

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

June 27, 2006

7:00 P.M.

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A. ROLL CALL	
B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE - Drake Kuhn, a rising tenth-grader at Lafayette High School	
D. HIGHWAY MATTERS	
E. PRESENTATION - Year of Regional Citizenship - Dana Dickens, President of Hampton Roads Partnership	
F. PUBLIC COMMENT	
G. CONSENT CALENDAR	
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<i>Supports County's Strategic Pathway 4.c - ensure private development and government operations are environmentally sensitive</i>	
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8. Grant Appropriation - \$188,926 - Clerk of the Circuit Court	29
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- CONTINUED -

H. PUBLIC HEARINGS

- 1. Case No. SUP-04-06/MP-01-06. Prime Outlets Master Plan Amendment31
- 2. Case No. ZO-07-05. Zoning Ordinance Amendments - Pedestrian-Oriented Signage in MU55
Supports County's Strategic Pathway 2.f - enhance community appearance
- 3. An Ordinance to Amend and Reordain Chapter 2, Administration, Article V. Other Boards and Commissions, Section 2-17, Industrial Development Authority created, of the James City County Code, to reflect the name change of the Industrial Development Authority69
Supports County's Strategic Pathway 1.b - identify services/programs with overlapping missions and/or constituents and increase efficiencies through shared or merged services
- 4. An Ordinance to Amend and Reordain Chapter 7, Enterprise Zone, Section 7-5, Local Enterprise Zone Incentives and Section 7-6, Application, of the James City County Code, to clarify the procedure and timeline for the application of local enterprise zone incentives73

I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

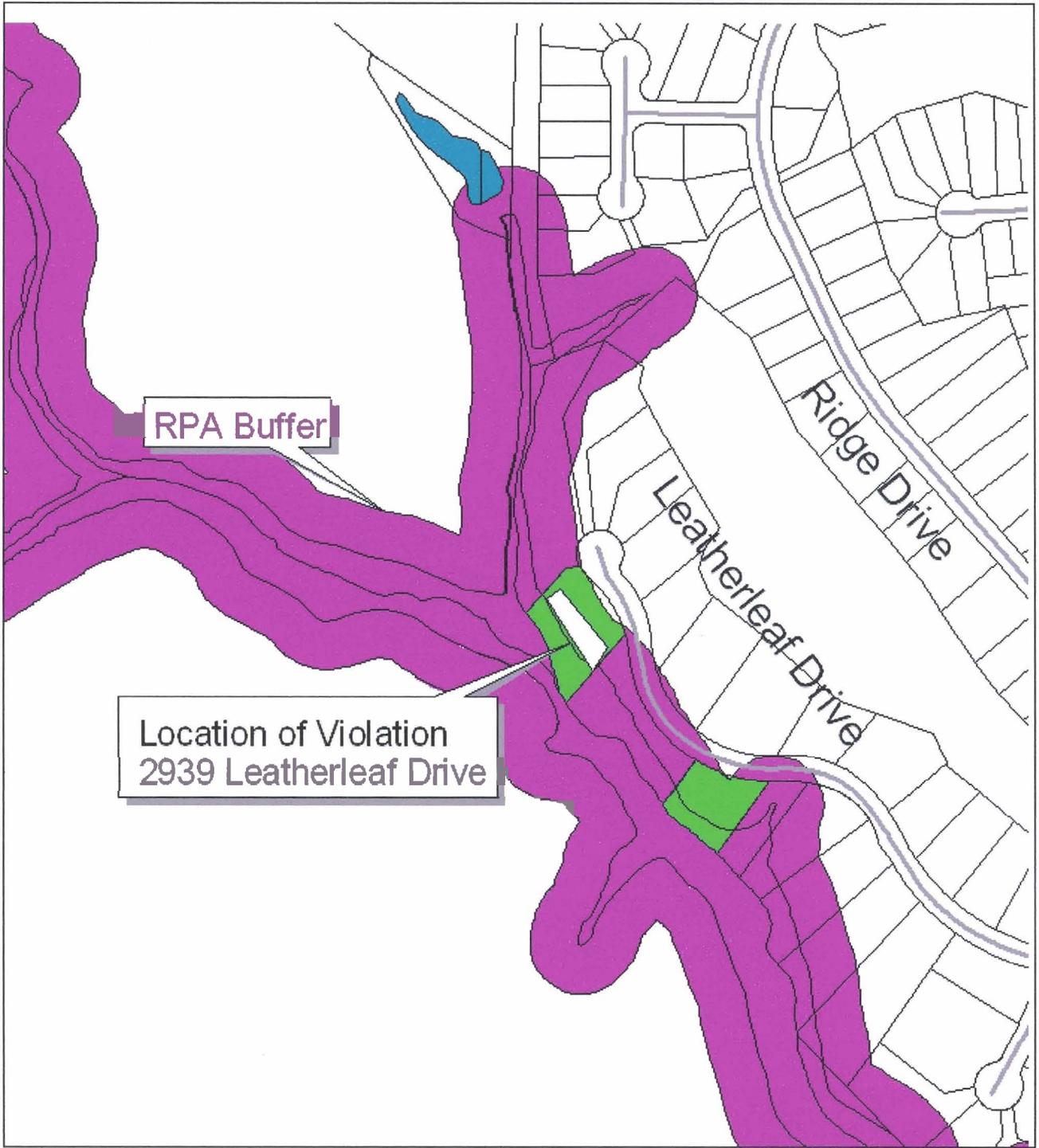
K. BOARD REQUESTS AND DIRECTIVES

L. WORK SESSION - POWHATAN CREEK WATERSHED MANAGEMENT PLAN UPDATE

M. CLOSED SESSION

- 1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Economic Development Authority
 - b. Williamsburg Area Arts Commission
- 2. Consideration of a legal matter to consult with legal counsel on a specific legal matter requiring the provision of legal advice pursuant to Section 2.2-3711(A)(7) of the Code of Virginia

N. ADJOURNMENT



**CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -
CIVIL CHARGE - SEASONS TRACE DEVELOPMENT**



MEMORANDUM

DATE: June 27, 2006

TO: The Board of Supervisors

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

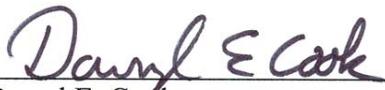
SUBJECT: Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Season’s Trace Development, Inc.

Attached is a resolution for consideration involving a violation of the Chesapeake Bay Preservation Ordinance. The case involves the unauthorized filling and grading of approximately 2,200 square feet of Resource Protection Area (RPA).

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

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owner. Staff and the property owners have agreed to the recommended civil charge of \$1,550 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact and the violation intent have been assessed as moderate and minor by staff.

Staff recommends adoption of the attached resolution establishing a civil charge for the RPA violation presented.



Darryl E. Cook

Leo P. Rogers

DEC/LPR/nb
SeasnTrceviol.mem

Attachment

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

SEASON’S TRACE DEVELOPMENT, INC.

WHEREAS, Season’s Trace Development, Inc. is the owner of a certain parcel of land, commonly know as 2939 Leatherleaf Drive, Toano, VA, designated as Parcel No. (5-1) on James City County Real Estate Tax Map No. (2-14), herein referred to as the (“Property”); and

WHEREAS, on or about May 11, 2006, Season’s Trace Development, Inc. caused approximately 2,200 square feet of the Resource Protection Area on the Property to be graded and filled; and

WHEREAS, Season’s Trace Development, Inc. agreed to a Restoration Plan to replant six trees, 12 understory trees, and 18 shrubs, on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance. Season’s Trace Development, Inc. has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Season’s Trace Development, Inc. has agreed to pay \$1,550 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,550 civil charge from Season’s Trace Development, Inc., as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

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 27th day of June, 2006.

SeasnTrceviol.res

MEMORANDUM

DATE: June 27, 2006

TO: The Board of Supervisors

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

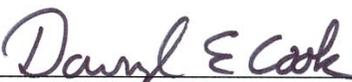
SUBJECT: Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Deborah L. Smith

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

In accordance with provisions of the Ordinance, replanting of vegetation and a civil charge are proposed to remedy the RPA violation. The property owner has entered into a Chesapeake Bay Restoration Agreement with the County, submitted landscape plans, provided surety to guarantee the implementation of the approved restoration plan to mitigate for the impacted areas on their property, and agreed to attend a Chesapeake Bay education workshop presented by County staff.

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

Staff recommends adoption of the attached resolution establishing a civil charge for the RPA violation presented.



Darryl E. Cook

Leo P. Rogers

DEC/LPR/nb
Smithviol.mem

Attachment

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

DEBORAH L. SMITH

WHEREAS, Deborah L. Smith is the owner of a certain parcel of land, commonly know as 194 Racefield Drive, Toano, VA, designated as Parcel No. (1-5) on James City County Real Estate Tax Map No. (3-2), herein referred to as the (“Property”); and

WHEREAS, on or about May 5, 2006, Deborah L. Smith caused to be removed approximately five trees, ten understory trees, and 15 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Deborah L. Smith agreed to a Restoration Plan to replant 10 canopy trees, 20 understory trees, and 30 shrubs on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance. Deborah L. Smith has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Deborah L. Smith has agreed to pay \$1,000 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of impacted area an the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,000 civil charge from Deborah L. Smith, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

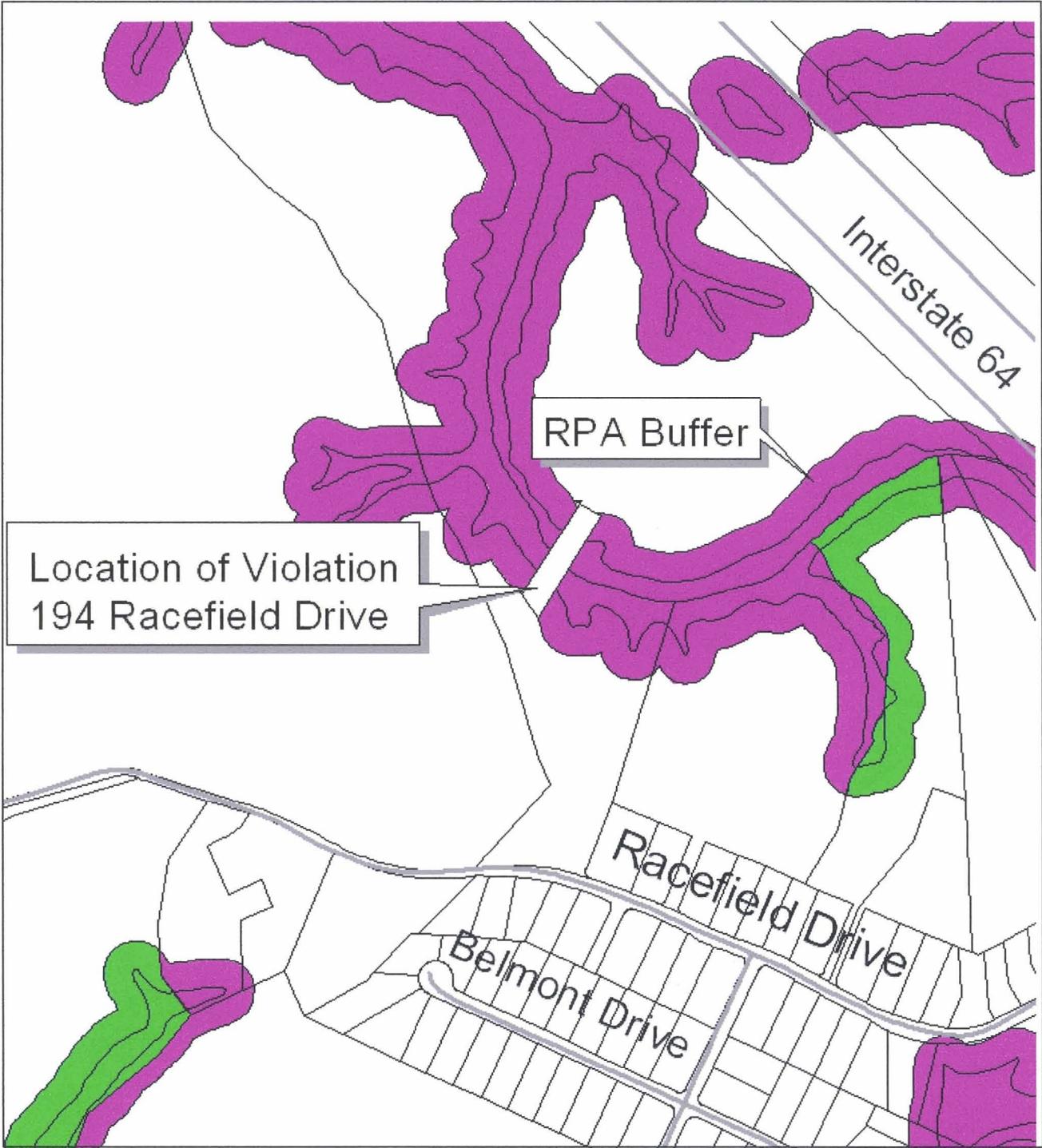
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

Smithviol.res



CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION - CIVIL CHARGE - DEBORAH I. SMITH

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MEMORANDUM

DATE: June 27, 2006

TO: The Board of Supervisors

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

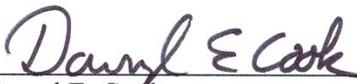
SUBJECT: Chesapeake Bay Preservation Ordinance Violation - Civil Charge – N. Ray Lee

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

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

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

Staff recommends adoption of the attached resolution establishing a civil charge for the RPA violation presented.



Darryl E. Cook

Leo P. Rogers

DEC/LPR/nb
NRayLeeviol.mem

Attachments

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE –

N. RAY LEE

WHEREAS, N. Ray Lee is the owner of a certain parcel of land, commonly known as 103 Acacia Court, Williamsburg, VA, designated as Parcel No. (24-29) on James City County Real Estate Tax Map No. (49-1), hereinafter referred to as the (“Property”); and

WHEREAS, on or about March 15, 2006, N. Ray Lee caused to be removed approximately five trees, seven understory trees, and 16 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, N. Ray Lee agreed to a Restoration Plan to replant 10 trees, 14 understory trees, and 32 shrubs, on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance and N. Ray Lee has posted sufficient surety to guarantee the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, N. Ray Lee, has agreed to pay \$1,000 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,000 civil charge from N. Ray Lee as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

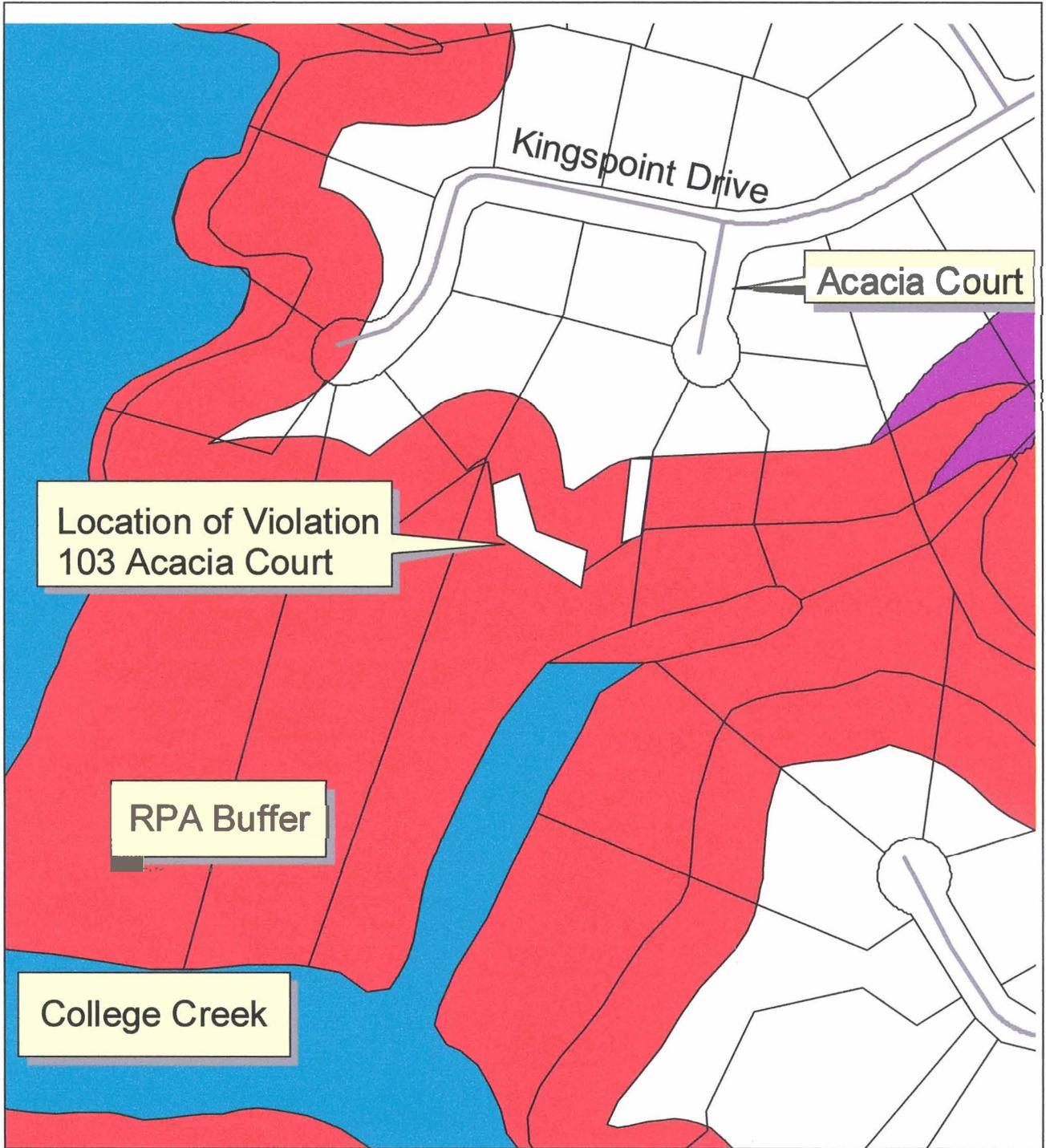
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

NRayLeeviol.res



**CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -
CIVIL CHARGE - N. RAY LEE**



MEMORANDUM

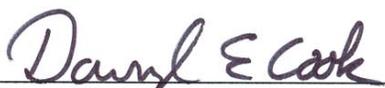
DATE: June 27, 2006
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
Leo P. Rogers, County Attorney
SUBJECT: Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Mary P. McCoy

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

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

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owner. Staff and the property owner have agreed to the recommended civil charge of \$250 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact and the violation intent have been assessed as minor by staff.

Staff recommends adoption of the attached resolution establishing a civil charge for the RPA violation presented.



Darryl E. Cook

Leo P. Rogers

DEC/LPR/nb
McCoyviol.mem

Attachment

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

MARY P. MCCOY

WHEREAS, Mary P. McCoy is the owner of a certain parcel of land, commonly know as 2508 Robert Fenton Road, Williamsburg, VA, designated as Parcel No. (24-40) on James City County Real Estate Tax Map No. (48-3), herein referred to as the (“Property”); and

WHEREAS, on or about March 15, 2006, Mary P. McCoy caused to be removed approximately five understory trees and shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Mary P. McCoy agreed to a Restoration Plan to replant 10 understory trees, on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance and Mary P. McCoy has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Mary P. McCoy has agreed to pay \$250 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$250 civil charge from Mary P. McCoy, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

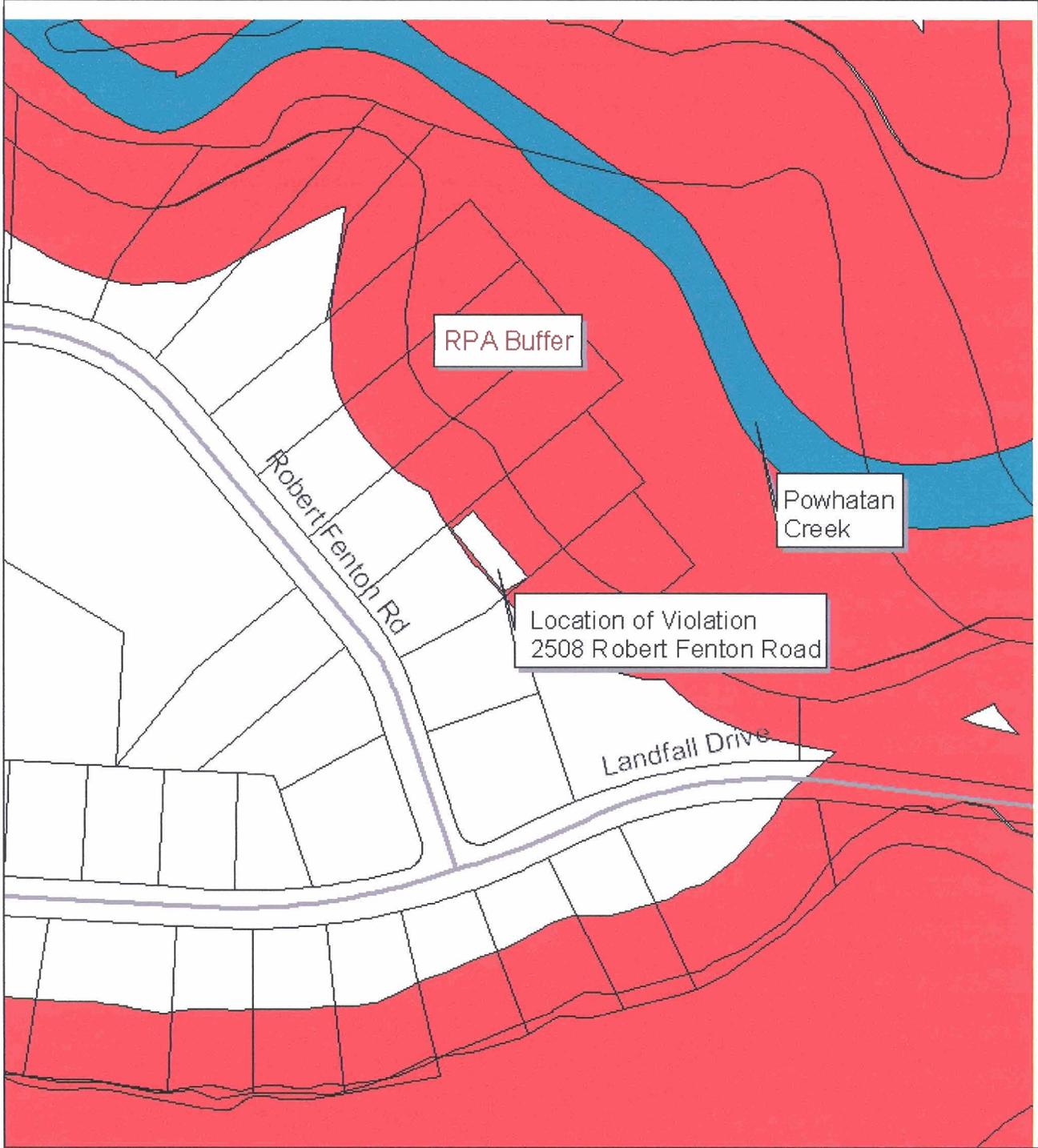
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

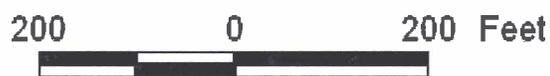
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

McCoyviol.res



**CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -
CIVIL CHARGE - MARY P. MCCOY**



MEMORANDUM

DATE: June 27, 2006

TO: The Board of Supervisors

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

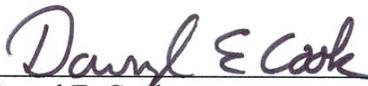
SUBJECT: Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Scott A. and Tamara W. Albertson

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

In accordance with provisions of the Ordinance, replanting of vegetation and a civil charge are proposed to remedy the RPA violation. The property owners and have entered into a Chesapeake Bay Restoration Agreement with the County, submitted landscape plans, provided surety to guarantee the implementation of the approved restoration plan to restore the impacted areas on their property, and agreed to attend a Chesapeake Bay education workshop presented by County staff.

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owner. Staff and the property owners have agreed to the recommended civil charge of \$2,250 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact and the violation intent have been assessed as moderate by staff.

Staff recommends adoption of the attached resolution establishing a civil charge for the RPA violation presented.



Darryl E. Cook

Leo P. Rogers

DEC/LPR/nb
Albertsonviol.mem

Attachment

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

SCOTT A. AND TAMARA W. ALBERTSON

WHEREAS, Scott A. and Tamara W. Albertson are the owners of a certain parcel of land commonly known as 720 Arlington Island Road, Lanexa, VA, designated as Parcel No. (11-2) on James City County Real Estate Tax Map No. (9-3), herein referred to as the (“Property”); and

WHEREAS, on or about March 7, 2006, Scott A. and Tamara W. Albertson caused to be removed approximately five trees and 30 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Scott A. and Tamara W. Albertson agreed to a Restoration Plan to replant 10 understory trees, and 40 shrubs on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance. Scott A. and Tamara W. Albertson have posted sufficient surety guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Scott A. and Tamara W. Albertson have agreed to pay \$2,250 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$2,250 civil charge from Scott A. and Tamara W. Albertson, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

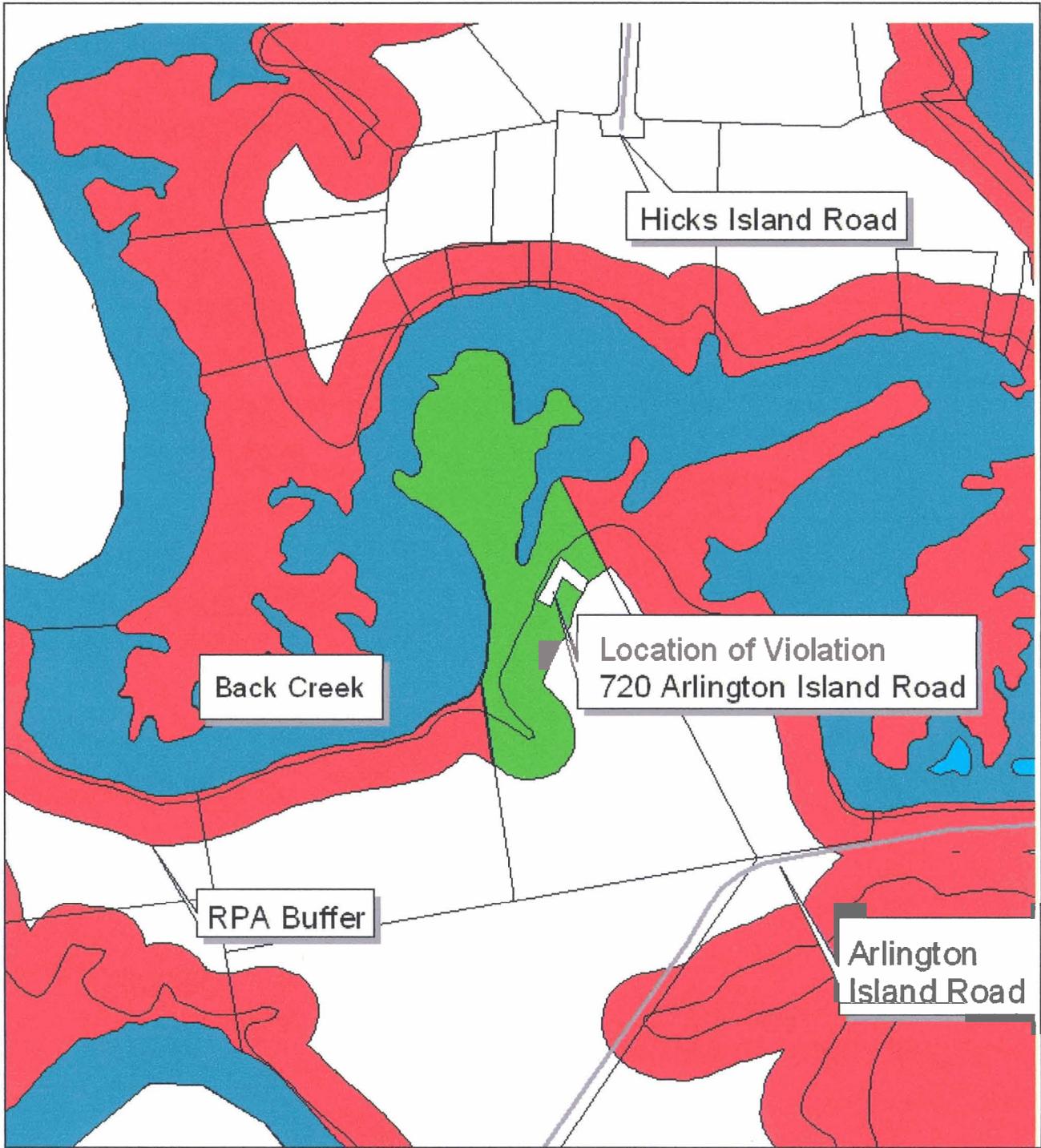
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

Albertsonviol.res



**CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -
CIVIL CHARGE - SCOTT A. & TAMARA W. ALBERTSON**

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MEMORANDUM

DATE: June 27, 2006

TO: The Board of Supervisors

FROM: Larry M. Foster, General Manager, James City Service Authority

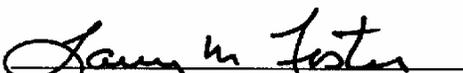
SUBJECT: Wellington Subdivision - Amendment to Declaration of Covenants, Conditions, and Restrictions

The Wellington Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Covenants") prohibit the installation of automated irrigation systems.

American Eastern, Inc., requested the James City Service Authority (JCSA) approve an amendment to the Covenants. The proposed amendment revises Section F (ii) of the Covenants to allow automatic irrigation systems for turf and landscaped beds upon residential lots. The amendment limits the irrigation system to no more than 30 percent of the net residential lot. The County is not usually involved with the covenants of a particular development, but the process for Wellington to receive development approval made the County a party to the Covenants. Therefore, the Board's approval of the proposed amendment to the Covenants is necessary.

This amendment is the result of extensive discussions with residents of the Wellington subdivision in the fall of 2004. The neighborhood has very sandy soil that is highly erodible. Establishing turf as quickly as possible is a significant benefit to stabilizing the soil as new homes are constructed. This amendment has no impact on the County owned 15 acres in Wellington.

Staff recommends approval of the attached resolution.


Larry M. Foster

LMF/gs
wellingtoncovenants.mem

Attachments

RESOLUTION

WELLINGTON SUBDIVISION - AMENDMENT TO DECLARATION OF COVENANTS,

CONDITIONS, AND RESTRICTIONS

WHEREAS, the Wellington subdivision has in its Declaration of Covenants, Conditions, and Restrictions a condition that prohibits the installation of automatic irrigation systems; and

WHEREAS, the developer of the Wellington subdivision has requested approval of an amendment to the Covenants that allows the installation of automatic irrigation systems for turf and landscaped beds; and

WHEREAS, staff supports this request because irrigation systems will assist property owners establish turf to stabilize soils in the neighborhood.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses an amendment to Section F (ii) of the Wellington subdivision, allowing the automatic irrigation systems to serve no more the 30 percent of the net area of the lot.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Secretary to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

wellingtoncovenants.res

SECOND AMENDMENT TO WELLINGTON SUBDIVISION DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS SECOND AMENDMENT to the Wellington Subdivision Declaration of Covenants, Conditions and Restrictions is made this 16th day of May, 2006, by WELLINGTON, L.L.C., a Virginia limited liability company (hereinafter referred to as "Declarant"), as developer and owner in fee simple of the real property described herein.

WHEREAS, the Wellington Subdivision Declaration of Covenants, Conditions and Restrictions, dated February 28, 2000 (the "Wellington Subdivision Declaration"), and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia, on March 21, 2000, as Instrument No. 000005624, pages 216 to 223, the Declarant did establish a binding master plan of development for the property described therein; and

WHEREAS, by an amendment dated January 11, 2002, entitled, "First Amendment to Wellington Subdivision Declaration of Covenants, Conditions and Restrictions," recorded in the aforesaid Clerk's Office on November 4, 2004, as Instrument No. 040028368, certain amendments were made to the Wellington Subdivision Declaration; and

WHEREAS, in said Declaration, the Declarant did reserve the right to amend the provisions contained therein; and

WHEREAS, the Declarant hereby exercises its option to further amend said Wellington Subdivision Declaration.

NOW, THEREFORE, the Declarant does hereby amend the Wellington Subdivision Declaration, as amended, as follows:

1. Paragraph 1(F)(ii) of the Wellington Subdivision Declaration and Paragraph 1 of the First Amendment are hereby deleted and replaced as follows:

"(ii.) Automatic underground irrigation systems are allowed with pop-up heads in the turf and landscape areas provided, however, that said system may not irrigate areas in excess of 30% of the recorded lot square footage.

(a) The system may be offered as an option to perspective home buyers in the development; and

(b) The irrigation system may be installed by any person qualified and familiar with the system provided a permit is obtained from James City County Building Inspection Department for the backflow preventor required for all sprinkler systems.

(c) All irrigation systems shall have a rain sensor that is adjusted to shut off irrigation systems when up to one-fourth (1/4) inch of rain has fallen.

2. Confirmation of Declaration. All other terms and provisions of the Wellington Subdivision Declaration are expressly ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Second Amendment to the Wellington Subdivision Declaration of Covenants, Conditions and Restrictions to be executed in its name and on its behalf by its Manager, thereunto duly authorized.

WITNESS the following signature as of the date first above written.

WELLINGTON, L.L.C.,
a Virginia limited liability company

By 
H.R. Ashe, Its Manager

COMMONWEALTH OF VIRGINIA
In the City/County of NEWPORT NEWS, to wit:

I, the undersigned, a notary public in and for the City/County and State aforesaid, do hereby certify that H.R. Ashe, Manager on behalf of WELLINGTON, L.L.C., a Virginia limited liability company, has acknowledged the same before me in my City/County and State aforesaid.

Given under my hand and seal this 16th day of May, 2006.


Notary Public

My commission expires: 6/30/2008

APPROVED:

BY: _____
County Administrator

MEMORANDUM

DATE: June 27, 2006
TO: The Board of Supervisors
FROM: Richard B. Hanson, Housing and Community Development Administrator
SUBJECT: Revised Administrative Plan for the Section 8 Housing Choice Voucher Program

A revised Administrative Plan for the Section 8 Housing Choice Voucher Program has been developed by the Office of Housing and Community Development (OHCD). Public Housing Agencies (PHAs) are required to adopt an Administrative Plan which states local policies on matters for which Federal law and Housing and Urban Development (HUD) regulations provide discretion to the PHA. Revisions to the Administrative Plan adopted by the Board of Supervisors on May 24, 2005, are necessary to incorporate and respond to changes in Federal policies and regulations related to operation and funding of the Housing Choice Voucher Program.

The revised Administrative Plan includes: 1) provisions for the use of up-front income verification through independent sources that maintain income information in computerized form for a large number of individuals; 2) methodology to determine whether or not the PHA has sufficient funding to issue new vouchers, approve moves, and to continue subsidizing current participants; 3) provisions for denying families permission to move to units with higher subsidy costs due to insufficient funds; and 4) provisions for termination of housing assistance payment contracts due to insufficient funds. We have included a local policy in this revised Administration Plan that designates the order of termination of assistance to participating families if it were to be determined that there was insufficient Federal funding to support continued assistance to families in the program. The policy specifies that non-elderly and non-disabled households with the longest term participation in the program would be terminated first.

Last year's revisions to the Administration Plan included a number of provisions designed to reduce costs due to the Federal government's change in the funding of the Housing Choice Voucher Program from a unit-based formula to a budget-based formula. Those revisions did contribute to an actual reduction in the average housing assistance payment paid per unit after several years of significantly rising costs. These cost reductions allow us to now make modest increases in the payment standard which are necessary if new families who are issued vouchers are to be successful in locating an affordable rental unit in the County. Also, with this latest revision to the Administration Plan we include an exception to the provision that was established last year that stated that all three-person households are provided a two bedroom voucher. The exception is that a three-person household with children of the opposite sex, one or both of whom are over the age of five, will be provided a three bedroom voucher.

As summarized above, revisions to the Administration Plan should enable us to continue to assist current participants and to assist additional families within the amount of funding provided by the Federal government.

Staff therefore recommends adoption of the attached resolution to approve the revised Administration Plan for the Housing Choice Voucher Program.

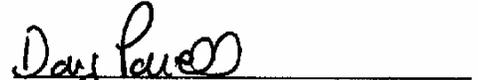
Revised Administrative Plan for the Section 8 Housing Choice Voucher Program

June 27, 2006

Page 2


Richard B. Hanson

CONCUR:


Doug Powell

Rbh/gb
RevAdminPlan.mem

Attachment

RESOLUTION

REVISED ADMINISTRATIVE PLAN FOR

THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

WHEREAS, the James City County Office of Housing and Community Development is the designated Public Housing Agency (PHA) authorized to operate the Section 8 Housing Choice Voucher Program within James City County; and

WHEREAS, a PHA which operates the Section 8 Housing Choice Voucher Program must adopt an Administrative Plan which states local policies on matters for which the PHA has discretion; and

WHEREAS, there have been several changes in Federal policies and regulations related to operation and funding of the Housing Choice Voucher Program since the Administrative Plan was last adopted by the Board of Supervisors on May 24, 2005; and

WHEREAS, the Office of Housing and Community Development has prepared a revised Administrative Plan which incorporates and responds to changes in Federal policies and regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the revised Administrative Plan for the Section 8 Housing Choice Voucher Program effective July 1, 2006.

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 27th day of June, 2006.

RevAdminPlan.res

MEMORANDUM

DATE: June 27, 2006
TO: The Board of Supervisors
FROM: Suzanne R. Mellen, Assistant Manager of Financial and Management Services
SUBJECT: Grant Appropriation - Clerk of the Circuit Court

The State Compensation Board has awarded the Clerk of the Circuit Court grants from the Technology Trust Fund totaling \$188,926. The grant will allow the Clerk to continue to modernize the office and its records system.

Staff recommends approval of the attached resolution authorizing a budget appropriation of \$188,926 to the Special Projects/Grants Fund.

Suzanne R. Mellen

SRM/gb
clerkgrant06.mem

Attachment

RESOLUTION

GRANT APPROPRIATION - CLERK OF THE CIRCUIT COURT

WHEREAS, the State Compensation Board has awarded the Clerk of the Circuit Court technology grants totaling \$188,926; and

WHEREAS, there is no local match required.

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

Revenue:

State Compensation Board Technology Grant	<u>\$188,926</u>
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Expenditure:

Clerk Technology Upgrades	<u>\$188,926</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

clerkgrant06.res

**SPECIAL USE PERMIT-4-06/MASTER PLAN-1-06. Prime Retail Master Plan Amendment
Staff Report for the June 27, 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

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

June 5, 2006, 7:00 p.m.
June 27, 2006, 7:00 p.m.

SUMMARY FACTS

Applicant: Greg Davis, Kaufman and Canoles

Land Owner: Prime Retail, L.P.

Proposal: Amend the existing master plan and special use permit (SUP) to allow for an expansion of approximately 81,000 square feet on existing and adjacent sites.

Location: Richmond Road

Tax Map/Parcel Nos.: Parcel Nos. (1-28), (1-29), (1-33C), (1-33D), and (1-33E) on James City County Real Estate Tax Map No. (33-1), and Parcel No. (1-2) on James City County Real Estate Tax Map No. (33-3).

Parcel Size: The existing Ewell Station is 13.2 acres, for a total site area of 50.8 acres.

Zoning: B-1, General Business (existing Ewell Station), and B-1, General Business, with Proffers (existing Prime Outlets)

Comprehensive Plan: Community Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

With the attached conditions, staff believes the proposal substantially mitigates the concerns previously expressed. Staff recommends that the James City County Board of Supervisors approve this application.

Staff Contact: Kathryn Sipes Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, by a vote of 5-1, recommended approval to the Board of Supervisors at their June 5, 2006, meeting. The Commission did discuss the possibility of amending Condition No. 11 to allow the construction of additional square footage before the additional parking would be required to be completed. Four of the Commissioners supported allowing such a modification; however, the motion made at the meeting was to recommend approval of the project as recommended by staff, requiring the additional parking to be included on the site plan for the first building to be constructed as part of the expansion.

Proposed Changes Made Since Planning Commission Meeting

The master plan has been revised, at the request of staff and the Planning Commission, to reflect accurate square footage and parking figures per staff's calculations.

PROJECT DESCRIPTION

Mr. Greg Davis has applied on behalf of Prime Retail, L.P., to amend the existing approved master plan and SUP for the Prime Outlets to allow an expansion of approximately 81,000 square feet on existing and adjacent sites (Phases 7 and 8). Currently, Phases 1-6 of Prime Outlets exist or are already approved, and are comprised of 359,330 square feet of net retail area. 1,439 parking spaces currently exist, for a parking ratio of 1:200 (the minimum Zoning Ordinance requirement, which is five spaces per 1,000 feet). If Phases 7 and 8 are approved, the net retail area would equal approximately 403,366 square feet. Based on this net figure, 2,017 parking spaces are required per the parking ordinance. Including 237 additional spaces proposed over existing BMPs, 2,306 total parking spaces are proposed, for a parking ratio of 1:175.

In 2004, prior to Prime Outlets acquiring the Ewell Station property, a site plan was approved for the Ewell Station parcel. This approved plan, Site Plan (SP) 110-02, provided for a Phase II expansion of an additional 69,000 square feet. This would bring the Ewell Station site to a total of 137,000 square feet of retail. Prime Outlets Phase 7 expansion proposes to construct 74,000 square feet on the Ewell Station property, transferring the already approved 69,000 square feet to this project.

PUBLIC IMPACTS

Environmental

Watershed: Powhatan Creek

Conditions:

Under the attached conditions, the following stormwater management facility improvements shall be made prior to approval of the development plans for Phases 7 and 8:

- BMP ID# PC-186 (located along Olde Towne Road): Infiltration capacity shall be added in accordance with approved James City County SP-110-02, or equivalent measures provided as approved by the Environmental Director.
- BMP ID# PC-124 (located along Olde Towne Road): Shall be retrofitted to improve water quality in accordance with approved James City County SP-110-02, or equivalent measures provided as approved by the Environmental Director.
- BMP ID# PC-036 (behind the existing Food Lion): Shall be retrofitted to incorporate water quality treatment as approved by the Environmental Director.
- Pre-treatment measures shall be incorporated into development plans as approved by the Environmental Director.
- BMP ID# PC-055 (along Richmond Road): Shall be modified to incorporate water quality and increased water quantity control as approved by the Environmental Director.
- BMP ID# PC-066 behind LL Bean, adjacent to Scott's Pond: Proposed improvements include modifications to meet the County requirements for both water quality and channel protection, subject to conditions related to Parking.

Staff Comments: Not all of the existing conditions on the overall site meet current standards for water quality or water quantity control, as both the Prime Outlets and Ewell Station developments have occurred prior to current regulations. Furthermore, an approved site plan (SP-110-02) for the Ewell Station site allows expansion on that site to occur that would not bring the entire site to meet current standards (per the zoning ordinance, approved site plans are valid for a period of five years). Environmental staff has worked to balance potential future improvements without causing undue burden on the property owner. With the current proposal the sites will meet current criteria and also address the Powhatan Creek Watershed Management Plan recommendations. This will result in a positive

improvement for the environment in terms of a higher level of treatment for the stormwater runoff leaving site and an increase in the amount of stormwater infiltrated onsite resulting in less overall stormwater discharge from the site.

Finally, staff would like to note that the applicant has volunteered to contribute to a portion of the costs associated with off-site stormwater improvements along Chisel Run Road. Exact contribution amounts will be negotiated between the applicant and Environmental staff. Please note, however, as an off-site improvement this is not a condition of the SUP and is, therefore, not guaranteed.

Public Utilities

Public water and sewer are available for all proposed phases of development.

Conditions:

- Condition 5 under *Conditions Specific to the Phases 7 & 8 Expansions* requires the applicant to submit water conservation standards for review and approval by the James City Service Authority prior to final approval of any development plan for the Phase 7 and 8 expansions.

Staff Comments: JCSA Staff has reviewed and approved the condition language.

Transportation

The existing Prime Outlets site is accessed off Richmond Road by five entrances. Two are one-way service roads, accessible from eastbound Richmond Road only. A third (near the Mikasa store) is accessible from both eastbound and westbound Richmond Road but is not signalized; this entrance/exit, including the existing left-turn lane and crossover from westbound Richmond Road, is scheduled to be eliminated in the future under a previous agreement originating from Z-8-99/Z-9-99/SUP-23-99/MP-3-99. The fourth and fifth entrances/exits are signalized intersections accessible from eastbound and westbound Richmond Road, with left-turn lanes provided for westbound traffic. A right-turn lane is provided the entire length of the site for eastbound traffic.

Currently, Ewell Station is accessible via four entrances/exits. One is right-in/right-out off Richmond Road, accessible to eastbound traffic only; a right-turn lane on Richmond Road extends from the Prime Outlets site to the intersection of Richmond Road and Olde Towne Road and serves this entrance. Three additional points of access are off of Olde Towne Road. Two are served by left-turn lanes for northbound traffic on Olde Towne Road. The third is a two-way service road behind the existing shopping center. None of these are signalized. An additional entrance to the Ewell Station site is proposed per the master plan revision; this is a non-signalized, right-in/right-out service road off Richmond Road.

2005 Traffic Counts: Olde Towne Road (from King William Drive to Chisel Run Road): 9,671 vehicle trips per day

Richmond Road (from Lightfoot Road to Old Towne Road): 20,697 vehicle trips per day

2026 Volume Projected: Richmond Road (between Route 199 and the City of Williamsburg line): 31,000 vehicle trips per day. This is listed in the “watch” category; the recommended daily capacity for four-lane roads is 30,000 vehicle trips per day. There are no projections for Olde Towne Road.

Road Improvements: The applicant has agreed to the following traffic improvements:

- Install dual left-turn lanes from westbound Richmond Road to Olde Towne Road;
- Widen southbound Olde Towne Road from Richmond Road to the first shopping center entrance to two full-width lanes, creating two receiving lanes for the dual left-turn lanes referenced above;
- Install a left-turn lane on eastbound Richmond Road at Olde Towne Road to accommodate U-turn movements from eastbound Richmond Road to westbound Richmond Road;
- Modify traffic signal timings and necessary traffic signal equipment at the Richmond Road/Olde Towne Road intersection to accommodate the new traffic movements;

- Modify traffic signal timings along the Richmond Road corridor to optimize the coordinated system from Airport Road to the westernmost signalized entrance to the property; and
- Remove sections of asphalt or otherwise modify the existing continuous right-turn lane on eastbound Richmond Road.

Additionally, as previously mentioned, the entrance closest to the Mikasa store (between the two signalized entrances from Richmond Road) is scheduled to be closed no later than June 1, 2009.

Conditions: In addition to the road improvements listed above, the following conditions are proposed:

- Condition No. 13 requires the applicant to conduct Signal Warrant Analyses at potentially two different stages of proposed development to provide further information on whether traffic signals should be installed at entrances along Olde Towne Road, as well as an implementation plan. The first analysis is to be conducted after the first building and the connection between the sites and parking lot behind the hotel are completed, but before site plan approval for the last two buildings is granted, all as shown on the master plan. The second analysis is to be conducted six months after the final Certificate of Occupancy is issued. VDOT requested the timing of this analysis to be after all proposed tenant spaces are occupied. Should the applicant choose to construct the entire expansion in one phase, one Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C, as shown on the master plan).
- Condition No. 14 requires the applicant to conduct an evaluation of potential access management strategies and driveway closures along Richmond Road and Olde Towne Road to further analyze potential access improvements.

VDOT Comments: VDOT had four areas of concern with previous proposals: left turns from Richmond Road onto Olde Towne Road, future signalization on Olde Towne Road, access management, and corridor capacity. With the proposed conditions, VDOT is confident these concerns have been adequately addressed. VDOT has emphasized their belief that these studies will be most meaningful if conducted after a portion of the proposed development has been completed in order to provide a clear picture of impacts created by the expansion. Specifically, VDOT staff believes the interconnectivity between the existing Prime Outlets and Ewell Station sites will have dramatic impacts on future traffic patterns.

Staff Comments: Planning staff believes our recommended conditions address the need to identify and address future impacts, and the County’s third-party traffic consultant concurs, after having extensively reviewed the traffic analyses provided.

Parking

The ordinance requires, per the interpretation of the Zoning Administrator, 2,017 spaces for the proposed square footage (representing 1:200). Staff has field verified the existing number of parking spaces; based on staff calculations, the applicant is now proposing 2,306 parking spaces (representing 1:175), including 237 spaces on existing BMPs. This would bring the current proposal to 289 spaces (or approximately 14 percent) over the ordinance requirement.

The additional 237 spaces would be provided by modifying two existing stormwater facilities (PC-036, behind Food Lion and PC-066 adjacent to Scott’s Pond). These facilities would be placed underground, at considerable expense to the applicant, and parking would be provided on a surface of partially pervious stone pavers. These proposed modifications would also result in improved performance of the facilities. A required maintenance plan would be noted on the site plan and enforced by the Environmental Division per current County BMP guidelines.

This proposal is outlined in one of the attached SUP conditions, which requires the additional parking to be completed as part of the site plan for the first building to be constructed. The condition further requires that should the engineering not meet approval by the Environmental Director, the applicant will provide a parking study to identify the existing parking inventory, identify the occupancy rate of parking spaces at peak and normal usage, and provide an analysis of employee parking and recommend improvements. Said study is subject to approval by the Board of Supervisors, upon recommendation of the Planning Commission, prior to final site plan approval for the final buildings, as identified on the Master Plan.

Staff Comments:

Environmental staff is confident that the proposed solution to place additional parking over the two BMPs is feasible and will work with the applicant to reach a favorable outcome. Underground detention of stormwater is a fairly common practice in many locations around the country and it has been employed on several sites within the County. Planning staff believes the applicant's efforts to provide additional parking on-site will substantially mitigate current parking inadequacies. The applicant and staff have had continuing discussions before and after the Planning Commission meeting about the applicant's concern that the additional parking is required prior to any expansion occurring, according to the staff recommended and Planning Commission approved condition language. Concerns were raised by the Planning Commission regarding the adequacy of the current parking on the site. Staff's recommendation that the additional parking be provided with the first phase of expansion is to avoid exacerbation of any existing parking issues.

COMPREHENSIVE PLAN

Land Use Map Designation

Prime Outlets and Ewell Station are designated Community Commercial on the Comprehensive Plan Land Use Map. Lands designated Community Commercial are intended to allow general business activity in areas located within the Primary Service Area while usually having a moderate impact on nearby development.

Other Considerations

Richmond Road is a Community Character Corridor, and concern was expressed regarding the overall attractiveness of the current developments. The applicant has agreed to the following improvements:

- Additional landscaping along the entire Richmond Road frontage of the site. This will be provided at 125 percent of the plant material size requirement found in the ordinance, in an effort to enhance Richmond Road, which is a designated Community Character Corridor. This improvement will be in conjunction with the modifications to PC-055, as outlined in the Environmental section, as this stormwater facility is located along this Richmond Road frontage.
- Landscaping shall be provided along the Olde Towne Road frontage that meets current ordinance requirements.
- All new and existing dumpsters shall be placed in locations approved by the Planning Director and screened by landscaping or fencing.

Staff Comments:

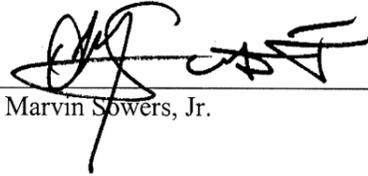
Staff believes these improvements will greatly contribute to the enhanced appearance of the property.

RECOMMENDATION

With the attached conditions, staff believes the proposal substantially mitigates the concerns previously expressed. Staff recommends that the James City County Board of Supervisors approve this application.

Kathryn Sipes, Planner

CONCUR:



O. Marvin Sowers, Jr.

KS/tlc
SUP-4-06

ATTACHMENTS:

1. Planning Commission Minutes
2. Location Map
3. Master Plan (under separate cover)
4. Resolution

**UNAPPROVED MINUTES OF THE JUNE 5, 2006 MEETING
OF THE PLANNING COMMISSION**

SUP-4-06/MP-1-06 Prime Outlets MP Amendment

Ms. Kathryn Sipes presented the staff report stating that Mr. Greg Davis has applied on behalf of Prime Retail, L.P. to amend the existing master plan and special use permit to allow for a 7,000± square foot expansion of Prime Outlets on their existing site, as well as to incorporate the existing Ewell Station shopping center into Prime Retail and to allow for the construction of an additional 74,000 square feet of retail space adjacent to the existing Ewell Station shopping center. The properties can be identified as parcels (1-28), (1-29), (1-33C), (1-33D), (1-33E) and (1-2) on the JCC Real Estate Tax Map. (33-1). The property is zoned B-1, General Business, with proffers and is designated Community Commercial on the Comprehensive Plan Land Use Map. Lands designated Community Commercial are intended to allow general business activity in areas located within the Primary Service Area while usually having a moderate impact on nearby development. Ms. Sipes stated that the case was deferred at last month's meeting due to concerns regarding environmental impacts, parking, traffic, and aesthetic improvements. She stated that since that time the application has been amended to include improvements to five (5) existing stormwater facilities, financial contributions for off-site environmental mitigation, 237 additional parking spaces by modifying and placing two existing stormwater facilities underground and providing parking on the surface, traffic improvements, signal warrant analysis and evaluation of potential access management strategies, additional landscaping along Richmond Road, Olde Towne Road, and around dumpsters. Staff found that the attached conditions substantially mitigate concerns previously expressed and recommended approval.

Mr. Kennedy asked how the applicant would prevent overflow parking onto Olde Towne Road.

Ms. Sipes said no specific measures were included. She stated that the Virginia Department of Transportation (VDOT) determined that signage would not be appropriate because parking along those streets is not currently allowed.

Mr. Kennedy asked for confirmation that parking is not allowed along the side roads.

Ms. Sipes stated that according to VDOT that is correct.

Mr. Kennedy and Ms. Sipes discussed that fact that parking does take place along the Olde Towne Road corridor and into the neighborhoods.

Mr. Kennedy asked if the James City County Police Department was aware that parking is not permitted.

Mr. Sowers said Staff would contact them to make sure that they are aware.

Mr. Fraley questioned how residents would be made aware that they can no longer park in those areas if VDOT will not allow signage or curb markings.

Mr. Sowers said that Staff or the Board of Supervisors could follow-up with VDOT to post signs if the Planning Commission felt the situation warranted it.

Mr. Kennedy stated his concerns that people will be surprised to learn that they can no longer park in front of their homes when the initial concern was Prime Outlets patrons parking in those areas.

Mr. Hunt asked if Mr. Kennedy was referring to the seven (7) lots along one side of Olde Towne Road.

Mr. Kennedy talked about the history of the Olde Towne Road Corridor and how the parking problem has developed. He asked if curb side parking is allowed on the road going into Chisel Run. Mr. Kennedy also stated his concerns about parking problems in the County in general.

Ms. Hughes asked who would pay for traffic signals on Olde Towne Road if they are warranted.

Ms. Sipes stated that the attached conditions require the applicant to pay for the signal.

Ms. Hughes asked about the accuracy of the current Master Plan in terms of square footage of buildings and wording.

Ms. Sipes said a lot of information has been discussed that has not been added to the Master Plan. She stated that Staff has asked that the Master Plan be revised prior to the Board of Supervisors meeting.

Ms. Hughes asked if the off-site mitigation would take place in Chisel Run.

Ms. Sipes answered yes.

Ms. Hughes asked for an example of the existing site plan Ewell Station.

Ms. Sipes showed the approved site plan and proposed amendments.

Ms. Hughes asked if the parking along Richmond Road is outside of the Community Character buffer.

Ms. Sipes said it does encroach into the buffer.

Ms. Jones asked if the approved site plan met or exceeded Ordinance Requirements.

Ms. Sipes said it meets requirements.

Ms. Jones asked if parking would be a problem if the project were developed according to the currently approved site plan.

Ms. Sipes said she did not have any data regarding that. She stated that at the time the project was approved it was expected to be more neighborhood commercial.

Mr. Fraley asked if conditions had been met for previous expansions phases.

Ms. Sipes stated that triggers for several of the conditions have not yet been reached. She said Staff is working with the applicant on container planters required in phase 5A and rear parking lot lighting required by phase 6.

Mr. Fraley asked if the County has a Street Tree Policy.

Mr. Sowers said it applies to residential developments. He stated that this case should adhere to the Community Character Policy and Landscape Ordinances.

Mr. Kennedy asked if there is designated employee parking.

Ms. Sipes said no. She said some employee parking has been included in the proposed plan and that analysis of employee parking will be included in the traffic studies.

Mr. Kennedy asked if there are currently areas where employees are required to park.

Ms. Sipes said they are encouraged to park in the rear of the buildings but are not required to.

Mr. Fraley opened the public hearing.

Mr. Greg Davis, Kaufman and Canoles, represented the applicant outlining changes in the application since the last Planning Commission meeting. He stated that 2,306 parking spaces have been proposed. He stated that this would be achieved by placing two existing stormwater facilities underground and placing the parking on top. Mr. Davis also detailed the proposed traffic studies and analysis, road and signal improvements, and landscape enhancements. Mr. Davis stated the applicant's request that a height limit be established for the landscaping along Richmond Road and that construction of the parking lots above the Best Management Pond (BMP) not be tied to approval of the site plan that it is currently associated with.

Mr. Kennedy asked what could be done to assure protection from overflow parking into the neighborhoods surrounding the center.

Mr. Davis stated that additional parking spaces, continued analysis of the parking, signage, and a possible trolley system would alleviate parking concerns.

Mr. Kennedy stated his concerns about overflow parking, adequacy of employee designated parking and enforcement, and feasibility of engineering the proposed parking lots.

Mr. Davis stated that engineering plans must still be approved by the County's Engineering and Environmental departments.

Mr. Kennedy asked if the Environmental Division felt the parking plan had any feasibility.

Mr. Darryl Cook said that it is common throughout the Country to place stormwater management under parking surfaces so that the proposal in general is feasible.

Mr. Kennedy asked if Staff could foresee working with the applicant on the proposal.

Mr. Cook answered yes.

Ms. Hughes asked if a cost had been estimated for the environmental mitigation for Chisel Run.

Mr. Cook said the system would have to be designed before an estimate could be given. He said the design could be completed in six months.

Mr. Billups asked for the path of exit for the underground stormwater facility.

Mr. Cook said it would flow in the same direction as it does now which is behind the L. L. Bean side and through the Scotts Pond neighborhood.

Ms. Jones asked if there are other options with similar costs if the rain tanks do not work that would still allow parking to be placed over the BMP.

Mr. Cook said there are several other products available but he was not sure of the costs.

Mr. Hunt asked if there are other areas in James City County where this technology is being used.

Mr. Cook said there are locations in both James City and York Counties where the technology is being used.

Mr. Fraley asked if there were any provisions in the SUP conditions to ensure that the parking lot is constructed.

Ms. Sipes said the SUP conditions require the applicant to submit the engineering to the Environmental Director for approval. She stated that if it cannot be approved the applicant will conduct a parking study and implement the recommended improvements.

Ms. Jones stated that if James City County finds that the engineering is acceptable then the applicant must provide it.

Ms. Sipes said the applicant has given a good faith commitment to provide the parking as proposed if the engineering can be made to work.

Mr. Sowers said the Environmental Director is given sole discretion to determine whether the proposal is feasible from an engineering perspective.

Mr. Kennedy asked how many parking spaces would be lost if the parking lots cannot be installed.

Ms. Sipes answered fewer than 300.

Mr. Kennedy asked how that aligns with Ordinance requirements.

Ms. Sipes said it just meet Ordinance requirements.

Mr. Fraley asked if a new parking study and plan would have to be brought back to the Planning Commission and Board of Supervisors.

Ms. Sipes said yes.

Mr. Fraley asked what building activity would be allowed under the proposed SUP conditions.

Ms. Sipes said that the way the SUP conditions are currently written the County would expect to see plans for the parking lot on the BMP that is closest to Scott's Pond incorporated into the site plan for the 52,000 square foot building with both being constructed within the 5 year term of the site plan.

Mr. Fraley asked what happens if the parking lot design is denied.

Ms. Sipes said a site plan amendment would be required to delete the parking lot from the plan in order for the building to be constructed.

Ms. Fraley confirmed that as the conditions are currently written the two could not be constructed separately.

Ms. Sipes explained that the expectation now is that the building site plan includes the parking with the parking being approved by the Environmental Director.

Mr. Fraley said that if the parking was not approved then the current site plan that includes both would not be operable.

Ms. Sipes said that was correct, that an amended site plan would be required.

Mr. Fraley asked who would have to approve the amended site plan.

Ms. Sipes said the site plan would be considered by the DRC.

Mr. Fraley and Mr. Sowers discussed the procedure for approval of a site plan amendment.

Ms. Hughes asked if the parking study determines that parking is inadequate do they have to recommend a solution and implement.

Ms. Sipes stated that the site plans for the two remaining buildings would have to include the improvements that have been recommended as a part of the study.

Mr. Fraley added that the original site plan would also have to be amended and approved by the DRC.

Ms. Hughes commended the applicant for making significant environmental improvements to the site as well as their stated good faith commitment to make financial contributions for mitigation for Chisel Run. She stated her concerns about the applicant's request to limit the height of landscaping along the Corridor. She said she would not support the request.

Mr. Fraley asked about the applicant's uneasiness about timing of the site plan and parking lots.

Mr. Davis stated that the applicant's concerns about the length of time necessary for design of the parking lot and receiving County approval. He said the site plan for the building has already been submitted to the County for review. Mr. Davis also stated that under the proposed conditions the expansion could not move forward if the parking lot is deemed unfeasible.

Mr. Fraley confirmed that the applicant's desire is to begin construction on the buildings as soon after receiving SUP and site plan approval as possible.

Mr. Davis said this was correct. He stated that if it were determined that the parking lots were not feasible due to engineering reasons then the applicant cannot proceed with the buildings under the proposed condition.

Mr. Fraley stated that the other consideration is that the County could end up with a 52,000 square foot and 21,000 square foot building without any additional parking.

Mr. Davis stated that the parking would still meet County's Ordinances.

Mr. Fraley said it would not address the Planning Commissioners' concerns.

Mr. Kennedy stated his concerns with parking as well as a height limit on landscaping and the lack of an adequate plan to address Chisel Run, King Henry and Queen Mary Court and Olde Towne Road. He asked about the fairness of allowing a waiver for this applicant.

Mr. Davis answered that the Ordinance does not require an upgrade to the landscaping on Richmond Road. He said the Staff's suggestion for a condition requiring the landscaping was going above and beyond any legal requirement.

Mr. Kennedy asked what requirements other business along the Richmond Road were required to meet.

Mr. Sowers stated that new developments were required to comply with current Ordinance regulations with an ultimate mature height much greater than the limit the applicant is requesting.

Mr. Kennedy asked if there is a precedent for waivers to the heights.

Mr. Sowers answered no and that usually more landscaping is being required due to Richmond Road being a Community Character Corridor.

Mr. Fraley added that the applicant could develop Ewell Station under its current Master Plan and not need to make enhancements. He stated that when an applicant has requested a SUP then the Commission always looks at bringing the development up to existing Ordinances.

Mr. Kennedy asked if height waiver would come before the DRC.

Mr. Sowers said a modification request could be made to the DRC.

Mr. Fraley added that it could also be reviewed by the Landscape Planner depending on the request.

Mr. Sowers said some are reviewed administratively but this plan would need to go to the DRC.

Mr. Kennedy asked that if it does come before the DRC that any Board of Supervisors comments be considered.

Mr. Davis stated that the applicant is eager to receive guidance from the Planning Commission and preferred a recommendation tonight on both the application and conditions as opposed to deferral.

Mr. Ray Basley, 4060 S. Riverside Drive, stated his concerns about inadequate parking at the site as well as the inadequacies with the County's method for determining parking requirements. He recommended denial of the application until a better parking solution and traffic flow are developed.

Mr. Fraley confirmed that Parking Ordinance required 5 parking spaces per 1,000 square feet of space and does not specify retail space.

Mr. Ray Bearfield, 103 Druid Drive, stated his concerns about community character protection and congestion. He requested a recommendation for denial.

Mr. Dave McGinnis, 3408 Chadsworth Circle, stated his concerns about the character of the area, neighborhood impacts, the numbers of accesses into the facility and inadequacy of the Parking Ordinance.

Mr. Jay Everson, 103 Branscomb Boulevard, cited a study of the distance traveled and length of stay of Prime Outlet customers stating that standard parking requirements do not significantly address this project. He also stated his concerns about the U-turn necessary to access Route 199.

Mr. Bobby Singley, 423 N. Boundary Boulevard, a commercial real estate broker representing an adjacent property owner stated his client's support of the plan. He commended the applicant for additional parking.

Hearing no other requests the public hearing was closed.

Mr. Fraley read comments from Commissioner Anthony Obadal stating Mr. Obadal's concerns about parking and the method used to calculate parking requirements. Mr. Obadal, in the statement, requested a vote by proxy.

Mr. Kinsman stated that the Virginia Freedom of Information Act specifically prohibits voting at a meeting other than when one is physically present.

Mr. Kennedy stated his concerns about residential impacts, ambiguity of and discrepancy in enforcement of the parking ordinance and elimination of the neighborhood commercial aspect of Ewell Station and higher traffic generation. He stated his desire to see commentary from the Board on heights limits for landscaping and timing of the parking lots if the case is approved and that the community would be worse off if the

parking is not feasible. He stated he is undecided and would like to hear from other Commissioners.

Mr. Hunt asked how many parking spaces above the Ordinance requirements were being proposed.

Ms. Sipes answered 14% or 289 spaces.

Mr. Hunt stated his support for the application with the attached conditions based on the applicant's good faith effort to increase parking.

Mr. Billups said he was satisfied with the proposed parking as long as the conditions remain as written. He also stated that the request represented a new expansion and therefore it is not unreasonable to require landscaping that meets current standards.

Mr. Fraley clarified that as the SUP conditions are written the applicant cannot develop the property if the parking lot is not approved because the site plan referenced earlier includes the 52,000 square foot building and the parking with them being constructed simultaneously.

Ms. Sipes answered yes.

Mr. Fraley stated that in that case the applicant could not proceed under the proposed SUP conditions unless the parking lot was separated out which would require approval of the DRC.

Ms. Jones agreed with Mr. Billups. She stated her support for the project and conditions as proposed by Staff.

Ms. Hughes stated her pleasure with the proposed environmental improvements. She also stated her concern that the proposed parking may not be adequate. She said she would vote to deny the application.

Mr. Fraley contrasted what would be allowed by the currently approved site plan for Ewell Station versus the benefits of the SUP request under consideration. He stated his willingness to modify the conditions to allow to applicant to get started on construction prior to approval of the parking lot but would also support the application and SUP conditions as written.

Mr. Kennedy also stated his willingness to allow some construction of the buildings prior to approval of the parking lot.

Mr. Fraley stated that it was his opinion that the applicant wished to receive a recommendation tonight on the application and conditions as written.

Mr. Davis said it would be cumbersome to negotiate the terms of the conditions tonight. He stated his desire to have an expression from the Planning Commission that such an amendment to Staff's proposed condition would be supported by the Commission.

Mr. Kinsman said the Commission could express its desire but not negotiate the condition at this time.

Mr. Billups stated that he would not vote for any construction without the additional parking at the same time in order to not compound the existing problem.

Mr. Hunt said that in the interest of simplicity the Commission should vote on the proposal as is.

Mr. Fraley noted that four of the Commissioners would be sympathetic to such a modification of the conditions to allow some portion of the development to proceed before the parking over the BMPs is provided.

Mr. Hunt motioned to recommend approval of the application and attached conditions as written by Staff.

Ms. Jones seconded the motion.

In a roll call vote the application and attached conditions were recommended for approval (5-1). AYE: Kennedy, Billups, Hunt, Jones, Fraley (5); NAY: Hughes (1). (Obadal absent).

SUP-04-06/MP-01-06

Prime Retail Expansion Phases 7 & 8



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RESOLUTION

CASE NO. SUP-4-06/MP-1-06. PRIME RETAIL MASTER PLAN AMENDMENT

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit (SUP) process; and
- WHEREAS, Mr. Greg Davis has applied on behalf of Prime Retail, L.P., for an SUP to allow an expansion of approximately 81,000 square feet on existing and adjacent sites; and
- WHEREAS, Mr. Greg Davis has also applied to amend the existing conditions of approval of James City County Case Nos. SUP-25-05 and MP-10-05; and
- WHEREAS, the conditions listed below replace and supersede the conditions of approval of James City County Case No. SUP-25-05; and
- WHEREAS, the proposed expansion is shown on the master plan prepared by LandMark Design Group, dated May 26, 2006, and entitled “Master Plan Prime Retail Phases I-VIII” and the “Master Plan” and references to phases below refer to phases shown on the master plan;
- WHEREAS, the property is located on land zoned B-1, General Business, with proffers that can be further identified as Parcel Nos. (1-28), (1-29), (1-33C), (1-33D), and (1-33E) on James City County Real Estate Tax Map No. (33-3) and on land zoned B-1, General Business, that can be further identified as Parcel No. (1-2) on James City County Real Estate Tax Map. No. (33-3); and
- WHEREAS, the Planning Commission of James City County, following its public hearing on June 5, 2006, recommended approval of this application by a vote of 5-1.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 4-06 as described herein with the following conditions:

Conditions Specific to the Phase 5A Expansion

1. Landscaping planters (the type and size of planters to be specified by the landscaping plan) along the entire store frontage of the Phase 5A Expansion as shown on the Master Plan, shall be approved by the Planning Director or his designee prior to final site plan approval for any future expansion. The planters shall be installed prior to issuance of any final Certificate of Occupancy for any future expansion.
2. Applicant has installed a 35-foot-wide transitional buffer planted along the northern most property line adjacent the 5A expansion. This area has been planted and shall be maintained at 133 percent of the numerical standards found in Section 24-94 of the James City County landscape ordinance, and with an emphasis on evergreen shade and understory trees as determined by the Planning Director. The fence already installed in this area shall be a maximum of eight feet high and shall be maintained with a vinyl coating and shall be either black or green in color. Furthermore, the fence shall be maintained with a setback from the property line of at least three feet.

Conditions Specific to the Phase 6 Expansion

1. Prior to final site plan approval for the Phase 6 expansion, the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the Phase 6 expansion. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, Prime Outlets Phase 6 expansion, submitted with this SUP application dated, July 6, 2005, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
2. Prior to the issuance of any final Certificate of Occupancy for the Phase 6 expansion, lighting shall be installed for all three entrances from the property onto Richmond Road as shown on the Master Plan. In addition, adequate parking lot lighting shall be installed in the new 43-space parking lot as shown on the Master Plan behind Phase 6 which will be re-stripped from existing parking for buses to parking for cars. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
3. A landscaping plan for the Phase 6 expansion, including foundation landscaping in accordance with James City County Code Section 24, shall be approved by the Planning Director or his designee prior to final site plan approval.
4. Prior to submission of any development plan for the Phase 6 expansion, the applicant shall submit a water and sanitary sewer master plan and hydraulic analyses for the expansion space for review and approval by the James City Service Authority.

Conditions Specific to the Phases 7 and 8 Expansions

1. Prior to any final site plan approval for the Phase 7 and 8 expansions (Building A, B, or C as shown on the master plan), a mass transit plan in accordance with Section 25-59(f) of the James City County Code shall be approved by the Planning Director for Prime Retail. The plan, at a minimum, shall include a replacement bus transfer stop for Williamsburg Area Transit, or its successor, currently located in the Ewell Station shopping center. Installation of all bus stops, shelters and other items approved as part of the mass transit plan shall be completed prior to issuance of any temporary or final Certificate of Occupancy for the Phase 7 and 8 expansions.
2. Prior to any final site plan approval(s) for the Phase 7 and 8 expansions (Building A, B, or C as shown on the master plan), the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the Phase 7 and 8 expansions, including exterior architectural modifications to the existing Ewell Station Shopping Center. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, "Prime Outlets Phase 7 and 8 Expansion," submitted with this SUP application dated, February 20, 2006, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
3. Prior to any final site plan approval(s) for the Phase 7 and 8 expansions (Building A, B, or C as shown on the master plan), a landscape plan including foundation landscaping in accordance with James City County Code Chapter 24, shall be approved by the Planning Director or his designee.

4. Landscape waivers are necessary for the approval of parking and stormwater facilities in the Community Character Corridor landscape area along Richmond Road, as shown on the Master Plan. Such waivers shall be subject to the approval of the Development Review Committee.
5. Landscaping shall be installed or bonded, prior to issuance of any temporary or final Certificate of Occupancy for the final building to be constructed (Building A, B, or C as shown on the Master Plan), along the entire Richmond Road frontage of the existing and expanded Prime property that exceeds plant material size requirements in Section 24-90 of the James City County Code by 125%. Such landscaping shall be included on the site plan for the final building to be constructed (Building A, B, or C as shown on the master plan), and subject to approval by the Planning Director.
6. Landscaping shall be installed or bonded prior to any Certificate of Occupancy for the final building to be constructed (Building A, B, or C as shown on the master plan), along the Olde Towne Road frontage that meets current ordinance requirements. Such landscaping shall be included on the site plan for the final building to be constructed, and subject to approval by the Planning Director.
7. Prior to the issuance of any final Certificate of Occupancy for the Phase 7 and 8 expansions (Building A, B, or C as shown on the master plan) lighting shall be installed for the existing entrances from the property onto Olde Towne Road as shown on the Master Plan. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
8. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to any final site plan approval for the Phase 7 and 8 expansions (Building A, B, or C as shown on the master plan). The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote the intent of this condition which is to conserve water and minimize the use of public water resources to the greatest extent possible.
9. Approved site plans for the Phase 7 and 8 expansions shall reflect the following stormwater management facility improvements:
 - a. PC-186 (located along Olde Towne Road): Infiltration capacity shall be added in accordance with approved James City County Site Plan 110-02, or equivalent measures provided as approved by the Environmental Director;
 - b. PC-124 (located along Olde Towne Road): Shall be retrofitted to improve water quality in accordance with approved James City County Site Plan 110-02, or equivalent measures provided as approved by the Environmental Director;
 - c. PC-036 (behind the existing Food Lion): Shall be retrofitted to incorporate water quality treatment as approved by the Environmental Director; and
 - d. Pre-treatment measures shall be incorporated into development plans as approved by the Environmental Director.

The sequence of construction shall be approved by the Environmental Director, but under no circumstances shall the aforementioned stormwater facilities be completed later than the first Certificate of Occupancy being issued for the final building to be constructed as part of the Phases 7 and 8 expansions (Building A, B, or C as shown on the master plan).

10. Stormwater facility PC-055 (along Richmond Road) shall be modified to incorporate water quality and increased water quantity control as approved by the Environmental Director as part of the site plan for the first building to be constructed (Building A, B, or C as shown on the master plan).
11. The existing stormwater management facilities PC-066 and PC-036 serving the property, subject to the limitations hereinafter provided, shall be reconstructed to permit ground level parking of approximately 237 spaces co-located in, atop and around such facility, as generally depicted on the Master Plan. The reconstruction of PC-066 shall be reflected on the site plan for the first building to be constructed (Building A, B, or C as shown on the master plan). The site plan for the first building to be constructed shall also reflect the reconstruction of PC-036; however, the completion date of PC-036 shall be approved by the Environmental Director, but under no circumstances shall said reconstruction be completed later than the first Certificate of Occupancy being issued for the final phase of expansion (either Building A, B, or C as shown on the master plan). Reconstruction shall be in accordance with all applicable stormwater management ordinances and regulations, and subject to approval by the Environmental Director. Specifically, PC-066 shall be modified to meet the current County requirements for both water quality and channel protection, and PC-036 shall be modified to incorporate water quality protection. The parking reconstruction shall be implemented unless the Environmental Director determines that it cannot be achieved (a) due to engineering constraints, (b) due to environmental, stormwater management or other regulations, ordinances or laws, or (c) that the reconstruction cannot be achieved using soil-covered RainTank (R) devices and Eco-Stone Pavers or equivalent underground stormwater storage units and pervious cover approved by the Environmental Director.

In the event the parking reconstruction is not implemented as described above, the Applicant shall perform and submit a Parking Study, the methodology and parameters of which are subject to approval of the Planning Director. Said study shall be approved by the Board of Supervisors, upon recommendation of the Planning Commission, prior to final site plan approval for the last two buildings to be constructed (Building A, B, or C as shown on the master plan). Specific elements of the study shall include: the identification of the existing parking inventory for Prime Outlets at the time of analysis, the occupancy rate of parking inventory for Prime Outlets for identified periods of analysis, an employee parking analysis, and improvement recommendations. Said site plans shall incorporate approved improvement recommendations.

12. The following road improvements were identified in the "Prime Outlets Phases 7 & 8 Traffic Impact Study" prepared by LandMark Design Group and submitted in February 2006 and revised in June 2006. These improvements are submitted to approval by VDOT and the Planning Director, and shall be made prior to the issuance of any Certificate of Occupancy for any of the proposed additional buildings in the Phase 7 & 8 expansions (Building A, B, or C as shown on the master plan):

- a. Install dual exclusive left-turn lanes with 250 feet of storage and 200-foot tapers on westbound Richmond Road at Olde Towne Road.
 - b. Widen southbound section of Olde Towne Road from Richmond Road to first shopping center entrance (“Bowling Alley entrance”) to two full-width lanes, creating two receiving lanes for the dual left-turn lanes referenced in condition (a) above. The outside lane will be a right-turn “drop” lane and the inside lane will serve as a through travel lane.
 - c. Install an exclusive left-turn lane with 200 feet of storage and 200-foot-taper on eastbound Richmond Road at Olde Towne Road to accommodate U-turn movement from eastbound Richmond Road to westbound Richmond Road. Install necessary traffic signal equipment to accommodate the U-turn movement with a protected left-turn phase at the intersection, and install appropriate signage, subject to VDOT approval.
 - d. Modify traffic signal timings and necessary traffic signal equipment at the Richmond Road/Olde Towne Road intersection to accommodate proposed lane configurations and identified new traffic movements.
 - e. Modify traffic signal timings along the Richmond Road corridor to optimize the coordinated system from Airport Road to the western signalized entrance to the property.
 - f. Remove sections of asphalt or otherwise modify the existing continuous right-turn lane on eastbound Richmond Road, subject to approval by VDOT and the Planning Director.
13. A Signal Warrant Analysis for the Olde Towne Road/shopping center entrances must be submitted for approval by VDOT and the Planning Director within 18 months of issuance of the demolition permit for the vehicular access through the existing Phase I building, and prior to final site plan approval for the last two buildings to be constructed (Buildings A, B, or C as shown on the master plan). A second Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C as shown on the master plan). In the event a single site plan is submitted and approved for the entire expansion, one Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C as shown on the master plan). The analyses shall satisfy VDOT Standard Signal Warrant Analysis requirements, subject to approval by VDOT and the Planning Director. Should traffic signal warrants be met, Applicant shall provide traffic signal(s), and necessary traffic signal equipment (including that associated with cross-coordination of traffic signals) at the Olde Towne Road shopping center entrance(s) in a manner acceptable to VDOT and the Planning Director. Furthermore, Applicant shall provide signal timing plans (AM, Mid-Day, PM, seasonal peak period, Saturday Mid-Day) such that the potential traffic signal(s) shall be coordinated with the Richmond Road/Olde Towne Road traffic signal, subject to the approval of VDOT and the Planning Director. Applicant shall also provide traffic signal timing plans (AM, Mid-Day, PM, seasonal peak period, Saturday Mid-Day) for the identified Richmond Road study area traffic signals to best optimize traffic progression, subject to approval of VDOT and the Planning Director. Such signal(s) and coordination improvements shall be guaranteed by surety prior to issuance of the building permit for the final phase of expansion (either Building B or Building C, as shown on the Master Plan).

14. Upon completion of the first building to be constructed (Building A, B, or C as shown on the master plan), and the vehicular access through the existing Phase I, and the parking area behind the adjacent hotel, as shown on the Master Plan, Applicant shall provide an evaluation of potential access driveway closures or implementable access management strategies along Richmond Road and Olde Towne Road. Said evaluation shall be subject to the approval of VDOT, the Planning Director, and the Development Review Committee prior to site plan approval for the final phase of expansion (Building A, B, or C as shown on the master plan). Such improvements shall be guaranteed by surety prior to issuance of a building permit for the final phase, as described above.
15. Approval of this SUP shall not invalidate the Ewell Station shopping center Phase 2 site plan titled "SP-110-02." SP-110-02 shall be invalidated when construction is commenced pursuant to any site plan associated with this SUP. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.

Conditions Applicable to all Phases of Prime Retail

1. This SUP shall be valid for the approximately 81,000-square-foot expansion of Prime Retail Phases 7 and 8. The total gross building area shall not exceed 516,650 sq. ft. as shown on Master Plan Titled "Prime Retail Phases I-VIII" dated May 25, 2006, and prepared by LandMark Design Group (The "Master Plan").
2. Development of the site shall be generally in accordance with the above-referenced Master Plan and any questions as to compliance shall be determined by the Development Review Committee (DRC). Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development. This SUP and these conditions shall supersede the existing conditions of approval of James City County Case No. SUP-25-05 and prior SUP conditions affecting the Prime Retail development.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines (with the exception of entrance lighting required herein). The use of temporary flood lighting shall be prohibited unless written approval is obtained by the Planning Director for use during a special event.
4. Prior to any final site plan approval for future expansion, all new and existing dumpsters shall be (a) in locations approved by the Planning Director, and (b) screened by landscaping or fencing as approved by the Planning Director.
5. Prior to issuance of any Certificate of Occupancy for any expansion, the applicant shall complete the following: (1) internal driveways shall be designated as "One Way" traffic only, where applicable; (2) fire lane shall be properly marked in accordance with the Virginia Fire Code; and (3) the applicant shall install signage for the rear parking lots and service drives clearly indicating the existence of additional parking spaces for customers and employees. Prior to installation of any new signage, the applicant shall prepare and submit a comprehensive signage plan

for review and approval by the Planning Director.

6. If construction has not commenced on this 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.
7. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

sup-4-06.res

MEMORANDUM

DATE: June 27, 2006

TO: The Board of Supervisors

FROM: David W. German, Planner
Melissa C. Brown, Senior Zoning Officer

SUBJECT: Case No. ZO-07-05. Amendments to Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs

Upon receiving a request by Kaufman and Canoles representing the development community in New Town, and after corresponding research and review by the New Town Design Review Board and the Policy Committee of the James City County Planning Commission, Planning staff is proposing to amend three sections of the Zoning Ordinance, all related to the placement of exterior signs. The proposed changes may be viewed in the attached Ordinance Amendment.

The development community working in the New Town Mixed Use District has requested several changes to the current provisions of Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs. Cited was the special nature of New Town (and possible future similar developments) and the unique opportunities and challenges that this type of development fosters.

The intention in New Town is to create a pedestrian-oriented development, with “higher densities and a broader spectrum of land uses,” as defined in the Comprehensive Plan. The Planning Division recognized the need to amend the current Exterior Sign Ordinance to allow for types of signage that would support this development, and future, similar Mixed-Use developments like it. Currently permitted signs are geared toward helping motorists locate a business rather than pedestrians. In contrast, pedestrians looking for a business in urban areas have different needs due to more limited sight distances and the location of buildings behind street trees. To facilitate the development of a suitable amendment to the current Ordinance, the Planning Staff worked with the senior Development Management staff, the planning departments of other localities, the New Town Design Review Board, and the James City County Attorney’s Office. Site visits were conducted and documented to provide examples of appropriate signage for pedestrian-oriented Mixed-Use development.

The amendment that was formulated consists of several parts (which are shown in their entirety, in the attached Ordinance Amendment). The net effects of these various changes are as follows:

- Blade signs would now be permitted in Mixed-Use districts that are regulated by a design review board, governed by specific architectural and design standards, and guided by a master plan of development. (Currently, only New Town meets this requirement.) Such signs are used in Colonial Williamsburg, and project from the building face. They are typically used in urban shopping areas to assist pedestrians in locating businesses;
- Freestanding signs could be illuminated with ground-mounted or sign-mounted lights. (Currently, ground-mounted lights are the only option);
- Setbacks could be lessened for freestanding signs in Mixed-Use districts to allow for greater placement flexibility (this accommodates the shallower setbacks found in New Town);
- The use of blade signs would be subject to specific limitations, as set-forth in the amendment;
- Pedestrian-scale directional signs would now be permitted in Mixed-Use districts that are regulated by a design review board, governed by specific architectural and design standards, and guided by a master plan of development. (Again, only New Town currently meets this requirement);
- The use of pedestrian-scale directional signs would be subject to specific limitations, as set-forth in the amendment;

- Pole-mounted banners (with limitations prescribed by the amendment) would now be permitted in Mixed-Use districts and shopping centers;
- Definitions for blade signs and shopping centers would be added to the Ordinance. The definition for shopping center was necessary because this amendment would allow seasonal and/or holiday light-pole-mounted banners to be placed in mixed-use districts and shopping centers. The definition created for shopping center includes a size threshold of 25,000 square feet. This threshold was selected to differentiate a shopping center from a smaller “strip-mall” or neighborhood-convenience-scale commercial or retail area. It was felt that banners are acceptable and appreciated by the general public when the size and scale of the development makes the placement of banners appropriate. The size threshold attempts to encourage aesthetically pleasing developments where the visual impact of light-standard banners is balanced with the associated mass, size, and scale of the buildings, parking areas, other signage, and landscaping.

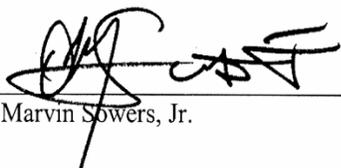
The New Town Design Review Board reviewed and approved the amendment to the Sign Ordinance that was proposed by Planning staff on March 16, 2006. On April 11, 2006, the Policy Committee of the James City County Planning Commission met to consider, and offer feedback on, the amendment. At that meeting, Planning staff was instructed to address several questions concerning the proposed amendment and to report back to the Policy Committee at a subsequent meeting. That follow-up meeting was held on May 8, 2006. At the conclusion of this meeting, the Policy Committee voted 3-0 to recommend approval of the proposed Sign Ordinance amendment to the full Planning Commission, with the condition that the County Attorney’s office further review the definition of *shopping center*, as set-forth in the amendment. The County Attorney’s office provided a further review of the *shopping center* definition, which was then reviewed and discussed by the senior Development Management staff. The final version of the proposed amendment can be found as an attachment to this document.

The Planning Commission heard the proposal at its June 5, 2006, meeting. The Planning Commission voted 4-2 to recommend approval of the proposed amendments to the Board of Supervisors, and Planning staff supports this recommendation, as Staff believes that the changes to the Zoning Ordinance contained in this proposed amendment will help to facilitate and enhance the types of development being sought in New Town and in similar projects within James City County.

David W. German, Planner

Melissa C. Brown, Senior Zoning Officer

CONCUR:



O. Marvin Sowers, Jr.

DWG/MCB/nb
ZO-07-05.mem

Attachments:

1. Unapproved Minutes from June 5, 2006, Planning Commission Meeting
2. Ordinance Amendment
3. Photo Samples-Attachment

**UNAPPROVED MINUTES OF THE JUNE 5, 2006 MEETING
OF THE PLANNING COMMISSION**

ZO-7-05 Zoning Ordinance Amendment – Sign Ordinance

Mr. David German presented the staff report stating that the Division had received a request to amend James City County Code by amending Section 24-66, Definitions; Section 24-70, Freestanding signs; Section 24-73, Special regulations for certain signs and Section 24-75, Prohibited signs of the zoning ordinance; to permit pedestrian-oriented signage in Mixed-Use Districts governed by a binding master plan, established architectural design guidelines and a design review board. The amendments would permit additional types of building-mounted signage (e.g., “blade” signs) and pedestrian-oriented directional signage to provide greater visibility for pedestrian traffic in the district. The amendments would not increase the total allowable square footage of signage allowed a particular building. Mr. German stated that the Policy Committee voted 3-0 to recommend approval of the amendment.

Mr. Kennedy stated his objection that the banner-related portion of the amendment specifically benefits shopping centers over 25,000 square feet in size, and pointed out that flags on small businesses were prohibited. He referred to a newspaper editorial about what governments do to promote specific businesses in certain areas like New Town and Prime Outlets. Mr. Kennedy said he would vote against the amendment because it discriminates against small business.

Ms. Jones stated that the Policy Committee could look at the proposed Sign Ordinance amendments as they relate to small businesses.

Mr. Kennedy stated that he understood the need to limit signage in order to avoid the appearance of clutter. He stated that his concern was the circumvention of those ordinances by the proposed amendments, designed to specifically benefit New Town, as well as Prime Outlets and Monticello Marketplace, because those shopping centers are over 25,000 square feet in size.

Mr. Fraley asked Mr. Kennedy if he felt Staff should be directed to look at the limitations on small businesses.

Mr. Kennedy gave examples of other policies he felt were not applied consistently. He also asked if the proposed blade signs would be allowed in addition to building face signs.

Ms. Melissa Brown, Senior Zoning Officer, stated that the square footage of the blade and building face signs would be added together when calculating total allowable sign square footage, and that the overall permitted square footage was not being increased.

Mr. Kennedy asked if New Town businesses would be required to change their signs in order to meet the new ordinance requirement.

Ms. Brown stated that it would not be a requirement, but businesses desiring to add blade signage would be able to, if they so desired.

Mr. Kennedy asked if the blade signs that currently exist in Prime Outlets are in addition to their allowable signage.

Ms. Brown said that these signs are not included in allowable sign square footage totals because they are not visible from the Route 60 right-of-way or adjacent properties.

Mr. Kennedy indicated that some of the blade signs can be seen from the right-of-way. He stated that there should be uniformity in applying and enforcing regulations.

Mr. Fraley confirmed that appeals to the Sign Ordinance could be made to the Board of Zoning Appeals.

Mr. German stated that the 25,000 square foot threshold included in the definition of *shopping center* should be thought of as a starting point that could be changed or amended.

Mr. Kennedy asked if the banner signs at Monticello Marketplace are in violation of the County Ordinance.

Ms. Brown stated that they are not because they do not have the shopping center's name on them.

Mr. Kennedy stated that Prime Outlets has banner signage with its name.

Ms. Brown said if Prime Outlets has their name on the banner then they are in violation.

Mr. Fraley asked if Ms. Brown's office was the enforcement agency on signs.

Ms. Brown answered yes and stated that her office is in contact with the Prime Outlets regularly regarding signage that must be removed.

Mr. Kennedy stated that there are 100 banner signs at Prime Outlets that have been in place for over 5 years.

Mr. Billups said he thought the amendment would be specific to New Town. He also agreed with Mr. Kennedy that everyone should be treated fairly with uniform enforcement.

Ms. Hughes stated the Policy Committee was not aware of the issue of business size. She said she understood Mr. Kennedy's concerns and asked for solutions.

Mr. Kennedy said he was not upset with Staff but with what he believes is inconsistency in application.

Mr. Fraley opened the public hearing.

Hearing no requests the public hearing was closed.

Ms. Jones motioned to recommend approval of the amendment.

Ms. Hughes seconded the motion.

In a roll call vote the amendment was recommended for approval (4-2). AYE: Hughes, Billups, Jones, Fraley (4); NAY: Kennedy, Hunt (2). (Obadal absent)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 3, EXTERIOR SIGNS, SECTION 24-66, DEFINITIONS; SECTION 24-70, FREESTANDING SIGNS; SECTION 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS; AND SECTION 24-75, PROHIBITED SIGNS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs, is hereby amended and reordained by amending Section 24-66, Definitions; Section 24-70, Freestanding signs; Section 24-73, Special regulations for certain signs; and Section 24-75, Prohibited signs.

Chapter 24. Zoning
Article II. Special Regulations
Division 3. Exterior Signs

Section 24-66. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Blade sign. A two-sided flat sign that projects more than 18 inches from, and that is mounted perpendicularly to, a vertical building wall. Such sign may be suspended from an arm or bracket, or may be directly mounted to a building wall or the underside of a canopy or awning.

Shopping center. A group of three or more commercial establishments having a minimum combined total square footage of 25,000 square feet, planned, constructed, and/or managed as a single entity, with customer and employee parking provided onsite, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

Section 24-70. Freestanding signs.

Freestanding signs shall only be permitted on properties having street frontage and shall be in compliance with the following regulations:

(d) Sign lighting.

(2) Illuminated signs within community character areas and along community character corridors, as defined above in (d)(1) a. and b. shall be signs ~~composed of~~:

- a. *composed of* back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in section 24-72; or
- b. ~~shall be~~ externally illuminated either by ground-mounted horizontal light bars, *light strips*, or ~~ground-mounted spotlights in such a way that bulbs, lenses, or globes shall not be visible from the right of way. The ground-mounted lights shall be concealed by landscaping.~~ *spotlights, which shall be concealed by landscaping, or by sign-mounted lighting. With either ground-mounted or sign-mounted lighting, bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.*

Section 24-73. Special regulations for certain signs.

(i) Setback reductions in mixed-used districts. In cases where the applicant can demonstrate that the location of a sign does not obstruct adequate sight distance, and good visibility is maintained for all motorists and pedestrians traveling the intersection, the zoning administrator or his designee may permit setbacks of less than 5 feet on any lot in a mixed-used district.

(j) Blade signs in mixed-use districts. Blade signs are permitted in mixed-use districts, as long as the project is regulated by a Design Review Board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the Board of Supervisors. Blade signs must adhere to the following limitations and requirements:

- (1) There shall be no more than one sign per public entrance to any given building;*
 - (2) The sign(s) shall be positioned at the public entrance(s) of the building;*
 - (3) An individual blade sign shall be no more than 12 square feet in area;*
 - (4) The total square footage of all blade signs and all building face signs shall not exceed one square foot of signage per linear foot of store frontage, with a maximum of 60 square feet. Only one side of a double-faced blade sign shall be included in a computation of sign area;*
 - (5) The sign shall be mounted such that the bottom edge of the sign is not less than eight feet from the finished grade directly underneath it;*
 - (6) Blade signs shall be unlit, or externally illuminated in such a way that bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;*
 - (7) Blade signs that extend over a public right-of-way are subject to the prior approval of the controlling public entity. If approved, the developer shall provide positive proof of insurance for each sign mounted over the public right-of-way, or an alternate liability instrument deemed suitable by the controlling public entity;*
 - (8) All blade signs shall obtain the prior approval of the design review board for the mixed-use project before they are installed.*
- (k) Pedestrian-scale directional signs in mixed-use districts. Small, free-standing signs designed to direct pedestrian traffic to locations of interest within the development may be placed in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the Board of Supervisors. Pedestrian-scale directional signs must adhere to the following limitations and requirements:*

(1) Such individual signs shall be no more than 16 square feet in total area, and may not have more than two faces. Only one side of a double-faced sign shall be included in a computation of sign area;

(2) The top edge of a pedestrian-scale directional sign shall be no more than seven feet above finished grade;

(3) Any lighting that is used shall be externally mounted and either supported solely from the sign structure, or ground-mounted. The ground-mounted lights shall be concealed by landscaping. Lighting shall be directed only onto the sign's face. Bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;

(4) Signs shall generally include elements such as the name and logo of the overall development, maps, and the business names, logos, and directional information for businesses that are located within the development;

(5) The number, relative positioning, and placement of each sign in a given mixed-used development shall be subject to the prior approval of the design review board and the planning director, or his designee.

(l) Pole-mounted banners. Seasonal and/or holiday banners that are affixed to light poles that generally identify a season and/or holiday and advertise or promote the development as a whole (by including only the development name and/or logo), rather than individual enterprises, are permitted, subject to the prior approval of the Zoning Administrator, or his designee. Banners shall be mounted such that the bottom edge of any given banner is not less than eight feet from the finished grade directly beneath it. Banners are permitted only in shopping centers, (as defined in section 24-66), or in mixed-use districts.

Section 24-75. Prohibited signs.

The following signs are specifically prohibited:

(11) Pennants, banners, flags and other displays used for marketing or advertising except as provided in Sections 24-73 (b)- *and 24-73 (l)*.

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 27th day of June, 2006.

Zoning.ord



Image #1: Pole-mounted Seasonal Banners and Blade Signs in Colonial Williamsburg (Merchant's Square)



Image #2: Blade Sign mounted under awning in Port Warwick



Image #3: Blade Signs mounted under awnings in Port Warwick



Image #4: Pole-mounted Seasonal Banners in WindsorMeade Marketplace parking lot



Image #5: Pedestrian-oriented Directional Sign, Colonial Williamsburg (Merchant's Square)



Image #6: Pedestrian-oriented Directional Sign, Colonial Williamsburg (Merchant's Square)

MEMORANDUM

DATE: June 27, 2006
TO: The Board of Supervisors
FROM: Jennifer C. Lyttle, Assistant County Attorney
SUBJECT: Ordinance to Amend and Reordain Chapter 2, Administration, Article V, Other Boards and Commissions, Section 2-17, Industrial Development Authority Created

The attached ordinance updates the James City County Code (Code) to be in accordance with a previously adopted Board of Supervisors (Board) resolution. On July 13, 2004, the Board adopted a resolution authorizing the change in name of the "Industrial Development Authority" to the "Economic Development Authority." The attached ordinance incorporates the name change into the Code.

Staff recommends adoption of the attached ordinance.

Jennifer C. Lyttle

CONCUR:

Leo P. Rogers

JCL/gs
EDAord.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 V, OTHER BOARDS AND COMMISSIONS, SECTION 2-17, INDUSTRIAL DEVELOPMENT AUTHORITY CREATED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-17, Industrial Development Authority created.

Chapter 2. Administration

Article V. Other Boards and Commissions

Sec. 2-17. ~~Industrial~~Economic development authority created.

(a) There is hereby created a political subdivision of the Commonwealth of Virginia with such public and corporate powers as are set forth in the Industrial Development and Revenue Bond Act (chapter 49, title 15.2 of the Code of Virginia), including such powers as may hereafter be set forth from time to time in that act.

(b) The name of the political subdivision of the commonwealth created hereby shall be the "~~Industrial~~Economic Development Authority of the County of James City, Virginia." In establishing such an ~~industrial~~economic development authority, it is the express goal of the board of supervisors of James City County to encourage the authority to pursue and comply with the goals and objectives as set forth in the comprehensive plan, County of James City, adopted October 1975, as amended, and particularly the economic development component thereof.

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 27th day of June, 2006.

EDA.ord

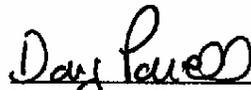
MEMORANDUM

DATE: June 27, 2006
TO: The Board of Supervisors
FROM: Doug Powell, Manager of Community Services
SUBJECT: Revision to the Enterprise Zone Ordinance

James City County's Enterprise Zone Program offers a variety of incentives to businesses that meet certain criteria. One incentive, known as the Economic Development Authority grant, is a five-year declining grant awarded to businesses that make a capital investment of at least \$1 million in the Enterprise Zone.

The current ordinance requires businesses to submit an application each year to receive the grant, but does not stipulate a time frame for submitting the application. The proposed ordinance requires that businesses submit the application by March 31 of each year. Standardizing the date should make the Program easier to administer for both the County and the businesses. In addition, the proposed ordinance requires that businesses apply for their grant within two years of eligibility or forfeit the incentive.

Staff recommends approval of the attached ordinance.



Doug Powell

DP/gb
RevZoneOrd.mem

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 7, ENTERPRISE ZONE, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 7-5, LOCAL ENTERPRISE ZONE INCENTIVES; AND SECTION 7-6, APPLICATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 7, Enterprise Zone, is hereby amended and reordained, by amending Section 7-5, Local enterprise zone incentives; and Section 7-6, Application.

Chapter 7. Enterprise Zone

Section 7-5. Local enterprise zone incentives.

(a) *Business real estate improvement/rehabilitation grant.* Qualified firms located within the enterprise zone may be eligible to receive from the ~~industrial~~ *economic* development authority a five-year declining grant as an incentive to the firm to invest in the new construction or rehabilitation of commercial and industrial facilities.

(b) *Machinery and tools and/or business personal property investment grant.* Business firms qualifying under the capital investment criteria may apply to the ~~industrial~~ *economic* development authority for a five-year declining grant to compensate the firm for the amount attributable to the increased capital investment.

(c) *Waiver of permit fees.* The county shall waive permit fees for site plans, subdivisions, erosion and sedimentation control, land disturbing activities, and building, electrical, plumbing and HVAC approvals for the following:

Ordinance to Amend and Reordain

(1) Capital investments of business firms which meet the capital investment criteria;
and

(2) Rehabilitation of residential structures where the assess value does not exceed the 1991 base value of \$81,500.00 multiplied by the rate of inflation using the Consumer Price Index, not to exceed five percent in any one year.

(d) *JCSA sewer transmission fees.* Business firms qualifying under the capital investment criteria shall be eligible for a reduced sewer transmission fee as provided in the James City Service Authority Regulations Governing Utility Regulations, as amended.

(e) *Use of well water.* Business firms qualifying under the capital investment criteria shall be allowed to use water from permitted wells within the zone as process water.

(f) *Waiver of administrative fees.* Business firms qualifying under the capital investment criteria shall be eligible to apply to the ~~industrial~~ *economic* development authority for a waiver of administrative fees involved in bond applications with the exception of any legal fees.

(g) *Waiver of consumer utility tax.* Business firms qualifying under the capital investment criteria shall be eligible for a 100 percent waiver of the county's consumer utility tax for five tax years beginning the tax year of application approval.

(h) *Employee-based tax incentive.* Business firms qualifying under the job creation criteria shall be eligible for a grant from the county's ~~industrial~~ *economic* development authority of \$400.00 per employee who is a resident within the zone and \$200.00 per employee who is a resident of the county outside the zone. This incentive shall be payable for two tax years, at the end of each year, beginning the tax year of application approval. After the two-year period, a business firm shall be eligible for additional incentives per employee in the third year only if the business firm expands its employment 25 percent above its base employment established at the end of second year.

(i) *Day care grant.* Business firms qualifying under the job creation criteria shall be eligible for a one-time matching grant from the county's ~~industrial~~ *economic* development authority of up to

\$25,000.00 to be used with funds of an equal or greater amount from the business firm to establish or enhance a day care/preschool facility within the enterprise zone.

(j) *Residential real property rehabilitation tax exemption.* An owner of a residential structure within the zone shall be eligible for a five-year declining tax on the increased assessed real property value resulting from rehabilitation of the residential structure which qualifies under the provisions of Virginia Code section 58.1-3220, as amended. In the tax year after completion of rehabilitation, renovation or replacement, the property owner shall be eligible for a 50 percent exemption from the real property tax increase due to the increased assessed value. The exemption shall be 40 percent, 30 percent, 20 percent and ten percent for each successive tax year. In order to be eligible for this tax exemption, the initial assessed value of the residential structure must not exceed the 1991 base value of \$81,500.00 multiplied by the rate of inflation using the Consumer Price Index, not to exceed five percent in any one year.

Section 7-6. Application.

(a) Any business firm seeking to receive local enterprise zone incentives shall make application to the enterprise zone administrator on forms provided by the enterprise zone administrator. The enterprise zone administrator shall then forward the application with a recommendation to the ~~industrial~~ *economic* development authority which will then determine whether the applicant will be awarded a grant or grants from the ~~industrial~~ *economic* development authority. The enterprise zone administrator may require the business firm to provide documentation establishing that said business firm has met the requirements for the receipt of local enterprise zone incentives. Failure to provide requested documentation shall result in a denial of the business firm's application for local incentives. ~~The enterprise zone administrator may require the business firm to provide additional documentation from time to time to assure that said business firm retains the requisite qualifications for the receipt of local enterprise zone incentives.~~ In the event that any business firm shall fail to *make timely application as outlined in paragraph (b) and/or fails to* maintain the requisite qualifications for the receipt of local enterprise zone incentives, the enterprise zone administrator shall inform the business firm in writing that

it is no longer qualified for the receipt of local incentives and shall send a copy of said notice to the county administrator and ~~Industrial~~ *Economic* Development Authority Chairman.

(b) Effective July 1, 2006, applications must be submitted to the enterprise zone administrator within the first two years of said business firm achieving the qualification standards set forth in county code section 7-4. Any business firm which has been operating or located within the enterprise zone for two years or more, as of July 1, 2006 and has achieved the qualification standards set forth in county code section 7-4, but has not applied for the local enterprise zone incentives must make an application to the enterprise zone administrator no later than December 31, 2006, to remain eligible for the local enterprise zone incentives. Once a business firm is awarded a grant or grants from the economic development authority, the business firm shall then provide yearly documentation to the enterprise zone administrator, no later than March 31 of each successive year after the awarded grant or grants, to assure that said business firm has retained the requisite qualifications for the receipt of local enterprise zone incentives.

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, on this 27th day of June, 2006.

enterprisezone.ord