- Sewer Improvements. A contribution shall be made to JCSA to offset the direct costs associated with the construction of the Colonial Heritage Pump Station and Sewer System Improvements in the amount of \$34,425.
- Water Conservation. Water conservation standards such as the prohibiting of irrigation systems, using energy efficient fixtures and appliances, and the use of water conserving landscaping shall be submitted to and approved by JCSA prior to final subdivision plat approval.
- Water and Sewer Master Plan. A water and sewer master plan shall be submitted to and approved by JCSA prior to final subdivision plat approval.
- Water Improvements. A contribution of \$1,093 for each single-family unit shall be made to the County for the use by JCSA for water system improvements.

**Staff Comment:** This development proposal will be served by public water and sewer with no anticipated negative impacts resulting from the increased demand generated by these units. Staff had requested of the applicant that water conservation measures, including the prohibiting of irrigation systems, be considered for this proposal. The applicant has complied in a satisfactory manner with the Water Conservation proffer, and has provided additional proffered cash amount for the Colonial Heritage Pump Station and \$1,093 per single-family unit for water system improvements.

## **Public Facilities**

**Proffers:** Total contributions of \$6,104 per single-family unit and \$1,700 per restricted unit are proffered to the County for the residential units on the property (\$4,011 per single-family and \$1,275 per restricted for schools).

**Staff Comments:** According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through rezoning an SUP or other development process: 1) evaluation of the adequacy of facility space and needed services when considering increasing development intensities; and 2) encouraging the

equitable participation by the developer in the provision of needed services. With respect to Item No. 1, the Board of Supervisors has adopted the adequate public schools facilities policy. With respect to Item No. 2, the County has identified methods for calculating cash proffer amounts for schools, recreation, and water supply facilities. The applicant has proffered cash contributions to the County for each of the facilities as well as for sewer improvements and Capital Improvement Projects.

Jennings Way is located within the Norge Elementary School, Toano Middle School, and Lafayette High School Districts. Under the proposed Master Plan, 75 single-family and 10 townhouse units are proposed. Per the adequate public school facilities policy adopted by the Board of Supervisors, all SUP or rezoning applications should meet the policy for adequate public school facilities. The policy adopted by the Board uses the design capacity of a school, while the Williamsburg-James City County Schools recognize the effective capacity as the means of determining student capacities. With respect to the policy, the following information is offered by the applicant:

School	Design Capacity	Effective Capacity	Current Enrollment (09/30/2005)	Projected Students Generated by	Enrollment + Projected Students
Norge Elementary	760	701	657	19	676
Toano Middle	775	822	831	10	841
Lafayette High	1,250	1,230	1,624	12	1,636
Total	2,785	2,753	3,112	41	3,153

There is design capacity for this development at Norge Elementary; therefore this development meets the policy guidelines at the elementary school level. Both design and effective capacities are exceeded at Toano Middle School and Lafayette High School. Although the design capacity of Lafayette High School is clearly exceeded, the adequate public facilities policy states that if physical improvements have been programmed through the County CIP then the application will meet the policy guidelines. 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 meets the policy guidelines for the high school level. The proposal does not meet the policy guidelines at the middle school level.

**Parks and Recreation**

**Proffers:**

- Recreation (a). The following facilities shall be provided: 1.64 acres of parkland; one playground (tot lot) with playground equipment for four to six activities; one paved tether ball court; approximately .55 miles of trails.
- Recreation (b&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 Recreational Master Plan; in lieu of such additional facilities, Owner shall make cash contributions to the County as determined as needed with final installation occurring prior to the issuance of the 21st Certificate of Occupancy.

**Staff Comment:** The applicant has met the minimum criteria in the County’s Parks and Recreation guidelines. The trail system will provide fitness equipment located along its circuit and connect with the internal sidewalks which will connect to both Route 60 and Norge Elementary School.

## Transportation

**2005 Traffic Counts:** Traffic counts for the development include the 75 single-family and 10 townhouse units and the proposed general office building combine to generate 64 AM peak hour trips, 84 total PM peak hour trips at an average of 797 total daily vehicle trips. Current volume along this portion of Richmond Road is 18,770 average vehicle trips per day.

**2026 Projected Volume:** This portion of Richmond Road is projected to have a volume of 33,500 vehicles with a “watch” congestion rating given by the 2003 Comprehensive Plan.

**Road Improvements:** No off-site road improvements are warranted by this proposal.

### **Proffers:**

- **Entrance Configuration.** The entrance to the property shall be configured with one ingress lane and two egress lanes and the entrance shall have an increased radius of approximately 50 feet.

**VDOT Comment:** VDOT concurs with the applicant’s traffic study findings that the proposed development will not have an adverse impact on the surrounding roadway network. The traffic impact study notes that a right-turn taper from eastbound Route 60 is marginally warranted in the PM peak hour. Due to right-of-way constraints, VDOT concurs that an increased entrance radius of approximately 50 feet will be an acceptable entrance treatment in lieu of a right-turn taper.

**Staff Comments:** Staff concurs with VDOT concerning the applicant’s traffic generation rates and regarding no improvements being warranted for Route 60. Route 60 currently has a continuous left-turn lane which should adequately serve this development without causing vehicles to queue back to the Norge Elementary signal or affect turning movements to commercial interests located across from the Jennings Way access. The 2003 Comprehensive Plan recommends not widening Route 60 due to impacts on the Norge community despite its “watch” designation. Instead, it recommends concentrating development in planned areas in order to maintain good mobility along Route 60 and careful evaluation of new entrances in order to maintain acceptable levels of service. Upon staff’s request, the applicant examined alternative access routes. After reviewing the analysis, staff concurred with the proposed access arrangement based upon its location being situated in an area sufficiently separated from the school and other community entrances so as not to cause impairments along that portion of Route 60.

This proposal is not projected to have a negative impact on the nearby traffic light for Norge Elementary. Level of Service for this intersection will be maintained at LOS C for all AM and PM turning movements with an overall LOS A for the entire stop light in 2011.

## COMPREHENSIVE PLAN

### Land Use Map Designation

This parcel is designated Low-Density Residential on the 2003 Comprehensive Land Use Map. Low-density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character, density of surrounding communities, and the degree to which the development is consistent with the Comprehensive Plan. A residential development 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. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design.

### Other Considerations

- **Housing:** This project provides five affordable townhouse units plus five additional below market value townhouse units all to be sold to applicants with the approval of the Director of Housing and Community Development.
- **Development Standards:** The applicant is proposing to use sustainable building practices including Low Impact Design areas, energy efficient buildings, and green building practices, such as recycled materials, enhanced insulation, and reduced construction waste.

- **Community Character:** This proposed development is within the Richmond Community Character area and is subject to the design standards within the 2003 Comprehensive Plan and the Zoning Ordinance. To help meet these, the applicant has volunteered to proffer for the townhouse units to face Route 60 and to renovate the Anderson-Hughes House located on the B-1 parcel in a manner that preserves the existing residential appearance of the building.

**Proffers:** The applicant has provided a voluntary proffer proposal in an effort to show that his development will provide the necessary public benefits to allow for the increased density from one unit per acre to 2.85 units per acre. Many of these proffers, such as the design of the Anderson-Hughes House, the orientation of the townhouse units, stream restoration guarantees, provisions for energy efficient homes, and the provision of affordable housing have been offered by the applicant in response to staff's recommendation for preserving the character of the Norge community and reducing the environmental impacts of the development.

**Staff Comments:** This proposal meets the intent of the Cluster Overlay District. The applicant has provided meaningful and useable open space, mixed-cost and affordable housing, and is seeking to provide a superior environmental design. Examples of enhanced environmental design associated with this development include the use of low impact development (LID) areas, stream restoration measures for the impaired stream on-site, sustainable building practices, energy efficient homes, and stringent water conservation measures. The provided open space will include parks and recreational activities that allow for usable open space in areas that would have been available for development. Much of this open space is created by using a design layout that features the use of alleys and rear garages.

As suggested in the 2003 Comprehensive Plan, additional densities can be granted to proposals that exceed the minimums required by the Zoning Ordinance and that provide particular public benefits to the County and surrounding communities. Examples from the Comprehensive Plan that are reflected in this proposal are mixed-cost and affordable housing, unusual environmental protections, and open space development design. This developer also proposes to develop the entrance and commercial property on the parcel in a manner that reflects the character of the Norge community.

### **RECOMMENDATION**

Staff finds the Master Plan and proffers are consistent with surrounding development and zoning, and consistent with the Comprehensive Plan. Staff finds that the Zoning Ordinance criteria for the granting of an SUP with regard to additional density has been satisfactorily met, and that the request for the reduced perimeter buffer has been sufficiently supported by proffers. Therefore, staff recommends approval of the rezoning and acceptance of the voluntary proffers submitted with this application. Staff further recommends approval of SUP-32-05 and buffer reduction request.

### **Recommended SUP Conditions:**

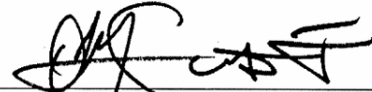
1. **Master Plan and Use:** This SUP shall be valid for the "Jennings Way" Master Plan, prepared by AES Consulting Engineers, and dated February 6, 2006, (the "Master Plan") and accessory uses thereto. Development of the property shall be generally in accordance with the Master Plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes to the Master Plan may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. **Commencement of Construction:** If construction has not commenced on the project within 36 months from the issuance of this SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.

3. Buffer Enhancement: Prior to final site plan approval for any section or phase of the project, the applicant shall include enhanced landscaping in the perimeter buffer areas so that the required number of plants equals at least 133 percent of the County's Landscaping Ordinance requirements with a minimum of 50 percent of the required number of trees being evergreen and increased the required bush diameter from 18" to 24" along the Kristiansen buffer. This will create a dense vegetative screening of the development from adjacent properties
4. Entrance Landscaping: A landscaping plan shall be approved by the Planning Director prior to final site plan approval for the project. The landscaping plan shall include enhanced landscaping within the 50-foot Community Character Corridor (CCC) buffer along Richmond Road (Route 60 East), so that the required number of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the plantings within the CCC buffer shall be evergreen.
5. Lighting: Any new exterior site, building, or parking lot lighting for the townhouse units and the proposed commercial building and parking lot in the B-1 parcel shall have 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 sources are not visible from the side. Fixtures that are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
6. RPA Buffer: The location of any Resource Protection Area (RPA), RPA buffer, steep slope (i.e., slopes greater than 25 percent in grade) and/or wetland shall be identified by the developer and shall be indicated on any site plan or development plan which is submitted to James City County for approval. The identification must be approved by the James City County Environmental Division prior to the issuance of preliminary site plan approval.
7. RPA Setback: A 15-foot principle building setback shall be provided from the limits of all dedicated natural open space and RPAs on the property.
8. Park Land: Prior to subdivision plat approval, the applicant shall remove all existing junk on the property, including, but not limited to, the area identified as "park land" on the Master Plan. "Junk" shall include old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. The applicant shall obtain the Environmental Director's approval regarding the manner of removal before removing junk from any environmentally-sensitive area of the Property (e.g., steep slopes, streams, RPA, etc.). When the removal activity is complete, the Environmental Director or his designee shall inspect the Property and shall verify in writing that all junk has been properly removed.
9. Stormwater Attenuation: All stormwater runoff from the property shall be routed through the on-site stormwater attenuation facility identified on the Master Plan.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Joel Almquist

CONCUR:



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O. Marvin Sowers, Jr.

JA/gs

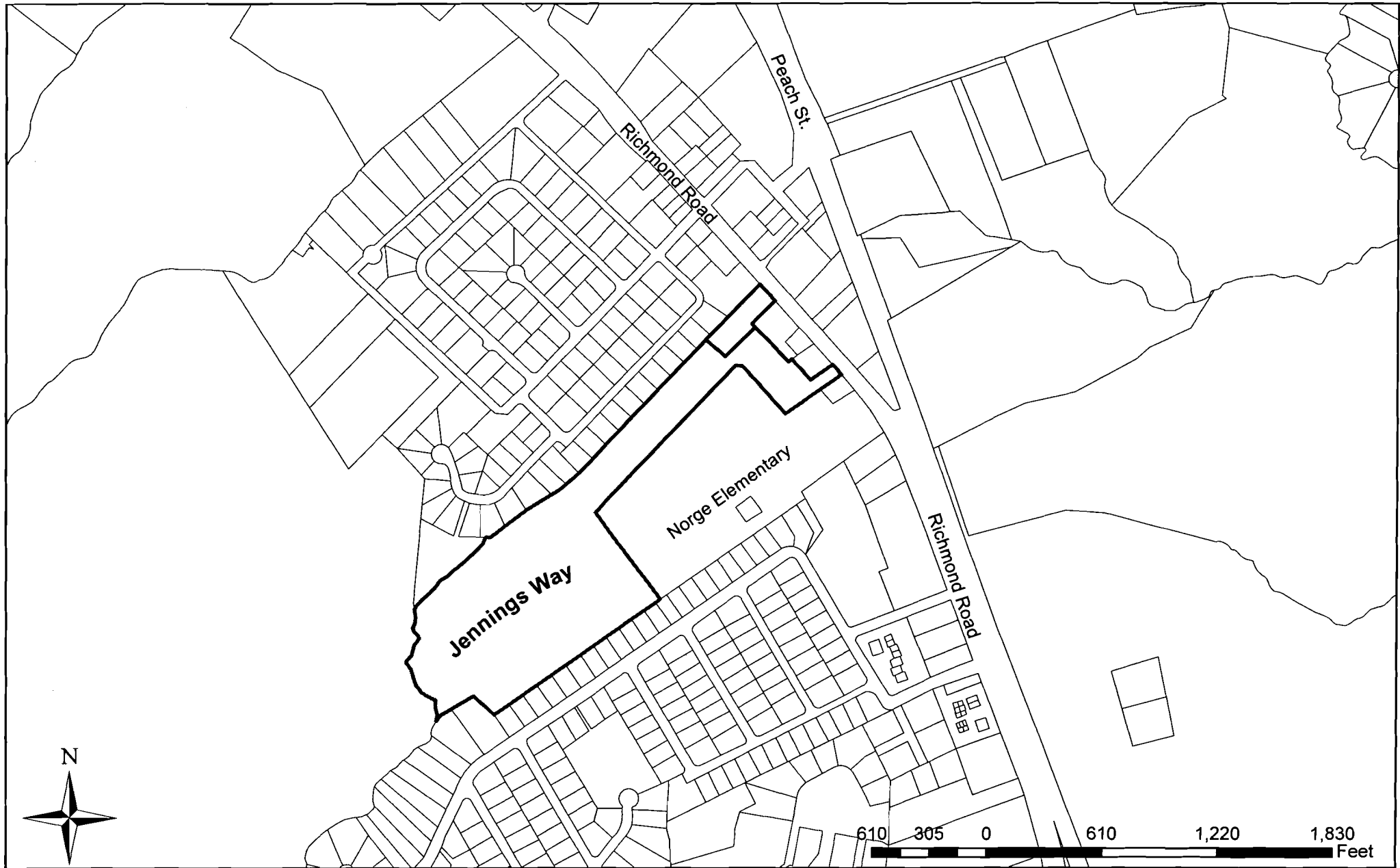
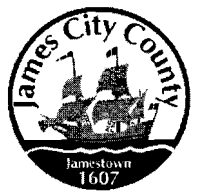
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ATTACHMENTS:

1. Location Map
2. Unapproved Planning Commission Minutes from March 6, 2006
3. Proffers
4. Rezoning Resolution
5. Special Use Permit Resolution
6. Traffic Impact Summary
7. Master Plan (under separate cover)

# JCC-Z19-05/SUP-32-05/MP-16-05

## Jennings Way



**UNAPPROVED MINUTES OF THE MARCH 6, 2006 MEETING  
OF THE PLANNING COMMISSION**

Z-19-05/MP-16-05/SUP-32-05 Jennings Way

Mr. Joel Almquist presented the staff report stating that Mr. Jay Epstein of Health-E Communities has applied to rezone 29.81 acres of land from R-2, General Residential and B-1, General Business to R-2, General Residential with a Cluster Overlay and proffers and B-1, General Business with proffers. The applicant proposes a development of 85 units, 75 single family and 10 condominiums with a gross density of 2.85 units per acre. The property is located at 7375 and 7345 Richmond Road and is also known as Parcels (1-30) and (1-30A) on the JCC Tax Map (23-2). The site is shown on the 2003 Comprehensive Land Use Map as Low Density Residential. Recommended uses include very limited commercial establishments, single family homes, duplexes, and cluster housing with a recommended gross density of 1 unit per acre up to 4 units per acre in developments that offer particular public benefits.

Mr. Fraley opened the public hearing.

Mr. Vernon M. Geddy III represented the applicant stating the benefits of the proposal. Mr. Geddy explained the proffers for on and off site stream restoration. He also stated that the applicant specializes in energy efficient homes and mixed cost housing.

Mr. Kennedy asked why the affordable ranges for this project are higher than the ranges of the applicants' Pocahontas Square project in 2005.

Mr. Geddy stated that another developer had the project approved and later found they could not build according to the prices proffered. He also stated that the time value of money and increased cost of materials contributed to the increase.

Mr. Jay Epstein explained the cost breakdown of the Pocahontas Square project. He also stated that the cost of building is sky rocketing. Mr. Epstein also explained how the affordability aspect of the Jennings Way project would be protected.

Mr. Obadal stated that the development was impressive. He asked how the architecture of the town homes fit in with the surrounding community.

Mr. Epstein described some of the architectural elements that would be used in the project. He also stated that colonial colors would be used.

Mr. Obadal asked if manufactured housing would be included in the project.

Mr. Epstein said manufactured housing was more expensive to build and would not meet the energy efficiency levels they were trying to achieve.

Mr. Obadal asked if there was any way to further buffer the houses on Nina Lane.

Mr. Epstein said he could increase the tree and bush plantings.

Mr. Geddy added that a certain number of the plantings were required to be evergreens.

Ms. Beth Ann Joyal, 144 Nina Lane, stated that she would have sold her home instead of renovating had she known the project would be coming forth. She also stated her concerns about density, schools, and strains on public services.

Ms. Rebecca McDonough, 154 Nina Lane, stated her concerns about impacts to traffic, and the Yarmouth Creek Watershed and increased density.

Mr. Scott Coursen, 160 Nina Lane, represented the Kristiansand Homeowners' Association stating their concerns about density, impacts to schools and traffic, and the rate of growth in the County.

Mr. Matt Kurdziolek, 157 Nina Lane, said that the Kristiansand Homeowners' Association had not met with homeowners' to poll their opinions. He stated his support for the project.

Mr. Dave Jarman, 117 Landsdown, stated that the 2003 Comprehensive Plan supports the inclusive of affordable housing. Mr. Jarman said that approval of the project would support that goal. He also stated that the benefits to the County would be affordable housing, significant cash proffers and on and off site stream restoration.

Ms. Kay Kelley, 302 Farmville Lane, stated that she and her sister interviewed several developers before selecting Jay Epstein. She spoke of her commitment to the community and affordable housing.

Mr. William West, 102 Astrid Court, recommended approval of the proposal.

Ms. Linda Rice, 2394 Forge Road, recommended deferral of the proposal due to public concerns about the lack of cumulative data on schools, water, and traffic, and fiscal impacts to the County.

Mr. Mike Ware, stated that several community meetings had been held and that the current proposal addressed public concern. He also noted Mr. Epstein's commitment to providing affordable housing.

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

Mr. Obadal said he was impressed by the developer's position. He urged him to increase the screening between the site and the neighbor's on Nina Lane. Mr. Obadal stated his support.

Mr. Hunt stated his support.

Ms. Jones stated that the Comprehensive Plan calls for affordable housing. She said she would like less density but that she would support the plan.

Ms. Hughes said she would also like to see less density. She asked the applicant to address the negative fiscal impacts of the project.

Mr. Epstein stated that there is a price for providing affordable housing. He stated that without the affordable housing component the project would be a fiscal positive.

Mr. Hunt asked Mr. Epstein to explain his statement about shorter commutes.

Mr. Epstein said that providing affordable housings where employers are located would mean shorter commutes for residents.

Mr. Fraley asked what could be done to increase the privacy for the residents of Nina Lane.

Mr. Epstein gave several options for increasing the screening.

Mr. Obadal asked if Mr. Epstein if he would provide the additional screening.

Mr. Epstein answered yes.

Mr. Kennedy stated that the affordable units were few in number and not integrated into the community. He also stated his concerns about schools, minimum standards for parks and recreation, and fiscal impacts. Mr. Kennedy said he could be supportive with a few changes.

Mr. Fraley asked Mr. Kennedy what it would take for his support.

Mr. Billups stated his support for the project. He stated that it was an infill development. He also stated its affordable component, support of the Comprehensive Plan, and that it had Staff's recommendation.

Mr. Fraley stated that if affordable housing was to be achieved that it will cost. He said he was satisfied that the applicant agreed to provide additional privacy for neighbors. Mr. Fraley motioned to recommend approval of the application as amended.

Mr. Obadal seconded the motion.

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

**PROPOSED PROFFERS**

**FOR**

**JENNINGS WAY**

**FEBRUARY 23, 2006**

## PROFFERS

THIS PROFFERS are made this \_\_\_\_\_ day of March, 2006, by Myrtle H. Jennings and Sandra Kay H. Kelley (together with their successors and assigns, the "Owner") and Jay Epstein (Developer).

## RECITALS

WHEREAS, Owner is the record title owner of two contiguous tracts or parcels of land located in James City County, Virginia; one with an address of 7375 Richmond Road, Williamsburg, Virginia, and being Tax Parcel 2320100030, the second with an address of 7345 Richmond Road, Williamsburg, Virginia, and being Tax Parcel 2320100030A (together, the "Property").

WHEREAS, Jay Epstein, and/or assigns (Developer), has contracted to purchase the property conditioned upon a rezoning and special use permit in accordance with developer plans and specifications.

WHEREAS, the property is designated Low Density Residential on the County's Comprehensive Land Use Plan and is now zoned B-1 and R-2. Owner and Developer have applied to rezone the Property to B-1 and R-2, with proffers and for a special use permit for a residential cluster development.

WHEREAS, the Owner and Developer desire to offer to the County certain conditions on the development of the Property upon rezoning not generally applicable to land rezoned B-1 and R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested development plans and conditional approval, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees

that it shall meet and comply with all of the following conditions in developing the Property. If the requested application and conditions are not granted by the County, these proposals shall be null and void.

#### PROFFERED CONDITIONS

1. Master Plan. The Property shall be subdivided and developed generally as shown on the Master Plan dated December 27, 2005, with only minor changes thereto that the Development Review Committee determines, which do not change the basic concept or character of the development.

2. Owners Association. There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with the conditions and application. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management, BMPs, recreation areas, private road and parking areas ("Reserve"), and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. Owner shall maintain all common areas on the Property until 90% of the lots/units on the Property have been sold to minimize Association dues during that period so as to not adversely affect purchaser's ability to

qualify for a home mortgage. At the time Owner's maintenance obligation under this Section ends, there shall be at least \$11,205.00 in the Reserve and Owner shall supply evidence of the mechanism to secure the same to the Planning Director prior to final subdivision approval.

3. Water Conservation. Water conservation standards shall be submitted to and approved by the James City Service Authority and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as prohibitions on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the James City Service Authority prior to final site plan or subdivision approval.

4. Affordable Housing. A minimum of 5 of the lots with townhouse dwelling units shall be reserved and offered for sale at a net sales price to buyer at or below \$135,000 subject to adjustment as set forth herein (hereinafter referred to as "submarket affordable housing units"). James City County Housing may be assigned a second deed of trust for the difference of the appraised value of the townhouse, which shall be prepared for review prior to closing and assigned at the time of closing, utilizing appropriate approved procedures and identifying the net sales price paid by the purchaser of the Townhouse for the 5 townhouses sold through James City County for \$135,000 or less. The second deed of trust will be prepared by the Owner as a 15 year forgivable loan in a form approved by Housing and Community Development, the County Attorney, and Virginia Housing Development Authority. A minimum of 5 of the lots with townhouse dwelling units shall be reserved and offered for sale at a price at or below \$160,000

subject to adjustment as set forth herein (hereinafter referred to as "Restricted Units"). The maximum prices set forth herein shall be adjusted annually, on January 1st of each year, by increasing such prices by the cumulative rate of inflation as measured by the Consumer Price Index – Urban, U.S. City Average annual average change for the period from January 1, 2007 until January 1 of the year in question. The annual increase shall not exceed five percent (5%). The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices set forth above. Owner shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County Office of Housing and Community Development on a non-commission basis.

5. Sidewalk Connections. There shall be two sidewalk connections from the internal sidewalks in the development to the sidewalk adjacent to Route 60 generally as shown on the Master Plan. Sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed or bonded in form satisfactory to the County Attorney prior to final subdivision plat approval.

6. Pedestrian Trail. There shall be a soft surface walking trail at least six feet in width installed on the Property generally in the locations shown on the Master Plan. The final design and location of the trail shall be subject to approval by the Director of Planning. The trail shall either be installed or bonded in form satisfactory to the County Attorney prior to final subdivision plat approval.

7. Architectural Elevations. The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the revised Proposed Typical Elevations for Jennings Way dated December 24, 2005, as determined by the Director of Planning.

8. Cash Contributions for Community Impacts.

(a) A contribution of \$1,275 for each Restricted 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 use.

(b) A contribution of \$425 for each Restricted 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, school uses, off-site road improvements, library uses, and public use sites.

(c) A contribution of \$4,011 for each dwelling unit other than an Affordable Unit or Restricted 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 use.

(d) A contribution of \$1,000 for each dwelling unit other than an Affordable Unit or Restricted 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, school uses, off-site road improvements, future water needs, library uses, and public use sites. No contributions shall be required for the submarket affordable housing units.

(e) A contribution of \$1,093 for each dwelling unit other than an Affordable Unit or Restricted 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 or the James City Service Authority 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 of the Property, including without limitation for water system improvements.

(f) The contributions described above, unless otherwise specified, shall be payable at the time of recordation of the subdivision plat for such unit.

(g) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2007 to reflect any increase or decrease for the preceding year in the Marshall and Swift Build Costs Index (the "Index") 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 Index as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the year preceding the calendar year most

currently expired. In the event a substantial change is made in the method of establishing the Index, 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 Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (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.

9. Sewer Improvements. A contribution shall be made to James City Service Authority to offset James City Service Authority's direct costs associated with the construction of the Colonial Heritage Pump Station and Sewer System Improvements in the amount of \$34,425.00 to be paid at the time of final subdivision plat approval.

10. 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 from the Property. The Turf Management Plan shall include measures necessary to manage and limit yearly nutrient application rates to turf. 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 Association or the County. The Turf Management Plan shall be approved by the Environmental Division prior to final subdivision or site plan approval.

11. Energy Efficient Homes. All the town homes and single-family homes shall be certified by a HERS rater to meet or exceed the Energy Star Certification. A

HERS rating is an evaluation of the energy efficiency of a home, compared to a computer-simulated reference house of identical size and shape as the rated home that meets minimum requirements of the Model Energy Code (MEC). The HERS rating results in a score between 0 and 100; with the reference house assigned a score of 80. From this point, each 5% reduction in energy usage (compared to the reference house) results in a one point increase in the HERS score. Thus, an ENERGY STAR qualified new home, required to be significantly more energy-efficient than the reference house, must achieve a HERS score of at least 86.

12. Recreation. (a) The following recreational facilities shall be provided: (i) approximately 1.64 acres of parkland shown on the Master Plan; (ii) one playground (tot lot) with playground equipment for four to six activities; (iii) one paved tether ball court; and (iv) approximately 0.55 miles of trails/paths. 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.

(b) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Recreation Master Plan 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 8(f) or some combination thereof. All cash contributions proffered by this Proffer 12 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.

(c) The recreational facilities proffered under this Section shall be installed or bonded in form satisfactory to the County Attorney prior to the County being obligated to issue more than 20 certificates of occupancy for dwelling units on the Property.

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

approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

14. Streetscape Improvements. The owner shall provide and install streetscape improvements along both sides of all streets in accordance with the applicable provisions of the County's Streetscape Guidelines Policy. The streetscape improvements shall be shown on the plan of development and submitted for approval to the Director of Planning.

15. Anderson – Hughes House. The Anderson – Hughes House located on the portion of the Property zoned B-1 shall be retained in a manner that preserves the existing residential appearance of the building.

16. Townhouses. The townhouses shown on the Master Plan shall be oriented to present the front façade to Richmond Road and an internal sidewalk shall be located in front of the buildings generally as shown on the Master Plan.

17. Water and Sewer Master Plan. A water and sewer master plan for the Property shall be submitted to and approved by the James City Service Authority prior to the County being obligated to grant final subdivision plat approval.

18. Entrance Configuration. The entrance into the Property shall be configured with one ingress lane and two egress lanes ( a shared through/left turn lane and a dedicated right turn lane) and the entrance shall have an increased radius of approximately 50 feet.

19. Stream Restoration. A contribution of \$129,000.00 shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property to be paid at the time of final subdivision plat approval. 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 stream restoration or other environmental improvements in the Yarmouth Creek watershed.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WITNESS the following signatures:

OWNER:

OWNER:

By: Myrtle H. Jennings  
Myrtle H. Jennings

By: Sandra Kay H Kelley  
Sandra Kay H Kelley

DEVELOPER:

By: Jay Epstein  
Jay Epstein

Commonwealth of Virginia  
CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged this 23rd day of March, 2006, by Myrtle H. Jennings.

Julia B. Davis  
NOTARY PUBLIC

My commission expires: 2/28/2010

Commonwealth of Virginia  
CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged this 23rd day of March, 2006, by Sandra Kay H. Kelley.

Julia B. Davis  
NOTARY PUBLIC

My commission expires: 2/28/2010

Commonwealth of Virginia

CITY/COUNTY OF Fauquier, to wit:

The foregoing instrument was acknowledged this 22nd day of March, 2006, by Jay Epstein.

Julien B. Davis  
NOTARY PUBLIC

My commission expires 2/28/2010

(367733)

**RESOLUTION**

**CASE NO. Z-19-05. JENNINGS WAY**

WHEREAS, in accordance with Section 15.2-2204 of the Code of Virginia, and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning Case No. Z-19-05 to rezone 29.81 acres from R-2, General Residential and B-1, General Business, to R-2, General Residential with proffers and a cluster overlay and B-1, General Business with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on March 6, 2006, recommended approval of Case No. Z-19-05, by a vote of 7-0; and

WHEREAS, the properties are located at 7345 and 7375 Richmond Road and further identified as Parcel Nos. (1-30) and (1-30A) on James City County Real Estate Tax Map No. (23-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-19-05 and accepts the voluntary proffers.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

z-19-05.res

## RESOLUTION

### CASE NO. SUP-32-05. JENNINGS WAY

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that are permissible only upon the issuance of a special use permit (SUP); and

WHEREAS, single-family detached dwellings with a maximum gross density of more than one unit per acre are a specially permitted use in the R-2, General Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on March 6, 2006, recommended approval of Case No. SUP-32-05 by a 7-0 vote to permit the construction of a 85-unit, single-family and multi-family subdivision with a gross density not to exceed three units per acre (the "Project") at 7345 and 7375 Richmond Road and further identified as Parcel Nos. (1-30) and (1-30A) on James City County Real Estate Tax Map No. (23-2) (the "Property").

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-32-05 as described herein with the following conditions:

1. Master Plan and Use: This SUP shall be valid for the "Jennings Way" Master Plan, prepared by AES Consulting Engineers, and dated February 6, 2006, (the "Master Plan") and accessory uses thereto. Development of the Property shall be generally in accordance with the Master Plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes to the Master Plan may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. Commencement of Construction: If construction has not commenced on the project within (36 months from the issuance of this SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
3. Buffer Enhancement. Prior to final site plan approval for any section or phase of the project, the applicant shall include enhanced landscaping in the perimeter buffer areas so that the required number of plants equals at least 133 percent of the County's Landscaping Ordinance requirements with a minimum of 50 percent of the required number of trees being evergreen and increase the required bush diameter from 18 inches to 24 inches along Kristiansen buffer. This will create a dense vegetative screening of the development from adjacent properties.
4. Entrance Landscaping. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for the project. The landscaping plan shall include enhanced landscaping within the 50-foot Community Character Corridor (CCC) buffer along Richmond Road (Route 60 East) so that the required number of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the plantings within the CCC buffer shall be evergreen.

5. Lighting: Any new exterior site, building, or parking lot lighting for the townhouse units and the proposed commercial building and parking lot in the B-1 parcel shall have 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 are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
6. RPA Buffer. The location of any Resource Protection Area (RPA), RPA buffer, steep slope (i.e., slopes greater than 25 percent in grade) and/or wetland shall be identified by the developer and shall be indicated on any site plan or development plan which is submitted to James City County for approval. The identification must be approved by the James City County Environmental Division prior to the issuance of preliminary site plan approval.
7. RPA Setback. A 15-foot principle building setback shall be provided from the limits of all dedicated natural open space and RPAs on the Property.
8. Park Land. Prior to subdivision plat approval, the applicant shall remove all existing junk on the Property, including, but not limited to, the area identified as “park land” on the Master Plan. “Junk” shall include old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. The applicant shall obtain the Environmental Director’s approval regarding the manner of removal before removing junk from any environmentally-sensitive area of the Property (e.g., steep slopes, streams, RPA, etc.). When the removal activity is complete, the Environmental Director or his designee shall inspect the Property and shall verify in writing that all junk has been properly removed.
9. Stormwater Attenuation. All stormwater runoff from the Property shall be routed through the on-site stormwater attenuation facility identified on the Master Plan.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

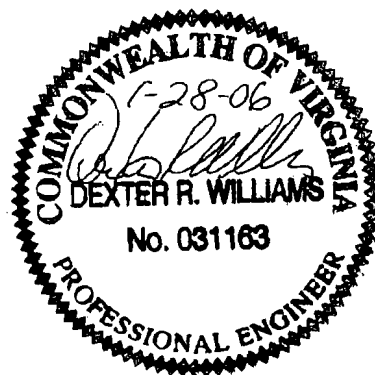
# Traffic Analysis For Jennings Way

JAMES CITY COUNTY, VIRGINIA

*For:*  
Health E Community Enterprises of Virginia

*By:*  
DRW Consultants, LLC  
Midlothian, VA

January 28, 2006



## INTRODUCTION

Health E Community Enterprises of Virginia plans to develop Jennings Way in the Norge community of James City County. The Jennings Way location in the Williamsburg area is shown on Exhibit 1.

The Jennings Way site location is shown on Exhibit 2 (preliminary site plan prepared by AES). Jennings Way is located on the south side of Rt. 60, Richmond Road between Norge Elementary School and Kristriansand subdivision on the east and Farmville Estates subdivision on the west. There is a traffic signal on Rt. 60 at the Norge Elementary School intersection.

This traffic study has been prepared to address the relative effects of Jennings Way on traffic in the area as well the operation of the proposed site access on Rt. 60. The signalized intersection at Rt. 60/Norge Elementary School is addressed in this study as the measurement of off-site traffic impact of Jennings Way.

## EXISTING PEAK HOUR TRAFFIC

Turning movement counts were conducted on Rt. 60 Richmond Road at Norge Elementary School. The counts were conducted from 7 to 9 AM on Wednesday, January 11, 2006 and from 4 to 6 PM on Tuesday, January 10, 2006. The tabulated count results are shown on the Appendix Exhibit A series.

Turning movement counts also were conducted on Rt. 60 Richmond Road at Riverside Dialysis, which is located on the north side of Rt. 60 across from Jennings Way. The tabulated count results for January 10 and 11 are shown on the Appendix Exhibit B series.

Peak hour turning movement counts for the two intersections are shown on Appendix Exhibit C (without balance). Peak hour counts between the two intersections with balance are shown on Exhibit 3.

Queuing of eastbound Richmond Road traffic at the traffic signal at Norge Elementary School was also recorded on January 10 and 11. Recorded queues (relative to physical features at 100, 250 and 386 feet from the eastbound stop bar) are shown Appendix E1 through E3. Eastbound red time and percentile queues are presented on Appendix Exhibit E4.

Rt. 60 Richmond Road in this area is a four lane road with a continuous center turn lane. There are no right turn lanes or tapers between Farmville Estates on the west and Norge Elementary School on the east.

At the Rt.60/Norge Elementary School traffic signal, there are no signal heads for the Shell station driveway at the signal. Therefore, traffic level of service (LOS) calculations at the Rt. 60 Richmond Road/Norge Elementary School intersection are for the eastbound, westbound and northbound approaches that have signal control. LOS calculations using Highway Capacity Software + (HCS+) are shown in the Appendix Exhibit G series.

The average cycle length for the existing AM peak hour is 75 seconds with an average eastbound phase of 57 seconds. The average cycle length for the PM peak hour is 90 seconds with an average eastbound phase of 73 seconds. Because the minimum phase length for the westbound left is 10 seconds and the northbound approach is 12 seconds, the eastbound phase length for LOS calculations is 53 seconds for the AM peak hour and 68 seconds for the PM peak hour.

At the Rt.60/Norge Elementary School traffic signal in the 2006 AM peak hour, there is LOS C or better for all turning movements and LOS A for the overall intersection (see Appendix Exhibit G1 for LOS calculations). The calculated 95<sup>th</sup> percentile eastbound queue is 7.5 cars (187.5 feet) which is approximately the same as the observed 175, foot 95<sup>th</sup> percentile queue in the AM peak hour.

At the Rt.60/Norge Elementary School traffic signal in the 2006 PM peak hour, there is LOS D or better for all turning movements and LOS A for the overall intersection (see Appendix

Exhibit G2 for LOS calculations). The calculated 95<sup>th</sup> percentile eastbound queue is 7 cars (175 feet) which is approximately the same as the observed 162 foot, 97<sup>th</sup> percentile queue in the PM peak hour.

## FORECAST BACKGROUND TRAFFIC

Exhibit 4 shows daily traffic counts on Rt. 60 Richmond Road published by JCC for 2000 to 2005 and the resulting trend forecasts to 2011 using linear regression analysis. There is a 1.04 growth factor from 2006 to 2011 for this section of Richmond Road (from Croaker Road to Lightfoot Road) based on the daily counts. There is a 1.13 growth factor from 2006 to 2011 for the section of Richmond Road east of based on the daily counts.

Exhibit 6 shows 2011 background traffic using a growth factor of 1.15 (an average annual increase of 3%).

At the Rt.60/Norge Elementary School traffic signal for the 2011 AM peak hour background traffic, there is LOS C or better for all turning movements and LOS A for the overall intersection (see Appendix Exhibit G3 for LOS calculations). The calculated 95<sup>th</sup> percentile eastbound queue is 9 cars (225 feet).

At the Rt.60/Norge Elementary School traffic signal for the 2011 PM peak hour background traffic, there is LOS D or better for all turning movements and LOS A for the overall intersection (see Appendix Exhibit G4 for LOS calculations). The calculated 95<sup>th</sup> percentile eastbound queue is 8.3 cars (208 feet).

## JENNINGS WAY TRIP GENERATION, DISTRIBUTION AND ASSIGNMENT

Trip generation for Jennings Way is developed using Trip Generation, 7<sup>th</sup> Edition (TG7) published by the Institute of Transportation Engineers (ITE). Table 1 on Exhibit 6 shows peak hour site trip generation for the 75 single family detached units, 8 condo/townhouse units and 2,880 square feet of office space planned for the Jennings Way. Trip generation in Table 1 is in accordance with previous comments from VDOT.

Trip distribution in Table 2 on Exhibit 6 is based on existing trip distribution for traffic on Farmville Lane at Rt. 60 (see Appendix Exhibit D for PM peak hour counts).

Trip assignment for Jennings Way is shown on Exhibit 7.

## 2011 TOTAL PEAK HOUR TRAFFIC AND ANALYSIS

Exhibit 8 shows the 2011 AM and PM total traffic forecast with the Jennings Way development.

At the Rt.60/Norge Elementary School traffic signal for 2011 AM peak hour total traffic, there is LOS C or better for all turning movements and LOS A for the overall intersection (see Appendix Exhibit G6 for LOS calculations). The calculated 95<sup>th</sup> percentile eastbound queue is 9.4 cars (235 feet).

At the Rt.60/Norge Elementary School traffic signal for 2011 PM peak hour background traffic, there is LOS D or better for all turning movements and LOS A for the overall intersection (see Appendix Exhibit G4 for LOS calculations). The calculated 95<sup>th</sup> percentile eastbound queue is 8.6 cars (215 feet).

The proposed Jennings Way access to Rt. 60 is approximately 700 feet from the Rt.60/Norge Elementary School traffic signal. This location is well outside of the eastbound queue on Rt. 60 at the Rt.60/Norge Elementary School traffic signal for existing and forecast traffic.

There is a two way left turn lane on Rt. 60 that accommodates westbound left turns into Jennings Way. Appendix Exhibit F shows right lane warrants for eastbound Rt. 60 at Jennings Way. A right turn taper is warranted for 2011 total PM peak hour traffic.

The Riverside Dialysis driveway across from Jennings Way had very little traffic at the time of the counts. For purposes of unsignalized LOS calculation at the Rt. 60/Jennings Way

access, the left and right turning movements for the Riverside Dialysis driveway have been increased to 10 vehicles for the 2011 AM and PM peak hours.

Appendix Exhibit H1 shows unsignalized LOS at the Rt. 60/Jennings Way/Riverside Dialysis driveway in the 2011 AM peak hour. There is LOS C or better for all turning movements. Appendix Exhibit H2 shows unsignalized LOS at the Rt. 60/Jennings Way/Riverside Dialysis driveway in the 2011 PM peak hour. There is LOS C or better for all turning movements.

## SUMMARY AND CONCLUSIONS

The following table shows LOS results at the Rt.60/Norge Elementary School traffic signal:

TABLE ONE  
SIGNALIZED INTERSECTION LOS AT  
RT. 60 RICHMOND ROAD/NORGE ELEMENTARY SCHOOL

CONDITION	AM PEAK HOUR LOS					
	Overall	EB Thru/Right	WB Left	WB Thru	NB Left	NB Right
2006 Existing	A - 5.8	A - 5.4	C - 33.0	A - 1.8	C - 29.5	C - 21.3
2011 Background	A - 6.0	A - 5.6	C - 33.4	A - 1.8	C - 29.5	C - 21.3
Total 2011	A - 6.0	A - 5.7	C - 33.4	A - 1.8	C - 29.5	C - 21.3
CONDITION	PM PEAK HOUR LOS					
	Overall	EB Thru	WB Left	WB Thru	NB Left	NB Right
2006 Existing	A - 4.6	A - 4.4	D - 39.7	A - 1.7	D - 36.8	C - 29.1
2011 Background	A - 4.7	A - 4.6	D - 40.0	A - 1.8	D - 36.9	C - 29.3
Total 2011	A - 4.7	A - 4.6	D - 40.0	A - 1.9	D - 36.9	C - 29.3

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

Jennings Way traffic does not change LOS at the Rt.60/Norge Elementary School traffic signal within the nearest one-tenth of a second delay for the overall intersection. Traffic at the Jennings Way access will have LOS C or better for turning movements at a location outside of the eastbound queue on Rt. 60 at the Norge Elementary School traffic signal.

**SPECIAL USE PERMIT-2-06/HEIGHT WAIVER-1-06. Busch Gardens, Williamsburg - New France Expansion  
Staff Report for the April 11, 2006, Board of Supervisors Meeting**

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

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**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

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

March 8, 2006, 7 p.m.  
April 11, 2006, 7 p.m.

**SUMMARY FACTS**

Applicant: Ronnie Orsborne of LandMark Design Group

Land Owner: Busch Entertainment Corporation

Proposal: Busch Entertainment Corporation proposes to erect a 7,500 square foot queuing building and additional exterior structures to create a new theme park expansion in the New France area of Busch Gardens, Williamsburg, which will be laid out over an area of approximately five acres. By creating an expansion of 5,000 square feet or more, this project requires a Special Use Permit, (SUP) pursuant to Section 24-11(b)(2) of the Zoning Ordinance. A Height Limitation Waiver (HW) is also being requested from the Board of Supervisors, pursuant to Section 24-419(c) of the Zoning Ordinance, to allow portions of the expansion to exceed 60 feet in height above grade.

Location: 7851 Pocahontas Trail, Roberts District (inside Busch Gardens theme park)

Tax Map/Parcel No.: (51-4) (1-9)

Parcel Size: Project will affect approximately five acres of a 381.71-acre parcel

Existing Zoning: M-1, Limited Business/Industrial

Comprehensive Plan: Limited Industry

Primary Service Area: Inside

**STAFF RECOMMENDATION**

The proposed expansion is intentionally planned for a location near the center of the Busch Gardens Theme Park (to maximize the extent to which vegetation and other structures will help to screen it), in an effort to minimize the visual impact that it will cause. Additionally, the expansion should not affect noise levels at or outside the boundary of Busch Gardens. Finally, the proposed use is in keeping with the tenets of both the Zoning District and Comprehensive Plan designations for the subject parcel on which the use is to be located. Planning staff recommends that the Board of Supervisors approve this SUP application and associated HW application.

Staff Contact:

David W. German

Phone: 253-6685

## **PROJECT DESCRIPTION**

Mr. Ronnie Orsborne of LandMark Design Group, has applied on behalf of Busch Entertainment Corporation for a SUP to allow for the construction of a new amusement attraction (“expansion”) in the New France area of the Busch Gardens, Williamsburg Theme Park. The new expansion will consist of a 7,500-square-foot queuing building, embarking/disembarking station, maintenance shed, photo kiosk, and connected outdoor track structures, which will be laid out over an area of approximately five acres. The buildings will be constructed on-site of materials (wood, stucco, stone, etc.) similar to other nearby structures in the theme park. The buildings are not expected to exceed approximately 48 feet high at its highest points, and should not be visible from outside of the theme park’s boundaries. The buildings require an SUP pursuant to Section 24-11(b)(2) of the Zoning Ordinance, which requires an SUP for any expansion of 5,000 (or more) square feet in floor area.

The proposal calls for the new expansion to be constructed near the center of the theme park near the northwest end of the Rhine River, and just north of the existing *Alpengeist* roller coaster attraction. The expansion is expected to exceed the 68-foot height limitation imposed by the M-1 Zoning District, reaching a total height-above-grade of 210 feet at its highest point, which will require a HW from the Board of Supervisors.

## **HEIGHT WAIVER**

Mr. Orsborne has separately applied to the Board of Supervisors for a HW on behalf of Busch Entertainment Corporation. On property zoned M-1, structures may be constructed, by right, up to 60 feet in height above grade. If structures are to exceed 60 feet in height, they must first be authorized by the Board with the issuance of a HW. The proposed expansion is expected to exceed 60 feet in height in four locations, reaching a maximum height of 210 feet above grade at its highest point (approximately 280 feet above sea level). The highest part of this expansion is expected to exceed the highest point of the *Alpengeist* roller coaster by approximately 50 feet.

The applicant and Busch Entertainment Corporation conducted a balloon test prior to making the application for the SUP. Photographs from this test suggest that the new expansion would be clearly visible in several locations, the most notable being from US Route 60 near the interchange of VA-199, and from the US Route 60 and VA-143 roadways immediately adjacent to the theme park.

A second balloon test, which was advertised and attended by the Planning staff, was conducted by the applicant and Busch Entertainment Corporation on February 24, 2006. During this second test, the weather conditions (wind) made the testing conditions less than ideal, but it was still clear that the new expansion will be visible from several locations outside the theme park, as described in the previous paragraph.

While the photographs show that the new expansion will be visible from certain vantage points, the applicant has also provided sight line diagrams which show that from some areas, the existing vegetative cover and topography involved will better and more sufficiently screen the proposed attraction.

## **HEIGHT WAIVER ANALYSIS**

Section 24-419(a) of the James City County Zoning Ordinance states that structures in excess of 60 feet in height may be erected only upon the granting of a HW by the Board of Supervisors and upon finding that:

1. Additional setbacks have been provided; however, the Board may waive additional setbacks for structures in excess of 60 feet.

**Staff comment:** The proposed expansion would be located very near the center of the theme park, in a conscious effort to minimize its audio and visual impacts. The nearest park boundary is roughly 800 feet from the expansion, which is well in excess of what is required by the Zoning Ordinance.

2. Such structure will not obstruct light from adjacent property.

**Staff comment:** Given the distances to the Busch Gardens property boundary lines, and the relatively small mass of the structures being anticipated in relation to the overall site and operation, Planning staff finds that the proposed expansion will not obstruct light from adjacent properties.

3. Such structure will not impair the enjoyment of historic attractions, areas of significant historic interest, and surrounding developments.

**Staff comment:** The closest area of historic interest is Carter's Grove Country Road, which is roughly 1,000 to 1,200 feet from the site chosen for the proposed expansion. The sight line diagrams submitted by the applicant suggest that the visual impact presented by the proposed expansion to an observer standing on this road would be minimal in nature. The highest portions of the new expansion may be partially visible from the nearby Kingsmill residential subdivision, but Planning staff was unable to detect any trace of the existing *Alpengeist* roller coaster from any of the residential streets of Kingsmill during a mid-February field observation. Even though no leaves were on the trees, it still provided adequate visual separation due to its substantial number and density. While the new expansion would be 50 feet higher than *Alpengeist*, the tree cover should still help to substantially screen it. In addition to this vegetative screening, the applicant and Busch Entertainment Corporation have agreed to make all portions of the expansion that are higher than 60 feet above grade muted in color and made to blend, as much as possible, with the sky or other surrounding natural features. Additionally, the color scheme used will be subject to the prior review and approval of the Planning Director. Further, considering that this is a commercial theme park use properly located on a parcel zoned for such use, it is staff's opinion that the expansion would not be out of character. Based on these observations, Planning staff finds that the proposed expansion will not impair the enjoyment of nearby historic attractions, areas of significant historic interest, or nearby developments.

4. Such structure will not impair property values in the area.

**Staff comment:** The Real Estate Assessments Division indicated that the area immediately adjacent to the subject site has experienced stable or increasing property values over the last several years, even with the presence of the existing *Apollo's Chariot* and *Alpengeist* roller coaster attractions. Thus, there is no prior indication that the construction of the proposed expansion on this site will have a detrimental effect on surrounding property values.

5. Such structure is adequately designed and served from the standpoint of safety and that the County Fire Chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.

**Staff comment:** The expansion will require proper building permits and inspections from the County, which should ensure that the structures are adequately designed from a safety and structural soundness standpoint. In the event of an emergency, basic fire and rescue services would be provided from Fire Station No. 2, with backup from the other James City County fire stations, as needed. The Fire Department indicated no concerns with the anticipated addition of the new expansion.

6. Such structure will not be contrary to the public health, safety, and general welfare.

**Staff comment:** Based on the current proposal and supporting information submitted by the applicant, staff believes the expansion will not unduly or adversely affect the public health, safety, or general welfare.

## **SURROUNDING ZONING AND DEVELOPMENT ANALYSIS**

To the west and southwest of Busch Gardens is Kingsmill, a residential subdivision zoned R-4, Residential Planned Community, and Carter's Grove Country Road, on land owned by the Colonial Williamsburg Foundation. To the north of the theme park is the Anheuser-Busch Brewery on land zoned M-2, General Industrial. To the northeast of the theme park are the Route 60 and Route 143 roadways, sections of rail line owned by CSX Railroad, and the Williamsburg Country Club and Golf Course. To the east and southeast of the theme park is Grove, which contains residentially zoned properties. Planning staff believes that the proposed expansion places a theme park attraction use into an existing theme park, on land properly zoned for such use, and, thus, finds the proposal to be either compatible with surrounding land uses or properly buffered from surrounding uses to minimize adverse effects.

## **ACCESS AND TRAFFIC IMPACTS ANALYSIS**

This SUP would not change any access into or out of Busch Gardens. The applicant has represented that the proposed expansion would, in and of itself, likely have a minimal impact on the total amount of traffic that is generated by the theme park. The traffic impacts caused by this proposal would be minimal, except for a possible temporary increase in overall park attendance when the expansion first opens to the public.

## **COMPREHENSIVE PLAN ANALYSIS**

The 2003 James City County Comprehensive Plan designates the Busch Gardens property as Limited Industry. The Limited Industry designation is reserved for sites within the Primary Service Area that are used for warehousing, office space, service industries, light manufacturing plants, and public facilities that have moderate impacts on the surrounding area. In consideration of acceptable land uses for Limited Industry areas, dust, noise, odor, and other adverse environmental effects, not size, are primary considerations.

A theme park is a service industry, albeit not a traditional one. The park will not create dust or odor, and noise pollution is largely kept to a minimum by heavy vegetative screening along its perimeter. By placing the proposed new expansion near the center of the park, Busch Entertainment Group hopes to eliminate any increased noise pollution and to minimize, as much as possible, the visual impact of the project.

Finally, because the proposed expansion is located more than 1,800 feet from US Route 60 (Pocahontas Trail), the impact to buffers and landscaping associated with this Community Character Corridor should be minimal. For these reasons, Planning staff supports the proposed expansion, finding it to be consistent with the tenets and spirit of the Comprehensive Plan.

## **RECOMMENDATION**

The proposed expansion is intentionally planned for a location near the center of the Busch Gardens theme park (to maximize the extent to which vegetation and other structures will help to screen it), in an effort to minimize the visual impact that it will cause. Additionally, the expansion should not affect noise levels at or outside the boundary of Busch Gardens. Finally, the proposed use is in keeping with the tenets of both the Zoning District and Comprehensive Plan designations for the subject parcel on which the use is to be located.

The James City County Planning Commission voted 5-0 to recommend approval for the Special Use Permit portion of this application at its March 8, 2006, meeting. Planning staff recommends that the Board of Supervisors approve this SUP application and associated HW application with the following conditions:

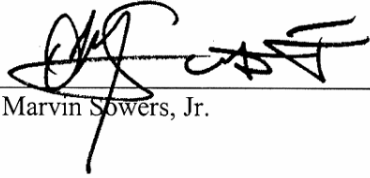
1. **Permit**: This SUP shall be valid for the construction of a queuing building and an embarking/disembarking station, collectively totaling approximately 7,500-square-feet in size, together with additional auxiliary support buildings, to serve the expansion. The expansion shall be generally located as shown on the plan.
2. **Height**: No part of the queuing building, embarking/disembarking station, or any auxiliary support buildings shall exceed 40 feet in height over "average finished grade." The "average finished grade" at the site of the expansion shall be defined as 70 feet above mean sea level.

3. Lighting: A lighting plan shall be submitted to, and approved by, the Planning Director or his designee prior to the issuance of a final Certificate of Occupancy for the expansion. The lighting plan shall show that no glare will be cast beyond any boundary line of the property by any lighting installed as a component of or result of this expansion. Further, the lighting plan shall prohibit any lights that direct light upward to illuminate any part of the expansion or surrounding theme park areas, with the sole exception being landscape-shielded "wall-washer" type fixtures that may be installed to illuminate vertical (solid) wall surfaces related to the expansion.
4. Color Scheme: The color of the structure(s) of the expansion at any point at or above 60 feet above finished grade shall be muted and made to blend with the sky or other surrounding natural features. A color scheme plan shall be submitted to, and approved by, the Planning Director or his designee for consistency with this condition prior to the issuance of a final Certificate of Occupancy for the expansion.
5. Commencement of Construction: Construction on this project shall commence within 36 months from the date of approval of this SUP or this SUP shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
6. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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David W. German

CONCUR:



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O. Marvin Sowers, Jr.

DWG/gs  
sup-2-06\_HW\_1-06

ATTACHMENTS:

1. Location and Zoning Map
2. Photographs
3. Planning Commission Minutes from March 8, 2006
4. BGW New France Expansion Sight Lines, Exhibits 1 and 2 (under separate cover)
5. Resolution

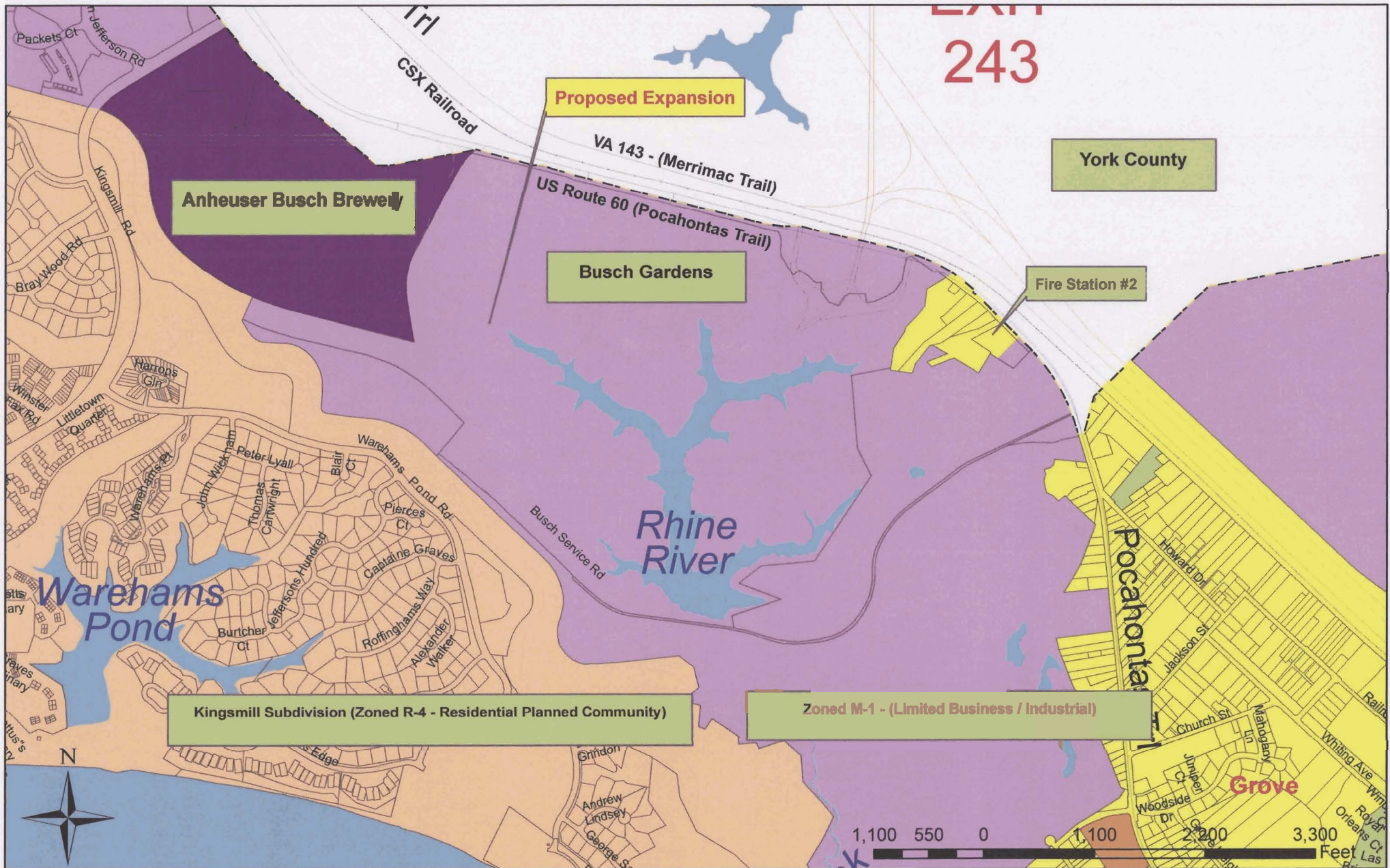




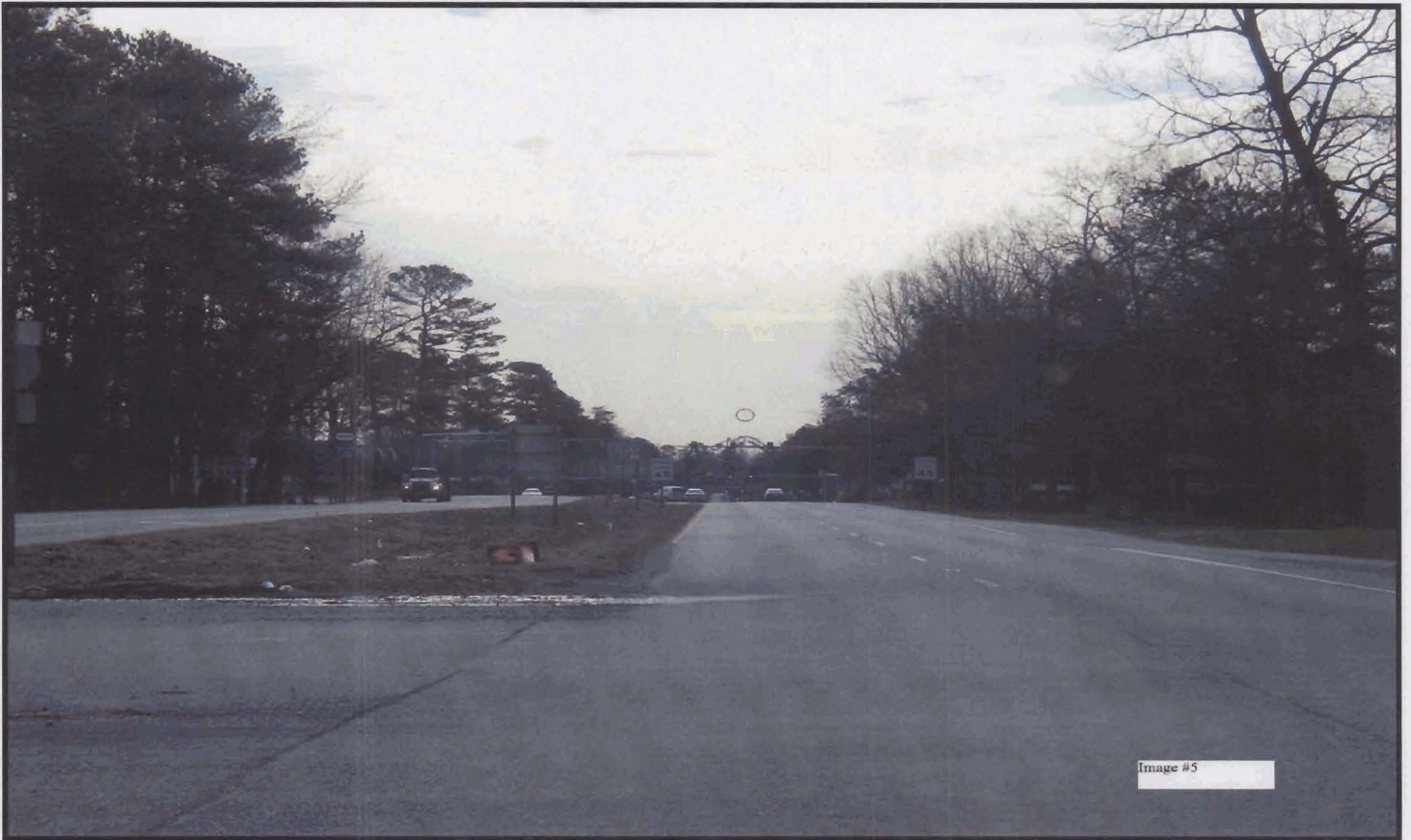
Image #2

*View of the balloon from US Route 60 (Pocahontas Trail) near the Grove Interchange, showing relative height in comparison to Apollo's Chariot rollercoaster (foreground) and Alpengeist rollercoaster (center)*



Image #3

*View of balloon from US Route 60 (Pocahontas Trail) with the Escape from Pompeii attraction in the foreground*



*View of balloon from US Route 60 (Pocahontas Trail) at the interchange with VA-199; note Alpengeist rollercoaster just below balloon*



*View of balloon test from Anheuser Busch Brewery service road—note that balloon is not fully extended due to the breeze; Alpengeist rollercoaster in foreground*

**UNAPPROVED MINUTES OF THE MARCH 8, 2006 MEETING  
OF THE PLANNING COMMISSION**

SUP-2-06 Busch Gardens – New France Addition

Mr. David German presented the staff report stating that LandMark Design Group has applied, on behalf of Busch Gardens, Williamsburg, for approval of a Special Use Permit for a new major attraction in the New France section of the Busch Gardens, Williamsburg theme park located at 7851 Pocahontas Trail. The parcel is further identified as Parcel No. (1-9) on JCC Tax Map No. (51-4).

Mr. Fraley opened the public hearing.

Mr. Larry Giles, Vice President of Engineering for Busch Gardens Williamsburg, stated that the building would be centrally located within the park. Mr. Giles also stated that the project was a redevelopment of a section of the park that had already been developed and that impervious area would be reduced.

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

Mr. Kennedy motioned for approval of the application.

Ms. Jones seconded the motion.

In a unanimous roll call vote the application was recommended for approval (5-0). AYE: Jones, Kennedy, Billups, Obadal, Fraley (5); NAY: (0).

## RESOLUTION

CASE NO. SUP-2-06/HW-1-06. BUSCH GARDENS, WILLIAMSBURG -

### NEW FRANCE EXPANSION

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and
- WHEREAS, Mr. Ronnie Orsborne, on behalf of Busch Entertainment Corporation, has applied for an SUP (SUP-02-06) to allow for the construction of a queuing building and an embarking/disembarking station, collectively, totaling approximately 7,500 square feet in size, and with additional auxiliary support buildings, as needed, to serve a new theme park attraction in the New France area of Busch Gardens, Williamsburg, (“Expansion”) which will be laid out over a total area of approximately five acres; and
- WHEREAS, Mr. Orsborne, again on behalf of Busch Entertainment Corporation, has separately applied for a Height Limitation Waiver (HW-1-06) to allow for the construction of elements of the Expansion that will reach heights of up to 210 feet above grade; and
- WHEREAS, a public hearing was advertised, adjoining property owners notified, and a public hearing conducted on SUP-02-06 and HW-1-06; and
- WHEREAS, the proposed Expansion is depicted on the plan prepared by LandMark Design Group, dated January 10, 2006, and entitled “BGW New France Expansion: Sight Lines, Ex 1” (the “Plan”); and
- WHEREAS, the proposed Expansion will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (51-4), and commonly known as “Busch Gardens” (the “Property”); and
- WHEREAS, the Planning Commission, following its Public Hearing on March 8, 2006, voted unanimously to approve SUP-2-06; and
- WHEREAS, the Board of Supervisors find that the requirements of Section 24-419(c) of the James City County Zoning Ordinance have been satisfied, in order to grant a height limitation waiver to allow for the erection of structures in excess of 60 feet in height.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve HW-01-06 to grant the applicant a 150-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of track sections up to 210 feet tall for the Expansion.
- BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve SUP-2-06, as described herein, pursuant to the following conditions:

1. Permit: This SUP shall be valid for the construction of a queuing building and an embarking/disembarking station, collectively totaling approximately 7,500 square-feet in size, together with additional auxiliary support buildings, to serve the Expansion. The Expansion shall be generally located as shown on the plan.
2. Height: No part of the queuing building, embarking/disembarking station, or any auxiliary support buildings shall exceed 40 feet in height over “average finished grade.” The “average finished grade” at the site of the Expansion shall be defined as 70 feet above mean sea level.
3. Lighting: A lighting plan shall be submitted to, and approved by, the Planning Director or his designee prior to the issuance of a final Certificate of Occupancy for the Expansion. The lighting plan shall show that no glare will be cast beyond any boundary line of the property by any lighting installed as a component of or result of this Expansion. Further, the lighting plan shall prohibit any lights that direct light upward to illuminate any part of the Expansion or surrounding theme park areas, with the sole exception being landscape-shielded “wall-washer” type fixtures that may be installed to illuminate vertical (solid) wall surfaces related to the Expansion.
4. Color Scheme: The color of the structure(s) of the Expansion at any point at or above 60 feet above finished grade shall be muted and made to blend with the sky or other surrounding natural features. A color scheme plan shall be submitted to, and approved by, the Planning Director or his designee for consistency with this condition prior to the issuance of a final Certificate of Occupancy for the Expansion.
5. Commencement of Construction: Construction on this project shall commence within 36 months from the date of approval of this SUP or this SUP shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
6. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

sup-02-06\_hw-01-06.res

MEMORANDUM

DATE: April 11, 2006  
TO: The Board of Supervisors  
FROM: Matthew J. Smolnik, Planner  
SUBJECT: Case No. ZO-1-06. Athletic Field Lighting

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As part of its review of the Community Sports Facility and Warhill Sports Complex projects, it has come to staff's attention that there is a need to clarify the height requirements for athletic field lighting as stated under the height limits section within each zoning district. The attached ordinance change would clarify the ordinance and require a height waiver be issued by the Board of Supervisors for athletic field lighting in excess of 60 feet up to 100 feet in height in the following districts: General Agricultural District, A-1; Limited Residential District, R-1; General Residential District, R-2; Residential Planned Community District, R-4; Multifamily Residential District, R-5; Low-Density Residential District, R-6; Rural Residential District, R-8; Limited Business District, LB; General Business District, B-1; Planned Unit Development Districts, PUD; and Mixed Use, MU.

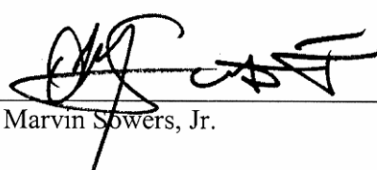
Staff believes that through the height waiver process which requires a public hearing and notification of adjacent property owners the Board of Supervisors will have sufficient ability to review and mitigate the potential impacts of athletic field lighting on a site specific basis.

Staff recommends approval of the attached ordinance. On April 3, 2006, the Planning Commission recommended approval by a vote of 7-0.

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Matthew J. Smolnik

CONCUR:



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O. Marvin Sowers, Jr.

MJS/tlc  
ZO-1-06Lights.mem

Attachment  
1. Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 2. GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-218, HEIGHT LIMITS; DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-240, HEIGHT LIMITS; DIVISION 4. GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-261, HEIGHT LIMITS; DIVISION 5. RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, SECTION 24-293, HEIGHT LIMITS; DIVISION 6. MULTI FAMILY RESIDENTIAL DISTRICT, R-5, SECTION 24-314, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; DIVISION 7. LOW-DENSITY RESIDENTIAL DISTRICT, R-6, SECTION 24-335, HEIGHT LIMITS; DIVISION 8. RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-354, HEIGHT LIMITS; DIVISION 9. LIMITED BUSINESS DISTRICT, LB, SECTION 24-375, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS; DIVISION 10. GENERAL BUSINESS DISTRICT, B-1, SECTION 24-397, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS; DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICT, PUD, SECTION 24-496 HEIGHT AND SPACING OF STRUCTURES; AND DIVISION 15. MIXED USE, MU, SECTIONS 24-525, HEIGHT OF STRUCTURES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts Section 24-218, Height limits; Section 24-240, Height limits; Section 24-261, Height limits; Section 24-293, Height limits; Section 24-314, Requirements for improvement and design; Section 24-335, Height limits; Section 24-354, Height limits; Section 24-375, Height limits and height limitation waivers; Section 24-397, Height limits and height limitation waivers; Section 24-496 Height and spacing of structures; and Section 24-525, Height of structures.

Chapter 24. Zoning

Article V. Districts

Division 2. General Agricultural District, A-1

**Sec. 24-218. Height limits.**

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.

- (2) Church spires, belfries, cupolas, monuments, water towers, *athletic field lighting*, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory or nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in grade to the top of the structure, upon finding that:

- a. Such structure will not obstruct light to adjacent property;
- b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- c. Such structure will not impair property values in the surrounding area;
- d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- e. Such structure will not be contrary to the public health, safety and general welfare.

#### Division 3. Limited Residential District, R-1

#### **Sec. 24-240. Height limits.**

Buildings may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, *athletic field lighting*, chimneys, flues, flagpoles, home television antennae, and home radio aerials and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in grade to the top of the structure, upon finding that:

- a. Such structure will not obstruct light to adjacent property;
- b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- c. Such structure will not impair property values in the surrounding area;
- d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- e. Such structure will not be contrary to the public health, safety and general welfare.

#### Division 4. General Residential District, R-2

##### **Sec. 24-261. Height limits.**

Buildings may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, *athletic field lighting*, chimneys, flues, flagpoles, home television antennas and home radio aerials and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in grade to the top of the structure, upon finding that:
  - a. Such structure will not obstruct light to adjacent property;
  - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - c. Such structure will not impair property values in the surrounding area;
  - d. Such structure is adequately designed and served from the standpoint of safety, and county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, as to offer adequate protection to life and property; and
  - e. Such structure will not be contrary to the public health, safety and general welfare.

Division 5. Residential Planned Community District, R-4

**Sec. 24-293. Height limits.**

Structures may be erected up to 60 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank, *athletic field lighting*, or other accessory functions, which are part of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. A structure in excess of 60 feet in height but not in excess of 100 feet, from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of 120 feet in grade to the top of the structure, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- a. Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- b. Such structure will not obstruct light from adjacent property;
- c. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- d. Such structure will not impair property values in the surrounding area;
- e. Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- f. Such structure will not be contrary to the public health, safety and general welfare.

Division 6. Multifamily Residential District, R-5

**Sec. 24-314. Requirements for improvements and design.**

(j) *Structure height.* Structures may be erected up to 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, *athletic field lighting*, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures, or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. A structure in excess of 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, *athletic field lighting*, water tank, radio, television and microwave antennas and towers or other accessory functions, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Such structure will not obstruct light from adjacent property;
- (2) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (3) Such structure will not impair property values in the surrounding area;

- (4) Such structure is adequately designed and served from the stand point of safety and the county fire chief certifies that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- (5) Such structure would not be contrary to the public health, safety and general welfare.

Division 7. Low-Density Residential District, R-6

**Sec. 24-335. Height limits.**

Buildings may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that the two side yards for the dwelling are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, *athletic field lighting*, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed sixty feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in grade to the top of the structure, upon finding that:
  - a. Such structure will not obstruct light to adjacent property;
  - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - c. Such structure will not impair property values in the surrounding area;
  - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
  - e. Such structure will not be contrary to the public health, safety and general welfare.

Division 8. Rural Residential District, R-8

**Sec. 24-354. Height limits.**

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.

- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, rear and side yards shall be increased one foot for each foot in height above 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, *athletic field lighting*, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade and camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in height to the top of the structure, upon finding that:
  - a. Such structure will not obstruct light to adjacent property;
  - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - c. Such structure will not impair property values in the surrounding area;
  - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
  - e. Such structure will not be contrary to the public health, safety and general welfare.

Division 9. Limited Business District, LB

**Sec. 24-375. Height limits and height limitation waivers.**

(a) Structures may be erected up to 35 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(b) Church spires, belfries, cupolas, *athletic field lighting*, chimneys, flues, monuments, flagpoles and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in height to the top of the structure upon finding that:

1. Such structure will not obstruct light to adjacent property;
2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
3. Such structure will not impair property values in the surrounding area;

4. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
5. Such structure will not be contrary to the public health, safety and general welfare.

Division 10. General Business District, B-1

**Sec. 24-397. Height limits and height limitation waivers.**

Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, *athletic field lighting*, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade, in accord with the following criteria:

- (1) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, *athletic field lighting*, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of 120 feet in grade to the top of the structure, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:
  - a. The regulations of section 24-398 regarding building coverage, floor area ratio and open space are met;
  - b. Such structure will not obstruct light from adjacent property;
  - c. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - d. Such structure will not impair property values in the surrounding area;
  - e. Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
  - f. Such structure would not be contrary to the public health, safety or general welfare.

Division 14. Planned Unit Development Districts

**Sec. 24-496. Height and spacing of structures.**

- (a) Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, *athletic field lighting*, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

- (b) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, *athletic field lighting*, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television, and microwave antennas and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless

Communications facilities in excess of 60 feet in height but not in excess of 120 feet in grade to the top of the structure, may be erected only upon the granting of a height limitation waiver by the board of supervisors.

Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the surrounding area;
- (5) Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- (6) Such structure would not be contrary to the public health, safety or general welfare.

#### Article V. Districts

#### Division 15. Mixed Use, MU

#### **Sec. 24-525. Height of structures.**

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, *athletic field lighting*, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

(b) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, *athletic field lighting*, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas, and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of 120 feet in grade to the top of the structure, may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the surrounding area;
- (5) Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- (6) Such structure would not be contrary to the public health, safety or general welfare.

---

Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

ZO-1-06Lights\_ord

**HEIGHT WAIVER-5-05. Community Sports Facility Lighting  
HEIGHT WAIVER-2-06. Warhill Sports Complex Field No. 5 Lighting  
Staff Report for the April 11, 2006, Board of Supervisors Meeting**

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

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**PUBLIC HEARING**

Board of Supervisors:

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

April 11, 2006, 7 p.m.

**SUMMARY FACTS**

Applicant:

Mr. Bernard M. Farmer, Jr., James City County Capital Projects Coordinator

Land Owner:

James City County

Proposal:

The applicant is requesting a height waiver from Section 24-354 of the Zoning Ordinance, to allow for the construction of six 70-foot-tall light poles and two 80-foot-tall light poles to illuminate Field No. 5, and four 80-foot-tall light poles to illuminate the Community Sports Facility, both at the Warhill Sports Complex.

Location:

5700 Warhill Trail

Tax Map/Parcel No.:

(32-1)(1-12)

Parcel Size:

515 acres

Zoning:

R-8, Rural Residential

Comprehensive Plan:

Park, Public, or semipublic Open Space

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

Given the established, mature, wooded buffer between the residential developments and Field No. 5 and the Community Sports Facility, coupled with the distance from the nearest property lines (approximately 700 feet for Field No. 5 and approximately 1,200 feet for the Community Sports Facility) and the proposed light fixtures, staff believes the light poles should present a negligible visual impact to surrounding properties and uses. In addition, staff finds the proposal consistent with the requirements stated under Section 24-354 of the Zoning Ordinance. Staff recommends that the Board of Supervisors approve this application.

Staff Contact:

Matthew J. Smolnik

Phone: 253-6685

**PROJECT DESCRIPTION**

Mr. Bernard Farmer of James City County, has requested a height limitation waiver from the Board of Supervisors to construct six 70-foot-tall light poles and two 80-foot-tall light poles which will be used to illuminate Field No. 5, and four 80-foot-tall light poles which will be used to illuminate the Community Sports Facility, both at the Warhill Sports Complex. On property zoned R-8, structures may be constructed up to 60 feet; however, structures in excess of 60 feet may be constructed only if specifically approved by the Board of Supervisors. The proposed use for Field No. 5 has been previously approved for this site with SUP-

17-03 and SUP-91-02, so all that is in question with the application is the height of light poles for this facility. The proposed use for the Community Sports Facility has been previously approved for the site with SUP-17-03 and the site plan for the Facility is currently under review by the County and other reviewing agencies.

### **ANALYSIS**

Section 24-354 of the James City County Zoning Ordinance states that structures in excess of 60 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors and upon finding that:

1. Such structure will not obstruct light from adjacent property.

**Staff comment:** Given the distance to the nearest property line (approximately 700 feet for Field No. 5 and approximately 1,200 feet for the Community Sports Facility), and the relatively small mass of the light poles, staff believes that the proposed light poles will not obstruct light from adjacent properties.

2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments.

**Staff comment:** There are no immediate nearby historic sites or structures. The iso-footcandle diagrams and lighting details indicate the lighting will be contained on the parcel associated with this application. The proposed light fixtures are designed to reduce upward directed light, protecting the night skies surrounding the fields. A copy of the manufacturer's light details and iso-footcandle diagrams are included as an attachment for your review. Please note the proposed fixtures will be used to illuminate both Field No. 5 and the Community Sports Facility. Based on the submitted material, staff believes the proposed light poles will not impair the enjoyment of nearby historic attractions, areas of significant historic interest, and surrounding developments.

3. Such structure will not impair property values in the area.

**Staff comment:** The Real Estate Assessments Division indicated there is no prior indication that the construction of the light poles for a sports field will have a detrimental affect on surrounding property values.

4. Such structure is adequately designed and served from the standpoint of safety and that the County Fire Chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.

**Staff comment:** The project is subject to full County review processes. Staff feels confident this will ensure the structure is adequately designed from a safety standpoint. Basic fire and rescue services will be provided from Fire Station No. 4 with backup from the other James City County Fire Stations.

5. Such structure will not be contrary to the public health, safety, and general welfare.

**Staff comment:** Based on the current proposal and supporting information submitted by the applicant, staff believes the light poles, if constructed as proposed, will not unduly or adversely affect public health, safety, or general welfare.

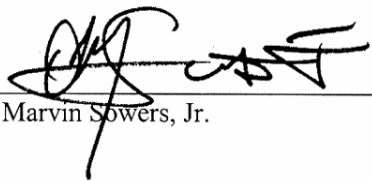
**RECOMMENDATION**

Given the established, mature, wooded buffer between the residential developments and Field No. 5 and the Community Sports Facility, coupled with the distance from the nearest property lines (approximately 700 feet for Field No. 5 and approximately 1,200 feet for the Community Sports Facility) and the proposed light fixtures, staff believes the light poles should present a negligible visual impact to surrounding properties and uses. In addition, staff finds the proposal consistent with the requirements stated under Section 24-354 of the Zoning Ordinance. Staff recommends that the Board of Supervisors approve this application.

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Matthew J. Smolnik

CONCUR:



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O. Marvin Sowers, Jr.

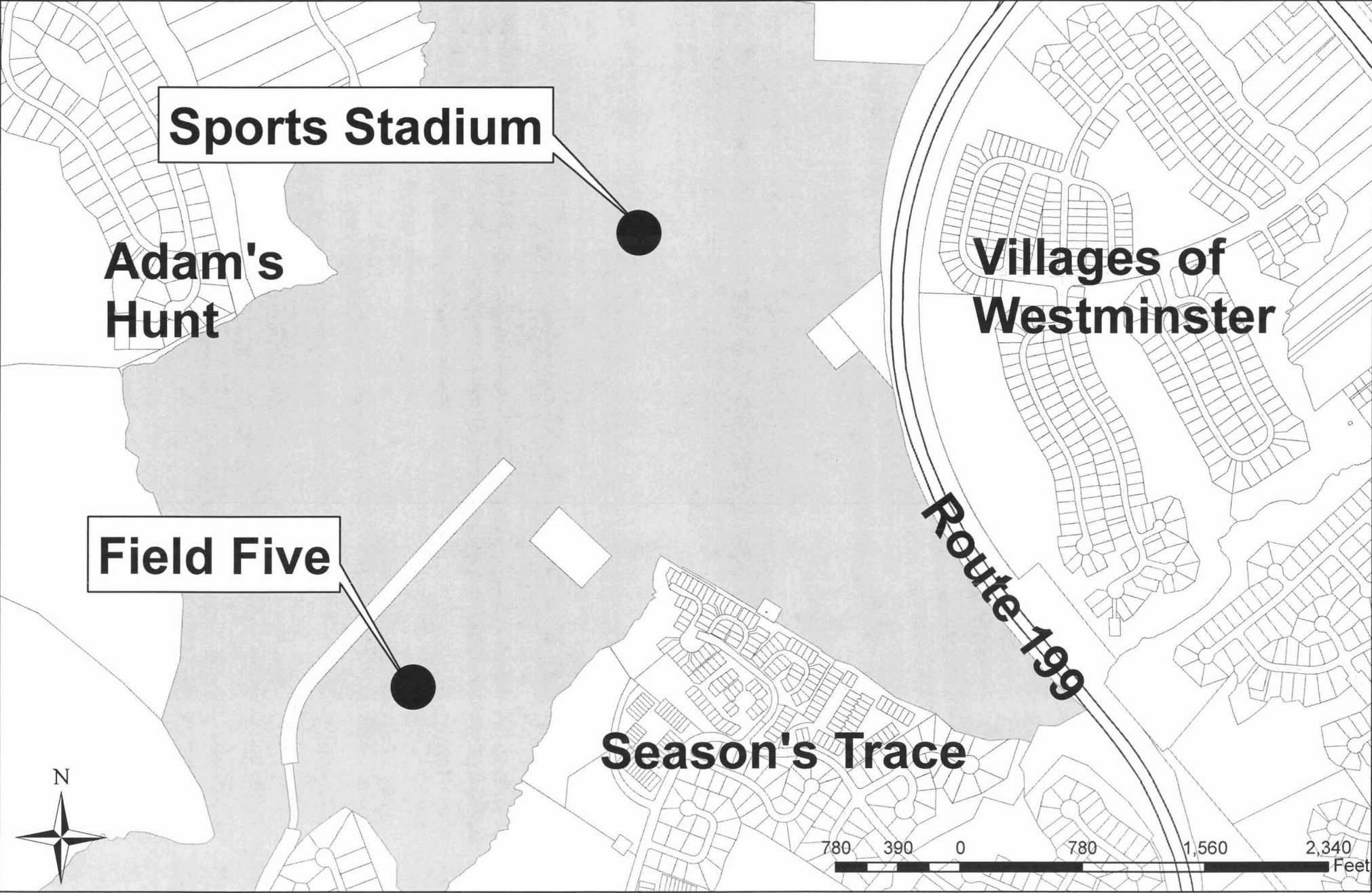
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HW-5-05\_2-06.doc

**ATTACHMENTS:**

1. Location Map
2. Light Fixture Details
3. Field No. 5 Illumination Summaries
4. Resolutions

# JCC-HW-5-05: Community Sports Stadium Lighting

## JCC-HW-2-06: Warhill Filed Five Lighting





## Permanent Lighting

# Light-Structure GREEN.

Outdoor Sports Lighting for Recreation and Athletic Facilities...  
for a more energy conscious generation



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Innovative photometric improvements of the luminaire result in substantially more efficient light control.

Guaranteed to make your sports-lighting projects fast, easy, and trouble-free, Light-Structure Green™ is offered with confidence earned and learned from 30 years of technology innovation.

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### For your budget:

Energy and maintenance costs significantly impact annual operating budgets. Light-Structure Green cuts those costs in half through improved reflector technology, a 25-year maintenance program, and Control-Link® automated scheduling system.

25-Year Life Cycle Cost			
	Prior Technology	Light-Structure GREEN.	Your Savings
Hours	7500	7500	
Average kW	84.2	50.0	
<b>Energy</b>	<b>\$56,862</b>	<b>\$33,782</b>	<b>\$23,080</b>
Group Relamp	\$16,250	\$0	\$16,250
Lamp Maintenance	\$3,750	\$0	\$3,750
Controls -Energy	\$5,770	\$0	\$5,770
Controls - Labor	\$10,000	\$0	\$10,000
<b>25-Year Life Cycle Costs</b>	<b>\$92,632</b>	<b>\$33,782</b>	<b>\$58,850</b>

1. 300 hours per year, 7¢, per kilowatt hour
2. \$125 per luminaire for relamp labor and materials.
3. \$1,500 for 3 repairs at \$500 each
4. Switching on and off 20 minutes closer to actual usage time.

5. 15 minutes labor for turning on and for off at \$8 labor rate--2500 operations.

#### Reflector technology

- The dramatic improvement of photometric efficiency requires fewer fixtures to achieve desired light levels, reducing energy costs
- A series of timed power adjustments with the Smart Lamp™ operating system increases lamp life from 3,000 to 5,000 hours - a 66% increase in operating efficiency

#### Musco's *Constant 25*™ warranty and maintenance program guarantees

- Constant light levels and group lamp replacements at the end of rated lamp life
- Reduced energy consumption
- Monitoring, maintenance, and remote on/off control services
- System structural integrity

*Musco Constant 25*™

Musco's *Constant 25*™ warranty assures you won't have to touch your lighting system for 25 years, guaranteed.

#### Control-Link System

- Lights are on only when needed through an automated scheduling and monitoring system
- Control-Link Central™ staff provides 24/7 support, benefiting field users and neighbors

#### For the environment:



Tucson, AZ - This multi-field complex shows Light-Structure Green's dramatic light control capability. The outfield pole locations are only 100 feet apart. Light levels measure .5 footcandles between them.

Advancements in the reflector design reduce offsite spill light by 50% over our previous, industry-leading light control system. Effective light control allows facility planners more flexibility in site selection for new fields and makes lighting an existing neighborhood park easier.

Effective light control addresses four areas of concern:

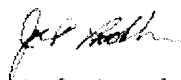
- Neighbors: Light-Structure Green custom fits light onto the field, keeping the light out of neighbors' windows
- Sky glow: The reflector reduces upward light, protecting the beauty of the dark skies
- Players and spectators: For multi-field complexes, it is important that light doesn't trespass onto adjoining fields, causing potential problems for players and spectators
- Aesthetics: Light-Structure Green's structural design and light clarity make the system aesthetically pleasing

**Unequaled performance:**

**"OFFERED WITH THE CONFIDENCE  
EARNED AND LEARNED FROM  
30 YEARS OF TECHNOLOGY INNOVATION."**



Myron Gardin, Co-founder



Joe Crookham, Co-founder

**800/825-6030  
(1) 641/673-0411**

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EQUIPMENT LIST FOR AREAS SHOWN								
Pole			Luminaires					
QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	LAMP TYPE	QTY/POLE	THIS GRID	OTHER GRIDS
2	A1-A2	70'	-	70'	1500W MZ	5	5	0
2	B1-B2	80'	-	80'	1500W MZ	9	9	0
4	C1-C2	70'	-	70'	1500W MZ	4	4	0
8	D1-D2							
TOTALS						44	44	0



**GUARANTEED PERFORMANCE**

**ILLUMINATION SUMMARY**

**Baseball**  
 James City County Youth League Lighting Phase 2  
 Williamsburg, VA

**Baseball**  
 · Size: 325'/395'/325' - 90' Basepath  
 · Grid Spacing = 30.0' x 30.0'  
 · Values given at 3.0' above grade

· Luminaire Type: Green Generation  
 · Rated Lamp Life: 5000 hours  
 · Avg Lumens/Lamp: 134,000

**CONSTANT ILLUMINATION HORIZONTAL FOOTCANDLES**

	Infield	Outfield
No. of Target Points:	25	117
Average:	50.5	30.9
Maximum:	62	43
Minimum:	36	19
Avg/Min:	1.39	1.61
Max/Min:	1.71	2.24
UG (Adjacent Pts):	1.83	1.83
CV:	0	0

Average Lamp Tilt Factor: 1.000  
 Number of Luminaires: 44  
 Avg KWh Consumption over 5000 hours: 68.64

**Guaranteed Performance:** The CONSTANT ILLUMINATION described above is guaranteed for the rated life of the lamp.

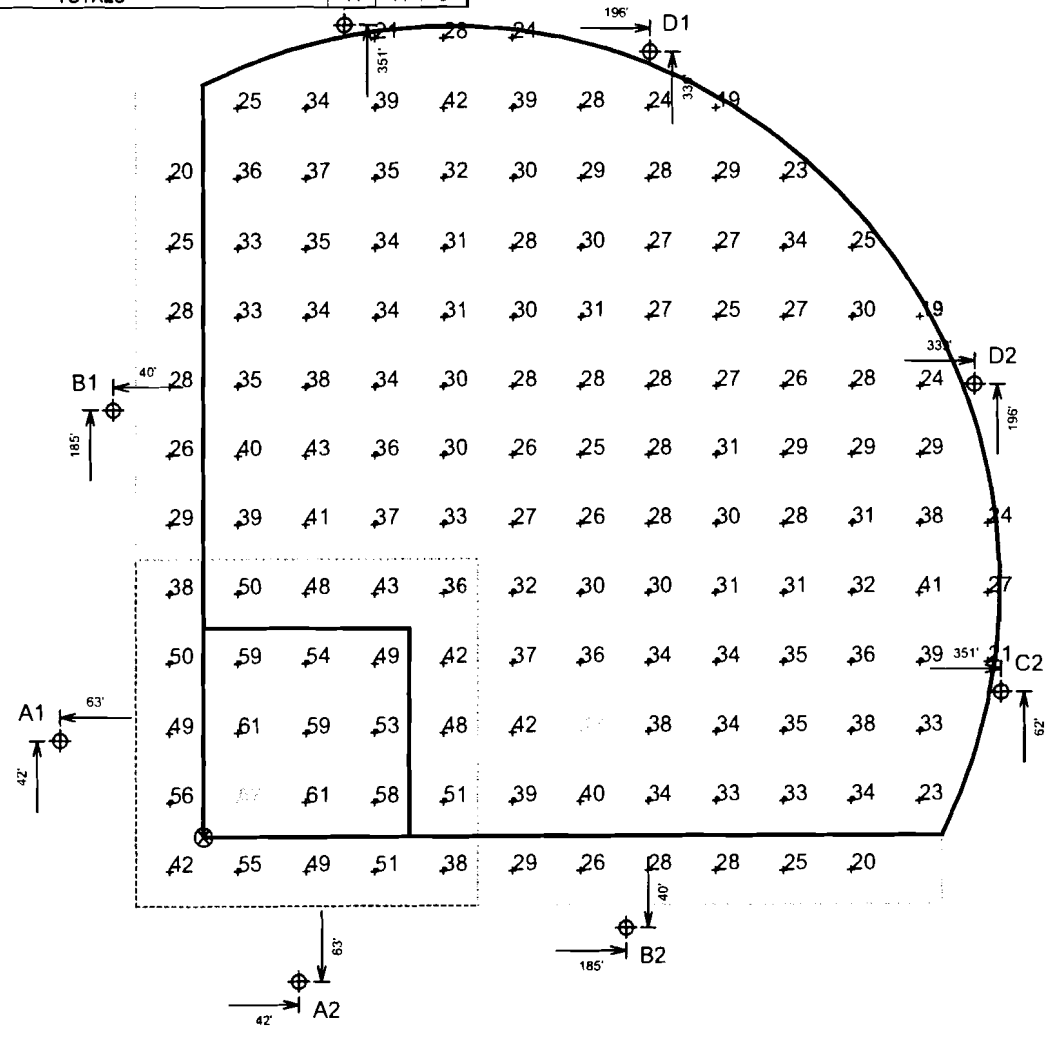
**Field Measurements:** Averages shall be +/- 10% in accordance with IESNA RP-6-01. Individual measurements may vary from computer predictions.

**Electrical System Requirements:** Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

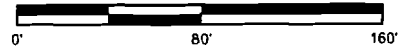
**Installation Requirements:** Results assume +/- 3% nominal voltage at line side of the ballast and structures located within 3 feet of design locations.

By: Jason Sandifer Date: 28-Dec-05  
 File #: 69441

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SCALE IN FEET 1 : 80



Pole location(s) ⊕ dimensions are relative to 0,0 reference point(s) ⊗

EQUIPMENT LIST FOR AREAS SHOWN								
Pole			Luminaires					
QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	LAMP TYPE	QTY/POLE	THIS GRID	OTHER GRIDS
2	A1-A2	70'	-	70'	1500W MZ	5	5	0
2	B1-B2	80'	-	80'	1500W MZ	9	9	0
4	C1-C2	70'	-	70'	1500W MZ	4	4	0
8	D1-D2					44	44	0
← TOTALS →						44	44	0



**MUSCO**  
GREEN GENERATION LIGHTING™

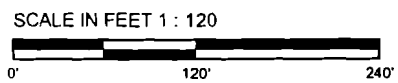
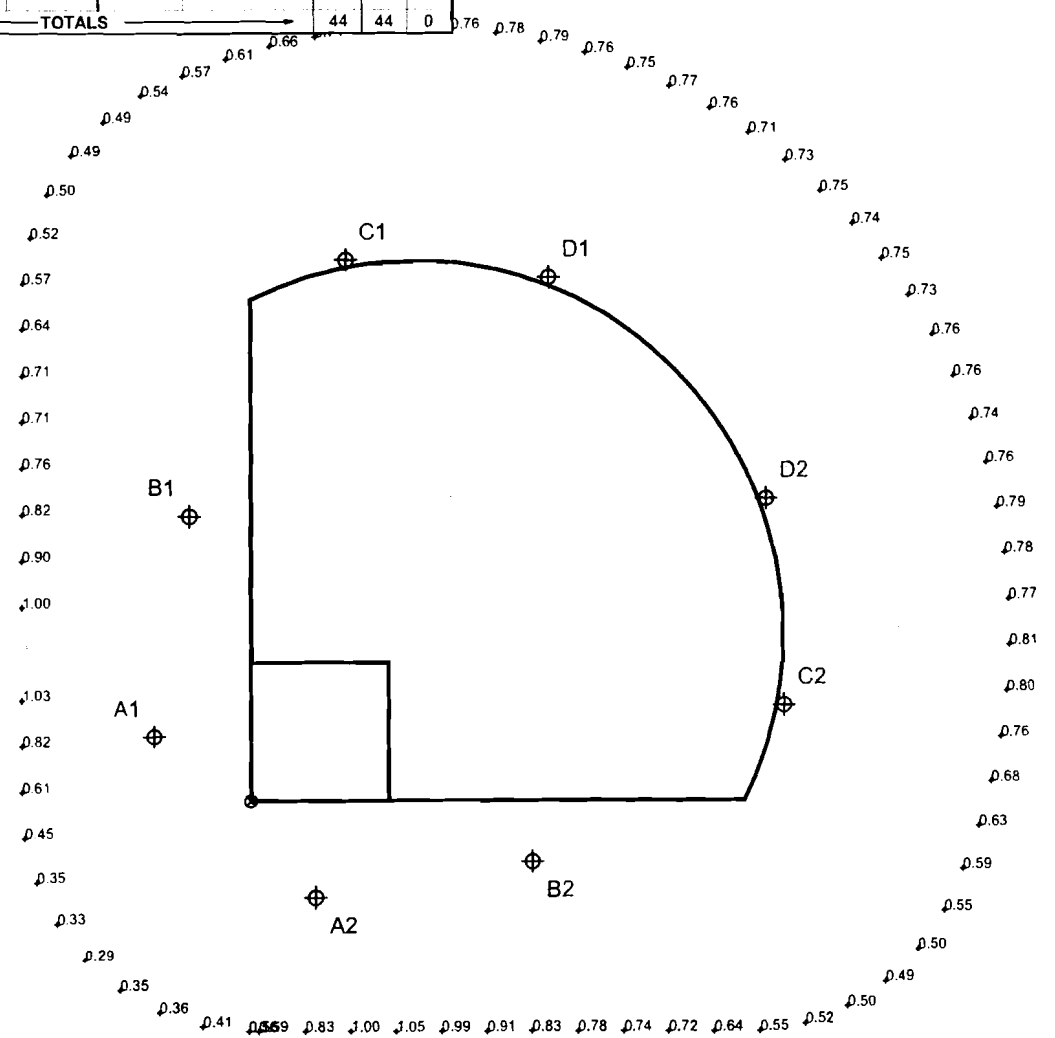
**ILLUMINATION SUMMARY**

**150' Spill**  
James City County Youth League Lighting Phase 2  
Williamsburg, VA

**150' Spill**  
· Grid Spacing = 30.0'  
· Values given at 3.0' above grade

· Luminaire Type: Green Generation  
· Rated Lamp Life: 5000 hours  
· Avg Lumens/Lamp: 134,000

CONSTANT ILLUMINATION MAX VERTICAL FOOTCANDLES	
Statistical	
No. of Target Points:	74
Average:	0.690
Maximum:	1.09
Minimum:	0.29
Average Lamp Tilt Factor:	1.000
Number of Luminaires:	44
Avg KWh Consumption over 5000 hours:	68.64



Pole location(s) ⊕ dimensions are relative to 0,0 reference point(s) ⊗

By: Jason Sandifer Date: 28-Dec-05  
File #: 69441

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**RESOLUTION**

**CASE NO. HW-5-05. COMMUNITY SPORTS FACILITY LIGHTING**

WHEREAS, Mr. Bernard Farmer, Jr., on behalf of James City County, has applied for a height limitation waiver (HW) to allow for the construction of four 80-foot-tall light poles; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a public hearing scheduled on Case No. HW-5-05; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-5-05.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

HW-5-05.res

**RESOLUTION**

**CASE NO. HW-2-06. WARHILL FIELD NO. 5 LIGHTING**

WHEREAS, Mr. Bernard Farmer, Jr., on behalf of James City County, has applied for a height limitation waiver (HW) to allow for the construction of six 70-foot-tall and two 80-foot-tall light poles; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a public hearing scheduled on Case No. HW-2-06; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-2-06.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

HW-2-06.res

**AGRICULTURAL & FORESTAL DISTRICT-1-98. Barrett's Ferry 2006 Renewal  
Staff Report for the April 11, 2006, 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:  
Board of Supervisors:

March 6, 2006, 7:00 p.m.  
April 11, 2006, 7:00 p.m.

**SUMMARY FACTS**

Owner: Baxter Bell  
Tax Map/Parcel No.: (43-2) (1-3)  
Parcel Size: 198.9 acres  
Zoning: A-1, General Agricultural  
Comprehensive Plan: Rural Lands and Conservation Area  
Primary Service Area: Outside

**STAFF RECOMMENDATION**

Due to the minimum core district requirements not being met, staff recommends that the Barrett's Ferry AFD be terminated after the parcel is transferred to the adjacent Gordon Creek AFD. Staff believes that this transfer will be beneficial as it will further strengthen the Gordon Creek AFD and will allow this parcel to continue to participate in the AFD program.

On February 23, 2006, the AFD Advisory Committee recommended termination of this district and transfer of the parcel to the Gordon Creek district by a vote of 8-0.

Staff Contact: Ellen Cook Phone: 253-6685

**PLANNING COMMISSION RECOMMENDATION**

On March 6, 2006, the Planning Commission recommended termination of this district and transfer of the parcel to the Gordon Creek district by a vote of 7-0.

**Proposed Changes Made Since Planning Commission Meeting**

None.

**SUMMARY**

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFDs) prior to their expiration. During this review, districts must either be continued, modified, or terminated. This report reviews AFD-1-98, Barrett’s Ferry, which is scheduled to expire in April. Please note that while the case title is listed as Renewal, since the case is before the Planning Commission and the Board during its Renewal Period, the effect of the attached ordinance would be to terminate the district, as more fully explained in the text below.

The Barrett’s Ferry AFD currently consists of one parcel of approximately 198.9 acres located between Route 5 and the Chickahominy River, and bounded to the east and west by Governor’s Land and Barrett’s Ferry subdivisions. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Baxter Bell	(43-2)(1-3)	198.9

**DISTRICT HISTORY**

The Barrett’s Ferry Agricultural and Forestal District was created in 1998 for a term of four years and originally consisted of one parcel totaling 210.49 acres. The District was renewed in 2002 for a four-year period. As part of this 2006 renewal, staff has worked to verify the District’s acreage, and has identified a tax map labeling error that occurred for several years in the 1990’s (now corrected). This factor, and increased mapping precision, result in a District acreage of approximately 198.9.

**ANALYSIS**

The bulk of the District is woodland, and is zoned A-1, General Agricultural. The parcel is designated as Rural Lands and Conservation Area by the Comprehensive Plan and is outside the Primary Service Area. The Comprehensive Plan’s Community Character goal is to enhance and preserve the County’s scenic, cultural, rural, farm, forestal, natural, and historic resources. The AFD program helps satisfy this goal and therefore this renewal is consistent with the 2003 Comprehensive Plan.

However, in accordance with the State Code, the core minimum size requirement of an AFD is 200 acres. Thus, the Barrett’s Ferry AFD is approximately 1.1 acres short of the minimum size requirement. For the Barrett’s Ferry AFD to continue as it currently exists, either a survey of the property would have to be completed that shows that the parcel is in fact over 200 acres, or qualified land must be added to the District. To date, the property owner has not proposed adding land to the District nor withdrawing land from the District, and staff does not recommend that the expense of a survey is warranted since the parcel can continue to be part of an AFD via transfer to the Gordon Creek AFD. Staff has discussed the option of transfer with the property owner and the property owner has not expressed any objections. The Gordon Creek AFD is currently approximately 3,000 acres, is located directly north across Route 5, and the conditions are the same as those on the current Barrett’s Ferry AFD.


**RECOMMENDATION**

Due to the minimum core district requirements not being met, staff recommends that the Barrett’s Ferry AFD be terminated after the parcel is transferred to the adjacent Gordon Creek AFD. Staff believes that this transfer will be beneficial in that it will further strengthen the Gordon Creek AFD, and it will allow this parcel to continue to participate in the AFD program. On February 23, 2006, the AFD Advisory Committee recommended termination of this District and transfer of the parcel to the Gordon Creek district by a vote of 8-0. On March 6, 2006, the Planning Commission recommended termination of this District and transfer of the parcel to the Gordon Creek district by a vote of 7-0.

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Ellen Cook

CONCUR:



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O. Marvin Sowers, Jr.

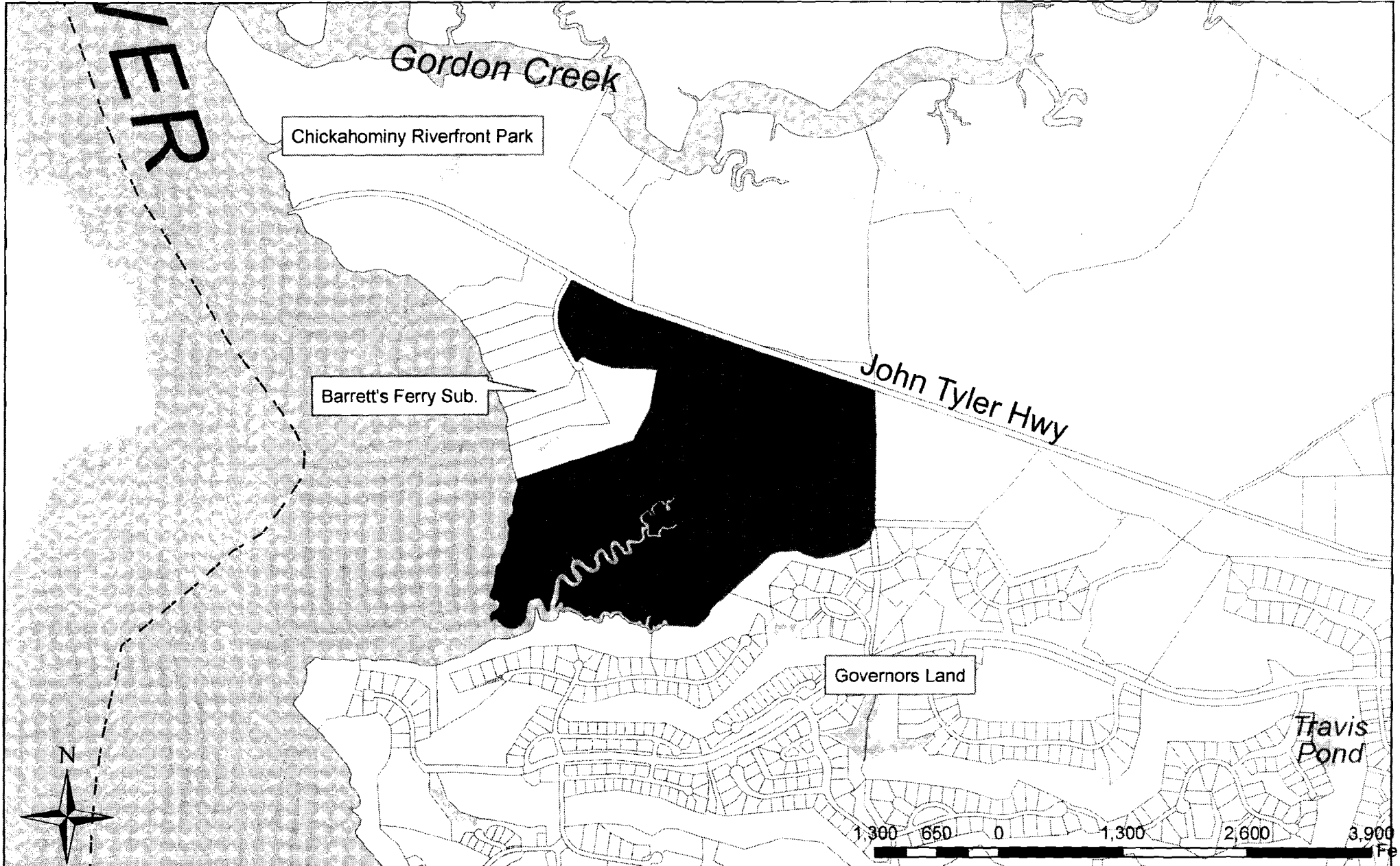
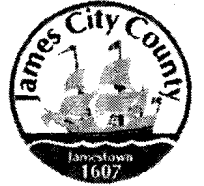
EC/nb  
AFD\_1\_98BarrettsFerry

ATTACHMENTS:

1. Location Map
2. Unapproved Minutes of the March 6, 2006, Planning Commission Meeting
3. Unapproved Minutes of the February 23, 2006, AFD Advisory Committee Meeting
4. Ordinance

# JCC-AFD-1-98

## Barrett's Ferry



**UNAPPROVED MINUTES OF THE MARCH 6, 2006 MEETING  
OF THE PLANNING COMMISSION**

AFD-1-98 Barret's Ferry AFD – 2006 Renewal

Ms. Cook presented the staff report stating that the existing 198.9-acre Barrett's Ferry Agricultural and Forestal District (AFD) must now be reviewed for continuance of the AFD. The single-parcel District is generally located between Route 5 and the Chickahominy River, bounded on the east and west by the Governor's Land and Barrett's Ferry subdivisions. The property is further identified as Parcel No. (1-3) on JCC Tax Map No. (43-2). The district includes all the land on the above property with the exception of all land within 50 feet of the road right-of-way of John Tyler Highway. (Rt. 5) to allow for possible road improvements. The property is zoned A-1, General Agricultural, and designated Rural Lands and Conservation Area on the Comprehensive Plan Land Use Map. This district has dropped below the required 200 acre minimum and on February 23, 2006 the AFD Advisory Committee recommended termination of the district and transfer of the parcel to the Gordon Creek AFD (8-0). Staff recommended approval of termination of the district to allow the land to be transferred and continued under AFD-9-86 Gordon Creek.

Mr. Fraley opened the public hearing.

Mr. David Dafashy, 3535 Barrett's Ferry Road, asked if the property owner retained possession of the parcel. He also asked if the AFD program protected it from development.

Ms. Cook stated that there is no change in ownership. She also stated that an AFD is a preservation program.

Mr. Hunt stated that there is a minimum acreage requirement.

Mr. Dafashy asked what would happen in the following year if the transfer and termination were approved.

Ms. Cook said the District would continue for another four year period if the owner did not withdraw the property early.

Mr. Dafashy asked when the parcel would become part of the Gordon's Creek AFD.

Ms. Hughes and Mr. Fraley explained the process.

Mr. Dafashy asked what the benefits are for property owners.

Mr. Kennedy stated that the tax benefits are substantial.

Mr. Sowers advised Mr. Dafashy to stay in contact with Ms. Cook for the progression of the case. He also gave additional information on the process and benefits of the AFD program.

Mr. Dafashy stated his interest in information on placing his property in an AFD.

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

Mr. Kennedy motioned to recommend approval of the application.

Mr. Hunt seconded the motion.

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

**UNAPPROVED MINUTES OF THE FEBRUARY 23, 2006  
MEETING OF THE AGRICULTURAL AND FORESTAL  
ADVISORY COMMITTEE**

**A. AFD-1-98 Berrett's Ferry (2006 Renewal)**

Ms. Ellen Cook gave the staff report and staff's recommendation of approval. Mr. Ford questioned the acreage correction since it was not based on an official, physical land survey or recorded deed but rather on GIS estimates. Ms. Cook stated that Mr. Bell had been given the option of re-surveying to confirm the acreage, but that staff did not recommend it given the expense and the fact that the parcel could be included in another AFD and protected that way, which was the most important factor. Mr. Ford stated that basing the numbers on GIS resulted in an arbitrary change. Ms. Cook referenced a mapping error as contributing to the acreage correction. Mr. Ford acknowledged that the mapping was in error, but stated that acreage should nevertheless be confirmed with the deed. He added that it would not be the best course to assume that a landowner actually owned ten less acres than what they understood to have based on a mapping correction. Ms. Cook noted that for taxation purposes, the landowner would have to resolve the acreage issues with the real estate office. Mr. Richardson inquired if possible acreage fluctuations may have been due to natural shoreline expansion. Ms. Cook agreed that the increase in the area of water could have had an impact. Discussions ensued about minimum qualifications for land-use taxation and AFD status. Mr. Ford and Ms. Lowe agreed that there was a great need to keep the land preserved and that rolling the parcel into the Gordon Creek AFD was the best option. They added that they wanted staff to understand why it was important to base numbers on the physical survey and deed description.

Mr. Abbott stated his concern about implications for land owners, noting that if major decisions about moving property in and out of the AFD districts were not based on the survey, than the property owner's rights may not be protected. Ms. Cook noted that currently, the Berrett's Ferry AFD was the only district close to breaching the required minimum of 200 acres. Mr. Cripe confirmed that the only other AFD totaling less than 300 acres was Williamsburg Farms which had been recently renewed. A question was raised as to whether the original plat had been looked at in Real Estate. Ms. Cook stated that she looked at recorded plats in the Real Estate office for past development projects associated with the parcel. Discussion ensued regarding the implications of State and local government rights to legally dissolve an AFD by law. Mr. Abbott asked staff to find out if the property owner is responsible for paying roll back taxes if the Board of Supervisors were to dissolve an AFD. He additionally asked staff to explore the possibilities of amending the process by which renewal letters are sent to property owners who own land in a conservation easement or land with purchase of development rights restrictions. Mr. Ford made a motion to roll the Berrett's Ferry AFD into the Gordon Creek AFD. Mr. Abbott seconded the motion and a roll call vote was taken. The motion was approved (8-0).

ORDINANCE NO. \_\_\_\_\_

TERMINATION OF BARRETT'S FERRY AGRICULTURAL AND FORESTAL

DISTRICT (AFD-1-98)

WHEREAS, James City County has completed review of the Barrett's Ferry Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public hearings have been advertised, and public hearings have been held on the termination of the Barrett's Ferry Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal Advisory Committee, at its meeting on February 23, 2006, by a vote of 8-0 recommended that the Barrett's Ferry Agricultural and Forestal District be terminated as the district no longer meets the minimum size requirements for a district; and

WHEREAS, the Planning Commission, following its public hearing on March 6, 2006, voted 7-0 to terminate this district with the conditions listed below.

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

1. The District contained the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Baxter Bell	(43-2)(1-3)	198.8

and that Parcel No. (1-3) on James City County Real Estate Tax Map No. (43-2) be transferred to the Gordon Creek AFD with the exception of land within 50 feet of the road right-of-way of John Tyler Highway (Route 5).

2. The Barrett's Ferry Agricultural and Forestal District is hereby terminated beginning the 28th day of April, 2006 in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2006.

AFD-1-98BerrettsFerry.ord

MEMORANDUM

DATE: April 11, 2006

TO: The Board of Supervisors

FROM: Sean D. Croston, Intern, County Attorney's Office

SUBJECT: An Ordinance to Amend and Reordain Chapter 2, Administration, Article IV, Officers and Employees, Division I, Generally, by Adding Section 2-15.2, Homeownership Grants for County Employees

---

James City County ("County") currently operates an Employer Assisted Home Ownership Program ("Program") which matches County employees' savings, dollar-for-dollar, not exceeding three thousand dollars (\$3,000), to assist employees that meet certain financial and other criteria, in purchasing a primary residence in the County or the City of Williamsburg.

The Virginia General Assembly recently passed legislation requiring localities operating such Programs to adopt an ordinance embracing Section 15.2-958.2 of the Code of Virginia ("Code").

The attached ordinance satisfies the Code requirements and allows continuation of the County's current Program, which is available for County employees and constitutional officers. If adopted, the ordinance would allow a lifetime maximum grant of five thousand dollars (\$5,000) per employee from County revenues, excluding state funds. The adoption of the ordinance will not limit the County's ability to set additional terms for the Program. Allocations would be included in the County's adopted annual budgets.

Staff recommends adoption of the attached ordinance.

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Sean D. Croston

CONCUR:

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Adam Kinsman

SDC/tlc  
Ch2art4ord.mem

Attachment

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, OFFICERS AND EMPLOYEES, DIVISION 1, GENERALLY, BY ADDING SECTION 2-15.2, HOMEOWNERSHIP GRANTS FOR COUNTY EMPLOYEES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by adding Section 2-15.2, Homeownership grants for county employees.

Chapter 2. Administration

Article IV. Officers and Employees

Division 1. Generally

*Sec. 2-15.2. Homeownership grants for county employees.*

*Subject to the appropriation of funds, excluding state funds, by the county board, the county administrator shall establish a program to provide grants to employees of the county and employees of constitutional officers for use toward the purchase of a primary residence within the county or the City of Williamsburg. Lifetime cumulative grants shall not exceed five thousand dollars per employee. Each grant shall be approved by ordinance by the board of supervisors. The county administrator is authorized to take all actions deemed necessary or appropriate to establish and administer the program, including the establishment of terms and conditions, and to ensure that the program meets any applicable requirements of the law.*

*State law reference - Code of Va., §15.2-958.2.*

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

---

Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April,  
2006.

Ch2art4.ord

**MEMORANDUM**

DATE: April 11, 2006  
 TO: The Board of Supervisors  
 FROM: Bernard M. Farmer, Jr., Capital Projects Coordinator  
 SUBJECT: Award of Bids, Community Sports Facility

---

Bids were received on March 21, 2006, for the contracts related to the Community Sports Facility on the Warhill Sports Complex. This project was bid in three parts, with separate bids received for each portion. Contract A encompasses the site work and parking, stadium seating, buildings, walkways, and infrastructure serving the facility. Contract B includes the artificial turf field surface and supporting drainage, and Contract C includes the sports field lighting. Bids were received as indicated below

**Contract A**

<u>Bidder</u>	<u>Base Amount</u>	<u>Unit Cost</u>	<u>Total</u>
Curtis Contracting	\$5,538,000	\$114,126	\$5,652,752
Jack Massie	6,044,000	100,000	6,144,000
Woodmasters	6,300,000	100,000	6,400,000

**Contract B**

<u>Bidder</u>	<u>Unit 1</u>	<u>Unit 2</u>	<u>Unit 3</u>	<u>Total</u>
Pro Grass	\$15,513	\$7,561	\$7,000	\$680,513

**Contract C**

<u>Bidder</u>	<u>Total</u>
Branham Electric	\$306,500
Ikon Lighting	337,000

Contract A includes construction of 725 parking spaces, bleacher seating for 3,000, home and visitor side locker rooms and concession/toilet buildings, ticket booths, walkways, and associated infrastructure. The Contract A unit cost amount is for providing concrete walkways around the stadium, in lieu of asphalt. Curtis Contracting is currently engaged in the infrastructure contract work under the Public-Private Education Facilities and Infrastructure Act (PPEA) ongoing at the Warhill site and is considered a responsible contractor. Staff recommends that the apparent low bid from Curtis Contracting be accepted and the contract awarded be made to include the unit cost amount for a total contract with Curtis Contracting of \$5,652,752.

Contract B only had one bidder, Pro Grass, who was not on the approved list of material suppliers for the bid. Staff is not prepared at this time to recommend that this bid be accepted and awarded, but is reviewing it to determine if it should be accepted.

Contract C had a low bid submitted by Branham Electric. Previous contracts have been completed by this firm for other sports field lighting at the Warhill Sports Complex, with good experience in timely completion and proper installation of work. Staff recommends that Contract C, in the amount of \$306,500, be awarded to Branham Electric for the installation of the sports field lighting.

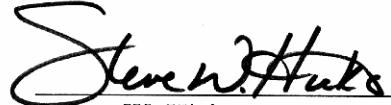
Award of Bids, Community Sports Facility  
April 11, 2006  
Page 2

Sufficient funds exist within the Capital Improvement Account for this project. Staff recommends adoption of the attached resolution authorizing award of Contracts A and C for the Community Sports Facility.



Bernard M. Farmer, Jr.

CONCUR:



Steven W. Hicks

BMF/nb  
CommSprtsFac.mem

Attachment

**RESOLUTION**

**AWARD OF BIDS, COMMUNITY SPORTS FACILITY**

WHEREAS, competitive bids were advertised for the Community Sports Facility to be located at the Warhill Sports Complex; and

WHEREAS, three competitive bids were received for Contract A, with the lowest responsible and responsive bidder being Curtis Contracting with a bid amount of \$5,652,752; and

WHEREAS, two competitive bids were received for Contract C, with the lowest responsible and responsive bidder being Branham Electric Corporation in the amount of \$306,500; and

WHEREAS, previously authorized CIP budgeted funds are available to fund these contract bid awards and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the James City County Community Sports Facility, Contracts A and C, in the total amount of \$5,959,252.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April 2006.

CommSprtsFac.res